

SYNOD OF THE MID-ATLANTIC
of the Presbyterian Church (U.S.A.)

SYNOD RESPONSE TO ALLEGATIONS OF SEXUAL MISCONDUCT

TABLE OF CONTENTS

- I. PREFACE
 - A. Policy Statement
 - B. Purpose
 - C. Scope of Policy
 - D. Structural Management of Accusation(s)
 - II. DEFINITIONS
 - III. STANDARDS OF CONDUCT
 - A. Principles of Conduct
 - B. Victims, Alleged Victims and Families
 - C. Synod
 - D. Accused and Families
 - E. Third Party Complainant
 - F. Maintaining the Integrity of the Process
 - IV. PREVENTIVE ACTIONS
 - A. Implementation
 - B. Employment Practices
 - C. Distribution
 - V. RESPONSE PROCEDURES
 - A. Claim of Sexual Misconduct
 - 1. Receiving Initial Claims
 - 2. Documentation
 - 3. Unavailability of a Written Allegation from a Complainant
 - 4. Subsequent Reporting
 - B. Response Team
 - 1. Composition of the Team
 - 2. Role of the Team
 - 3. Functions of the Team
 - 4. Team Inquiry
 - C. Responses When Allegation is Not Substantiated
 - D. Responses When Allegation is Substantiated
 - E. Response to Victim
 - F. Response to Secondary Victims
 - G. Other Matters
 - 1. Recommended Resources
 - 2. Continued Availability of the Response Team
 - 3. Media Contact
 - 4. Response Team Record keeping
 - VI. GOVERNING BODY OR ENTITY RESPONSIBILITIES
 - A. Accused Covered by *Book of Order*
 - B. Accused Not Covered by *Book of Order*
 - C. Governing Body or Entity Record Keeping
 - D. Statute of Limitations
 - VII. EVALUATION OF THE EFFECTIVENESS OF THIS DOCUMENT
- EXHIBIT A
EXHIBIT B
EXHIBIT C

PREFACE

Pastors/church workers possess power in relation to those persons whom they serve. By definition, the pastors'/church workers' relationship with those to whom they minister is one of inequality of power and also of intimacy, each of which can lead to sexual contact and/or sexual harassment. The expectation of those served is that the pastors/church workers will exercise the power and intimacy of their roles with integrity, sensitivity and caring.

A. Policy Statement

It is the policy of the Synod of the Mid-Atlantic of the Presbyterian Church (U.S.A.) that all officers, employees and volunteers of the Synod and its entities are to maintain the integrity of ministerial, employment and professional relationships at all times. Sexual misconduct is not only a violation of the principles set forth in Scripture but also of these relationships and is never permissible. For a full definition of sexual misconduct see page 11, "w".

B. Purpose

The Synod adopts this policy on sexual misconduct for the following purposes:

1. To set and enforce standards of ethical behavior consistent with Scripture, standards of the Presbyterian Church (U.S.A.) and secular law.
2. To provide procedures for inquiry and effective response to allegations of the violation of trust which negatively affects the emotional, spiritual and physical care and protection of persons, which is the responsibility of all who represent the Church in any way.
3. To serve as a guide for prevention of sexual misconduct.
4. To demonstrate pastoral concern for the alleged victims and those accused of sexual misconduct.
5. To provide justice for those who have been harmed and to create an opportunity for repentance of offenders.
6. To further the peace, unity and purity of the Church.

C. Scope of Policy

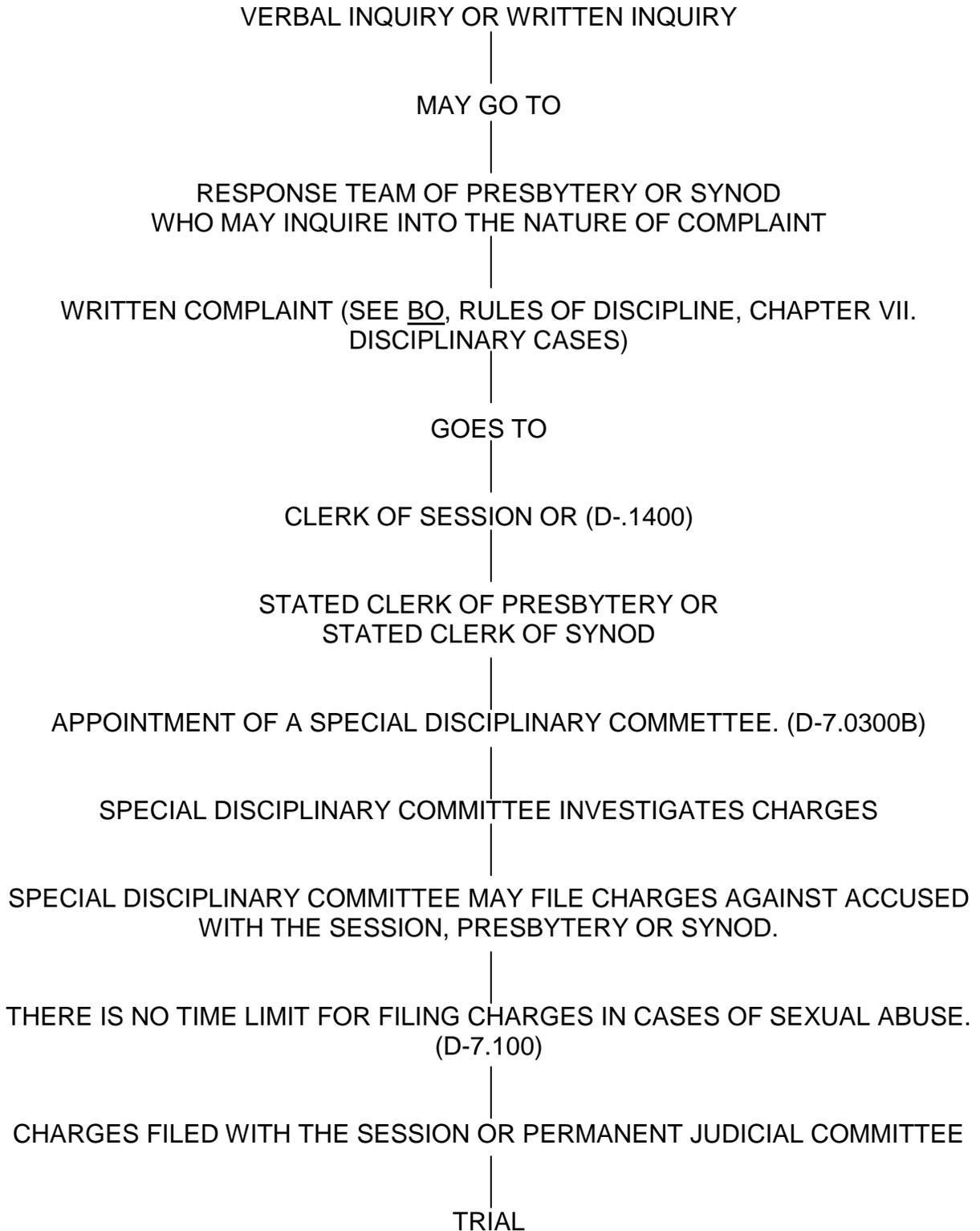
1. This policy covers all Synod employees, the office of the Synod, all persons serving on the Synod Council and on any subsidiary committee, task force, or work group of the Synod Council, any person elected to a Synod committee or commission and elected members of the Synod Assembly.

