

THE PRESBYTERY OF RIVERSIDE

PREVENTION AND RESPONSE POLICY: SEXUAL MISCONDUCT

Revised 01/19/2012

PART I: PREFACE

BRIEF OUTLINE OF GUIDING PRINCIPLES AND PROCEDURES

The goals of this policy are to prevent sexual misconduct and to provide appropriate response to instances of alleged sexual misconduct within the Presbytery of Riverside. The policy is intended solely for guidance in ecclesiastical governance. It is not intended to create or modify any additional responsibilities under the laws of the State of California.

We recognize that a primary barrier to responding appropriately to allegations of sexual misconduct has been the hesitancy of religious leaders to recognize and/or believe that such behavior occurs. In a context of pastoral or religious trust, it may be difficult to recognize abusive behavior and/or misconduct because it is not expected and few people encounter it on a regular basis. When, as individuals or a church, we fail to report sexual misconduct or sexual abuse, we become complicit, whether knowingly or unknowingly, in the abuse and/or misconduct. As we become aware of the problem, we assume responsibility for appropriate prevention and intervention strategies.

A brief overview of the policy:

1. Clergy have the responsibility to set appropriate boundaries in relationships with others.
2. By virtue of ordained office, clergy are empowered in a manner that precludes equality in relationships; i.e. a “consensual sexual relationship” cannot exist outside the bounds of marriage. Sexual expression directed toward or a sexual relationship with a parishioner, staff member, colleague or counseling client is a breach of trust and Biblical mandates, and is never acceptable.
3. All claims of alleged sexual misconduct will be taken seriously, and responded to by the Presbytery. Training on issues relating to sexual misconduct will be a condition for all ordained ministers and selected staff within the Presbytery.
4. Any individual alleging sexual misconduct on the part of any person covered by this Policy must be afforded a reasonable opportunity to discuss the allegations with an unbiased individual, without concern that such discussion will cause unfavorable repercussion or embarrassment.
5. Clergy accused of sexual misconduct will initially be placed on a voluntary leave of absence or administrative leave, with or without pay, which may be lifted upon further investigation and/or information.
6. In instances governed by Book of Order, “Rules of Discipline”, D-10-0106, Administrative Leave will be imposed.

7. Actions of the Presbytery and those individuals under the jurisdiction of the Presbytery shall be governed by the Book of Order.
8. The Presbytery shall respond to initial reports of sexual misconduct through its Initial Response Group [“IRG”], Sexual Misconduct Response Team [“SMRT”], and Committee on Ministry [“COM”], or their respective designees. Any response will be consistent with requirements in the Book of Order.
9. The Initial Response Group shall consist of the Executive Presbyter and his or her designee, the Chair of the Committee on Ministry and the SMRT Moderator. Its purpose is to receive and evaluate initial reports of sexual misconduct and coordinate a Presbytery response until there is a resolution of the allegation, an Investigating Committee [“IC”] is impaneled pursuant to the Book of Order [D-10.0103] or proceedings are initiated under California secular law.
10. The Sexual Misconduct Response Team will provide for the pastoral care of affected persons including, but not limited to, the alleged victim and the alleged victim’s immediate family, the accuser and his/her immediate family, the accused and his/her immediate family, and the congregation.
11. All clergy, as a prerequisite for approval of a Call within the Presbytery of Riverside, will be required to sign a statement acknowledging that they have received a copy of this Policy and have read it along with material related to mandatory reporting. Continuing members of the Presbytery and Presbytery personnel will be required to sign a similar statement.
12. Copies of this Policy shall be distributed to members and staff of the Presbytery, those serving on Presbytery committees, commissions, task forces, Investigating Committees, Administrative Commissions, and the Permanent Judicial Commission. The policy will be posted on the Presbytery web site and available to all church members, any accuser of sexual misconduct, the accused, and the alleged victim(s) of sexual misconduct and their families.
13. All Teaching Elders, all Ruling Elders commissioned to a specific ministry, all Certified Christian Educators, all Certified Associate Christian Educators, all Presbytery officer and all committee/team chairpersons., and Presbytery personnel will be required to participate in regular Presbytery training for the prevention of sexual misconduct. This means:
 - a. Providing a certificate of completion of Sexual Misconduct Prevention Training in another presbytery or by a validated provider (see II,B,7);

OR, FOR PASTORS NEW TO PRESBYTERY NOT ABLE TO SATISFY “A”

- b. Attendance at a Presbytery of Riverside training event within one year of receiving a Call;

OR, FOR MINISTERS OF WORD AND SACRAMENT AT THE TIME THIS POLICY IS PASSED

- c. Completion of sexual misconduct prevention training provided by this Presbytery (or preapproved by the SMRT) by no later than December 31, 2012. Failure to abide by these conditions of Call may result in dissolution of pastoral relationship (**G- 2.0901**) or nonrenewal of temporary pastoral relationship.
14. No person will be disciplined or otherwise retaliated against for initiating an allegation of sexual misconduct. However, repeated unfounded allegations may be the subject of discipline under the Book of Order.
15. The SMRT, the Committee on Ministry, and the Presbytery will work with churches to take steps to prevent and avoid incidents of sexual misconduct, including support in creating their own sexual misconduct prevention policies as part of their personnel policies and/or standing rules.
16. Intervention by the Presbytery or its agents is not a substitute for remediation by secular authorities in cases of child sexual abuse.

