



EVANGELICAL PRESBYTERIAN CHURCH

PRESBYTERY OF THE MID-ATLANTIC

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PROCEDURE REQUIREMENTS CONCERNING PRESBYTERY'S POLICY ON SEXUAL MISCONDUCT

TO: Candidacy Applicants, Ordinands, Ministers Seeking To Transfer

At its 21st Stated Meeting held October 21, 1995, the Presbytery of the Mid-Atlantic approved the enclosed Policy & Procedures on Sexual Ethics & Misconduct.

Please carefully read the enclosed policy statement and **submit the required forms** by the deadline indicated by the Administrative Director's Office. Sign the enclosed where indicated and return completed forms to this office.

You are encouraged to contact the Administrative Director's Office if assistance is desired.

The Rev. Howard G. Shockley, D. Min.

Enclosures:

- Application for Ministry
- Acknowledgement of Receipt
- Policy & Procedures on Sexual Ethics & Misconduct
- Additional State Civil Regulations (if applicable)

**APPLICATION FOR MINISTRY
PRESBYTERY OF THE MID-ATLANTIC**

NOTE: *Certain questions on this form are asked in order to comply with PMA Policy on Sexual Misconduct. Be assured your responses will be held in strictest confidence with such information being used only when Absolutely necessary.*

NAME _____

ADDRESS _____

PHONE _____ EMAIL _____

1. Have you ever been convicted of or pleaded guilty or “no contest” to any crime involving moral turpitude of Minors as victims? _____ Yes _____ No If yes, attach an explanation.

2. Has a civil, criminal, or ecclesiastical complaint ever been filed against you alleging sexual misconduct? _____ Yes _____ No If yes, attach an explanation.

3. Have you ever been required to receive physical or psychological professional treatment for reasons related to sexual misconduct? _____ Yes _____ No If yes, attach an explanation.

4. Have you ever resigned or been terminated from a position for reasons relating to allegations of sexual misconduct? _____ Yes _____ No If yes, attach an explanation.

5. List the names of all the churches of which you have been a pastor, staff worker or member or have regularly Attended during the last five years (attach additional pages if necessary):

6. List two persons who know you well (not present pastors, employers or relatives)

Name _____ Name _____

Address _____ Address _____

Phone _____ Relationship _____ Phone _____ Relationship _____

RETURN

ACKNOWLEDGMENT OF RECEIPT

I hereby acknowledge that I received on _____ (date) a copy of the “Sexual Ethics and Misconduct Policy” of the Presbytery of the Mid-Atlantic, EPC. Furthermore, I hereby certify that I have read the above referenced policy, understand its meaning and agree to conduct myself in accordance with its regulations, standards and intents.

Signature

Date

**EVANGELICAL PRESBYTERIAN CHURCH
PRESBYTERY OF THE MID-ATLANTIC
POLICY AND PROCEDURES ON
SEXUAL ETHICS AND MISCONDUCT**

Introduction

This policy regarding sexual ethics and misconduct by persons in positions of religious leadership has been written because the church is aware of the public and spiritual trust it holds. We are concerned with offering guidance that will (1) protect against incidents of sexual misconduct, (2) assure appropriate intervention in incidents of alleged sexual misconduct, and (3) provide care for all involved. Our principal objective has been that this policy enable the church to act preventively, with healing (when necessary), and in compliance with federal and state statutes and the Book of Order.

I. THEOLOGICAL FOUNDATION

WE AFFIRM:

1. God creates all persons in His image, both male and female. Each gender uniquely expresses a part of the reflection of the invisible God. Both women and men are equal in the eyes of God and are heirs of His sustaining care.
2. The human body was declared good at creation. God clothed Himself in a human body to reveal His Son to the world. Thus, the human body is to be treated with respect. It was created to be an instrument of righteousness.
3. Sexuality was a part of God's gift of life to us at creation. It is an integral part of our God-given humanity.
4. Because of humanity's sinful nature since the fall, human sexuality has been selfishly misused and abused.
5. God through Jesus Christ calls us to participate in a new creation where we as new creatures can be forgiven and healed. Such forgiveness and healing touches every area of our lives including our sexuality.
6. The Body of Christ, the community of those being made whole, is the central place where God calls His people to model lives of righteousness, of forgiveness, and of healing.
7. The corporate witness of forgiveness and of healing calls every church to stand as a haven of safety for all those who have been or are victims of sexual misconduct in any form.
8. The corporate witness of forgiveness and of healing calls all perpetrators of sexual abuse, exploitation, and violence to repentance, discipline, and faith.

9. As a haven of righteousness and safety, the church has been given by God special responsibility to ensure that those in leadership will be models of Christian grace and healing. Our leadership's personal and professional commitment to holiness and to lives that are above reproach is crucial to our common witness to Christ.
10. When a personal and professional commitment to holiness and righteousness underlies the character of those in administrative capacities and professional ministry, the church as God's family is free to receive the gift of Christian relationships; relationships that are characterized by compassion, fidelity, and joy.

II. POLICY STATEMENT

It is the policy of the Presbytery of the Mid-Atlantic that:

members of ministry serving out of bounds or in the church, church members, church officers, non-member employees and volunteers are to maintain the full sexual integrity of ministerial employment and professional relationships at all times. Sexual misconduct is not only a violation of the responsibilities of ministry and employment of any kind and of all personnel of our presbytery; it is a violation of Christian principles and contrary to Scripture and is forbidden.

