FIRST PRESBYTERIAN CHURCH OF KIRKWOOD

POLICY AND PROCEDURE REGARDING ALLEGATIONS OF SEXUAL MISCONDUCT

The ethical conduct of all persons who minister in the name of Jesus Christ is of vital importance to this Church, because through these representatives an understanding of God and the gospels' good news is conveyed. It is incumbent upon the Church, if allegations of sexual misconduct arise, to respond to those involved with compassion and justice. To that end, this policy has been adopted.

It is the policy of this Church that all church members, church officers, teaching elders, ruling elders, deacons, employees, and volunteers working in, with, and for this Church, are to maintain the integrity of the ministerial, employment, and professional relationship at all times. Sexual misconduct and/or sexual harassment is a violation of the ministerial, employment, and professional relationship and is never permissible or acceptable.

PERSONS COVERED

A. Persons covered by this Policy are all persons employed by or seeking employment with the Church, all volunteers of the Church (while acting on its behalf), Teaching Elders, Ruling Elders, Deacons, and other representatives of the Church.

B. This policy also covers those who are accused of sexual misconduct under the following two circumstances:

   1. Where the Accused has had access to the Accuser/alleged Victim in a Church-related setting, wherein the Accused was performing some form of service to or was appointed by a committee, group, council, or board of the Church.

   2. When the behavior of the Accused, though not conducted in a Church-related setting, raises questions for the Church regarding the character and effectiveness of the Accused.

SEXUAL MISCONDUCT

Sexual Misconduct, as used in this Policy, includes:

A. Child Sexual Abuse, as defined in the Appendix

B. Sexual Harassment, as defined in the Appendix

C. Rape or sexual contact by force, threat, intimidation, or misuse of power in a trust relationship

D. Sexual conduct (including, but not limited to, sexual advances, requests for sexual favors, and other kinds of verbal or physical conduct of a sexual nature, such as obscene or suggestive language or behavior, use of church property, computers and other equipment for sexual or pornographic purposes, unacceptable visual contact, touching, or fondling) that is unwelcome and/or repeated when the person engaged in the conduct knows or has been informed that the conduct is unwelcome or offensive to the recipient.

E. Sexual conduct within a pastoral (e.g. clergy with a member of the congregation) or professional relationship (e.g. counselor with a client), lay employee with a Church member, officer or representative with a Church member (or other person who may be a lay person, a teaching or ruling elder, or deacon), including sexual advances, requests for sexual favors, and verbal or physical conduct of a sexual nature. This definition does not apply to relationships between spouses.

F. Sexual misconduct as used in the policy is intended to include any conduct which would come within the meaning of "sexual abuse" as used in the Rules of Discipline of the Book of Order of the Presbyterian Church (U.S.A.).

PRINCIPLES AND STANDARDS OF CONDUCT

A. 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/or unjust manner. Even if someone such as a parishioner, client, employee, or student initiates or invites sexual content in the relationship, it is always the responsibility of the teaching or ruling elder, officer, employer, volunteer, counselor, supervisor, teacher, or adviser to prohibit a sexual relationship.

B. Sexual misconduct is a violation of the role of teaching and ruling elder, deacon, officer, employer, volunteer, counselor, supervisor, teacher, or adviser of any kind who is called upon to exercise integrity, sensitivity, and caring in a trust relationship. Sexual misconduct is also a violation of the covenant to act in the best interests of persons such as parishioners, clients, co-workers, employees, and students.

C. Sexual misconduct takes advantage of the vulnerability of children and persons who may lack the power to protect themselves from such misconduct. Sexual misconduct is antithetical to the gospel call to work as God's servant in the struggle to bring wholeness to a broken world. Sexual misconduct violates the mandate to protect the vulnerable from harm.

D. For the above reasons, sexual misconduct is prohibited by this Church and will never be condoned or tolerated.

SEXUAL MISCONDUCT RESPONSE PERSON

A. Purpose and Function

A sexual misconduct response person is appointed by this Church as the person to whom reports of allegations of sexual misconduct will be made, and whose function it is to receive and quickly and objectively respond to reports of sexual misconduct by persons covered by this policy. The response person's first priority will be to seek to provide support for the Accuser/Victim as he/she decides how to resolve the situation, as well as to exhibit appropriate and professional concern for the protection of the rights of the alleged Accused.

