

PRESBYTERY OF NORTHERN NEW YORK SEXUAL MISCONDUCT POLICY

I. Policy Statement:

It is the policy of the Presbytery of Northern New York (hereinafter referred to as PNNY) that all church members, church officers, non-member employees, and volunteers of congregations, councils, and entities of the Presbytery are to maintain the integrity of the ministerial, employment, and professional relationship at all times. Persons who engage in sexual misconduct are in violation of the principles set forth in Scripture, and also of the ministerial, pastoral, employment, and professional relationship. It is never permissible or acceptable for a church member, officer, employee, or volunteer to engage in sexual misconduct.

Distribution

Copies of this policy and its procedures shall be made available to all members of the Presbytery, congregations and employees. This policy and its procedures should be made available to persons who accuse others of misconduct, including those who are or claim to be victims of sexual misconduct and their families. Other councils of the PC(USA) may use this policy as a guide to develop their own policies and procedures related to sexual misconduct.

II. Standards of Conduct

... As [God] who called you is holy, be holy yourselves in all your conduct;
... Tend the flock of God that is in your charge, ...
not under compulsion but willingly, ...
not for sordid gain but eagerly. ...
not lord it over those in your charge,
but be examples to the flock.
... You know that we who teach will be judged with greater strictness.
1 Pet. 1:15; 5:2-3; Jas. 3:1, NRSV

The ethical conduct of all who minister in the name of Jesus Christ is of vital importance to the church because through these representatives an understanding of God and the gospel's good news is conveyed. "Their manner of life should be a demonstration of the Christian gospel in the church and in the world" (Book of Order, G-2.0104a).

The basic principles of conduct guiding this policy are as follows:

1. Sexual misconduct is a violation of the role of pastors, employees, volunteers, counselors, supervisors, teachers, and advisors of any kind who are called upon to exercise integrity, sensitivity, and caring in a trust relationship. It breaks the covenant to act in the best interests of parishioners, clients, co-workers, and students.
2. Sexual misconduct is a misuse of authority and power that breaches Christian ethical principles by misusing a trust relation to gain advantage over another for personal pleasure in an abusive, exploitative, and unjust manner. If the parishioner, student, client, or employee initiates or invites sexual content in the relationship, it is the pastor's, counselor's, officer's, or supervisor's responsibility to maintain the appropriate role and prohibit a sexual relationship.
3. Sexual misconduct takes advantage of the vulnerability of persons who are less powerful to act for their own welfare, including children. It is antithetical to the gospel call to work as God's servant in the struggle to bring wholeness to a broken world. It violates the mandate to protect the vulnerable from harm.

Definitions

Sexual Misconduct is the comprehensive term used in this policy to include: Child sexual abuse; including, but is not limited to, any contact or interaction between a child and an adult when the child is being used for the sexual stimulation of the adult person or of 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. In the Presbyterian Church (U.S.A.), the sexual abuse definition of a child is anyone under age eighteen.

Sexual abuse as defined in the Book of Order: "Sexual abuse of another person is any offense involving sexual conduct in relation to (1) any person under the age of eighteen years or anyone over the age of eighteen years without the mental capacity to consent; or (2) any person when the conduct includes force, threat, coercion, intimidation, or misuse of ordered ministry or position" (Book of Order, D-10.0401c).

Sexual harassment; defined for this policy is as follows: unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- a. submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, or their continued status in an institution;
- b. submission to or rejection of such conduct is used as the basis for employment decisions affecting such an individual;
- c. 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; or
- d. an individual is subjected to unwelcome sexual jokes, unwelcome or inappropriate touching, or display of sexual visuals that insult, degrade, and/or sexually exploit men, women, or children.

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

Sexual conduct is offensive, obsessive or suggestive language or behavior, unacceptable visual contact, unwelcome touching or fondling that is injurious to the physical or emotional health of another.

Sexual Malfeasance; is defined by the broken trust resulting from sexual activities within a professional ministerial relationship that results in misuse of office or position arising from the professional ministerial relationship.

Misuse of technology; use of technology that results in sexually harassing or abusing another person, including texting or emailing suggestive messages and images to persons with whom one has a ministerial relationship. It is never appropriate to view pornography on church property. When this includes a person under the age of eighteen, it is considered child abuse. There is never an expectation of personal privacy when using technological equipment owned by a church or church entity or within the context of ministry.