2. This policy is intended as guidance to Synod entities, including homes for the aged and any board or agency to which the Synod appoints or elects a majority of the governing body.
3. This policy does not apply to entities, boards or agencies to which the Synod does not elect or appoint a majority of the governing body.
4. This policy applies to conduct which occurs when a person is engaged in Synod activities or business. A person may not seek relief under this policy if initiating sexual misconduct disciplinary procedures of another governing body or entity for conduct which falls under the scope of this policy. Alleged victims should be aware that they may have other avenues of relief for sexual misconduct occurring within the church setting whether the alleged victim chooses to use this policy victim chooses to use this policy or not.

D. Structural Management of Accusation(s)

1. If the accused and the alleged victim are ordained persons, either clergy or elder, the complaint goes to the presbytery Stated Clerk of which the ordained persons are members.
2. If the accused is an ordained person with membership in a particular presbytery and the alleged victim is a member of another presbytery, the complaint should be sent to the accused's presbytery or it may go to the Synod Response Team.
3. Flow Chart for complaint filing (see following page).

FLOW CHART OF FILING COMPLAINT



WHERE TO FILE WRITTEN COMPLAINT

<u>IF THE ACCUSED IS</u>	<u>COMPLAINT MAY GO TO</u>	<u>MUST GO TO</u>
Clergy	Response Team	Stated Clerk of the presbytery of which the clergy is a member (<i>Book of Order</i> D-5.01 OOC)
Clergy who is a member of a synod committee or task force or a volunteer	Synod Response Team who may refer	Same as above
Elder who is enrolled as a member of presbytery due to presbytery office	Presbytery Response Team	Stated Clerk of the presbytery
Elder	Church Session of which elder is a member. Alleged victim may inform the Presbytery Response Team	Clerk of Session
Church member	Same as above	Same as above
Synod employee	Synod Response Team may refer	Stated Clerk of Synod or Personnel Committee of Synod
Synod employee who is clergy	Synod Response Team refers to	Stated Clerk of presbytery of which the clergy is a member or Synod Personnel Committee

II. DEFINITIONS

- A. Accused is the term used to represent the person against whom a claim of sexual misconduct is made.
- B. Advocate is a person who is appropriately trained, provides support and assists the complainant(s) through the investigative process. The advocate does not speak for the complainant(s). Her/His role is to inform the complainant(s) about their rights within the investigative process and be a supportive presence to the complainant(s) when meeting with the Response Team. The advocate for a complainant cannot be a voting member of the Response Team investigating that particular complainant's allegation. An advocate may go to the meetings of the Synod Response Team or Special Disciplinary Committee for the purpose of answering questions about the complaint or process thus far. An advocate may call appropriated presbytery or synod staff or chairperson(s) to ask where the complaint is in the presbytery or synod process.
- C. Alleged Victim is the term used to identify the person who claims to have been subjected to sexual misconduct.
- D. Child Sexual Abuse includes, but is not limited to, any contact or interaction between a child (as defined by law in the state in which it takes place) 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 non-consensual.
- E. Church, when spelled with the initial letter capitalized, refers to the Presbyterian Church (U.S.A.); when spelled with the initial letter in lowercase, refers to local churches. The word congregation is used loosely for both members and participants of a local church.
- F. Claim is the initial statement of alleged sexual misconduct made by the alleged victim.
- G. Committee refers to committees, partnerships, task forces, and work groups.
- H. Complainant is the term used to represent the person claiming knowledge of sexual misconduct by a person covered by this policy. The complainant may or may not be the alleged victim in which case he/she is referred to as a third-party complainant. A person such as a family member, friend or colleague may be the complainant.
- I. Confidentiality is withholding any information from all persons except those who have a legitimate need to know.
- J. Employee is the comprehensive term used to cover individuals who are hired or

called to work for governing bodies and entities for salary or wages. A person who only received reimbursement of expenses is not an employee.