All personnel, whether employed or volunteer, of the churches comprising the Presbytery of the Mid-Atlantic, must comply (1) with this policy and (2) with all applicable federal and state laws (consistent with Scripture) pertaining to actual or suspected incidents of sexual misconduct.

A. Purposes

1. To set and provide a means for enforcing standards of ethical behavior consistent with Scripture and secular law (consistent with Scripture) and to serve as a guide for prevention of sexual misconduct (including sexual harassment covered by Title VII of the 1964 Civil Rights Act).
2. To establish certain personnel policies for the screening and supervision of all teaching elders and ministry employees of the Presbytery of the Mid-Atlantic.
3. To provide motivation, direction and assistance to the churches of the Presbytery of the Mid-Atlantic in developing their own policy and procedures for screening and supervising those ministering under their auspices.
4. To provide procedures for inquiry and effective response to allegations of the breach of duty of emotional, spiritual, and physical care and protection of other persons, which duty lies on all who represent the church in any way.
5. To serve as a guide for the application of powers for courts under the Book of Government and the Book of Discipline of the Book of Order.

B. Distribution of Policy

A copy of this policy, following its adoption, shall be distributed by the presbytery to each teaching elder and to the Clerk of the session of all churches of the Presbytery of the Mid-Atlantic. A copy of this policy, following its receipt by the Clerk, shall be provided by each church of the presbytery to each of its active ruling elders and deacons. Thereafter, the Ministerial Committee of presbytery shall be responsible for providing a copy of this policy to each new teaching elder and the Clerk of each session shall be responsible for providing a copy to each new ruling elder and deacon. All non-clerical amendments to this policy shall be distributed in the same or like manner.

Copies of this policy shall be available to all members and employees of the Presbytery of the Mid-Atlantic and of its churches. A copy shall be provided to all victims (and/or their families) of sexual misconduct by church personnel, to all those who accuse church personnel of such misconduct and to all who are so accused.

Upon receipt of this policy, teaching elders in high risk occupations (school employees, full time youth or children's workers, counselors, etc.), victims, accusers and accused must sign an Acknowledgment of Receipt (Exhibit A). This acknowledgment shall be kept in the person's personnel or case file.

The sessions of the presbytery are encouraged to share with their congregations the content and purpose of this policy. Thus, the membership would be informed on the principal aspects of the policy so that, if any sexual misconduct occurs in the church, the members will know how to properly respond to and report the incident.

III. DEFINITIONS

The definitions contained herein are intended solely for the interpretation of this policy document. These defined words may have broader, narrower, or different definitions in general usage or in the Book of Order.

Accusation is a written statement that an offense may have occurred.

Accused is the term used to represent the person against whom a claim of sexual misconduct is made.

Accuser is the term used to represent the person claiming knowledge of sexual misconduct by a person covered by this policy. The accuser may or may not be the victim of alleged sexual misconduct. A person such as a family member, friend, or colleague of the victim may be the accuser whose information initiates an inquiry.

Allegation is simply a statement that an offense may have occurred.

Child Sexual Abuse includes but is not limited to any contact or interaction between a child and an adult when the child is being used for sexual stimulation of the adult person or a third person. The behavior may or may not involve touching. Sexual behavior between a

child and an adult is always considered forced whether or not consented to by the child. No upper age limit for child sexual abuse has been given in this policy because the age of adulthood varies from state to state. The upper age limit is intended to be that recognized in the state in which the act was committed. In some states a "child" is defined as any person under the age of 18. (See Exhibit B.)

Court, unless clearly designated otherwise, refers to the bodies of governance in the Evangelical Presbyterian Church. Specifically defined by §2-3 of the Book of Government they are the session, the presbytery, and the general assembly.

Personnel means all paid and volunteer employees of the church or presbytery including, but not limited to, teaching and ruling elders and deacons who have been granted office by the congregation, staff, and teachers. It also includes ministers serving out of bounds.

Reasonable Suspicion is a subjective criterion that refers to a belief or opinion based on facts or circumstances that are sufficient for a prudent person to want to inquire further, to take protective action, or report to authorities. State child abuse reporting laws may include wording that indicates what degree of suspicion or knowledge gives rise to the duty to report. (See Exhibit B.)

Reporting Child Abuse. Check the statutes of your state and its reporting requirements (see Exhibit B). Some states have a specific statute that requires that child abuse or neglect be reported to the authorities and provides that the failure to report child abuse or neglect is itself a criminal offense. Sexual abuse of a child, of course, falls within the definition of child abuse.

Some states specifically exclude the clergy from reporting, following the traditional clergy-penitent privilege. The Presbytery of the Mid-Atlantic excepts from that privilege, cases where ongoing evil can be stopped (e.g., continuing child abuse) or when it compounds a grave injustice (e.g., the execution of an innocent party when the guilty party has confessed to a minister).

In some states, statutes provide that a person reporting an incident of alleged child abuse or neglect, acting in good faith in making the report, shall be immune from liability, civil or criminal, or termination of employment that otherwise might result by reason of such reporting. Thus, abuse (sexual or otherwise) of a child by any personnel of the church should be reported to a local law enforcement agency or the county or district social services agency where the child resides. The person making the report, acting in good faith, should not fear civil or criminal liability because of the immunity created by the applicable state statutes.

Resource Team is the **Sexual Misconduct Resource Team** of the presbytery. Its purpose is to provide advice and counsel to the presbytery, presbytery committees, churches, and sessions of the presbytery in the area of sexual ethics and misconduct. It is a sub-committee of the Ministerial Committee and functions under its jurisdiction.