III. Church Response to Allegations of Sexual Misconduct

A. Principles

In responding to allegations of sexual misconduct, members, officers, and employees of the church should seek healing and assure the protection of all persons. Where possible, the privacy of persons should be respected and confidentiality of communications should be maintained.

In responding to allegations of sexual misconduct, members, officers, and employees of the church should seek to uphold the dignity of all persons involved, including persons who are alleging harm, persons who are accused of sexual misconduct, and the families and communities of each.

PNNY has jurisdiction over its members, officers, and employees such that if a member, officer, or employee is alleged to have committed an offense against Scripture or the PC(USA) Constitution, the church has the duty to inquire into the allegations and, if the allegations are proven, to correct the behavior of the member, officer, or employee and ensure the safety of others in the community. Allegations of sexual misconduct are always considered allegations of offense against Scripture or the PC(USA) Constitution that trigger the disciplinary processes of the PC(USA) set forth in the Book of Order. In the case of an active non-member who is employed or volunteers with the church, the individual will be covered by the procedures of the written personnel policies of the council or entity.

If the person accused of sexual misconduct is no longer a member, officer, or employee of PNNY, but the conduct occurred while the person was acting on behalf of PNNY, the church does not have jurisdiction to correct the behavior, but it does have a duty to hear the allegations of offense and to take measures to prevent future occurrences of harm. The Coordinating Council may appoint an administrative committee or commission to hear the allegations of sexual misconduct. The Coordinating Council may also take measures to prevent future occurrences of harm through education and policy.

B. Reporting Requirements

1. Reporting Sexual Misconduct

A person needing to report that a member, officer, employee, or volunteer of PNNY has committed sexual misconduct is encouraged to seek guidance from a PNNY teaching elder or ruling elder regarding filing the report.

Congregation: If the person who is accused of committing sexual misconduct is a member, ruling elder, deacon, volunteer, or employee of a congregation, the report of allegations should be made to the teaching elder, the clerk of session, or the chair of the personnel committee. If the accused is a member or officer of the church, the church will respond by using the procedures set forth in the Rules of

Discipline of the Book of Order. If the accused is a nonmember employee or volunteer, the church will respond by using procedures set forth by the session of the congregation.

Presbytery: If the person who is accused of committing sexual misconduct is a teaching elder member, the report of allegations should be made to the stated clerk of the presbytery. If the report of allegations is placed in writing, the presbytery will respond by using the procedures set forth in the Rules of Discipline of the Book of Order. If the person who is accused of committing sexual misconduct is a volunteer or nonmember employee of the presbytery, the report of allegations may be made to any of the staff or volunteers of the presbytery. The presbytery will respond by using procedures set forth by this policy and/or bylaws of the presbytery.

2. Receiving Reports of Sexual Misconduct

Reports of allegations of sexual misconduct will occur in a variety of ways.

Because the Presbytery cannot control to whom the victim of sexual misconduct will speak first, it is important that officers, employees, and persons highly visible to church members and visitors understand how reports of incidents are channeled to the proper person. The allegations may come from persons who have or who do not have a formal relationship with the PC(USA) and may be made to a variety of officers or leaders within PNNY. It is the duty of these officers to see that any allegation of sexual misconduct is reported appropriately keeping in mind the mandatory reporting requirements for allegations of child abuse.

Reports of allegations of sexual misconduct should never be taken lightly or disregarded and allowed to circulate without concern for the integrity and reputation of the victim, the accused, and the church.

Reports of allegations should be dealt with as matters of highest confidentiality, both before and after they have been submitted to appropriate authorities as outlined below.

The first person to learn of an incident of sexual misconduct should not undertake an inquiry alone or question either the victim or the accused unless the incident is divulged in the process of pastoral care, counseling, or a therapy session. If the victim is hesitant to talk to “higher authorities,” the person who has received the initial report has a special pastoral responsibility to build trust and willingness to speak with the accuser, lest the church be unable to respond because no one is able to give firsthand information.