- K. Entity is the term used to refer to any program or office managed by a board, committee, council or other body, a majority of whose membership is elected by the Synod.
- L. Governing Body is a representative body composed of elders and ministers of the Word and Sacrament; these are sessions, presbyteries, synods, and the General Assembly. A governing body may have both church members and non-members as employees.
- M. Inquiry is the term used in the Rules of Discipline to determine whether charges should be filed based upon allegations of an offense. See *Book of Order D-7.0200*. It is also used to describe the process used by Response Teams.
- N. Jurisdiction is the persons or governing bodies who have authority and oversight as defined in the *Book of Order (G-9.0102.a.,b.)*. Examples: presbytery has jurisdiction over minister members (*G-1 1.01 03n.*). Employing organizations have jurisdiction over youth workers, educators. Sessions have jurisdiction over all members of a congregation (*G-10.01 02.k.,m.*).
- O. Mandated Reporter is described by state laws as a person who is required to report any and all suspected incidents of child abuse, including child sexual abuse, that comes to their attention, as well as abuse and sexual abuse of vulnerable adults.
- Within the Synod all persons covered by this policy have a duty to report suspected child sexual abuse to the employing entity, supervisor or Synod representative. All mandated reporters should be informed of and must comply with state and local laws regarding incidents of actual or suspected child sexual abuse.
- P. Persons Covered by this policy include officers, employees and volunteers under the jurisdiction of the Synod or its entities. Also included are those who are accused of sexual misconduct under circumstances in which: a) access to the alleged victim is related to some form of service to or appointment by the Synod or entities; or b) sexual misconduct, in non-church related settings, raised questions of character and effectiveness.
- Q. Reasonable Suspicion is a subjective criterion that refers to a belief or opinion based on facts or circumstances that are sufficient for a prudent person to want to inquire further, to take protective action or to report to authorities.
- R. Response is the action taken by the Synod or entity when an allegation of sexual misconduct is received. It may include:

1. Inquiry into facts and circumstances;
 2. Disciplinary action;
 3. Pastoral care for alleged victims and their families and others;
 4. Pastoral care for the accused and care for their families.
- S. Response Team is a group of persons particularly trained in the area of allegations of sexual misconduct, appointed by the Synod, who acts as a facilitator to quickly and objectively respond to claims of sexual misconduct. Response Teams have no jurisdiction over persons involved in allegations of sexual misconduct. They are charged, however, with informing appropriate governing bodies and exercising pastoral care to all parties until the case is resolved. A special disciplinary committee appointed by a governing body prosecutes the case (see “special disciplinary committee”).
- T. Secular Authorities are governmental bodies who are given the responsibility to investigate, criminally prosecute and/or bring civil criminal charges against individuals accused of sexual crimes or offenses against adults and children.
- U. 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 charges and/or civil claims filed under secular law.
- V. Sexual Harassment as defined for this policy is as follows: Unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature constitute sexual harassment when:
1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment or volunteer work;
 2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individuals or voluntary work;
 3. Such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance by creating an intimidating, hostile or offensive working environment based upon the declared judgment of the affected individual.
- W. Sexual Misconduct is the comprehensive term used in this policy to include:
1. Child sexual abuse as defined above.
 2. Sexual harassment as defined above.

3. Rape/criminal sexual misconduct or sexual contact by force, threat or intimidation.
 4. Sexual conduct (such as offensive, obscene or suggestive language or behavior, unacceptable visual contact, unwelcome touching or fondling) that is injurious to the physical or emotional health of another.
 5. Sexual Malfeasance defined as sexual conduct within ministerial (e.g., clergy with a member of the congregation) or professional relationship (e.g., counselor with a client, lay employee with a church member, presbytery executive with a committee member who may be a layperson, a minister, or an elder). Sexual conduct includes unwelcome sexual advances, requests for sexual favors and verbal or physical conduct of a sexual nature. This definition is not meant to cover relationships between spouses, nor is it meant to restrict church professionals from having normal, mutual, social, intimate or marital relationships.
 7. A Violation of Professional Boundaries or Conduct may be considered minor depending on how the behavior is experienced by another person. Once it is identified as offensive behavior, it could fall into one of the preceding categories.
- X. Special Disciplinary Committee: defined as a committee designated by a governing body to inquire and determine if charges should be filed. If charges are to be filed, the special disciplinary committee shall prepare and file charges and specifications, and shall prosecute the case as the committee of counsel. A governing body may provide by rule for appointment of a special disciplinary committee. Because of the complex nature of the issues of sexual misconduct, it is imperative that the special disciplinary committee be specifically trained in those issues. A governing body may choose to have a standing special disciplinary committee to deal with sexual misconduct complaints. (*Book of Order D-7.0200 a, b, d; D-7.0300 a, b, c*).
- Y. Standard of Evidence Used: Preponderance of the Evidence. In a criminal proceeding, the standard of evidence used is “beyond a reasonable doubt.” In a civil proceeding, the standard of evidence used is “a preponderance of the evidence,” which means that it is more likely that the behavior occurred than it did not occur. Since this is not a criminal proceeding and our concern is to determine whether there was violation of the ministerial relationship, the civil standard will be used.
- Z. Synod refers to the Synod of the Mid-Atlantic of the Presbyterian Church (U.S.A.) or its successor.
- AA. Victim is the term used to identify the person who has been subjected to sexual misconduct.

BB. Volunteer is the term used for those who provide services for the Synod and entities who receive no remuneration. Volunteers for the Synod include elected members of Synod Council, committees, other bodies, and those elected to Synod-related entities. Volunteers may include persons requested to perform specific functions for the Synod (e.g. YAD Advisors, small group leaders, seminar leaders). Reimbursement for travel expenses and other out-of-pocket expenses is not remuneration.

III. 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,
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.

I Peter 1:15,5:2, James 3:1, NRV

The ethical conduct of all who minister in the name of Jesus Christ is of vital **0** importance to the Church, for through these representatives is conveyed an understanding of God and the Gospel's good news. Their manner of life should be a demonstration of the Christian gospel in the Church and the world. (*Book of Order G-6.1016.*)

A. Principles of Conduct

The basic principles guiding this policy are as follows:

1. Ethical professional conduct upholds and honors the roles and boundaries of employees, volunteers, supervisors and advisers of any kind who are called upon to exercise integrity, sensitivity and caring in a trust relationship. Sexual misconduct is a violation of these roles and boundaries and breaks the trust to act in the best interest of co-workers and volunteers.