PART II. PASTORS: WHAT AND WHY

...as God who called you is holy,
Be holy yourselves in all your conduct...
...tend the flock of God that is your charge...
not under compulsion but willingly...
not for sordid gain but eagerly

Do not lord it over those in your charge,
but be examples to the flock.
...you know that we who teach
shall be judged with greater strictness.
For human ways are under the eyes of the LORD
And God examines all their paths.

I Peter 1:15; 5:2-3; James 3:1; Proverbs 5:21 NRSV

II. A. SEXUAL MISCONDUCT DEFINED

1. **“Sexual misconduct” is a breach of trust and a violation of the roles that clergy, Presbytery personnel, ordained officers, commissioned individuals and those entrusted with the care of others are called upon to exercise.** Sexual misconduct calls into question the integrity, sensitivity, and fitness for office of any person who engages in

such misconduct. Such misconduct is contrary to the principles set forth in the Gospels and the call to work as God’s servant in the struggle to bring wholeness to a broken world. Sexual misconduct includes, but is not limited to

- Sexual acts or sexual contact with a minor;
- Sexual acts or sexual contact involving inducement, threat, coercion, force, violence, or intimidation of another person;
- Sexual acts or sexual contact with a person in a professional relationship
- Sexual acts or sexual contact with a person who is incapable of understanding the nature or consequences of the behavior or is physically incapable of declining participation.
- Sexual acts or sexual contact involving the use of drugs or intoxicants that impair the ability to govern the situation.
- Rape and sexual assault
- Sexual harassment.

2. The ethical conduct of all who minister in the name of Jesus Christ is of vital importance to the Church because it is through these representatives that an understanding of God and the Gospel’s good news is incarnated. Their manner of life should be a demonstration of the Christian gospel in the church and the world. *See Book of Order, Rule G-2.0104a.*
3. “Sexual misconduct” describes a misuse and/or abuse of authority and power that breaches Christian ethical principles. It misuses a relationship of trust to gain advantage over another for personal pleasure in an abusive, exploitative, and unjust manner. Even if the alleged victim initiates or invites sexual contact in his or her relationship with clergy or Presbytery personnel, it is always the responsibility and duty of the clergy or Presbytery personnel to maintain the appropriate role boundaries and prevent the development of a sexual relationship. When there is any structured relationship of superior/subordinate between two people, sexual expression between the two is an abuse of that relationship by the person in the superior position.
4. Sexual misconduct also consists in taking advantage of the vulnerability of minors and adults who are less able to act for their own welfare. Thus, sexual misconduct does not require physical contact. It may include communication by photography, videos, electronic messaging over the Internet, text messaging, etc. which have a sexual component.

II. B. EDUCATION AND TRAINING

Implementation of this Policy requires the Presbytery to:

- adopt and offer educational programs to address boundary issues,
- assist clergy in developing responses to inappropriate sexual advances and/or false accusations of sexual misconduct,
- provide training in pastoral and disciplinary response procedures and prevent instances of sexual misconduct

1. New members of the Presbytery must complete at least one educational event approved by the Presbytery within the first 12 months of accepting a call unless they provide a certificate of completion of an equivalent training. This is a condition of all Calls, and wording to this effect will be included in all Calls. No Call will be approved, validated, or continued if this condition is not met within two years of the effective date of the Call. Members of the Presbytery at the time this policy is approved must complete an approved educational event prior to December 31, 2012. Members must continue to attend an approved sexual misconduct awareness event every three years thereafter. Failure to complete this educational requirement will result in being placed on administrative leave without pay until the requirement is met. Honorably retired pastors not engaged in pastoral work must sign an acknowledgement of having received this Policy with the expectation they have read and understood it. They will be required to attend an approved training event before being validated for a return to active service in a validated call.
2. Any member of the Presbytery may be required by the Committee on Ministry to attend additional training/events when such attendance is recommended by the Committee on Ministry, when directed by an Administrative Commission appointed to deal with matters at a church, or when a change in applicable rules, laws or standards warrant additional education. It may also be required as part of censure and restoration in a disciplinary case. Non-clergy staff of the Presbytery shall attend such educational sessions as directed by the Executive Presbyter. Other Presbytery personnel and volunteers may be required to attend such training as a condition of service on a particular committee, commission, council, task force, team or group.
3. Every calendar year the Committee on Ministry and the SMRT will co-sponsor a one-day training event with a focus on understanding and preventing sexual misconduct. SMRT will coordinate and lead the training.
4. The SMRT may be available to participate in training and educational events for churches and make training and educational materials available to congregations to help churches recognize, respond to, and prevent sexual misconduct.
5. The SMRT will work with the Presbytery to encourage churches to adopt policies and procedures for preventing and reporting child abuse, including child sexual abuse.
6. The SMRT may make additional recommendations to the Presbytery regarding matters of sexual misconduct policy and procedures. These may include recommendations regarding employment practices, education of clergy, and training and education materials for clergy and the Presbytery.
7. Clergy who have participated in comparable training in or through another presbytery or Presbyterian seminary or validated provider may certify their attendance in such other training and seek a waiver from these training requirements. The Committee on Ministry shall determine what constitutes comparable training and who is a validated provider and whether any waiver will be granted.

8. Records of sexual misconduct training and certification shall be maintained by the Stated Clerk and shall be available for public inspection.