The person receiving the initial report of allegations of sexual misconduct shall analyze the relationship of the person accused of sexual misconduct with the PC(USA) and shall make sure that the allegations of offense are filed with the council with jurisdiction over the person accused. This may be done by the person alleging harm or by any member of the PC(USA). If the report is made orally, the person receiving the report of allegations should request that the person making the report of allegations place it in writing. A report of allegations of sexual misconduct in writing from a member of the PC(USA) alleging another member or officer of the PC(USA) committed an offense must be acted on according to the Rules of Discipline of the Book of Order. If a clerk or stated clerk receives a report of allegations in writing from a nonmember of the PC(USA) alleging another member or officer of the PC(USA) committed sexual misconduct, the report also should be acted on according to the Rules of Discipline of the Book of Order. If the person who makes the report is unwilling or unable to place it in writing, any member of the PC(USA) may make the written statement that will automatically trigger the Rules of Discipline of the Book of Order.

3. Mandatory Reporting of Child Abuse

All ruling elders, deacons, Certified Christian Educators, and teaching elders are required to report knowledge of child abuse to the civil and ecclesiastical authorities according to the Book of Order. The Book of Order requires that

- “Any member of this church engaged in ordered ministry and any certified Christian educator employed by this church or its congregations, shall report to ecclesiastical and civil legal authorities knowledge of harm, or the risk of harm, related to the physical abuse, neglect, and/or sexual molestation or abuse of a minor or an adult who lacks mental capacity when (1) such information is gained outside of a confidential communication as defined in G-4.0301, (2) she or he is not bound by an obligation of privileged communication under law, or (3) she or he reasonably believes that there is risk of future physical harm or abuse” (G-4.0302)

Further

“In the exercise of pastoral care, teaching elders (also called ministers of the Word and Sacrament) and ruling elders who have been commissioned by a presbytery to limited pastoral service (G-2.10), shall maintain a relationship of trust and confidentiality, and shall hold in confidence all information revealed to them in the course of providing care and all information relating to the exercise of such care. When the person whose confidences are at issue gives express consent to reveal confidential information, then a teaching elder or a ruling elder commissioned to pastoral service may, but cannot be compelled to, reveal confidential information. A teaching elder or a ruling elder commissioned to pastoral service may reveal confidential information when she or he reasonably believes that there is risk of imminent bodily harm to any person (G-4.0301).

All persons covered by this policy have an additional duty to report knowledge of child sexual abuse to the employing entity, supervisor, or council representative. All persons should be informed of and must comply with New York State and local laws regarding incidents of actual or suspected child sexual abuse. These reports should be made within a reasonable time of receiving the information.

These provisions of the Book of Order attempt to balance conflicting moral duties for officers of the Presbyterian Church (U.S.A.).

For teaching elders, the provision strives to balance the duty to protect children from future harm with the duty of a teaching elder to hold in confidence any information revealed to them during the exercise of pastoral care in any ministry setting as defined in G-4.0301 in the Book of Order.

For ruling elders, deacons, and certified Christian educators, the provisions strive to balance the duty of an officer of the church to protect children from harm and any secular duty the officer may have to hold in confidence any information revealed as a result of a secular relationship such as attorney/client, counselor/client, or physician/patient. The secular duties will be a function of secular law and may vary from state to state.

C. Responding

The response of PNNY will vary according to the relationship of the PC(USA) with the person who is accused of sexual misconduct. Church members and officers are subject to inquiry and discipline (censure and correction) under the Book of Order. Non-church member employees and volunteers are subject to oversight and correction by the council or entity that employs them.

1. Accused Covered by Book of Order

When an allegation of offense of sexual misconduct has been received by the clerk of session or stated clerk of the presbytery, the clerk of the council will report to the council that an offense has been alleged and that the council will proceed according to the procedures set forth in the Rules of Discipline of the Book of Order. The Coordinating Council should appoint an investigating committee to inquire into the allegations. The investigating committee must promptly begin its inquiry into the allegations. Delay may cause further harm to the victim and/or the accused.

PNNY must cooperate with civil authorities in an investigation of child sexual abuse or other criminal sexual misconduct. Church disciplinary proceedings cannot interfere with a criminal investigation by civil authorities and may have to be suspended until these are completed.

The session has original jurisdiction in disciplinary cases involving members, ruling elders, and deacons of the church, each congregation having jurisdiction only over its own members.

The Presbytery has original jurisdiction in disciplinary cases involving teaching elders. The Commission on Ministry is authorized to dissolve a pastoral relationship when the “Word imperatively demands it” (G-2.0904). However, the Presbytery may only place a teaching elder on administrative leave when allegations of child abuse have been received and the presbytery has followed the Book of Order procedures to conduct its risk evaluation to determine whether or not a teaching elder member accused of child abuse should be placed on administrative leave (D-10.0106). It is recommended that the permanent judicial commission (PJC) members who will conduct this risk evaluation based upon the allegations and a hearing should also take into account secular legal advice. When a church officer renounces jurisdiction, the clerk or stated clerk shall report the renunciation at the next meeting of the Presbytery and shall record the renunciation in its minutes. The status of any pending charges may be shared with the council at that time.