Response is the action taken by the court or entity when a report of sexual misconduct is received. It may include:

1. Inquiry into facts and circumstances;
2. Possible disciplinary action (administrative and/or judicial);
3. Pastoral care for victims, their families and others; and
4. Pastoral care and rehabilitation for the perpetrator(s) and care for their families.

Secular Authorities are the governmental bodies, whether city, county, state or federal who are given the responsibility to investigate, criminally prosecute and/or bring civil charge against individuals accused of sexual crimes or offenses against adults and children. The structure and identity of such secular authorities will vary from jurisdiction to jurisdiction but basic responsibilities to detect, deal with, and resolve such crimes and offenses will follow generally recognized patterns.

Sexual Harassment is a form of sexual discrimination and is an "unlawful employment practice" under Title VII of the 1964 Civil Rights Act. This law is enforced by the Equal Employment Opportunity Commission (EEOC).

Unwelcome sexual advances, solicitations for sexual favors, and other verbal or physical conduct of a sexual nature in the work place constitute sexual harassment. These actions are always in contradiction to Christian moral principles and are illegal when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, or his/her continued status in an institution.
2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions effecting such individual, or
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile, or offensive working environment based on the declared judgment of the affected individual.

Sexual Malfeasance is the broken trust resulting from genital contact (contact with the breasts, buttocks or pubic area) within a ministerial (e.g., clergy with a member of their congregation) or professional (e.g., counselor with a client, lay employee with a church member, presbytery executive with a committee member) relationship. This definition is not meant to cover relationships between spouses nor is it meant to restrict church professionals from having morally appropriate, mutual, social, intimate or marital relationships. Adultery, fornication and homosexual activity are never appropriate behaviors.

Sexual Misconduct is the comprehensive term used in this policy to include any sexual conduct of church personnel that is contrary to the moral instructions, doctrines, and canon law of the Evangelical Presbyterian Church or causes injury to another as recognized by the civil or criminal laws of the various states where those laws are consistent with the Scripture. Such misconduct shall include but not be limited to:

1. Child sexual abuse as defined above;
2. Sexual Harassment as defined above;
3. Rape or sexual contact by force, threat or intimidation; and
4. Sexual Malfeasance as defined above.

Teaching Elder is the term used to identify all the varieties of calling within the office of minister described in the Book of Order.

Victim is the term used to identify the person alleged to have been injured by sexual misconduct as defined above.

Volunteer is the term used for one who provides services for courts and entities of the church who receives no benefits or remuneration. Volunteers include persons elected or appointed to serve on boards, committees and other groups. For purposes of this policy, volunteers are to be treated the same as employees. Liabilities of the court or entity are the same for volunteers as for employees.

IV. EMPLOYMENT PRACTICES

A. Of Presbytery

These practices **shall be implemented** by the Ministerial Committee and any other committee(s) responsible for the placement, referral or recommendation of all personnel employed, whether paid or volunteer, in the conduct of ministry under the governing authority of the Presbytery of the Mid-Atlantic. This shall include, but not be limited to:

1. Ministers examined for ordination or installation in any church of the presbytery.
2. Ministerial Candidates under the care of the presbytery.

This shall not include program speakers, presbytery committee members, presbytery administrative personnel, etc. except to the extent that they perform other ministry services for the presbytery (e.g., counseling, participation in youth or mission activities, etc.).

1. Screening Procedures:

The following screening procedures shall be used by presbytery with all ministry (vs. administrative) personnel (full or part time, paid or volunteer, permanent or temporary) including teaching elders and candidates under care.

- a. All such personnel will be required to complete an **application** providing personal information (name, address, phone number, etc.) and information relevant to the particular tasks they will be performing. Such application shall also include the following or similar questions:

NOTE: A note of explanation, similar to the following, may be included where deemed appropriate.

Certain questions on this application are asked in order to provide a safe and secure environment for ministry particularly for children and youth. Be assured that your responses will be held in the strictest of confidence with such information being used only where absolutely necessary.

1. Have you ever been convicted of or pleaded guilty or "no contest" to any crime involving moral turpitude or minors as victims?

If yes, please explain.

2. Has a civil, criminal, or ecclesiastical complaint ever been filed against you alleging sexual misconduct?

If yes, please explain.

3. Have you ever been required to receive physical or psychological professional treatment for reasons related to sexual misconduct by you?

If yes, please explain.

4. Have you ever resigned or been terminated from a position for reasons relating to allegations of sexual misconduct by you?

If yes, please explain.

5. List the names of all churches of which you have been a pastor or member or have regularly attended during the last five years.

6. List two personal references (not present pastor(s), employers or relatives)

- b. All applicants shall execute a **Request and Authorization for Criminal Records Check**. (See Exhibit C.) NOTE: Following passage (by 1996) of various state laws required for implementation of the National Child Protection Act of 1993, fingerprinting and FBI criminal records checks may be necessary for some personnel.

- c. All persons being examined for ordination or installation as a teaching elder shall execute an **Authorization for Release of Information** permitting release of pertinent information to the calling church by the presbytery (see Exhibit E).

- d. **Reference Checks.**

1. If the applicant is a candidate for ordination or installation, contact the applicant's current pastor (if not previously ordained), his/her immediate superior (if a staff member), or the Stated Clerk of his/her presbytery.

2. If the applicant is a lay person, contact his/her current pastor and responsible persons in all churches in which the applicant has been active during the last five years.
3. Contact the two references provided by the applicant.