PART III. PROCEDURES

III. A. ADMINISTRATIVE RESPONSE TO INITIAL REPORTS

1. Reports of alleged sexual misconduct may occur in a variety of ways. Initial reports may be oral or written. Because the Presbytery has no control over the manner or mode of initial reports, it is important that officers, employees, and persons highly visible to church members understand that it is critical to report alleged sexual abuse and to permit the Presbytery an opportunity to refer the allegation to the proper Church authorities. Reports and/or rumors of alleged sexual misconduct should not be taken lightly or disregarded and should not be allowed to circulate. Reports of possible sexual misconduct should be considered as matters of concern at all times.
2. Since time is of the essence, upon receipt of a report of sexual misconduct, the Presbytery shall impanel the Initial Response Group, within 48 hours of receiving the report. If it is determined that an IC must be appointed, pursuant to D-10.0201 et seq., the IC will be impaneled within 15 days of receipt of the initial written report by the Stated Clerk.
3. The person receiving the initial report of alleged sexual misconduct from the accuser should forward the report to the Executive Presbyter, the Chair of the Committee on Ministry, or a member of the SMRT. The Executive Presbyter, Chair of the Committee on Ministry and SMRT Moderator shall consult together and with appropriate professionals to determine whether the report involves an allegation of sexual misconduct, and if so, how to proceed. Consistent with the Book of Order (G-4.0301 + G-4.0302) concerning privileged information] and applicable state law, persons receiving a report of sexual misconduct shall report to appropriate secular civil or criminal authorities.
4. When an initial report of sexual misconduct has been received and at least two members of the IRG (Executive Presbyter, Chair of the Committee on Ministry (or their designee) and the SMRT Moderator) concur that the facts as presented would establish that an incident of sexual misconduct has occurred if found true, the SMRT will be asked to implement the procedures for pastoral response outlined in III. B. below
5. In any case where the Executive Presbyter, the Chair of the Committee on Ministry, the Stated Clerk, or the SMRT Moderator is the accused, is otherwise personally involved with the situation or is unavailable, the other two members of the Initial Response Group, in consultation with the Committee on Ministry, may appoint one or more other members of the PCUSA to act as part of the Initial Response Group. Such persons may be from another presbytery.

6. The Initial Response Group may assist in providing for the pastoral needs of the congregation including pulpit supply. The SMRT shall assist the Initial Response Group as requested.
7. The Initial Response Group should consult with Presbytery legal counsel as soon as possible in matters involving alleged sexual misconduct. Legal counsel should assist the IRG and the SMRT in responding to the legal issues involved in any instance of alleged sexual misconduct including, but not limited to, the duty to make reports of the allegations under secular law consistent with Book of Order [*see* G-4.0301 + G-4.0302], issues of clergy/penitent confidentiality, and personnel matters. When proceedings under secular law are initiated, the SMRT, IRG and Presbytery should be kept informed about the situation, and legal counsel may assist in that process. **No member of the IRG or SMRT should actively discourage or dissuade an alleged victim from seeking advice or legal counsel outside of the Church or from reporting instances of sexual misconduct to secular authorities.**
8. **LEAVE OF ABSENCE.**
 - a. The policy of the Presbytery is that the accused will be placed on an immediate leave of absence or administrative leave, whether paid or unpaid.
 - b. In the event that the accused, the Session, and/or the accused employer are unwilling or unable to agree to any leave of absence, the IRG or others as authorized by the Book of Order may take all appropriate steps provided for in the Book of Order [*see e.g.* D-10.0106 and/or G-2.0901 and/or G-2.0509] for removal of the accused from his or her position or the session from its leadership role.
 - c. When a written statement of an alleged sexual misconduct involves a person under the age of 18 at the time of the alleged incident or a person who allegedly lacks the mental capacity of consent, the Presbytery Stated Clerk shall immediately communicate the allegation to the Permanent Judicial Commission [PJC]. The moderator of the PJC shall, within three days, designate two members, who may be from the roster of former members of the PJC, to determine whether the accused shall be placed on a paid administrative leave during the resolution of the matter. The cost of such leave shall be borne by the employing entity whenever possible.
 - d. Presbytery clergy, as a condition of any Call or employment, must sign an acknowledgment of this policy and an agreement to abide by its process and procedures.
 - e. Responsibility for continuation of compensation of the accused while on a paid leave of absence or administrative leave shall normally be the responsibility of the employer. If such arrangements cannot be made, the IRG may recommend that the Presbytery contribute to the support of the family of the accused during a period of absence or administrative leave.