2. Ethical professional conduct protects the vulnerability of persons who are less powerful to act for their own welfare. Sexual misconduct takes advantage of this vulnerability. It is contrary to the Gospel's 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.
3. Ethical professional conduct humbly acknowledges and understands the authority and power of ordained Christian offices in particular and baptized Christian church membership in general. Sexual misconduct is a misuse of authority and power which breaches Christian ethical principles by misusing a trust relationship to gain advantage over another for personal gratification in an abusive, exploitative and unjust manner. If the employee or volunteer initiates or invites sexual conduct 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. Implied or stated consent from employees or volunteers does not alter these principles.

B. Victims, Alleged Victims and Families

1. The Synod will seek to ensure treatment and care to the victims and alleged victims of sexual misconduct and their families. It has sometimes been the case that the victim, alleged victim or family is so angry and alienated from the Church that offers of help have been perceived as insincere or attempts at a cover-up. If the victim, alleged victim or family at first refuses, the governing body should continue to offer help. Above all, the Church should not act in a self-protective manner by avoiding the victims, alleged victims and their families.
2. The extent of the damage to the victims of sexual misconduct will vary from person to person. It may be influenced by such factors as the degree of severity of abuse, the age and emotional condition of the victim, personality, dynamics and the importance of the religious faith. The entity and the Response Team are to recognize in all cases that a victim has been wounded by the experience.
3. Frequent injuries suffered by victims are feelings of guilt, shame, anger, mistrust, lowered self-esteem, unworthiness and feelings of alienation from God, self, the religious community and family. The Response Team is to be sensitive to a victim's pain and need for healing.

C. Synod

The Synod should be aware of the potential impact it may experience resulting from allegations of sexual misconduct by an employee or volunteer. The allegations may polarize the organization, damage morale and create serious

internal problems. Efforts should be taken to recognize and identify the issues and seek healing for the individuals involved and to the organization as a whole.

D. Accused and Families

1. The Synod will seek to ensure treatment and care for the accused and their families. If the accused is a minister, the Synod shall work in cooperation with the Committee on Ministry (*G-1 1.0501*) of his or her presbytery. It is essential that representatives of the governing body or other entities do not make a presumption of guilt.
2. When a person is acquitted of charges, it is essential for the governing body or entity, when requested to do so by the accused, to publicize the acquittal as widely as possible within its power.

E. Third Party Complainant

1. Minors-in cases where the alleged victim is a child, the third party complainant may be the parent, guardian or other advocate for a child. Because of the child's minority status, an adult is requested to file the action on behalf of the child.
2. Adults-in cases where the alleged victim is an adult, the third party complainant, in order to avoid making false allegations, should observe the following guidelines:
 - a. For their own protection, it is preferable that the third party complainant have written documentation from the alleged victim substantiating the allegations.
 - b. The third party complainant should ascertain that the alleged victim is willing to proceed with the process if a claim of sexual misconduct is made.
 - c. Corroborating evidence of the sexual misconduct should be obtained, if possible, to substantiate the claim.

F. Maintaining the Integrity of the Process

1. Once a complaint is received, accused and alleged victims involved shall not contact one another until the case is resolved.
2. Parties shall not seek to influence the outcome of the inquiry by seeking intervention by others.
3. Confidentiality shall be maintained by restricting information to those who

have a legitimate need to know.

IV. PREVENTIVE ACTIONS

A. Implementation

1. The Synod urges all presbyteries and its related entities to establish policies, procedures and practices related to the prevention of sexual misconduct and the investigation of alleged sexual misconduct. The Synod shall inform Synod employees and volunteers of the standards of conduct and of the procedures for effective response to a claim of sexual misconduct.
2. When child sexual abuse is alleged, this policy is superseded by state laws relating to the investigation and disposition of the matter. (See Section *D-7.1100, Book of Order*).
3. The Synod shall conduct educational programs to prevent sexual misconduct, and provide training in pastoral and disciplinary procedures.
4. The Synod Executive, under the direction of Synod Council, shall implement the preventive actions of this policy.

b. Employment Practices

1. References

- a. The Synod shall do previous employer reference checks for its employees. The employee reference checks are the responsibility of the Synod Executive, who shall report to the Personnel Committee either that there was no reported sexual misconduct, or if there were reports of sexual misconduct the committee should inquire into sexual misconduct reported through said reference checks, which include questions about sexual misconduct. (See attachment, Exhibit A). Written reference checks shall be given to the Synod Executive for the personnel file.
- b. Applicants shall be informed of negative comments regarding sexual misconduct and shall be given the opportunity to submit additional references or to give other evidence to correct or respond to negative information obtained from a reference.
- c. The Synod Executive and chairperson of the Personnel Committee are authorized to respond to sexual abuse inquiries directed to the Synod about former or current Synod employees. They shall

provide information regarding any allegations, inquiries and administration of disciplinary action related to sexual misconduct of the individual involved. The response, however, shall be limited to information that is a matter of public record or in the individual's own personnel file which is maintained by the Synod.

- d. If the accused is the Stated Clerk of the Synod, the complaint shall be made to the Synod Executive. If the Stated Clerk and Executive are the same person, the complaint shall be made to the Moderator of the Synod or a designated Associate Executive, who will notify the Synod Response Team.
- e. Allegations of sexual misconduct may also result in charges filed against a church member or minister under the Rules of Discipline and may lead to temporary or permanent removal from membership or office. In addition, criminal penalties of incarceration or fines and civil damages may result.

2. Record Keeping

The Synod through its Synod Executive shall maintain a personnel file containing reference responses and other documents related to this policy on every employee of the Synod.