2. Accused Not Covered by Book of Order

When a council or entity of the General Assembly receives an accusation of offense of sexual misconduct against a nonmember employee or volunteer, the procedural response of the Presbytery will be guided by the written the Presbytery's Personnel Policy.

The committee or commission that will respond to the allegation of offense of sexual misconduct will do the following:

- a. Determine whether or not the allegation gives rise to a reasonable suspicion of sexual misconduct by the accused.
- b. If so, gather additional information necessary to make a decision about correcting the behavior.
- c. Determine any remedies, including limiting ministry, suspension, or termination necessary and advisable under the circumstances. If the accused is a member of another denomination, that denomination will be notified of the allegations and the response.
- d. Inform the victim and the accused of the remedy.
- e. In all cases, the personnel committee shall prepare a written report, which shall be included in the accused's permanent personnel file. The accused shall be allowed to attach any written statements to said documents, also for permanent inclusion in the permanent file.

All procedures shall follow the guidelines set forth by PNNY.

3. Presbytery Record Keeping

The Presbytery should keep detailed records of its actions and minutes of its deliberations and its conversations with the accuser, the accused, and other parties involved, correspondence, and copies of the reports received from committees or commissions. Such records will be kept confidential as far as possible. In Case # 208-6, the General Assembly Permanent Judicial Commission (GAPJC) interpreted the Rules of Discipline to say that a council or entity may share the contents of inquiry reports with other councils or entities of the PC(USA) when necessary. The Stated Clerk will maintain the records while the inquiry is in process.

IV Prevention and Risk Management

A. Implementation

The Presbytery's Personnel Policy makes it a violation of the Presbytery's work rules to engage in sexual misconduct and encourages reporting of sexual misconduct. The information contained in this policy regarding what constitutes sexual misconduct and the procedures for responding to allegations of sexual misconduct policy are to be transmitted to all members, employees, and volunteers, of the Presbytery

B. Liability and Insurance

PNNY can be held liable for harm caused by sexual misconduct of an officer, teaching elder or employee based on a number of legal theories. The Presbytery will take such potential liability into consideration when establishing hiring and supervisory practices.

The Presbytery will regularly inform its liability insurance carriers of the activities and programs it operates or sponsors and of the duties and responsibilities of officers, employees, and volunteers. The standard insurance policy will be enhanced by endorsements to cover specific exposures such as camps, day-care operations, shelters, or other outreach program.

The Presbytery will obtain an endorsement to its general liability insurance policy specifically covering sexual abuse and molestation. Such coverage should provide for legal defense expenses and judgments in civil suits brought against the Presbytery, its officers, directors, or employees.

C. Employment Practices

1. Record Keeping

Accurate record keeping is an essential part of hiring and supervision practices of churches, the Presbytery and related entities. The Presbytery will maintain a personnel file on every employee, including teaching elders. The file should contain the application for employment, any employment questionnaires, background checks, references responses, and all other documents related to an employee's employment, except records which may be required, by law, to be kept in separate files.

2. Prescreening Applicants

Councils and entities are urged to establish thorough and consistent hiring practices. If an applicant is unknown to the employer, the employer should confirm the applicant's identity by requiring photographic identification such as a driver's license. The council will perform a background check,

including a national criminal background check, on all applicants that may have interaction with children and youth. Part of pre-employment screening should include specific questions related to discovering previous complaints of sexual misconduct. See Appendix B: Exhibit E.

3. References

The employing council or entity is responsible for contacting references for prospective teaching elders, employees, or volunteers. A written record of conversations or correspondence with references should be kept in the teaching elder or employee's personnel file. (See Appendix B: Exhibit B for a reference form).

The Resource Presbyter or Stated Clerk is responsible for previous employer reference checks. These persons are obligated to give truthful information regarding allegations, inquiries, and administrative or disciplinary action related to sexual misconduct of the applicant. If false or misleading information is given by the applicant, or relevant information is withheld, the applicant should be eliminated from consideration. Applicants should be informed of negative comments regarding sexual misconduct and shall be given an opportunity to submit additional references or to give other evidence to correct or respond to harmful information obtained from a reference.