III. B. PASTORAL RESPONSE TO THOSE INVOLVED IN AN INCIDENT OF SEXUAL MISCONDUCT

1. The Presbytery Sexual Misconduct Response Team [SMRT] shall consist of at least seven members, reasonably divided between Teaching Elders and members of the Presbytery of Riverside congregations. Compliance with the Book of Order, F-2.0403 and F-1.0404 et seq., shall be considered. **In July of each year, SMRT members should select a Moderator.**
2. The Sexual Misconduct Response Team shall be elected by the Presbytery from nominations provided by the Committee on Ministry. The SMRT shall be organized into three classes of as nearly equal numbers as possible; serve for three year terms, and may be elected for a maximum of one additional/consecutive three year term.
3. The SMRT shall be trained for its task. The Presbytery shall provide budgetary and staff support for the SMRT.
4. Persons with specific gifts, skills, training desired for the group include:
 - Psychologists/psychiatrists/psychotherapists/clinical social workers/certified counselors (MSW, MFT or Pastoral)
 - Attorneys/Judges
 - Knowledge/experience in insurance and risk management.
 - Conflict management in congregations.
 - Personnel and/or Human Resources experience.
 - Experience in victim advocacy.At least one of the above persons should be able to provide an empathetic presence to a pastor's spouse and family. At least one of the above persons should provide an empathetic presence to the alleged victim and his/her family.
5. No SMRT member may simultaneously serve on the Permanent Judicial Commission, an Investigating Committee, the Initial Response Group, or an Administrative Commission involving the accused or the congregation of the accused.
6. a. In its sole and absolute discretion, the SMRT may take reasonable steps to minister to the needs of those persons most directly involved in an incident of alleged sexual misconduct. The particular needs for pastoral care and counseling will vary in each instance. In most cases, the Executive Presbyter or the Moderator of the Committee on Ministry will notify the SMRT Moderator of a pending matter and the possible need for pastoral care for one or more persons, and the Moderator will empanel a response team composed of no less than three [3] SMRT members.

b. The needs of an alleged victim of sexual misconduct will vary and may be influenced by such factors as the degree, duration, and severity of abuse, the age and emotional condition of the alleged victim, personality dynamics, and the alleged victim's religious

faith. Alleged victims frequently suffer from feelings of guilt, shame, anger, mistrust, lowered self-esteem, unworthiness, alienation from God and the religious community, and alienation from self or family. The SMRT should strive to be sensitive to the alleged victim's pain and need for healing. The SMRT is not responsible for providing primary investigation of the sexual misconduct allegations or professional counseling, but will normally make reasonable efforts to act in a supportive role for those involved in an instance of alleged sexual misconduct.

- c. The SMRT may provide opportunities for pastoral care to the accused and the immediate family of the accused and should not prejudge the accused.
7.
 - a. If the SMRT believes that professional counseling is needed for one or more of the persons involved in an instance of alleged sexual misconduct, it may refer that person to a professional counselor trained to deal with issues of sexual misconduct. The SMRT should maintain a referral list of counselors and counseling centers sensitive to issues of sexual misconduct, faith and spiritual needs.
 - b. The SMRT and the Presbytery will strive to be sensitive to all parties' financial ability to pay for professional psychological counseling. The SMRT may refer persons in need of professional counseling to an agency that sets fees based upon client's ability to pay. Although the Presbytery and the church are not legally obligated to pay for any counseling, it may, in its sole and absolute discretion, offer to assist with the cost.
 8. The SMRT should advise the alleged victim, the accuser and the accused that they may choose to have an individual accompany them throughout the process for emotional support. When so requested, the SMRT will help identify a person to be available to these parties as a support presence throughout the process. SMRT members will not be expected to act as an advocate for any person in any disciplinary or legal proceeding. [See Book of Order, D-10.0203 for "Rights of the Persons Involved" to have an advocate, notice of which is a function of the Investigating Committee.] The Presbytery is never obligated to provide paid legal counsel for any person involved in a disciplinary process.
 9. The SMRT should keep a complete and accurate record of all the offers for pastoral care, referrals, and any pastoral care provided. Such records shall be considered confidential. The SMRT Moderator will assist those providing such pastoral care in maintaining an appropriate record.
 10. At the conclusion of a matter involving allegations of sexual misconduct, the SMRT shall prepare a report for the Committee on Ministry and the Presbytery that shall summarize the issues, the responses made and the lessons learned. This report shall be prepared in a manner that respects the legitimate privacy interests of those involved and is consistent with confidentiality requirements. The purpose of the report is to document how the situation was managed so that the Presbytery may learn from the experience and make appropriate changes and modification in the future. Such report shall be maintained by the Stated Clerk.

III. C. RESPONSE TO CONGREGATIONS

1. The SMRT should be aware of problems a congregation may experience following an accusation of sexual misconduct within the church or involving clergy serving the church. When a church's pastor is accused of sexual misconduct, the ramifications are severe and immediate. The SMRT will work to support the efforts of the Committee on Ministry in providing for pastoral care and support for the congregation, including listening sessions, educational events, or training opportunities.
2. At the invitation of the Committee on Ministry, members of the SMRT may play a role in working to heal the damage to a congregation where there has been an alleged or proven incidence of sexual misconduct. This may include continued involvement following a decision in a disciplinary proceeding.

III. D. PROCEEDING TO A DISCIPLINARY CASE

1. If the Initial Response Group reasonably believes there is a factual basis for the allegations of sexual misconduct and sufficient evidence to support an affirmation of the allegations, the alleged victim and/or accuser may be advised of the right to commence a disciplinary case against the accused. If the accuser agrees he/she shall be asked to make a signed, written report of the accusations and to file them with the Stated Clerk. If the alleged victim or accuser is unwilling to commence a disciplinary case, and the IRG reasonably believes a disciplinary case should be brought, any one of them may, after consultation with legal counsel, commence the case under the appropriate provisions of the Book of Order [D-10.0101 et seq.] The accuser or alleged victim need not have the concurrence or permission of the IRG or SMRT to initiate a disciplinary proceeding.
2. If the accused has admitted allegations of sexual misconduct, the Book of Order "Rules of Discipline" regarding guilty pleas/self accusations shall be followed. [D-11.0402d.]
3. When Alternative Forms of Resolution [AFR] pursuant to D-10.0202h are initiated, the Investigating Committee or PJC may invite members of the IRG and/or the SMRT to participate.
4. The IRG and/or SMRT may continue to work with the church, its session, and other clergy at the church (and/or other employer of the accused when the accused is not serving a church) while a disciplinary case is pending. The IRG and SMRT shall understand that they have a subordinate role to that of the Investigating Committee [IC] and Permanent Judicial Commission [PJC], organs of church governance which

have the authority to order the SMRT to cease involvement in a case.