C. Distribution

1. This policy shall be distributed to current Synod officers, employees, Synod Council and committee members, and as a condition of service to new officers, employees, council and committee members. Upon distribution each person must sign a written acknowledgement of receipt. (See attachment, Exhibit B). Stated Clerk shall keep a list of those persons to whom the policy has been sent.
2. This policy shall be distributed to alleged victims and complaints. The policy shall be available upon request to any other person.

V. RESPONSE PROCEDURES

A. Claim of Sexual Misconduct

1. Receiving Initial Claims

Claims of sexual misconduct can be presented in a variety of ways. It is important that officers, employees and elected volunteers understand how claims of sexual misconduct incidents are to be

directed to the proper person for investigation.

Claims of sexual misconduct should never be taken lightly or disregarded and allowed to circulate without concern for the integrity and reputation of the complainant, the accused and the Church. Claims shall be dealt with as matters of confidentiality both before and after they have been submitted to appropriate authorities as outlined below.

2. Documentation

All allegations and responses to allegations must be written, signed and dated. They should be detailed and specific. Any report of the Response Team to the appropriate Stated Clerk must be written. Decisions made by the Response Team must be written.

The complainant(s) and the accused pastor/church worker will need to sign a written consent form that states that all written material will be shared only as outlined in this document. (See Exhibit C). Other witnesses may also need to sign a consent form.

3. Unavailability of a Written Allegation from a Complainant

If a complainant is unable or chooses not to submit a written allegation with the Response Team, the Response Team may continue the investigation if there appears to be sufficient additional evidence that the alleged professional misconduct of a sexual nature occurred.

If a confession by the pastor/church worker is received without a victim's complaint, there is good cause to proceed. The procedures outlined in this document should be implemented because acknowledgement by the pastor/church worker that he/she engaged in professional misconduct of a sexual nature is the best evidence available.

4. Subsequent Reporting

The person receiving the initial claim of sexual misconduct shall submit a report of the alleged incident to the Response Team and to civil or criminal authorities as may be required by local or state law.

B. Response Team

1. Composition of the Team

The Team that responds to allegations of sexual misconduct is a group of not

less than five people and at least two alternates not serving on Synod Council but appointed and confirmed by Synod Council. The Team members shall be appointed for three-year terms and appointment may be renewed for a second term. The Team members and the alternates shall possess professional expertise and/or extensive experience in at least one of the following areas:

- a. Psychological counseling, with particular experience in the area of sexual abuse and its aftermath, as well as pastoral care;
- b. Child advocacy;
- c. Law, with particular experience in sexual harassment or abuse, civil tort proceedings, criminal proceedings involving matters of due process and domestic law;
- d. Conflict management and resolution, particularly in the religious community setting;
- e. Insurance and risk management; and
- f. Personnel management and training.

A quorum of the Team shall be three members and shall always have a female member of the Team. Because male sexual misconduct victims are women, the Team should include three women, thus assuring there being a woman in a quorum. In addition, three other persons (in three classes) shall be appointed to serve as alternates to achieve a quorum when necessary. The Response Team shall reflect the racial make-up of the Synod. If the accused or complainant is a minority as defined by Title V of the U.S. Code then the Response Team shall have a minority member. The Response Team and alternates shall be trained to respond to allegations of sexual misconduct and to identify and recognize the issues involved in sexual misconduct, sexual harassment and child sexual abuse. Team members must be familiar with the legal, administrative and disciplinary procedures of the Synod and the Church.

2. Role of the Team

The Team acts as a facilitator to quickly and objectively respond to claims of sexual misconduct. The Response Committee will work with and be available to the complainant, the accused, the alleged victim (if not the same person as the complainant), the families involved, co-workers of the parties involved and the presbytery and the Synod. Any person covered by another policy or another original jurisdiction of the Church has the option of choosing to proceed under this policy or the other policy but not both. The Response Team provides reports to the Synod Executive, Stated Clerk or Personnel Committee of the Synod, as appropriate, or to the Stated Clerk of the appropriate presbytery, the Stated Clerk

of the Synod or the Committee of Ministry of the appropriate presbytery.

After initial training, the Team should meet no less than once a year to familiarize itself with this policy, the procedures of the Synod and to continue its training.

3. Functions of the Team

a. The Response Team will serve the following primary functions:

- (1) Receive the written claim of sexual misconduct from the employee, supervisor, officer, administrator or any other person who may have the claim.
- (2) In the event that the complainant(s) is emotionally unable to submit a detailed written allegation, the Stated Clerk or the Response Team will offer a list of professional counselors to the complainant(s) and may pay for necessary counseling and/or medical care. In this case the operating policy might not be put into effect because of a lack of a written and signed allegation.
- (3) Begin further inquiry of the allegations within five working days of receiving the report.
- (4) No later than seven working days after the beginning of the inquiry, advise the alleged victim, in writing, that he or she may want to obtain legal counsel and advise the alleged victim to have no further contact of any sort with the accused.
- (5) No later than seven working days after the beginning of the inquiry, advise the accused, in writing, of the accusations and advise the accused to have no further contact of any sort with the complainant, the alleged victim, or the alleged victim's family and request a written response to the accusations
- (6) No later than seven working days after the beginning of the inquiry, advise the accused, in writing, that he or she may want to obtain legal counsel since the accusation could result in church discipline or civil or criminal court action.
- (7) Gather information regarding the allegations from the complainant, if not the alleged victim, the alleged victim and others who may have knowledge or information relating to the claim.
- (8) Seek adherence to this policy by all parties involved.
- (9) Be available to the parties involved to hear their concerns

throughout the inquiry and disciplinary process.