Retaliation Prohibition

No person covered by this Policy shall be subject to adverse action because the employee reports an incident of sexual harassment, provides information, or otherwise assists in any investigation of a sexual harassment complaint. PNNY will not tolerate such retaliation against anyone who, in good faith, reports or provides information about suspected sexual misconduct. Any officer or employee of PNNY who retaliates against anyone involved in a sexual misconduct investigation will be subjected to disciplinary action, as specified by the Book of Discipline of the Book of Order. All officers, employees, paid or unpaid interns, or volunteers working in the workplace who believe they have been subject to such retaliation should inform an officer of the Presbytery or a member of the Coordinating Council. All employees, paid or unpaid interns or volunteers who believe they have been a target of such retaliation may also seek relief in other available forums.

V. Educating and Training- Awareness

Since the issue of sexual misconduct has become an ever more present reality, there is an emerging need to educate and train a wide variety of persons. Persons needing this specific education include: teaching elders; volunteers; officers; nonprofessional and professional staff; ministerial candidates; professionals who will be working with this issue within the Presbytery; members of congregations; and Presbytery staff including supervisors, employees, and stated clerks.

Education for these persons and groups will be different on a group-by-group basis. A primary requirement for all persons should be common knowledge regarding professional and ministerial boundaries, and the Presbytery's Sexual Misconduct Policy.

Much of a congregation's education currently happens in response to an actual case of sexual misconduct. However, it is recommended that the congregation be as proactive in this area as possible offering education in a variety of settings. There are already numerous resource materials available that could be adapted to a congregation's setting.

All employees are to be well acquainted with, understand, and abide by this policy and procedures. This may be accomplished using a workshop during staff meeting and/or articles and books made available; etc. Any professional (therapists, attorneys, advocates, mediators, arbitrators) used by a council should have access to experts qualified in the field of sexual misconduct if they themselves are not.

Appendix A

Definitions

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

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

Church when spelled with the initial capitalized refers to the Presbyterian Church (U.S.A.).

Church when spelled with the initial in lowercase refers to local churches. The word congregation is used loosely for members and participants.

Employee is the comprehensive term used to cover individuals who are hired or called to work for the Church for salary or wages.

Entity is the term used to refer to any program or office managed by a board, committee, council or other body whose membership is elected by a council.

Council is a representative body composed of ruling elders and teaching elders: sessions, presbyteries, synods, and the General Assembly. A council may establish entities such as day-care centers, conference centers, camps, or homes for the aged. A council may have both church members and nonmembers as employees.

Inquiry is the term used in the Rules of Discipline to determine whether charges should be filed based upon allegations of an offense received by a council. See Book of Order, D-10.0000.

Mandated Reporter includes a person under the PCUSA constitution who is mandated to report to the civil authorities any reasonably held belief that there will be future harm and is also described by some states' laws as a person who is required to report any and all suspected incidents of child abuse, including child sexual abuse that come to their attention. State laws vary from defining "all persons having knowledge" as mandated reporters to specifying very limited lists of professions whose members are required to report.

Persons Covered by this policy includes church members, church officers, teaching elders, and nonmembers who are employees or volunteers of the General Assembly of the PC(USA).

Response is the action taken by the council or entity when a report of sexual misconduct is received. It may include (1) inquiry into facts and circumstances, (2) possible disciplinary action (administrative or judicial or both), (3) pastoral care for victims and their families and others, and (4) pastoral care and rehabilitation for the accused and care for their families.

Civil Authorities are the governmental bodies, whether city, county, state, or federal, who are given the responsibility to investigate, criminally prosecute, and/or bring civil charges against individuals accused of sexual crimes or offenses against adults and children.

Secular Law is the body of municipal, state, and federal laws and is often referred to collectively as civil and criminal law. Prohibited behavior addressed by this policy may result in criminal and/or civil charges filed under secular law.

Victim is a person claiming to have been harmed and/or abused by a person covered under this policy

Volunteer is the term used for those who provide services for PNNY. Volunteers include persons elected or appointed to serve on boards, committees, and other groups. For purposes of this policy, volunteers are treated the same as employees.

Appendix B

New York State Legal Protections and External Remedies

Sexual harassment is not only prohibited by PNNY but is also prohibited by state, federal, and, where applicable, local law.