5. Members of the IRG and the SMRT have no authority to negotiate any form of censure or discipline for the accused under the “Rules of Discipline”. However, at the conclusion of a disciplinary case, the Committee on Ministry and the SMRT may be asked by the church or the Presbytery to help address the accuser’s/accused’s needs for reconciliation with the church or similar matters. [D-11.0403e, D-12.0103d, 12.0104c,]
6. Should an accused renounce jurisdiction pursuant to the Book of Order [G-2.0407 or G-2.0509], during an investigation or trial, the SMRT shall continue its work with the accuser and/or alleged victim and the affected congregation after the stated clerk’s report [D-3.0106].

III. E. SPECIAL CIRCUMSTANCES OF THE THIRD PARTY ACCUSER

1. The “third party accuser” is a parent, guardian or other advocate for a child who is the alleged victim of sexual misconduct or a colleague or friend of the accused. When the accuser is not the alleged victim of sexual misconduct, the situation may be more complex and difficult to address and special care shall be taken to respect the privacy and other interests of the persons involved.
2. In cases where the alleged victim is an adult, a third party accuser subject to this Policy should be counseled to consider the following before making an allegation of sexual misconduct:
 - a. The third party accuser should let the alleged victim know in advance that he or she is going to make a report of sexual misconduct and should urge the alleged victim to self report.
 - b. When the alleged victim is unwilling or unable to make a report of sexual misconduct and a third party accuser decides to report, that individual should take reasonable steps to respect the privacy interests of the alleged victim. In some cases, the alleged victim may want to keep his or her identity confidential which may not be possible.
 - c. When the alleged victim is unwilling to make a report of sexual misconduct and the third party accuser proceeds to report, he/she should be sensitive to making false charges that could damage the reputation and well being of the accused, the accused’s immediate family, the alleged victim, the alleged victim’s immediate family, and the church. The third party accuser should also be aware of the potential for personal civil liability for allegations that cannot be substantiated. In no case shall Presbytery personnel file allegations as a third party accuser without first obtaining advice from legal counsel.
3. Nothing in this Policy changes or modifies the responsibilities of individuals considered

to be “mandated reporters” pursuant to California Penal Code §§ 11160 et seq. and §§ 11164 et seq.

III. F. FALSE ACCUSATIONS

1. If the IRG reasonably believes that the accusation is false, or after disciplinary proceedings the accusations are found to be false or not sustained, the Committee on Ministry shall work with the accuser and the accused to reach an appropriate resolution under the circumstances. Any member of the PCUSA who has been accused of Sexual misconduct may request an inquiry for vindication under Book of Order, “Rules of Discipline” D-9.0101 et seq.
2. Even if the IRG believes an accusation to be false, the accuser may proceed under the Book of Order, D-10.0100 et seq., to commence a disciplinary case.
3. Making a false accusation of sexual misconduct is a serious offense, and may result in the bringing of disciplinary charges against the accuser. Churches are urged to implement child protection and similar policies to minimize the risk that clergy and church personnel will be falsely accused of sexual misconduct.

PART IV: PRESBYTERY ISSUES

IV. A. EMPLOYMENT PRACTICES

1. Risk of liability from negligent hiring or supervision of employees including clergy should be minimized. In addition to the training and other provisions of this policy, the Presbytery and churches should review their policies and practices of securing paid and volunteer personnel with the intent of minimizing the risk of sexual misconduct or a claim of negligent hiring or supervision.
2. Accurate record keeping is an essential part of hiring and supervisory practices. The Presbytery office will maintain personnel files on all clergy. The file will contain Personal Information Forms [“PIFs”], Executive Presbyter notes, reference responses, training attendance records, criminal history record checks, and other documents related to implementation of this Policy and the hiring of clergy.
3. Pastor Nominating Committees [PNCs] are responsible for contacting references for prospective clergy and reviewing records of prior criminal history, including but not limited to examination of law enforcement databases relating to registered sexual offenders. A written record of conversations or correspondence with references shall be available to the Presbytery through the COM liaison to the PNC for clergy called to pastoral positions and shall be kept by the church in the clergy personnel file.