- (10) Work within the established procedures for discipline in the Rules of Discipline of the Presbyterian Church (U.S.A.).
- (11) Prepare a written report of the case submission to the appropriate person, committee of the governing body or entity.

b. During, or as a result of its initial inquiry, the Response Team:

- (1) Shall advise parties involved, in writing, that the alleged victim and/or accused may request a particular trained advocate, or will be assigned an advocate.
- (2) Shall remind all participants that they have the right to obtain legal counsel.
- (3) Shall advise all parties to contact their insurance carriers.
- (4) Shall recommend that all parties involved seek professional psychological or certified pastoral counseling throughout the inquiry process.
- (5) Shall recommend immediate actions for the pastoral care of the complainant, the alleged victim, the accused, the families of all parties involved, congregations and governing bodies.
- (6) Shall recommend educational or employment practices as needed to prevent instances of sexual misconduct.
- (7) Shall recommend actions to be taken to begin the healing process within the governing body or entity.
- (8) Shall encourage the responsible governing body to notify the employing organization such as congregation, governing body or agency or affected organizations such as congregations, committees or individuals that a complaint has been filed.

c. The Response Team shall not:

- (1) Advocate for any party involved.
- (2) Act as legal counsel for any party involved.
- (3) Act as counselors to any party involved.

- (4) Replace the functions of the committee on ministry, counsel or special disciplinary committee.
- (5) Determine guilt or innocence of the accused.
- (6) Enforce a specific remedy or disciplinary action.
- (7) Breach the confidentiality of information received (See Section 2.h).

4. Team Inquiry

Upon receiving the claim of sexual misconduct, the Response Team will immediately confer to coordinate the initial inquiry process. The Response Team:

- a. Must meet with the complainant and/or alleged victim to hear the accusation firsthand. The complainant(s) may bring persons (limited to two) whom the complainant(s) may need to have present for support.
- b. Must advise the alleged victim or third party complainant of the policy and process, and provide a written copy of the policy and process.
- c. May contact other persons with knowledge, including the alleged victim if there is a third party complainant.
- d. Must obtain and be familiar with all local jurisdiction child sexual abuse ordinances;

Notify the accused and/or civil authorities, as required by applicable state or local law.

Note: If the complainant claims child sexual abuse, the Response Team is advised not to interview the child (or children) due to the possible secondary trauma caused by the interview itself. The Response Team should consider the recommendations of the secular authorities, If the Response Team needs a consultant to advise it concerning the possible effects and complications involving a child, it should contact an expert in child sexual abuse. The Response Team should make the secular authorities aware that it wishes, insofar as the law allows, to be kept informed of the developments in the case to allow appropriate disciplinary measures within the church to be taken against the accused.

- e. Must instruct the accused, in writing, to have no further contact of any sort with the victim, alleged victim or their families.

- f. May meet with the accused if requested. Prior to the meeting, the accused shall be advise of their rights according to 0.70900 of the Rules of Discipline.
- g. Must tell the complainant(s) in writing if the accused has admitted to the misconduct.
- h. Encourage the stated clerk and the special disciplinary committee to regularly communicate with the complainant in writing throughout the process.
- i. If there has been no admission of misconduct and the complaint is to be pursued, complainant must file a written accusation of the alleged misconduct with the appropriate officer of the governing body or entity. In the case of a Presbyterian minister or elder, this would be the appropriate Stated Clerk or Clerk of Session respectively. (In conformance with 7.0300a of the Rules of Discipline)
- j. Must submit a report to the appropriate governing body or person within 30 days form the date it first receives a report of alleged professional misconduct of a sexual nature. A copy will be given to the complainant and the accused. The report shall include:
 - (1) Name and address of parties involved.
 - (2) A summary of the allegations.
 - (3) A summary of the facts as stated by the parties involved.
 - (4) A summary of the Response Team's actions to date.
 - (5) The remedy, if any, sought by the complainant/alleged victim.
 - (6) The Response Team's findings to date.
 - (7) The Response Team's suggestions for possible further action.
 - (8) The listing of the Response Team's member and the date of the report.

C. Responses When Allegation is Not Substantiated

In cases where the allegation is not substantiated, every effort will be made to

exonerate the pastor/church worker. A record of the process and its conclusions will be provided for the pastor/church worker and may be included in his/her personnel file. If the vindicated pastor/church worker chooses, a public statement may be communicated in writing by the Stated Clerk and the Response Team to every member of the congregation to exonerate him/her. The Stated Clerk, in consultation with the Response Team and/or the special disciplinary committee, will respond to the vindicated pastor/church worker with Christian care and concern. This may include the governing body paying for counseling for the vindicated pastor/church worker.

There is usually a need for follow-up whenever an allegation is made against a pastor/church worker, even if it is not substantiated. Therefore, the Stated Clerk, in consultation with the Response Team and/or the special disciplinary committee, will respond with Christian care and concern to the complainant(s), the vindicated pastor's/church worker's family and the congregation as appropriate.

D. Responses When Allegation is Substantiated

1. If the preponderance of evidence indicates the offense and consequences of professional misconduct are determined to be relatively **MINOR**, the special disciplinary committee will recommend that the appropriate governing body/officer take the following steps:
 - a. Issue an advisory in response to a situation which is not necessarily professional misconduct of a sexual nature but shows poor professional judgment. Clear guidance shall be provided in order for the accused to accomplish the necessary corrective.
 - b. Issue a warning in response to a situation of unquestionably inappropriate and unwise behavior but which is not clearly professional misconduct of a sexual nature. It is expected that this clear warning will bring a cessation of the behavior.
 - c. Issue a reprimand in response to a situation which involves professional misconduct of a sexual nature but which resulted in relatively minor consequences. This action will be recorded and placed in the accused's personnel file.
2. If the preponderance of evidence indicates the offense and consequences of professional misconduct are determined to be relatively **MAJOR**, the special disciplinary committee will recommend that the governing body follow a course of disciplinary action in accord with the *Book of Order D7.080ff* and take appropriate action such as:
 - a. Put the accused on immediate administrative leave with pay, i.e., pastor may not labor out of bounds, nor released for interviews, nor released to

accept another position, nor authorized to exercise any office of ministry.