Aside from the internal process at PNNY, employees may also choose to pursue legal remedies with the following governmental entities. While a private attorney is not required to file a complaint with a governmental agency, you may seek the legal advice of an attorney.

In addition to those outlined below, employees in certain industries may have additional legal protections.

State Human Rights Law (HRL)

The Human Rights Law (HRL), codified as N.Y. Executive Law, art. 15, § 290 et seq., applies to all employers in New York State with regard to sexual harassment, and protects employees, paid or unpaid interns and non-employees, regardless of immigration status. A complaint alleging violation of the Human Rights Law may be filed either with the Division of Human Rights (DHR) or in New York State Supreme Court.

Complaints with DHR may be filed any time within one year of the harassment. If an individual did not file at DHR, they can sue directly in state court under the HRL, within three years of the alleged sexual harassment. An individual may not file with DHR if they have already filed a HRL complaint in state court.

Complaining internally to PNNY does not extend your time to file with DHR or in court. The one year or three years is counted from date of the most recent incident of harassment.

You do not need an attorney to file a complaint with DHR, and there is no cost to file with DHR.

DHR will investigate your complaint and determine whether there is probable cause to believe that sexual harassment has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If sexual harassment is found after a hearing, DHR has the power to award relief, which varies but may include requiring your employer to take action to stop the harassment, or redress the damage caused, including paying of monetary damages, attorney's fees and civil fines.

DHR's main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458. You may call (718) 741-8400 or visit: www.dhr.ny.gov.

Contact DHR at (888) 392-3644 or visit dhr.ny.gov/complaint for more information about filing a complaint. The website has a complaint form that can be downloaded, filled out, notarized and mailed to DHR. The website also contains contact information for DHR's regional offices across New York State

Appendix C

Employment Procedures-With Forms

PNNY has established and implemented personnel policies that include employment procedures for the search, selection, and call of entity staff. The employment procedures should spell out the process to be followed during the election of chief administrative officers and other staff, the appointment of exempt and nonexempt staff, and the call of teaching elders, chief administrative officers, and elected staff. These employment procedures should also include candidate/applicant reference checks prior to employment. PNNY personnel policies contain a clearly defined grievance process, a periodic performance review process, and a section that prohibits sexual misconduct (including sexual harassment). These provisions are applicable to all full-time, part-time, temporary, and interim staff. The personnel policies also provide for confidential communication channels whereby staff members can voice concerns or apprehensions without fear of retribution.

Churchwide and public advertisement of vacant positions are a part of PNNY's search procedures to fill vacant positions as well as the Churchwide Plan for Equal Employment and Affirmative Action. In support of this policy and its procedures on sexual misconduct, all vacant positions of religious leadership forwarded to publications for advertisement, distributed to units of the church, as well as posted on local bulletin boards will include the following statement:

"The Presbyterian Church (U.S.A.) is an equal opportunity employer. In addition the church has a strong policy opposing sexual harassment or abuse. References and records will be checked during the employment process."

The following forms are included in this appendix:

Exhibit A, Employee Questionnaire; and Exhibit B, Confidential Employee References. These two forms will be used by PNNY

Exhibit C, a form for Implementing Policy of Sexual Misconduct, is to be used by each employing entity as it distributes its sexual misconduct policy to employees and others.

Exhibit D, Report of Suspected Sexual Misconduct, is for gathering basic information to be passed along to the appropriate person or group handling sexual misconduct cases for a unit or other entity.

An employee handbook is being written, published, and distributed to each employee of PNNY. It includes reference to this policy.

Release

The information contained in this questionnaire is accurate to the best of my knowledge and may be verified by the employing entity. I hereby authorize (Name of Employing Entity) to make any and all contacts necessary to verify my prior employment history, and to inquire concerning any criminal records or any judicial proceedings involving me as a defendant. By means of this release I also authorize any previous employer and any law enforcement agencies or judicial authorities to release any and all requested relevant information to the Presbytery of Northern New York .

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: _____

Witness: _____

Witness: _____

Exhibit B

This form may be used to keep a record of all face-to-face or telephone reference checks. Additions that have to do with sexual misconduct or child abuse may be needed by the entity to justify to a court of law that they have done reasonable and prudent screening before hiring a person for a position within that entity.