4. When clergy desire to transfer into the Presbytery of Riverside from another presbytery, the Presbytery, through its Executive Presbyter, will assume responsibility for contacting the clergy's previous employer, and shall report to the Committee on Ministry either that there have been no reported incidents of sexual misconduct, or that the committee and/or PNC should inquire further into matters pertaining to sexual misconduct. A national criminal background check shall be conducted on all ministers called to service in this Presbytery. Pastors unwilling to sign a release form for securing such information shall be provided an opportunity to explain their reason and be informed that failure to do so places their Call and Presbytery membership in jeopardy.
5. The Executive Presbyter, or other person within the Presbytery authorized to give a reference/clearance check for clergy transferring out of the Presbytery, is obligated to give truthful information regarding allegations and inquiries of sexual misconduct and their outcome, as well as administrative or disciplinary action related to sexual misconduct concerning the applicant.
6. Applicants for transfer to or ordination by the Presbytery should be informed of negative comments regarding sexual misconduct received from their references and given an opportunity to submit additional references or to give other evidence to correct or respond to negative information.
7. All churches are expected to screen and supervise their paid staff and unpaid volunteers who work with children, youth under age 18 or others in high risk categories. With the signed written consent of the employee or volunteer, churches are encouraged to conduct a criminal record background check and/or use other means to check for past instances of sexual misconduct and other illegal behavior before allowing any person, paid or unpaid, to work in any position with children or youth under the age of eighteen [18] years.

IV. B. CONFIDENTIALITY AND MEDIA CONTACT

1. Matters involving sexual misconduct should be treated with sensitivity and with consideration for the privacy interests of those involved. The accused is presumed innocent until proven guilty. The alleged victim, the alleged victim's family, the accuser, the accused's family, and the Church have interests in maintaining appropriate levels of confidentiality.
2. Concern for personal privacy of any person should never result in the Presbytery or any of its members providing false or misleading information or withholding important information in the context of employment matters or in any other context where there is a responsibility to disclose truthful and accurate information.
3. Throughout the process of responding to an incident of alleged sexual misconduct, those involved should avoid discussing the matter with individuals who have no "need-to-know."

4. Nothing in this policy is intended to violate confidentiality requirements of the Book of Order [G-4.0301].

5. Inquiries from the public, the press or the media for information about a matter involving alleged sexual misconduct shall be referred to the Executive Presbyter. Members of the SMRT, COM, or Presbytery staff should refer all media or public inquiries to the Executive Presbyter or designated spokesperson.

IV. C. INTERFACE WITH OTHER RULES AND LAWS

1. Where specific provisions of the Book or Order mandate a particular response to an allegation of sexual misconduct, those provisions will control – e.g., the responsibilities of the Committee on Ministry (Book of Order G-3.0307) and of an Investigating Committee in Disciplinary process (Book of Order D-10.0101 et seq.).
2. In the case where there is a criminal law proceeding against the accused under secular law, the Presbytery will follow the “Rules of Discipline,” and may seek to delay disciplinary proceedings until criminal law proceedings have been concluded. The Presbytery also will take note of any pending civil law proceedings, and, in consultation with its legal counsel, may accord deference as appropriate to any such proceedings. In all cases where criminal or civil law actions are pending concurrently with procedures under this Policy, the SMRT and the Initial Response Group shall consult with the Presbytery’s legal counsel and coordinate their actions accordingly and in a manner consistent with the Book of Order for adhering to, suspending or tolling ecclesiastical time requirements.
3. Complaints concerning *sexual harassment* can arise under federal law [Title VII of the Civil Rights Act of 1964] and California law (California Fair Employment and Housing Act – FEHA). Complaints under these laws are related to the employment situation and prohibit all discrimination or harassment in employment for a number of categories. These may include any unwelcome conduct of a sexual nature or creation of a hostile work environment. If the complaint is made directly to a federal or state agency, the agency may allow the Presbytery to investigate and take appropriate action. All instances of alleged sexual harassment should be reported to the Presbytery’s legal counsel.

IV. D. INSURANCE

1. Because of the risk that the Presbytery or any of its churches may be held liable for harm caused by sexual misconduct by clergy or Presbytery personnel, appropriate insurance or indemnification policies shall be obtained by the Presbytery. Separate insurance or indemnification policies should be obtained by member churches. Special insurance policy endorsements to cover specific exposures such as camps, day-care operations, pastoral counseling centers, shelters, or other outreach programs should be considered.

2. Churches should take advantage of materials, training and resources provided by insurance carriers to guide and direct efforts to prevent all forms of sexual abuse and misconduct.

Part V. Glossary

1. **“Accused”** The person against whom a claim of sexual misconduct has been made.
2. **“Accuser(s)”** The person(s) claiming knowledge of sexual misconduct by a person covered by this Policy. The accuser may or may not be the alleged victim of alleged sexual misconduct (*i.e.*, the “third party accuser”). The accuser need not be a person with personal knowledge of the alleged sexual misconduct. A person such as a family member, friend or colleague of the alleged victim may be the accuser whose information initiates an inquiry.
3. **“Alleged victim”** The person alleging being injured by or alleged to have been injured by sexual misconduct.
4. **“Child Sexual Abuse”** Any contact or interaction between a minor under the age of 18 years and an adult when the minor is being used for the sexual stimulation or gratification of the adult person or of a third person. The behavior may or may not involve physical touching. Sexual behavior between a child and an adult is never consensual and is always considered forced or coercive.
5. **“Church”**. When spelled with the initial “c” capitalized refers to the Presbyterian Church (U.S.A.). When the initial “c” is lower case, it means a congregation or local church of the PCUSA.
6. **“Clergy”** means an ordained Teaching Elder or Ruling Elder Commissioned to a particular pastoral service, pursuant to G-2.1061, and includes a pastor, associate pastor, co-pastor, interim pastor, designated pastor, temporary or stated supply, and ministers serving specialized ministries. As used in this Policy, “clergy” includes those who are actively serving a call and those who are continuing or at large members of the Presbytery.
7. **“Certified Christian Educators”** as defined in the Book of Order, G-14.0130, are included in this policy as “other church employees”.
8. **“Dependent Adult”**. Any person over the age of 18 years who has physical or mental limitations which restrict his or her ability to carry out normal activities or to protect his or her rights, including but not limited to persons with physical or developmental disabilities or whose physical or mental disabilities have diminished because of age and any person over the age of 18 years with psychological or mental conditions, diseases, or disorders that render him/her incapable of informed judgment about their own well being.