It is not intended that the response person will offer medical, psychological, or legal advice as to either Secular or Church Law, and the sexual misconduct response person is in no way to serve as, or as a substitute for, legal counsel for any person. The sexual misconduct response person will neither initiate disciplinary proceedings nor be available to testify in disciplinary proceedings arising from an accusation of sexual misconduct.

B. Sexual Misconduct Response Person

This Church's primary sexual misconduct response person is Rev. Dr. David A. Holyan, Teaching Elder.

If the primary sexual misconduct response person is not reasonably available at the time an allegation of sexual misconduct arises, or if an allegation is raised against or involves the sexual misconduct response person him or herself, then the following persons, in order, are approved by this Church as persons authorized to receive such allegations and serve as the sexual misconduct response person:

The Current Chair of the Personnel Committee

Lisa Ward, Clerk of Session

The sexual misconduct response persons shall be fully familiar with this policy and receive training in responding to allegations of sexual misconduct under this policy. Such training will include becoming familiar with the legal, administrative, secular, and ecclesiastical policies and procedures for dealing with allegations of sexual misconduct.

NEEDS OF THOSE INVOLVED

A. Victims and Families

The sexual misconduct response person shall endeavor to assure that adequate treatment and care are available to the Victims of alleged sexual misconduct and their families. If the Victim or family at first declines help, the sexual misconduct response person should remain available to continue to offer help. Above all, this Church shall not act in a self-protective manner by ignoring the Victims and their families.

The extent of the damage to the Victims of sexual misconduct will vary from person to person. The sexual misconduct response person is to assume in all cases that the Victim is experiencing pain, whether or not the allegations and accusations are deemed to be truthful, and must endeavor to make appropriate pastoral care available.
The following may be some of the needs of the Accuser/Victims:

1. To be heard and taken seriously;

2. To receive protection and care if the Victim, for whatever reason, is unable to care for him/herself;

3. To be assured that justice within the Church judicial process will be pursued;

4. To be informed about church judicial process and progress with regard to the accusation;

5. To receive pastoral care;

6. To receive healing and reconciliation;

7. To receive assistance reporting the conduct to the proper Secular Authorities;

8. To be informed of the right to consult legal counsel.

B. Congregations

The sexual misconduct response person should be aware of the problems the congregation may experience as a result of allegations of sexual misconduct being raised against a teaching elder, ruling elder, deacon, employee, member, or volunteer. The allegations may polarize the congregation, damage morale, and create serious internal problems. Efforts should be taken to recognize and identify the problems and heal the damage done to the congregation.

Information regarding an accusation of sexual misconduct will be treated with as much confidentiality as possible and will be disclosed on a need-to-know basis in order to investigate and resolve the issue. Where an accusation of sexual misconduct becomes a matter of public knowledge, the sexual misconduct response person will inform the appropriate members of the Church session and staff regarding the status of the situation, but will not provide the names of the individuals involved in the incident.

C. The Accused

The sexual misconduct response person shall be mindful that any Accused is to be presumed innocent until an investigation shows otherwise.

If the Accused is a teaching elder, the sexual misconduct response person should assume the responsibility of informing the Presbytery's Response Team about the allegation.

There may be circumstances, such as when there is suspicion of Child or elder abuse, or suspicion of unlawful sexual misconduct, when both ecclesiastical and Secular Law requires that the suspected abuse be reported to Secular Authorities. In such cases, the sexual misconduct response person will report such conduct immediately to the appropriate Secular Authorities. The phone number for the City of Kirkwood Police Department is **(314) 822-5858**.

If the accusation proceeds to the initiation of an ecclesiastical disciplinary case, the provisions of the Rules of Discipline of the Book of Order shall be followed.

D. The Non-Victim Accuser

A person other than the Victim, such as a parent, guardian, or other advocate for a person who has been the alleged Victim of sexual misconduct, may be an Accuser. In the case of a Child, his or her minority status requires involvement of an adult to act on behalf of the Child. The sexual misconduct response person shall be aware that a non-Victim Accuser may also have some of the same needs as a Victim.

RESPONSE PROCEDURES

A. Response to Reports of Sexual Misconduct

Any person with a complaint or report of sexual misconduct or a question involving this policy may contact the sexual misconduct response person at the address of this Church. Reports of sexual misconduct will never be taken lightly or disregarded. Because information or rumors relating to such reports may affect the integrity and reputation of the Accuser, the Accused, the Victim, and the Church, reports of sexual misconduct should remain highly confidential both before and after they have been submitted to the appropriate authorities.

