

June 2, 2001

POLICY AND PROCEDURES ON SEXUAL MISCONDUCT FOR LOCAL CHURCHES

The Presbytery of Long Island has zero tolerance for sexual misconduct or harassment.

The material here is intended to assist churches in developing a policy and procedures to help prevent and deal with sexual misconduct or harassment. It may be adapted to fit the particular circumstances of the individual church. Each church is required to adopt a policy and procedures, but approval of them by the Presbytery is not required. However, each church shall give the Stated Clerk of Presbytery, the Committee on Ministry and the Sexual Misconduct Response Team a copy of the adopted policy and procedures. The existence of a policy and procedures and of their periodic review by the local church will be confirmed by the Committee on Ministry during triennial reviews of churches. Any complaints of sexual misconduct must be promptly reported to the Clerk of Session of your church and to the Stated Clerk of the Presbytery of Long Island.

The policy and procedures shall include a statement of purpose, the policy, definitions of terms, preventive measures, complaint procedures and remedial actions.

The policy must cover not only staff, members and volunteers of the church, but also all the various groups who use the church for their independent activities.

If your church runs a child care center, you are subject to the State Child Care Center Licensing Laws.

The Sexual Misconduct Response Team

A model misconduct policy for the local church follows

POLICY AND PROCEDURES ON SEXUAL MISCONDUCT XXX Presbyterian Church

STATEMENT OF PURPOSE

The purposes of this policy are:

1. To safeguard from abuse through any form of sexual misconduct the church's staff, members, children and others who attend our services, participate in our programs and use our facilities
2. To ensure that all ministers, elders, deacons, other church officers, church school teachers' youth leaders, employees, members, and others using church facilities clearly understand the policy.
3. To describe the steps to be taken when employing or using the services of the above.
4. To seek justice, protecting the innocent and dealing appropriately with those who victimize others.
5. To assist in the healing of all persons when sexual misconduct has occurred.

POLICY

Sexual misconduct is an abuse of power and trust and a violation of the scriptures and of the policy of this church. It is never permissible. We seek to provide a sexual harassment-free environment for all employees and to be a place of personal safety for all children and adults who use our facilities and participate in our programs. All participants in the work and activities of the church or those who use the facilities of the church shall conduct themselves in an honorable and ethical manner and shall not engage in sexual misconduct. To the extent there are items not covered in this policy, the Policy and Procedures on Sexual Misconduct adopted by the Presbvtery of Long Island may provide guidance.

This policy applies to the officers and members of this church, all persons working under its supervision, all persons serving in the program and activities of the church as volunteers or paid employees and all those who have been given permission to use the facilities of the church for their independent activities. Ministers of the Word and Sacrament are covered by the Procedures on Sexual Misconduct of the Presbytery of Long Island.

The responsibility for maintaining appropriate sexual boundaries belong to the ordained ministers, employees, volunteers or other leaders. For reporting purposes this policy recognizes no statute of limitations as to when sexual misconduct may have occurred for reporting purposes.

This policy will be reviewed annually. It shall be a part of the training for church school teachers, youth leaders and church officers referred to below under Preventive Measures. Copies of this policy shall be available to all persons and shall be filed with the Presbytery office and the church insurance carrier.

DEFINITIONS

A. SEXUAL MISCONDUCT is the comprehensive term used to include:

1. *Child sexual abuse*: includes, but is not limited to, any contact or interaction between an adult and a child wherein the child is being used for the sexual stimulation of the adult

or of a third person. The behavior may or may not include touching. Sexual behavior between a child and an adult is always considered forced whether or not consented to by the child. Child abuse when discovered must be reported to the civil authorities immediately.

2. *Sexual Harassment*: unwelcome sexual advances, requests for sexual favors, all other verbal and physical conduct constitute sexual harassment when submission to such conduct is made, either implicitly or explicitly, a condition of an individual's employment or status in an institution, or is used as a basis for employment decisions affecting the individual, or creates an intimidating, hostile or offensive working environment based on the declared judgment of the affected individual.

3. *Rape* or sexual contact by force, threat, or intimidation.

4. *Sexual malfeasance*: Sexual advances toward those for whose spiritual welfare one is responsible by one's position in the church. Such behavior can be verbal or physical conduct of an inappropriately sexual nature (e.g., risqué jokes, innuendoes, insults, ingratiating and overly solicitous behavior, including sexually inappropriate visits and phone calls, seductions and fondling).

B. PERSONS AND GROUPS

Accused: the person against whom a claim of sexual misconduct is made.

Accuser: a person claiming the knowledge of sexual misconduct by someone covered by this policy. The accuser may be the victim of alleged sexual misconduct, a family member or other caregiver, friend or colleague of the victim or anyone who observes an act of sexual misconduct.

Advocate: a person chosen by the accused, the accuser or the alleged victim to accompany him or her at any or all stages of the process. In this policy "advocate" does not denote legal representation. An advocate may be a colleague, friend, family member, counselor, etc. *The advocate must be a member of the Presbyterian Church (USA).*

Victim: the person alleged to have been injured by sexual misconduct.