10. **“Disciplinary”**: The formal disciplinary process of the PC(USA) as set forth in the “Rules of Discipline” of the Book of Order.
11. **“Initial Response Group” [IRG]** The Executive Presbyter, the Chair of the Committee on Ministry, and the Moderator of the Sexual Misconduct Response Team, or their designees.
12. **“Investigating Committee”** The committee formed by the Presbytery pursuant to Book of Order, D-10.0201 et seq.
13. **“Mandated Reporter”** A person coming under the provisions of California Penal Code Section 11165.7.
15. **“Other Employee or Volunteer”**. Those employed by or recognized as a volunteer in a church or other organization related to a church, governing body, or other validated employer. This may be in a paid or unpaid, elected or appointed position and includes members of Session, Deacons and others serving in administrative or governing positions.
16. **“Parishioner”** Any member of the church where clergy is serving, including any person who is relating to the clergy as their pastor or minister and all individuals who are in a counseling relationship with the clergy person. For clergy serving in specialized ministries, “parishioner” means any person receiving the benefit of the clergy’s exercise of the office of ministry.
17. **“Presbytery”** The Presbytery of Riverside.
18. **PCUSA”** The Presbyterian Church (U.S.A.).
19. **“Presbytery Personnel”** All staff employed by the Presbytery of Riverside and any person, whether clergy or Ruling Elder, serving in any official capacity for the Presbytery on any of its committees, councils, commissions, task forces, teams, or otherwise.
20. **“Reasonable Suspicion”** Subjective criteria referring to a belief or opinion, based on facts or circumstances, sufficient for a prudent person of reasonable knowledge, skill and experience to want to inquire further, take protective action, or report to civil or ecclesiastical authorities.
21. **“Secular or Civil Law/Authorities”** The body of municipal, state, and federal laws and enforcement agencies, whether civil or criminal, that relates to the matters addressed by this Policy.
22. **“Sexual Harassment”** No person, male or female, should be subject to unsolicited or unwelcome sexual overtures or conduct, either verbal or physical. Sexual harassment does not refer to occasional compliments of a socially acceptable nature. It refers to

behavior that is not welcome, that is personally offensive, that is demeaning, that persists after clear boundaries are articulated, and that undermines the integrity of employment or faith-based relationships.

It may, among other behaviors, include

- physical, verbal or visual sexual advances or propositions
- requests for sexual favors, and other sexually oriented conduct that is offensive or objectionable to the recipient or which creates a hostile work environment
- physical contact, including touching, pinching, or brushing the body
- verbal harassment, such as derogatory or suggestive comments, slurs or gestures
- sexual innuendoes, jokes of a sexual nature, sexual propositions, and threats
- non-verbal conduct, such as display of sexually suggestive objects, posters, cartoons, pictures, drawings, screen savers, or clothing
- leering, whistling, or obscene gestures
- use of computers to embarrass or threaten others

23. **“Sexual Misconduct”** The comprehensive term used in this policy to mean any unwanted and/or unsolicited and/or nonconsensual sexual activity between clergy and parishioner or non-church member or other clergy, and may include any and/or all of the following: child sexual abuse, rape, sexual battery, or any activity of a sexual nature deemed illegal under California secular law; sexual abuse as that term is defined by Book of Order “Rules of Discipline” D-10.0401c; sexual harassment; or viewing or use of matter of sexual or pornographic nature on church or Presbytery premises or property or by means of a church or Presbytery computer.
24. **The Sexual Misconduct Response Team [“SMRT”]** Individuals elected by the Presbytery to aid it and its Committee on Ministry by responding quickly, pastorally, and objectively to reports of sexual misconduct and to assist the Presbytery and its member churches in activities aimed at the prevention of sexual misconduct.

ACKNOWLEDGMENT FORM & "MANDATED REPORTER" CERTIFICATION

PREVENTION AND RESPONSE POLICY: SEXUAL MISCONDUCT

By my signature I acknowledge that I have received a full and complete copy of the "Prevention and Response Policy: Sexual Misconduct" of the Presbytery of Riverside.

By my signature, I further understand that I am a "mandated reporter" as that term is defined in the California Child Abuse and Neglect Reporting Law and have certain reporting obligations pursuant to California Penal Code Section 11166 as well as certain confidentiality obligations under subdivision (d) of Section 11167. I certify that I have been provided a copy of California Penal Code Sections 11165.7, 11166, and 11167 and have reviewed them.

{Relevant sections follow. The full document is attached separately}

I also acknowledge that I understand that it is the expectation of the Presbytery that I have read the above documents and am familiar with the behavioral boundaries created by these documents, the consequences of violating those boundaries, and the procedures that will be followed if allegations of sexual misconduct are made by me or against me. I further understand the education and training requirements established by this policy and the consequence of failure to attend such opportunities which is: being placed on Administrative Leave without pay until the requirement is met.