Confidential Employment Reference

1. Name of applicant: _____

2. Reference or church contacted (if a church, identify both the church and person contacted): _____

3. Date and time of contact: _____

4. Person contacting the reference or church: _____

5. Method of contact (phone, letter, personal conversation): _____

6. Summary of conversation (summarize the reference's remarks concerning the applicant's fitness and suitability for the position, any convictions for or actions pending related to sexual misconduct, sexual harassment or child abuse):

Name: _____ Title: _____

Signature: _____ Date: _____

Exhibit C

Acknowledgement of Receipt of the Presbytery of Northern New York's Sexual Misconduct Policy

I hereby acknowledge that I received on: _____ (date), a copy of the "Policy and Its Procedures on Sexual Misconduct of the Presbytery of Northern New York" dated November 19, 2019, that I have read the policy, understand its meaning, and agree to conduct myself in accordance with the policy.

Signature: _____

A similar acknowledgement should be signed at the time amendments to the policy are made and distributed.

Exhibit E

Employment Questions to ask of potential employees:

The following questions should be asked of persons seeking ministerial calls or employment in nonordained positions:

- a. Has a civil, criminal, or ecclesiastical complaint ever been sustained against you involving sexual misconduct by you?
- b. Have you ever resigned or been terminated from a position for reasons relating to allegation of sexual misconduct by you?
- c. If so, indicate the date, nature and place of these allegations, and the name, address, and telephone number of your employer at that time.
- d. Have you been required to receive professional treatment, physical or psychological, for reasons related to sexual misconduct to you?
- e. If so, please give a short description of the treatment including the date, nature of treatment, place, and name, address, and telephone number of the treating physician or other professional.

Notes:

Appendix D

Meeting the Needs of All Involved

In cases of sexual misconduct there are needs that have to be met for the good of all persons, groups, and entities. To ensure that the council is ready to meet the variety of needs present, an independent response coordination team may be named. This team will not investigate the allegation or in any way function as an investigating committee for disciplining members or officers, but should confine itself to coordinating a process that will meet the specific needs of victims and their families (if any), the accused and family (if any), employing entities, congregations, and councils:

A. The Needs of the Victim

The council, employing entity, and response coordination team should assure that adequate treatment and care are available for alleged victims of sexual misconduct and their families. Sometimes, the victim or family is so angry and alienated from the church, that offers of help may be perceived as insincere or as attempts of a cover-up. If the victim or family at first refuses, the church should continue to offer help. Above all the church should not act in a self-protective manner by ignoring the victim and their families.

The extent of the damage to the victims of sexual misconduct will vary from person to person, and is influenced by such factors as the degree or severity of abuse, the age and emotional condition of the victim, human dynamics, and the importance of one's religious faith. The council, entity, and response coordination team is to assume in all cases that the victim has been wounded by the experience.

Feelings of guilt, shame, anger, mistrust, lowered self-esteem, unworthiness, and feelings of alienation from God, self, the religious community, and family are frequent injuries suffered by victims. It is important for the response coordination team to be sensitive to the victim's pain and need for healing, and to act by making appropriate pastoral care available.

The following are some of the needs of the victim:

1. To be heard and taken seriously. From the time that the victim is first able to indicate that sexual misconduct has occurred, that person should receive immediate attention and serious consideration from all church representatives.
 2. To receive pastoral and therapeutic support. The victim may require spiritual and professional assistance as a result of sexual misconduct. The response coordination team should offer to help arrange for such support from a pastor and therapist, if the victim desires. Discussions with such people would be confidential, privileged conversations.
 3. To be informed about church process and progress with regard to the accusation. One member of the response coordination team should be the church contact person for the victim. Frequently, this contact person will give the victim information as to what is happening in the church as a result of the accusation.
 4. To receive legal advice. The response coordination team should suggest that the victim might benefit from independent legal advice. (Legitimate claims might be more effectively pursued and flimsy or false claims discouraged.) If requested, the response coordination team should suggest ways in which independent legal advice can be obtained.
 5. To be assured of an advocate of one's own choosing. A victim may need continuing moral support from one individual who is present while the church process deals with the accusation. This advocate may be a relative, friend, or someone suggested by the response coordination team. This advocate could speak for the victim, if necessary.
- To be assured that justice will be pursued. The victim needs to be told by the response coordination team, and shown by the processes of the church, that justice is being pursued through fact-finding, truth-telling, confrontation, and agreement that may include removal or temporary exclusion of the accused from office or adjudication of the complaint.
 - To receive healing and reconciliation. In addition to specific forms of restitution mentioned above, the victim needs to receive a sense of healing and reconciliation with all concerned—the self, the family, the church and, ideally, the accused. The response coordination team can help bring this about using the church's processes and resources. While the above are needs of the victim, one recognizes that all of these needs may also not be met through a reasonable handling of a specific case, but may only occur over a lengthier period of time. All of these needs, however, should be taken seriously and compassionately, and the rights of the victim respected.