In each of the above reference checks, besides standard questions regarding the applicants abilities, gifts, calling, experience, etc., the following or similar question(s) should be asked:

Do you believe it would be appropriate to use _____ in children's or youth work? Does your church have any reservations about (his/her) suitability for working with minors?

and/or as appropriate

Would you or your church have any reservations about _____'s suitability for working closely with persons of the opposite or same sex?

Churches or individuals refusing to respond to such questions on the basis of "legal risk" should be asked to provide such refusal in writing. If such written request is not provided, full written documentation should be made on the "Reference Form" (see Exhibit F).

Pastors or Stated Clerks of presbytery should be asked if any formal charges were ever made or disciplinary proceedings ever conducted regarding the applicant. Those refusing to respond to such questions on the basis of "legal risk" should be asked to provide such refusal in writing. If such written request is not provided, full written documentation should be made on the "Reference Form" (see Exhibit F).

All contacts of references should be documented on a "Reference Form" (see Exhibit F).

e. **Criminal Records Check.**

A **criminal records check** must be performed by the calling entity, or Ministerial Committee in the event that there is no calling entity, on all candidates being examined for ordination or installation or to be received under the care of presbytery and on all ministerial (vs. administrative) paid staff persons of the presbytery. A criminal records check need only be performed on all other applicants when questions are raised about a particular applicant by direct statement, reference statement, or by refusal of references to provide information.

Local law enforcement authorities should be contacted regarding their willingness to perform such checks and the extent of the check they are able to perform (local, state or national). This check should include an inquiry regarding any listing on a "Sexual Offenders Register" if such a register is

maintained. If local law enforcement officials refuse to perform criminal records checks, check with other law enforcement agencies (sheriff, highway patrol, etc.), any church personnel, members or friends in the law enforcement field or a city council member (who may encourage the police department to help in providing a safe environment for youth/children, etc.).

NOTE: Following passage (by 1996) of various state laws required for implementation of the National Child Protection Act of 1993, fingerprinting and FBI criminal records checks may be necessary for some personnel.

NOTE: Criminal records information is highly confidential and should be shared with no more than one or two persons responsible for making a decision in the particular circumstance.

- f. Those responding yes to the question related to termination of employment or medical or psychological treatment due to sexual misconduct should complete an **Authorization for Employment History and Medical Information Check** (see Exhibit D).

Upon completion of this form the appropriate employers and/or medical personnel should be contacted to review with them the circumstances of previous incidents, the results of any treatment and the applicants suitability for the particular ministry for which he/she is being considered. All such contacts should be documented on a "Reference Form" (see Exhibit F) with detailed notes.

g. Personal Interview/Examination.

During the applicant's interview/examination regarding abilities, gifts, experience, calling, etc. related to the work they will be performing, any questions raised by the screening form, reference checks, or criminal records checks shall be addressed.

h. Qualification/Disqualification for Service.

Any applicant who is convicted of, or pleads guilty or "no contest" to, a felony involving a sexual offense or murder shall not be permitted to work with, in conjunction with, or minister to youth or minor children. This exclusion includes teaching elders serving at any level in a local congregation. This will be true no matter how long ago the incident occurred. Such person, professing an experience of the redemptive, transforming power of Jesus Christ, should be encouraged to seek positions of ministry that do not involve access to children or youth. Provisions of this paragraph may be over-ruled by Presbytery on a case-by-case basis by a 2/3 majority vote.

Any applicant who is convicted of, or pleads guilty or "no contest" to, any other felony offense or any misdemeanor involving a sexual or violent offense shall

be scrutinized very closely. A thorough review of the facts surrounding his or her crime should be conducted including consultation with the appropriate District Attorney's office. Determination for suitability of service must be made with a clear understanding of the applicant's past and a confidence that insignificant risk is involved in placing him or her in the requested position.

Applicants terminated from employment or treated (medically or psychologically) for sexual misconduct should be evaluated very closely. Without clear evidence of innocence or complete recovery these persons should not minister in positions of risk. In no case shall applicants treated for pedophilic behavior be permitted to work with, in conjunction with, or minister to youth or minor children.

Records of persons charged with (but not convicted of, pleading guilty or "no contest" to) any sexual offense, assault involving a minor, murder or kidnapping, should be examined more fully. The appropriate prosecutor's office or police should be contacted and asked about the case. They should be informed that this individual is being considered for a position that will involve contact with youth or children (where applicable). Any information they are able to share about the individual case or the facts of the case should be carefully considered and weighed. Detailed notes should be made of any contacts with law enforcement officials and should be made a part of the individual's permanent file. Non-conviction does not mean that significant risk might not be involved in using this person in certain ministry situations. Each case must be weighed on an individual basis.

Those convicted, pleading guilty or "no contest" to other crimes must be considered on an individual basis with decisions regarding suitability made on a case by case basis.

Applicants for ordination or installation and candidates recommended for internships or short term ministry service:

Pertinent information obtained by the Ministerial Committee on an applicants criminal record or on questionable behavior related to children or youth or questionable conduct related to sexual matters regarding adults shall be shared with appropriate persons of the Search Committee from the calling church upon execution of a release by the applicant (see Exhibit E). Appropriate persons should be fully informed not only so that decisions about call can be made with full knowledge but also so that appropriate ministerial limits and/or supervisory plans can be implemented.

i. Current Personnel.

All currently enrolled teaching elders and candidates under care and all current paid ministry (vs. administrative) staff of the presbytery shall complete items a.1. through a.4., b., c., e, and f. of the above screening procedures within six

months of the adoption of this policy. Other personnel employed in the ministry of presbytery shall complete the process in conjunction with their next active ministry service requiring such screening.