Signature

Name Printed Date Signed

Witness Signature

Every Teaching Elder in the Presbytery of Riverside, Ruling Elders commissioned to a specific pastoral service by the Presbytery, and every member of the Presbytery staff shall have a signed copy of this document in their Personnel file.

Summary of Major Points from California Penal Code

§ 11165.7 (a) (32). A clergy member, as specified in subdivision (d) of Section 11166. As used in this article, "clergy member" means a priest, minister, rabbi, religious practitioner, or similar functionary of a church, temple, or recognized denomination or organization.

(e) Unless otherwise specifically provided, the absence of training shall not excuse a mandated reporter from the duties imposed by this article.

11166. (a) Except as provided in subdivision (d), and in Section 11166.05, a mandated reporter shall make a report to an agency specified in Section 11165.9 whenever the mandated reporter, in his or her professional capacity or within the scope of his or her employment, has knowledge of or observes a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect. The mandated reporter shall make an initial report to the agency immediately or as soon as is practicably possible by telephone and the mandated reporter shall prepare and send, fax, or electronically transmit a written follow-up report thereof within 36 hours of receiving the information concerning the incident. The mandated reporter may include with the report any nonprivileged documentary evidence the mandated reporter possesses relating to the incident.

(1) For the purposes of this article, "reasonable suspicion" means that it is objectively reasonable for a person to entertain a suspicion, based upon facts that could cause a reasonable person in a like position, drawing, when appropriate, on his or her training and experience, to suspect child abuse or neglect. For the purpose of this article, the pregnancy of a minor does not, in and of itself, constitute a basis for a reasonable suspicion of sexual abuse.

(2) The agency shall be notified and a report shall be prepared and sent, faxed, or electronically transmitted even if the child has expired, regardless of whether or not the possible abuse was a factor contributing to the death, and even if suspected child abuse was discovered during an autopsy.

(3) Any report made by a mandated reporter pursuant to this section shall be known as a mandated report.

(b) If after reasonable efforts a mandated reporter is unable to submit an initial report by telephone, he or she shall immediately or as soon as is practicably possible, by fax or electronic transmission, make a one-time automated written report on the form prescribed by the Department of Justice, and shall also be available to respond to a telephone follow-up call by the agency with which he or she filed the report. A mandated reporter who files a one-time automated written report because he or she was unable to submit an initial report by telephone is not required to submit a written follow-up report.

(1) The one-time automated written report form prescribed by the Department of Justice shall be clearly identifiable so that it is not mistaken for a standard written follow-up report. In addition, the automated one-time report shall contain a section that allows the mandated reporter to state the reason the initial telephone call was not able to be completed. The reason for the submission of the one-time automated written report in lieu of the procedure prescribed in subdivision (a) shall be captured in the Child Welfare Services/Case Management System (CWS/CMS). The department shall work with stakeholders to modify reporting forms and the CWS/CMS as is necessary to accommodate the changes enacted by these provisions.

(d)

(1) A clergy member who acquires knowledge or a reasonable suspicion of child abuse or neglect during a penitential communication is not subject to subdivision (a). For the purposes of this subdivision, "penitential communication" means a communication, intended to be in confidence, including, but not limited to, a sacramental confession, made to a clergy member who, in the course of the discipline or practice of his or her church, denomination, or organization, is authorized or accustomed to hear those communications, and under the discipline, tenets, customs, or practices of his or her church, denomination, or organization, has a duty to keep those communications secret.

(2) Nothing in this subdivision shall be construed to modify or limit a clergy member's duty to report known or suspected child abuse or neglect when the clergy member is acting in some other capacity that would otherwise make the clergy member a mandated reporter.

(3) (A) On or before January 1, 2004, a clergy member or any custodian of records for the clergy member may report to an agency specified in Section 11165.9 that the clergy member or any custodian of records for the clergy member, prior to January 1, 1997, in his or her professional capacity or within the scope of his or her employment, other than during a penitential communication, acquired knowledge or had a reasonable suspicion that a child had been the victim of sexual abuse that the clergy member or any custodian of records for the clergy member did not previously report the abuse to an agency specified in Section 11165.9. The provisions of Section 11172 shall apply to all reports made pursuant to this paragraph.

(B) This paragraph shall apply even if the victim of the known or suspected abuse has reached the age of majority by the time the required report is made.

(f) Any mandated reporter who knows or reasonably suspects that the home or institution in which a child resides is unsuitable for the child because of abuse or neglect of the child shall bring the condition to the attention of the agency to which, and at the same time as, he or she makes a report of the abuse or neglect pursuant to subdivision (a).

11167. (a) Reports of suspected child abuse or neglect pursuant to Section 11166 or Section 11166.05 shall include the name, business address, and telephone number of the mandated reporter; the capacity that makes the person a mandated reporter; and the information that gave rise to the reasonable suspicion of child abuse or neglect and the source or sources of that information. If a report is made, the following information, if known, shall also be included in the report: the child's name, the child's address, present location, and, if applicable, school, grade, and class; the names, addresses, and telephone numbers of the child's parents or guardians; and the name, address, telephone number, and other relevant personal information about the person or persons who might have abused or neglected the child. The mandated reporter shall make a report even if some of this information is not known or is uncertain to him or her.