1. Notifying those with a Need to Know

If an allegation is received by the sexual misconduct response person, that person will at a minimum ensure that the following Church-related persons are aware of the allegation having been raised:

The Senior Pastor, the Clerk of Session, the Chair of the Personnel Committee, the church's insurance carrier, and the Church's legal counsel, if any.

As noted above, there may be circumstances, such as when there is suspicion of Child or elder abuse, or suspicion of unlawful sexual misconduct, when the law requires that the suspected abuse be reported to Secular Authorities. In such cases, the sexual misconduct

response person will report such conduct immediately to the appropriate Secular Authorities.

2. Subsequent Response

Once the sexual misconduct response person is made aware of a sexual misconduct complaint, a review will begin promptly. The sexual misconduct response person will contact the alleged Victim/Accuser and offer support on behalf of the Church. Because the role of the sexual misconduct response person is to support, educate, and listen compassionately, such person will treat all information as confidential except information that must be reported under ecclesiastical and Secular Law.

The sexual misconduct response person's task is to provide a safe place for the alleged Victim/Accuser to describe what has happened and to explore options available to him/her within the Church for dealing with what has happened. The alleged Victim/Accuser may or may not choose to pursue further help from the sexual misconduct response person. Based upon information received from the alleged Victim/Accuser, the sexual misconduct response person may be required by law to report the allegations to Church authorities and/or Secular authorities. The sexual misconduct response person may also recommend that the alleged Victim/Accuser seek consultation with a professional (e.g., medical, legal), and may . If such a recommendation is made, appropriate referrals could be provided if available.

If the Accuser is not the Victim, the sexual misconduct response person will encourage the Accuser to tell the alleged Victim about the services available through the Church. The Accuser will also inform the alleged Victim of the Accuser's intent to bring accusations to the attention of the sexual misconduct response person/

In some cases, the alleged Victim/Accuser may ask the sexual misconduct response person to contact the Accused. Before doing so, the sexual misconduct response person should have received a signed and dated authorization for release of information.

The alleged Accuser/Victim shall decide whether or not to file disciplinary charges under the Rules of Discipline. Should the Accuser decide to file charges, and if the alleged Accused is a teaching elder, the alleged Accuser/Victim will be informed by the sexual misconduct response person how to contact the Stated Clerk of the Presbytery to initiate such a process. The sexual misconduct response person's continued involvement at this point will be determined by the needs of the Accuser for continued support.

3. Written Records

If the Victim/Accuser chooses to proceed and requests the sexual misconduct response person's continuing involvement, an adult Victim or non-Victim Accuser may be encouraged to write a detailed description of the alleged sexual misconduct. Because of possible future proceedings, the Victim may want to sign and date the description and attach any supporting documentation. The Victim/Accuser will maintain ownership and

possession of this document. Any records kept by the sexual misconduct response person will be confidential. Such records should be kept in a locked space and should be shredded when the contact with those involved has ended, but only after consultation with legal counsel. These records may include names, dates of contact, recommendations, and personal notes.

4. Reporting Child Sexual Abuse or Rape

The sexual misconduct response person must be familiar with ecclesiastical and state law regarding the reporting of Child Sexual Abuse. If the sexual misconduct response person suspects that Child Sexual Abuse or Rape has occurred, the sexual misconduct response person will help the Victim/Accuser understand and comply with state laws regarding incidents of actual or suspected Child Abuse or Rape and the reporting of such incidents. Whether or not the Accuser agrees, the sexual misconduct response person is subject to and will comply with all Secular Law with regard to actual or suspected Child or elder sexual abuse or actual or suspected unlawful sexual conduct, including mandated reporting related to Child Sexual Abuse.

5. Voluntary Leave for Clergy

For the protection of those involved, the sexual misconduct response person may suggest a voluntary leave for a teaching elder, ruling elder, employee, volunteer, and others who may be the subject of an accusation. If the matter involves a teaching elder the terms of the leave will be worked out between the Presbytery and the session of the church, with particular attention being paid to the provisions of the Rules of Discipline of the Presbyterian Church (USA) regarding administrative leave in such circumstances.