2. Supervisory Procedures of Teaching Elders

Primary supervision of the teaching elders of this presbytery shall rest with the session or other employing authority under which the teaching elder serves.

The presbytery shall supervise the ministry of teaching elders within its bounds as follows:

- a. Any ruling elder or deacon receiving a written accusation of sexual misconduct on the part of a teaching elder shall immediately report such accusation to the Stated Clerk of the presbytery or to the Chairman of the Ministerial Committee of presbytery.
- b. Teaching elders engaged in secular employment shall be held accountable to this policy and must report any accusations of sexual misconduct to the Stated Clerk of the presbytery.
- c. Any written accusation of sexual misconduct by a teaching elder given to the Stated Clerk of the presbytery OR to any teaching elder of this presbytery shall be given to the Chairman of the Ministerial Committee for further consideration or investigation.
- d. Sexual misconduct of a teaching elder shared with another teaching elder in the context of a "privileged" relationship shall be reported to the Chairman of the Ministerial Committee to the extent that it is required to be reported to State Agencies or law enforcement officials (see Exhibit B). HOWEVER, any teaching elder receiving such "privileged" communication must be cognizant of his/her responsibility not only to the one sharing such information, but also to the victim (or possible victims) of such misconduct and to the presbytery as a whole. The Presbytery of the Mid-Atlantic specifically excepts from "privileged communications" those cases where ongoing evil can be stopped (e.g., continuing child abuse) or when it compounds a grave injustice (e.g., the execution of an innocent party when the guilty party has confessed to a minister).

3. Insurance:

The presbytery Council shall examine and regularly review the presbytery's need for liability insurance in light of applicable legislation and secular legal rulings.

B. Of The Churches Of Presbytery

Due to the diversity of size, program and resources of the churches of the presbytery, no detailed policy of screening or supervision will be mandated for the churches of the Presbytery of the Mid-Atlantic.

HOWEVER:

The session of each church is strongly encouraged, either in total or by committee, to study the issue of Sexual Ethics and Misconduct in the church and to establish screening and supervisory procedures appropriate to its activities and resources. We encourage the session to make use of this report and of the Church Law & Tax Report kit on Reducing the Risk of Child Sexual Abuse in Your Church (Guide Book, Training Manual, Audio Cassette and Video Cassette). A copy of this kit is available from the office of the Stated Clerk or may be ordered directly by contacting Christian Ministry Resources, P. O. Box 2301, Matthews, NC 28106 (1-800-222-1840). In response to the adoption of the 1993 National Child Protection Act, legislation in each of the states is in process which will almost certainly increase the local church's need for extensive screening and supervisory policies and procedures. In all likelihood this legislation will provide for fingerprinting and FBI criminal records checks for some church personnel. An excellent article on the impact of the 1993 National Child Protection Act is contained in their March/April 1994 Issue of Church Law & Tax Report (also available through Stated Clerk's Office or at the address above).

Churches with a school, preschool, day care, after school programs, etc. are in positions of substantial risk and should have detailed screening and supervisory procedures. In addition to the study recommendations made above, they should contact their attorney and insurance provider to review their policies and procedures and to evaluate their risk.

Special care should be exercised in ministry to children and youth. Know your personnel; no one should be permitted to work with children or youth without having been actively involved with the church for at least six months unless a thorough screening has been conducted. Strongly consider, at the very least, implementing rules similar to the examples below:

Two Adult Rule:

All church sponsored activities for children or youth shall be under the direct supervision of at least two adults (over 21 years of age). This includes programs providing only transportation services. At least two adults should always be present during each activity or program. Special care should be taken during pick-up and drop-off times to insure adequate supervision of children or youth and to protect against the possibility of an adult being alone with one of the children or youth (see below).

No person, acting on behalf of or as a representative of the church, apart from, during or as a result of any church sponsored activity, shall meet or council alone with any child or youth except:

1. with the express permission, for each particular meeting, of the child or youth's parent or guardian; AND
2. upon notification of the pastor (or the Clerk of the session in instances where the pastor is the one meeting with the child/youth) who shall keep a log of such meetings and be sensitive to any patterns that might suggest the possibility of misconduct.

Nursery Requirements:

All nursery care provided during church sponsored events or conducted under the authority of the church shall (1) be provided only by persons screened in accordance with the church's screening procedures, (2) be provided by two or more persons (not related) in each room and (3) provide for clearly identifying the child with the child's parent(s) or guardian. Children shall only be released to a properly identified and pre-authorized adult.

Appropriate personnel or committees of each church should consult with the church's insurance representative regarding the extent of their coverage in case of an accusation or incident of sexual misconduct. Where necessary and possible churches should obtain endorsements to their general liability policy specifically covering sexual abuse and molestation and other forms of sexual misconduct.

Treat all allegations seriously and in accordance with biblical principals. All written accusations of sexual misconduct made against an ordained teaching elder must be reported to the Stated Clerk or to the Chairman of the Ministerial Committee. Appropriate personnel should be fully aware of all mandatory reporting requirements under the laws of the state (See Exhibit B).

V. RESPONSE PROCEDURES

The presbytery and sessions of churches under the jurisdiction of the Presbytery of the Mid-Atlantic should be aware of the problems that may be experienced resulting from allegations of sexual misconduct by any personnel under their jurisdiction. Such allegations may polarize the congregation or organization, damage morale and witness, and create serious internal problems including those of a financial nature. Every effort should be made to recognize and identify the problems and heal the damage done to the presbytery, congregation or organization, and the individuals involved as promptly as possible.