B. The Needs of the Accused

The Presbytery shall offer treatment and care for the accused as well as alleged victims and families. If the accused is a teaching elder, this is the primary responsibility of the presbytery (Book of Order, G-3.0307).

Feelings of guilt, shame, anger, mistrust, lowered self-esteem, depression, unworthiness, and feelings of alienation from God, self, the religious community, and family are often experienced by the accused. In addition, there may be fear of job loss, incarceration, and indignation if an allegation is false.

When a person is found not guilty of charges of sexual misconduct, it is important for the Presbytery to see that the decision is disseminated as widely as possible within their power, unless doing so would further injure the person accused.

1. Personal Care

Whether the allegations about the accused are eventually found to be true or not, the accused deserves to be treated with Christian kindness and respect. The response coordination team may suggest that the accused seek spiritual support or professional counseling. People in staff positions, such as presbytery executives or stated clerks, should not engage in personal counseling of the accused because of their potential involvement in disciplinary process.

2. Economic Security and Care for Family of Accused

When an allegation of sexual misconduct has been made against a teaching elder, the economic security of the accused is directly threatened, along with reputation, career, and family relationships. Again, the presbytery can be of assistance. The response coordination team may alert the presbytery to the possible spiritual, emotional, and financial needs of the family of the accused and recommend expert resources.

C. The Needs of a Congregation in a Context of Sexual Misconduct

The council, employing entity, and response coordination team should be aware of the problems a congregation or employing entity may experience following allegations of sexual misconduct by a teaching elder, employee, or volunteer. The allegations may polarize the congregation or organization, damage morale, create serious internal problems, and even limit the trust a congregation may place in succeeding pastors. Efforts should be taken to recognize and identify the problems and heal any damage that may be done to the congregation or organization.

When there is sexual misconduct on the part of a teaching elder, non-ordained staff, or volunteer in a particular congregation, a number of needs unique to that congregation will emerge since sexual misconduct impacts congregations in different ways. Therefore, these needs will not necessarily emerge in the same sequence in each situation. Depending on the parties involved in the sexual misconduct, some of the needs may not emerge. In any event, those managing the church's response to the sexual misconduct will want to know that the following needs may emerge:

1. Pastoral Care

Members and staff of the congregation will need pastoral care. If it is the pastor who is involved in the sexual misconduct, care will need to be provided by another member of the ordained staff (if the church is a multiple-staff church) or by a trained interim pastor. If the pastor leaves as a result of sexual misconduct, in extreme cases a trained interim pastor or consultant in sexual misconduct may need to work with the congregation for an extended period of time.

If it is not a pastor who is involved in the sexual misconduct, then the pastor will provide the needed care for the congregation. The pastor, if not previously trained in this specialty area, will need to consult with denominational specialists who will advise him or her how to proceed and any anticipated problems.

2. Information About the Case

Members of the congregation will need opportunities both to receive and give information. If a case of sexual misconduct becomes a matter of public knowledge within a congregation and if a pastor has been found guilty of sexual misconduct, the interim pastor or consultant may hold appropriate meetings with individuals, small groups, or with the whole congregation. Such meetings should provide information about sexual misconduct in general, Presbyterian polity and our judicial process, and how others who may have been victimized may be heard and ministered to. If the offender is not the pastor, then the pastor may perform these functions. At such meetings, one may expect members to vent their feelings. An opportunity for this to happen should be provided. If this venting does not take place, then it may create serious problems for the future of the congregation, for future pastors, and for the Presbytery. Dynamics may differ somewhat in racial ethnic churches, but no empirical studies have yet demonstrated different dynamics.

3. Resource Persons

In light of the above needs, the following are several resource persons whose services would be valuable to a congregation in the context of sexual misconduct: a trained interim pastor, a presbytery representative knowledgeable in polity and the effects of sexual misconduct in the church, a consultant or therapist with knowledge and experience in dealing with sexual misconduct, an attorney who can discuss legal aspects of a case, an insurance agent who can advise the congregation about their exposure to liability or coverage..