6. Compliance with Secular Authorities

The Church shall cooperate with Secular Authorities in their investigations of Child Sexual Abuse or other criminal misconduct. Church proceedings shall not interfere with a criminal investigation by civil authorities. The Church proceedings may have to be suspended until secular investigations are completed.

RISK MANAGEMENT

A. Implementation

The Church will take appropriate steps to inform its members, employees, staff, and volunteers of the standards of conduct and the procedures for effective response to be carried out if a report of sexual misconduct is received.

Clergy associated with the church must be aware of how state law regarding clergy confidentiality intersects with state law on child sexual abuse and reporting obligations.

B. Liability and Insurance

The church may potentially be liable for damages for harm caused by sexual misconduct of a minister, employee, staff member, volunteer, or other persons acting on its behalf. The church should be certain that it obtains liability insurance covering sexual abuse and that it regularly informs the liability insurer of the activities and programs it operates and sponsors, particularly programs whose staff may be considered to be in high-risk occupations. Additions or deletions of such activities or programs should promptly be brought to the attention of their liability insurers.

C. Volunteers

Volunteers acting on behalf of the Church are subject to this policy. An appropriate screening procedure shall be established by the Church before permitting the volunteer to work *in loco parentis* with children, including requiring criminal background checks before such persons are assigned to work with children.

D. Resources

The sexual misconduct response person will become generally familiar with resources, counselors, advisors, medical, and legal persons, and other resources available in the greater area of the Church to serve and support victims of alleged sexual misconduct, so as to be able to provide references to such resources if and as needed.

EMPLOYMENT PRACTICES

A. Record Keeping

The church shall maintain a file containing documents related to this policy for every employee, volunteer, and teaching elders.

B. Pre-screening Applicants

Pre-employment screening shall include specific questions related to discovering previous formal charges of sexual misconduct. An applicant shall be informed of any reports of sexual misconduct and shall be given an opportunity to submit additional references or to give other evidence to correct or to respond to harmful information obtained from a reference prior to a final decision being made on the applicant.

Regarding Associations with Children

Staff, ruling, and teaching elders, volunteers, youth leaders, school teachers, and others regularly associated with children and youth of the church shall have submitted to relevant state background checks and clearances before being associated with children and youth. The reports of such clearances shall be maintained by the church for as long as the adult works with the children and youth and for six (6) years thereafter.

APPENDIX I

DEFINITIONS

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

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

Child is a person under eighteen years of age.

Child Sexual Abuse includes, but is not limited to, any contact or interaction between a Child and an adult when the Child is being used for the sexual stimulation of the adult 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.

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

High Risk Occupation is that which calls for a person to work in close contact with those who are vulnerable and less capable of protecting themselves, such as children, elderly persons, those who are wholly or partially incapacitated, or clients who are having emotional or personal problems.

Investigation is the term generally used by police, secular prosecutors, and Child protective services when responding to allegations of an offense.

Response is the action taken by the Church 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 and professional intervention for Victims, their families, and others involved in congregational and employment settings, (4) pastoral care and professional intervention for congregational and employment settings, and (5) pastoral care for the Accused.

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

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

Sexual Harassment means unwelcome sexual advances, requests for sexual favors, and/or other verbal or physical conduct of a sexual nature when:

1) submission to such conduct is made either explicitly or implicitly a term or a condition of an individual's employment or volunteer service;

2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting the individual; or

3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile or offensive working environment.

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

Volunteer is the term used for those who provide services for the Church and receive no benefits or remuneration. Volunteers include persons elected or appointed to serve on boards, committees, and other groups. For purposes of this policy, volunteers are treated the same as employees. Liabilities of the governing body or entity are the same for volunteers as for employees.

Acknowledgment of Receipt of Policy

I have received my copy of the Church's Policy and Procedure Regarding Allegations of Sexual Misconduct. I understand that the Policy contains important information about the Company's policies and rules and my obligations as an [employee/volunteer]. I understand and agree that it is my responsibility to read and understand the Policy. If I am unable to understand any part of the Policy, I will immediately notify the Church and request explanation.

I agree that I will familiarize myself with the material in the Policy and adhere to the obligations contained therein.

My signature below indicates that I have received a copy, read, and understand the Church's Policy and Procedure Regarding Allegations of Sexual Misconduct.

_____ _____

[Employee's/Volunteer's] Signature Date