Feelings of guilt, shame, anger, mistrust, lowered self-esteem, unworthiness, and feelings of alienation from God, self, the religious community, and family are frequent emotional injuries suffered both by victims and those accused of sexual misconduct. It is imperative that those responding to incidents of possible sexual misconduct be sensitive to both the

victim's and the accused's pain and need for healing and act to make appropriate pastoral and/or professional care available.

Persons accused of sexual misconduct do not often inspire sympathy; however, it is important that any accused be treated in accordance with the principle of "presumed innocence" and that over-reaction to lurid charges be avoided. If a person is acquitted of charges, the acquittal shall be publicized, when requested by the accused, as widely as possible within the power of the court.

A. Formal Accusations

An allegation is simply a statement that an offense may have occurred. Before any action may be taken under this policy, an allegation must be reduced to writing (becoming an accusation). Upon receipt of a verbal allegation, the accuser shall be given a report form (Exhibit G) to complete. If no written accusation is thereafter received, the matter shall be handled as a pastoral concern. If a written accusation is received in a form other than that of the report form, the recipient of the accusation shall, with an elder of the church, make every effort to contact the accuser and obtain any additional information to bring it into conformity with the requirements of the reporting form.

In part the structures and procedures for responding to allegations of sexual misconduct are mandated by the Book of Discipline, such as the roles of the session, Ministerial Committee and any prosecutor. When child sexual abuse or other misconduct that violates criminal law is alleged, the secular authorities will immediately take control of the investigation and disposition of charges against the accused. Church courts and entities shall cooperate with secular authorities in any secular investigation of criminal sexual misconduct. The church court or entity has a duty to make its inquiry and enforce disciplinary procedures if warranted even in cases when civil authorities have dropped action in the case. Church inquiries should be done without interfering with secular authority.

Response to accusations of sexual misconduct in the course of employment will be governed by the court's or entity's existing personnel policy. The same allegations may also result in charges filed against a church member or teaching elder under the Book of Discipline and may lead to the application of the censures described in the Book of Discipline Chapter 4 (§4-2, §4-3, §4-4, and §4-5).

1. Non-Victim Accusers

In many cases allegations of sexual misconduct will be made by non-victims.

Non-victim accusers are frequently the parent, guardian, or other advocate for a child who has been the victim of sexual misconduct. Because of the child's minority status, an adult should file an accusation on behalf of the child.

In the case of a non-victim allegation where the victim is an adult, the non-victim accuser shall observe the following guidelines:

- a. The allegation should be reduced to writing (becoming an accusation) by the completion of a report form (Exhibit G) if:
 1. The accuser has a statement from the victim expressing a willingness to come forward to testify if an action is filed.
AND/OR
 2. The accuser has some objective evidence of the sexual misconduct to substantiate the charges (e.g., medical test results, motel receipts, proof of repeated telephone calls, etc.); otherwise, the victim and/or the non-victim accuser could be subject to personal liability for filing a false charge that may damage a person's reputation and diminish their ability to obtain future employment.
- b. Under a. 1. or 2. above it is inadvisable for staff of any court or church to act as a non-victim accuser.
- c. If the allegations are not reduced to writing, the matter should be handled as a pastoral concern and the accuser should be cautioned against gossip, and encouraged to take great care in any further communications of the matter.

2. Receiving Initial Allegations/Accusations

Allegations of sexual misconduct will occur in a variety of ways. Because a church court or entity cannot control to whom the accuser of sexual misconduct will speak first, it is important that officers, employees and persons highly visible to church members and visitors understand how allegations of sexual misconduct are channeled to the proper person.

Allegations of sexual misconduct should never be taken lightly or disregarded and be allowed to circulate without concern for the integrity and reputation of the accuser, the accused and of the church. Allegations and accusations should be dealt with as matters of highest confidentiality both before and after they have been submitted to appropriate authorities as outlined below. Any person knowing of an allegation of sexual misconduct should report such allegation to an elder for appropriate consideration.

Any elder or deacon (active or inactive, ruling or teaching) who learns of a possible incident of sexual misconduct should not undertake an inquiry alone or question either the accuser or the accused but shall provide a report form (Exhibit G) to the accuser so that the allegation may be reduced to writing. However, if the accuser is hesitant to reduce the allegations to writing, the person who has received the allegation has a special pastoral responsibility to build a feeling of trust with the accuser by being willing to speak with and listen to him or her, lest the church be unable to respond because no one is able to give firsthand information.

3. Subsequent Reporting

Any person receiving a written accusation of sexual misconduct from a victim or from a non-victim accuser shall immediately inform a pastor or ruling elder in the church if

the alleged misconduct falls under the jurisdiction of the session. If such alleged misconduct falls under the jurisdiction of the presbytery (including any alleged sexual misconduct on the part of a teaching elder) such reporting shall be made to the Chairman of the Ministerial Committee or to the Stated Clerk of the presbytery. All personnel have a duty to report suspected child sexual abuse to the proper ecclesiastical governing authority and must comply with state and local laws regarding incidents of actual or suspected child sexual abuse. The person receiving the initial report may also be considered, by law, a mandatory reporter and shall report the incident to civil or criminal authorities when required by local or state law (see Exhibit B).

The pastor, ruling elder, Chairman of the Ministerial Committee or Stated Clerk who receives a formal accusation (Exhibit G or similar form) shall immediately file it with the session of the church, if the misconduct is under the session's jurisdiction, or with the Ministerial Committee of presbytery if under the jurisdiction of the presbytery.