Investigating Committee: A team of 3 to 5 persons appointed by the Session of the church. The Investigating Committee does fact-finding, works with the parties involved, reports finding and recommendations to the Session within one year, and is available to continue the process if deemed appropriate. The Investigating Committee must also be available to prosecute the case if it comes before the Session upon the Investigating Committee's recommendation.

PREVENTIVE MEASURES

A. Implementation

Copies of this policy shall be distributed to all clergy, officers, employees, church school teachers, youth leaders, and to each inside and outside organization using the facilities of the church. As new persons come into these positions and new organizations use the facilities, they too shall receive copies of this policy. The Elder responsible for personnel shall distribute the copies to person holding church positions and the Elder responsible for church usage shall distribute the copies to each inside and outside organization. These Elders will annually report to the Session concerning this distribution.

B. Liability and Insurance

The Church, Session and Trustees may be held liable for harm caused by sexual misconduct based on a number of legal theories including negligent hiring and

supervision. The Session and Trustees shall take potential liability into consideration when establishing hiring and supervisory practices and when establishing and supervising programs. The church shall carry adequate liability insurance.

C. Employment Practices

The church shall maintain a personnel file on all employees. The file shall contain the application for employment, any employment questionnaire, reference responses and documents related to the sexual misconduct policy.

If the applicant is unknown, the church shall confirm the identity of the applicant. It shall make specific enquiries to discover if in his/her prior employment there are any civil, criminal, or ecclesiastical complaints that were sustained against him/her for sexual misconduct or ifs/he was ever required to seek professional treatment for reasons of sexual misconduct.

The church shall contact references for prospective employees. A written record of conversations or correspondence with an applicant's references shall be kept in the employee's personnel file. (see attached application forms)

D. Rules for Church School and Vacation Bible School (Adult and Children)

1. Persons who are known to have committed a previous act of sexual misconduct are prohibited from teaching or supervising students either on a paid or volunteer basis.

2. Annually, the Session shall review and approve teachers and staff upon recommendation of the Christian Education Committee.

3. All teachers and staff (other than paid staff) will be members of the congregation for at least one full calendar year prior to teaching or substituting for a teacher. Exceptions to this rule will be approved on a case by case basis by the Session.

4. Persons who are hired as full or part time staff will be interviewed by elders and the pastor, have three written references all of whom are contacted by telephone, and have a police records check as a precondition to their employment. Any prospective employee shall sign a statement disclosing any prior criminal convictions or affirming that he or she has none.

5. Classrooms will have open access and be subject to observation.

6. No Child shall be subjected to demeaning discipline or separation from the group with a single supervisor.

7. Teachers and staff will attend an annual training meeting at which this policy will be reviewed and discussed.

E. Youth Fellowship Activities.

Youth Fellowship activities and their leaders are subject to the rules for the Church School and to these additional provisions:

1. There shall be at least two adults, male and female, present for all activities.

2. At no time will an adult and a youth be isolated from the group.
3. During dismissal times, whenever possible, no youth will remain behind alone under the supervision of only one adult.

F. Other Activities in the Church.

Any inappropriate behavior shall be reported immediately, (see complaint procedures)

COMPLAINT PROCEDURES

1. The church shall respond promptly to all reports of sexual misconduct with concern for all parties involved. Any person receiving an initial report of sexual misconduct shall immediately inform the Clerk of Session and the Stated Clerk of the Presbytery of Long Island. Any questions regarding the interpretation of these policies may be referred to the Clerk of Session or the Stated Clerk of the Presbytery.
2. Any person who has reason to believe that s/he has been subjected to sexual misconduct, who has witnessed acts of sexual misconduct committed upon others or has been told by a child that s/he has been subjected to such behavior will report the incident to one of the persons named in 1. above.
3. All complaints of sexual misconduct, whether made in writing or orally, shall be taken seriously and investigated promptly.
4. Once a written complaint is received the matter shall be referred immediately to an investigating committee appointed by the session of the church and to the Stated Clerk of the Presbytery of Long Island. The Stated Clerk will delineate the resources available through the Presbytery.
5. The Accuser shall be advised that s/he has the right to file a complaint with the Presbytery.
6. The Accuser must be told that upon the receipt of a written complaint, the accused will be informed in writing that a complaint has been filed. If the victim is under 18 years of age, the accuser shall be informed that the matter will also be referred immediately to the appropriate legal authorities.
7. The complaint shall include the date(s) and approximate time(s) of the alleged sexual misconduct; the identities of the Accused, Accuser and/or Victim; the location(s) of the incident(s), the specific act(s) of sexual misconduct; and the names of all witnesses and persons with relevant information. The written complaint must be signed by the Accuser.
8. The investigating committee of the church shall review the complaint and interview all parties. It may hold a hearing in which all involved parties may participate. The parties may be represented by counsel. All rights of both Accused and Victim shall be preserved.
9. Upon completion of its inquiry, the investigating committee of the church shall report to the Session and recommend appropriate action to resolve the complaint.
10. If efforts to resolve the complaint are not successful in the Session an appeal can be made to the Stated Clerk of Presbytery.
11. All records of actions including conversations with the Accuser, Accused and Victim shall be kept confidential and maintained permanently by the Clerk of Session in a file separate from any public records.
12. In all cases the Book of Order (chapters D 10.00 through D14.00) of the Presbyterian Church (USA) shall be followed.