- b. Keep the accused on restricted status in response to clear misconduct of a sexual nature which was persistent and resulted in (or could have resulted in) serious harm to others. In the case of a church professional, this action shall be recorded and placed in the accused's personnel file but may not result in suspension.

To prevent inadvertent reassignment of volunteers to an inappropriate committee, the action shall be recorded by the governing body and a file maintained by the appropriate governing official.

- c. Suspend the pastor/church worker in response to misconduct of a sexual nature which resulted in harm to others and to the ministry. Protection of others from further harm is paramount. The suspension shall continue until there is clear evidence of rehabilitation and restoration of the accused.
- d. Commence an action to remove the accused from membership in the presbytery or church in response to misconduct of a sexual nature which resulted in substantial harm to others, the church and the ministry, and, in the face of which, there is little possibility of rehabilitation and restoration to ministry. Protection of others from harm and the protection of the integrity of the ministry are paramount.
- e. Restitution for the victim may be required,
- f. The Committee on Ministry of the appropriate governing body may at any time require that the accused receive professional counseling.
- g. Any of these actions shall be recorded and placed in the pastor's/church worker's personnel file.

E. Response to Victim

See pages 11-12, Section III B. 1,2,3.

Victims and Families

Synod, through its Response Team, shall seek to ensure that appropriate treatment and care is made available to victims of sexual misconduct and their families. If the victim or family at first refuses, the Synod and/or presbytery should continue to offer help. Above all, the victims and their families should not be ignored.

The response of the complainant/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, the particular situation and the complainant/victim's religious faith.

Feelings of guilt, shame, anger, mistrust, unworthiness, lowered self-esteem and feelings of alienation from God, self, the religious community and family are frequent injuries suffered by the complainant/victims. Therefore, it is important for the Synod and/or presbytery and the Response Team to be sensitive to the victim's pain and need for healing, and to act by making appropriate pastoral care available.

Under this procedure document, the complainant/victim has need of the following:

- a. To be heard and taken seriously. From the time that the complainant/victim is able to report sexual misconduct, that person shall receive immediate attention and serious consideration from all representing the presbytery.
- b. To receive pastoral and therapeutic support. The Response Team will offer to help arrange for such support from a pastor and/or therapist. Discussions with such people are confidential, privileged conversation.
- c. To be informed about church procedures and progress with regard to the accusation. One member of the Response Team will be the presbytery contact for the complainant/victims. This contact person is responsible for giving the complainant/victim information on the procedures and reports of the progress of the case in the presbytery.
- d. To seek legal advice. Legitimate claims might be more effectively pursued and flimsy or false claims discouraged.
- e. To be assured of an advocate. In addition to reporting and wanting sexual misconduct halted, the complainant/victim may want some form of restitution. The Response Team will suggest that the complainant/victim defined with the advocate or other support people what type of restitution is sought. Examples may include financial compensation, removal of the accused from office, admission and apology from the accused, etc.
- f. To be assured that justice will be pursued. The complainant/victim needs to be told by the Response Team, and shown by the procedures of the Synod and/or presbytery, that justice is being pursued through fact-finding, truth-telling, and confrontation.
- g. To receive healing and reconciliation. In addition to specific forms of restitution mentioned above, the complainant/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 Team can help to bring this about using the church's process and resources. These needs may not all be met while the case is active. The Synod and/or presbytery may follow up over a lengthier period of time to treat seriously and compassionately any continuing needs of the complainant/victim.

F. Response to Secondary Victims

The offender's family, peers, appropriate committee of the governing body and the congregation are also victims of the professional misconduct of a sexual nature. They too deserve attention and sensitivity to the hurt and pain that they are experiencing.

1. Family Members of the Offending Pastor/Church Worker
 - a. The Stated Clerk will arrange to reach out to family members with Christian care and concern.
 - b. The Stated Clerk will try to arrange for financial support for family members during possible employment transition for the offending pastor/church worker.
2. Peers — The Stated Clerk or his/her representative will schedule a peer group meeting to inform the offending pastor's/church worker's peers of the actions taken regarding the offender and to provide opportunity for discussion.
3. Congregation
 - a. In conjunction with the local leadership, it is recommended that the Stated Clerk, in consultation with the Response Team, will communicate in writing with every member of the congregation the findings and action of the special disciplinary committee and the Stated Clerk.
 - b. The Stated Clerk will offer a trained consultant to educate the congregation regarding professional misconduct of a sexual nature in the ministerial relationship. This will help attend to the congregation's grief, anger and other reactions.
 - c. Three-, six-, nine-, and twelve-month follow-up contacts will be made by the State Clerk or his/her representative with the local congregation to assess whether or not further help is needed. Additional follow-up contacts will be made if needed.

G. Other Matters

1. Recommended Resources

During the process, the Response Team may recommend to the appropriate governing body resources for the following:

- a. The Response Team shall maintain a referral list of counselors and counseling centers sensitive to and competent in sexual misconduct issues and issues of faith and spiritual needs.
- b. The need for psychological evaluation or counseling of the alleged victim or accused. For church professionals, psychological evaluation or counseling shall be done only by qualified therapists approved by the governing body and the Board of Pensions. In-patient therapy may be required by the governing body for the accused depending on the perceived severity of the problem.
- c. Personal and pastoral needs of the complainant/alleged victim and the accused and their families.
- d. Pastoral needs of the congregation or employing entity in dealing with their grief, anger and other reactions to assist the congregation or employing entity in a healing process.
- e. Complainant's/alleged victim's need for reconciliation with the congregation or employing entity.
- f. The accused's needs for reconciliation with the congregation or employing entity.
- g. When one of the parties (of alleged victim or accused) is a minister member of a presbytery, the Response Team shall consult with the Committee on Ministry of the appropriated presbytery regarding Synod policy and procedure and the concerns in paragraph V.B.3.c. above.

2. Continued Availability of the Response Team

After the Response Team has submitted its report to the governing body or entity, it is still available to all parties to assure adherence to this policy and to follow up on suggestions given to the governing body or entity.