B. Court or Entity Response

Immediately upon receipt of a written report or accusation of sexual misconduct the session of the church or the Ministerial Committee shall be called into special session. The session has jurisdiction over its members (including those ministering under the auspices of presbytery) and the presbytery (Ministerial Committee) has jurisdiction over the teaching elders of the presbytery. Upon review of the report or accusation the session or Ministerial Committee shall take action in accordance with the provisions of the Book of Discipline. It is strongly advised that legal counsel familiar with the Book of Discipline and the procedures of the court be present to guide in the proper handling of the report or accusation. Members of the Resource Team may be asked to assist in the proper handling of such reports or accusations by the Moderator or Clerk of the session or the Chairman of the Ministerial Committee. The Stated Clerk of the presbytery or the Chairman of the Ministerial Committee shall also be immediately notified in the event such a report or accusation is brought to the session of a church.

Where appropriate and in the event of sexual misconduct that is not criminal in nature, the session or Ministerial Committee may attempt to deal with the accusation by means of reconciliation and reclamation in accordance with Matthew 18:15-16 and the Book of Discipline §5-2, §5-5 and §5-7. In the instance of the presbytery such reconciliation and reclamation may be pursued through the Resource Team.

In all other cases the session or Ministerial Committee shall:

1. assure that necessary reporting to law enforcement authorities and/or state agencies has occurred. Such authorities or agencies should be contacted to request that, in so far as the law allows, the session/Ministerial Committee be kept informed of the developments in the case to allow appropriate disciplinary measures to be taken within the church.

2. immediately notify the accused in writing of the accusations and advise the accused to have no further contact of any sort with the accuser, the victim, or the victim's family. The accused should be given a copy of this policy for which an "Acknowledgment of Receipt" should be executed (see Exhibit A).
3. immediately notify the accuser/victim that the report/accusation has been received, that the proper legal authorities have been notified (where appropriate), that the accused has been notified to have no further contact with the accuser/victim and summarize the anticipated subsequent actions. The accuser/victim should be given a copy of this policy for which an "Acknowledgment of Receipt" should be executed (see Exhibit A).
4. appoint persons to provide pastoral care and support to each victim, accuser and accused (a team or person per person). NOTE: In the event that the victim is a minor, an expert in the field of child abuse and/or molestation should be consulted and any contact with the minor should take place only in accordance with his/her recommendations and in full cooperation with the minor's parents/guardian and secular authorities.
5. investigate the alleged incident(s) (Book of Discipline §5-2), in consultation with legal council where appropriate, **only** to the extent necessary to determine whether or not "reasonable suspicion" (see page 5) exists that an incident(s) of sexual misconduct has occurred. It is strongly recommended that, at the presbytery level, the Ministerial Committee request that the Resource Team conduct such investigation. If "reasonable suspicion" exists a prosecutor shall be appointed in accordance with the Book of Discipline (§6-3). NOTE: In the event that the victim is a minor, no interview with the child should be conducted. All contact with the minor should be conducted only in coordination and cooperation with the minor's parents and secular authorities.
6. keep detailed records of its actions and minutes of its deliberations and its conversations with the accuser, the accused and other parties involved. Copies of reports received and any correspondence should be made a part of its permanent file. All information shall be kept in strict confidence and shall be kept in a permanent file so marked.
7. appoint a designated person to be the official media contact. All contact with the media shall be channeled to/through this official.

The session, Ministerial Committee and/or any prosecutor shall fully cooperate with any civil authorities in the investigation and conduct of any proceedings. Church disciplinary proceedings cannot interfere with a criminal investigation by civil authorities and may have to be suspended until these are completed.

C. Presbytery Sexual Misconduct Resource Team

A Sexual Misconduct Resource Team ("Resource Team") shall be established. The purpose of the Resource Team shall be to provide advice and counsel to presbytery, presbytery committees, churches, and sessions of the presbytery in the area of sexual ethics and misconduct. It should be composed of no fewer than six persons, evenly divided male and female, including, to the extent of available personnel, a Christian licensed counselor, a licensed legal professional and a trained insurance professional. The Resource Team shall be a sub-committee of the Ministerial Committee of presbytery which shall appoint its members. Persons serving on the Resource Team shall not be required to be members of the Ministerial Committee. Members shall serve terms of three years and may be reappointed, without sabbatical, by the Ministerial Committee. The Chairman of the Resource Team shall be elected by the team's membership in January of each year and shall serve for a term of one year. The Resource Team shall meet and/or communicate as necessary to keep its members informed, educated and prepared to serve the church in matters of sexual ethics and misconduct. The Resource Team may act to assist the Ministerial Committee in matters of reconciliation and reclamation or as an initial investigative body when requested to do so.

VI. POLICY REVIEW

The Ministerial Committee shall be responsible to regularly review this policy in light of legal developments and changes and any recommendations made by the Resource Team. Any proposed changes in this policy shall be presented to the presbytery for approval.

NORTH CAROLINA
SELECTED STATUTES FROM THE JUVENILE CODE
PERTAINING TO CHILD PROTECTIVE SERVICES

7A-517 (20)

Juvenile - Any person who has not reached his eighteenth birthday and is not married, emancipated, or a member of the armed services of the United States...

7A-543. Duty to report child abuse, neglect, dependency, or death due to maltreatment.