DISCIPLINARY AND REMEDIAL ACTION

1. In cases involving members under the jurisdiction of the Presbyterian Church (USA) disciplinary action shall follow those provided in The Book of Order.

2. In cases involving lay employees, teachers, etc. (not under the jurisdiction of the Presbyterian Church (USA)) found in violation of this policy, disciplinary action shall be taken commensurate with the degree of misconduct. Disciplinary and remedial action may be progressive in nature and include, but is not limited to the following:
 - a. An apology and direction to cease the misconduct.
 - b. Referral to counseling or mediation.
 - c. Reassignment or change of work schedule to minimize contact between parties.
 - d. Demotion.
 - e. Suspension (with or without pay)
 - f. Termination.
 - g. Referral to the criminal justice system.

CHURCH POLICY NOTIFICATION AND ACCEPTANCE

The attached policies reflect our commitment to provide protective care of all children, youth, volunteers and workers who participate in church sponsored activities.

Please Answer Each Question, Your Response Will Be Kept Fully Confidential.

1. As a church volunteer or worker, do you agree to observe all church policies regarding working with youth or children? Yes ___No___
2. Have you ever been convicted of or pleaded guilty to a crime?
___Yes (please describe on a separate sheet of paper)
___No
3. Were you a victim of abuse or molestation while a minor?
___Yes
___No

If you prefer, you may refuse to answer this question, or you may discuss your answer in confidence with the Pastor or the oversight committee rather than answering it on the form: Answering yes, or leaving the question unanswered, will not automatically disqualify an applicant for children or youth work.

I have read the attached policy and agree to adhere to the requirements stated therein. I also understand that sexual relationships with minors can lead to a felony conviction. I further understand that this includes, but is not limited to, sexual relationships taking place between consenting individuals or when involving a minor volunteer/worker and another minor.

Signature

Date

Release

The information contained in this application is accurate to the best of my knowledge and may, be verified by the employing entity. I hereby authorize The xxxx Presbyterian Church to make any and all contacts necessary to verify my prior employment or volunteer history), and to inquire concerning any judicial proceedings involving me as a defendant. By means of this release, I also authorize any previous employer, volunteer organization and any law enforcement agencies or judicial authorities to release any and all requested relevant information to The xxxx Presbyterian Church.

I have read this release and understand fully that the information obtained may be used to deny me employment or any other type of position from the employing entity. I also agree that I will hold harmless the employing entity or judicial authority from any and all claims, liabilities and cause of action for the legitimate release or use of any information.

Signature

Date

Witness

Witness

Educational Background

Name of High School: _____ Year Graduated: _____

Address: _____

Name of College: _____ Year Graduated: _____

Degree Obtained: _____ Major: _____

Address: _____

References

List two (2) personal references: (not former employers or relatives)

Name: _____ Name: _____

Address: _____ Address: _____

Phone: _____ Phone: _____

Relationship: _____ Relationship: _____

List one (1) previous church reference:

Name: _____

Address: _____

Phone: _____

Name of church of which you are currently a member: _____

Address: _____

Phone: _____

Please complete the following certification.

I certify that (a) no civil, criminal, ecclesiastical complaint has ever been sustained or is pending against me for sexual misconduct, (b) I have never left a voluntary position, resigned or been terminated from employment or a voluntary position for reasons related to sexual misconduct.

Signature

Date

Note: If you are unable to make the above certification you may instead give in the space provided a description of the complaint, termination or the outcome of the situation and any explanatory comments you care to add.

EMPLOYMENT APPLICATION

Position applying for: _____ Date: _____

Please indicate the date you would be able to begin: _____

Name _____

 Last First Middle Maiden Name

Street: _____

City _____ State _____ Zip: _____

Business Phone: _____ Home Phone: _____

Have you ever been known by any other Name: __ Yes __ No

If yes, please provide other name(s): _____

Social Security Number: _____

Driver's License Number: _____

Identity must be confirmed with a state driver's license or other photographic identification.

Employment Record (List current and previous employers for the last five years)

Employed by: _____

Address: _____

City, State, Zip: _____

Your Supervisor: _____ Phone: _____

Supervisors Title: _____

Employed from (month/year): _____ to (month/year): _____

Why did you leave?: _____.

Employed by: _____

Address: _____

City, State, Zip: _____

Your Supervisor: _____ Phone: _____

Supervisors Title: _____

Employed from (month/year): _____ to (month/year): _____

Why did you leave?: _____

Employed by: _____

Address: _____

City, State, Zip: _____

Your Supervisor: _____ Phone: _____

Supervisors Title: _____

Employed from (month/year): _____ to (month/year): _____

Why did you leave?: _____