3. Media Contact

Any inquiries from the media regarding an incident of sexual misconduct must be directed to the Synod Executive or the designated official of the Synod or entity

involved. Questions from the media shall not be addressed by any member of the Response Team.

4. Response Team Record Keeping

The Response Team shall keep detailed records of its actions and minutes of its deliberations and its conversations with the complainant, accused and other parties involved, copies of the initial report, correspondence and copies of reports to the governing body or entity. The Response Team will forward its records to the Stated Clerk for permanent maintenance in confidential files.

The Response Team will prepare a permanent summary of the case for the files of the Response Team with a brief description of the allegations, the Response Team's suggestions and the final resolution. If further allegations are made against the same accused by another, the Response Team will have access to its original records on file with the Stated Clerk's office.

All such records are confidential except where disclosure is required in civil, criminal or ecclesiastical legal process.

VI. GOVERNING BODY OR ENTITY RESPONSIBILITIES

Governing body or entity response will vary according to the status of the accused. Church members and ministers are subject to the inquiry and discipline under the *Book of Order* (0-5.01000). The pastoral relationships of ministers serving congregations are subject to oversight and dissolution by the presbytery (G-11.01 3n, G-14.0601, G-14.0602, G-14.0603).

A. Accused Covered by *Book of Order*

1. After receiving the Response Team's report, the Clerk of the appropriate governing body shall report to the governing body that an offense has been alleged. If the Response Team reports that it believes that sufficient information is available to give rise to reasonable suspicion of sexual misconduct by the accused, then a Special Disciplinary Committee shall immediately be appointed (D-7.08000).
2. In order to call a Special Disciplinary Committee the Clerk need not be personally persuaded of the truth of the allegation nor need the Clerk see all the supporting evidence available to the Response Team or the Special Disciplinary Committee. The clerk must be provided enough information to cause a reasonable person to conclude that an inquiry is needed to either censure the accused or clear the accused of the allegations.

3. The Special Disciplinary Committee must promptly begin its inquiry into the allegations. Delay may cause further harm to the complainant or the accused. Information provided by the Response Team's report should help to expedite the process. However, the Special Disciplinary Committee shall conduct a thorough inquiry (*D-7.0800*).
4. Governing bodies and entities shall cooperate with secular authorities in an investigation of child sexual abuse or other criminal sexual misconduct. Church disciplinary proceedings cannot interfere with a criminal investigation by secular authorities and may have to be suspended until these are completed.
5. The session has original jurisdiction in disciplinary cases involving members of the church, each having jurisdiction only over its own members (*D-5.0100*). A church member who is accused of sexual misconduct outside the congregation to which the member belongs may be prosecuted by secular authorities, but may only be removed from membership by the session of the congregation to which the member belongs.

B. Accused Not Covered by *Book of Order*

Upon receipt of the report filed by the Response Team, the Synod Executive or director of the entity should immediately submit the report to the Personnel Committee of the Synod or organization. The Synod Personnel Committee will refer to and be guided by the written personnel policies of the Synod or entity which shall include the following:

1. Determine whether or not the Response Team's report gives rise to a reasonable suspicion of sexual misconduct by the accused.
2. If so, gather additional information necessary to make a further determination.
3. Determine any remedies, including disciplinary action, necessary and advisable under the circumstances.
4. Inform the complainant, alleged victim and the accused of the remedy.
5. 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 personnel file.

Either the complainant/alleged victim or the accused shall have the right to appeal the Personnel Committee's decision through standard guidelines and procedures of the Synod or entity.

C. Governing Body or Entity Record Keeping

The governing body or entity should keep detailed record of its actions and minutes of its deliberations and its conversations with the complainant, the accused, and other parties involved, copies of reports received from the Response Team, correspondence and copies of the report made to and received from committees or commissions. The records will be kept confidential. The clerk of the governing body or director of the entity will maintain the records while the inquiry is in process. After the case has been resolved, the Personnel Committee will prepare a brief summary report. A copy will be included in the accused's permanent personnel file, and a copy of the report will be given to the complainant and the accused. If judicial process was used, the records always shall become part of the permanent personnel file.

D. Statute of Limitations

The ability of governing bodies and entities to respond promptly and justly to sexual misconduct is related in part to the opportunity to receive allegations and gather evidence soon after the alleged occurrence. However, this policy recognizes the special problems related to discovery and recognition of various forms of sexual misconduct. Child sexual abuse may not be recognized until the victim of such abuse reaches adulthood. Recognition of abuse and willingness to come forward by an adult victim may also be delayed for many years. There is no statute of limitation on allegations of professional misconduct of a sexual nature.

VII. EVALUATION OF THE EFFECTIVENESS OF THIS DOCUMENT

After the resolution of each complaint, a report will be made by the Response Team on the effectiveness of this document. The reports filed with the Stated Clerk will include any suggested changes that should be considered.

December 1994

EXHIBIT A

This is a sample form that 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 B

This is a sample designed to implement the sexual misconduct policy. It is necessary that all employees acknowledge being in receipt of the sexual misconduct policy. The policy provides protection and empowerment for the employee.

Form for Implementing Policy of Sexual Misconduct

Acknowledgement of Receipt

I hereby acknowledge that I received on _____ (date), a copy of the "Policy and Its Procedures on Sexual Misconduct of the Presbyterian Church (U.S.A.)" dated _____ and 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 C

CONSENT FOR THE RELEASE OF INFORMATION

I, _____ hereby authorize

[Name of Individual giving consent]

to disclose to

[Person(s) making disclosure]

information

[Person(s) or organization to which disclosure is made]

regarding _____

[Specific data/records, types of information]

I understand that I may revoke in writing this consent at any time.

Executed this _____ day of _____,

[Month]

[Year]

[Signature of person giving consent]

[Signature of parent/guardian if person is a minor]

[Witness Signature]