Any person or institution (emphasis added) who has cause to suspect (emphasis added) that any juvenile is abused, neglected, or dependent, as defined by G.S. 7A-517, or has died as the result of maltreatment, shall report the case of that juvenile to the Director of the Department of Social Services in the county where the juvenile resides or is found. The report may be made orally, by telephone, or in writing. The report shall include information as is known to the person making it including the name and address of the juvenile; the name and address of the juvenile's parent, guardian, or caretaker; the age of the juvenile; the names and ages of other juveniles in the home; the present whereabouts of the juvenile if not at the home address; the nature and extent of any injury or condition resulting from abuse, neglect or dependency and any other information which the person making the report believes might be helpful in establishing the need for protective services or court intervention. If the report is made orally or by telephone, the person making the report shall give the person's name, address, and telephone number. Refusal of the person making the report to give a name shall not preclude the Department's investigation of the alleged abuse, neglect, dependency or death as a result of maltreatment.

7A-550. Immunity of persons reporting an cooperating in an investigation.

Anyone who makes a report pursuant to this Article, cooperates with the county department of social services in a protective services inquiry or investigation, testifies in any judicial proceeding resulting from a protective services report or investigation, or otherwise participates in the program authorized by this Article, is immune from any civil or criminal liability that might otherwise be incurred or imposed for such action provided that the person was acting in good faith. In any proceeding involving liability, good faith is presumed.

7A-551. Privileges not grounds for failing to report or for excluding evidence.

No privilege (emphasis added) shall be grounds for any person or institution failing to report that a juvenile may have been abused, neglected, or dependent, even if the knowledge or suspicion is acquired in an official professional capacity, except when the knowledge or suspicion is gained by an attorney from that attorney's client during representation only in the abuse, neglect or dependency case. No privilege, except the attorney-client privilege, shall be grounds for excluding evidence of abuse, neglect, or dependency in any judicial proceeding (civil, criminal, or juvenile) in which a juvenile's abuse, neglect, or dependency is in issue nor in any judicial proceeding resulting from a report submitted under this Article, both as this privilege relates to the competency of the witness and to the exclusion of confidential communications.

**SOUTH CAROLINA
SELECTED STATUTES
PERTAINING TO CHILD PROTECTIVE SERVICES**

Section 20-7-500

Mandated Reporters include "any physician, nurse, dentist, optometrist, medical examiner or coroner, or any other medical, mental health or allied health professional, Christian Science Practitioner, religious healer, school teacher or counselor, social or public assistance worker, child care worker in any day care center or child caring institution, police or law enforcement officer or any judge having reason to believe that a child's physical or mental health or welfare has been or may be adversely affected by abuse or neglect.

Section 20-07-560

Penalties - Any person required to report a case of child abuse or neglect, or any person required to perform any other function under this article, who knowingly fails to do so, or any person who threatens or attempts to intimidate a witness shall be deemed guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars or be imprisoned for not more than six months, or both.

NOTE: It is the understanding of the presbytery's Ad-Hoc Committee on Sexual Misconduct Policy (1994) that "Christian Science Practitioner" has been interpreted by the courts to include all clergy.

**VIRGINIA
REGULATIONS
PERTAINING TO CHILD PROTECTIVE SERVICES**

From the Virginia Department of Social Services:

REPORTS OF SUSPECTED CHILD ABUSE/NEGLECT

a. Who May Make a Report

Any individual who has reason to suspect that a child is being abused or neglected by the child's parent or other person responsible for his/her care may make a report to the local department of welfare/social services. These reports may be made anonymously and the local agency cannot require the individual to reveal his/her identity as a condition of accepting the report. All reports must be accepted and evaluated regardless of whether or not the caller is identified.

b. Who Must Make a Report

- 1) The individuals listed below must make a report of any suspected abuse or neglect that they learn of in their professional capacity:
 - a) Persons licensed to practice medicine or any of the healing arts,
 - b) Hospital residents or interns,
 - c) Persons employed in the nursing profession,
 - d) Persons employed as social workers,
 - e) Probation officers,
 - f) Teachers or other persons employed in a public or private school, kindergarten or nursery school,
 - g) Persons providing full or part-time child care for pay on a regular basis,
 - h) Accredited Christian Science practitioners.
 - i) Mental health professionals,
 - j) Law enforcement officers, or
 - k) Professional staff persons employed by a public or private hospital, institution or facility in which children are placed.

When the persons listed above make a report of suspected abuse or neglect, they must disclose all the information that is the basis of the report to the local department of welfare/social services. This includes any records or reports which document the basis of their allegations.

2) Physician who diagnose venereal disease in a child 12 years of age or under must also report this to the local department of welfare/social services. The local department shall consider this complaint an allegation of reason to suspect child sexual abuse and initiate an investigation. Physicians need not report cases of venereal disease when they reasonably believe that the infection was caused congenitally or by a means other than sexual abuse. (Section 32.1-36, Code of Virginia.)

3) Penalty For Not Reporting

If a person required to report fails to do so, he/she can be charged with a misdemeanor. If found guilty, the fine is up to \$500.00 for the first incident and between \$100.00 and \$1,000.00 for any subsequent incidents. All such incidents are referred to the local Commonwealth's Attorney.

c. Rights of Complainant

1) Immunity

The following persons are immune from any civil or criminal liability unless it is proved that such person acts with malicious intent:

- a) Any person making a report of child abuse/neglect.
- b) Any person who participates in a judicial proceeding resulting from either making a report or taking a child into immediate custody.

2) Protecting The Identity Of The Complainant

When the complainant is known to the agency, every effort shall be made to respect his/her anonymity. However, the complainant must also be informed that his/her anonymity cannot be assured if the case is brought into court. In court cases, it may be necessary to subpoena this individual or his/her record.