



Policies and Procedures to Reduce the Risk of Child Abuse and Church Legal Liability

PURPOSE: The purpose of this document is two-fold. First, it is to inform and educate all compensated staff and volunteers of Living Water Community Church (also referred to as “the church”) regarding the reality of child sexual and physical abuse, counseling abuse, and the responsibilities of any person serving in a ministry, driving a church vehicle or hosting a church event. Second, the purpose of this document is to inform and educate all staff and volunteers regarding the church’s legal liability and measures we will take to prevent any occurrences and/or liability.

I. BACKGROUND INFORMATION – The primary bases of church legal liability are:

- Vicarious liability for the negligence of employees
- Negligent selection
- Negligent supervision
- Liability for injuries occurring on church property

DEFINITION OF NEGLIGENCE: **Conduct that creates unreasonable risk of foreseeable harm to another’s person or property, and that in fact results in the foreseeable harm.**

Negligence need not be intentional; it may include conduct that is simply careless, heedless, or inadvertent. Churches can be liable on the basis of negligence in two ways.

First, they can be liable for their own negligence. Examples include the “Negligent Selection” of church workers or the “Negligent Supervision” of church activities. To illustrate, a church may be guilty of negligent selection if it hires a convicted child molester or uses a bus driver with numerous traffic violations. A church may be guilty of negligent supervision if it uses an inadequate number of qualified adults to supervise a church activity.

Second, churches can be liable for the negligence of employees and volunteers within the scope of their work.

It is important to recognize that churches are not “guarantors” of the safety and well being of children. They are not absolutely liable for every injury that occurs on their premises in the course of their activities. Generally, they are responsible only for injuries that result from their negligence. Victims of molestation who have sued a church often allege that the church was negligent in not adequately screening applicants or for not providing adequate supervision.

II. PREVENTIVE MEASURES

The following are preventive measures Living Water Community Church will take to reduce the risks in the enumerated categories.

A. NEGLIGENT SELECTION

To reduce the risk of legal liability for negligent selection, every volunteer or employee (including current volunteers and employees) will complete a screening application entitled ***The Volunteer Background Questionnaire***.

1. To be eligible to receive and have a screening application processed, all volunteers must be a church member or regular attendee for a minimum of six months and in good standing.

2. In addition to the screening application, any volunteer who works directly with, and/or provides security for, children/students will complete a ***Prevention of Child Abuse/Molestation Policy and Permission to Conduct a Background Check*** form.
3. The Lead Pastor or his designee will be responsible for the follow-up of the screening applications. Completed screening applications and follow-ups will be treated as confidential and will be held in locked storage. Access to this information will not be permitted to anyone other than the Lead Pastor, his designee, the other pastor(s) and/or elders of the church.

B. NEGLIGENT SUPERVISION

Negligent supervision refers to a failure to exercise reasonable care in the supervision of church workers and church activities. The church does have the duty of ordinary care to avoid injury consistent with existing facts and circumstances. Court cases support an important principle that an adequate number of trained adults be used to supervise church activities. For example, a swimming pool party should have an adequate number of qualified adult lifeguards to supervise the activity. To reduce the risk of negligent supervision, the following procedures will be followed:

1. Living Water will use an adequate number of adults to supervise all church activities, especially those involving minors. The adult supervisors will be trained to summon help in the event of an emergency and to provide a common sense response until help arrives.
2. A "Two Adult" rule will be in effect for minors; that is, minors will never be in the custody of only one adult during any church activity.
3. We will only release minors from church activities to their parent, legal guardian, or designated representative.
4. Older minors will only be used as staff in nurseries or other classes if under the direct supervision of trained adults.
5. Parents will sign a consent form for church activities.
6. A teacher, teacher's aide, or member of the church's security team will check the bathroom for safety during restroom breaks whenever the child is in the custody of the Teacher or Volunteer.
7. An identification verification system will be used in the nursery.

C. SEXUAL SEDUCTION OF COUNSELEES BY CLERGY/LAY COUNSELOR

A potential pastor or counselor's background will be checked to ascertain if there is a history of prior sexual misconduct. Action to be taken after learning of previous incidents of sexual misconduct may vary, but will consider several factors, including:

1. The nature and severity of the previous misconduct.
2. The frequency of the previous misconduct.
3. How long ago the misconduct occurred.
4. Whether the pastor/counselor received counseling.
5. The competency and effectiveness of any counseling received.
6. The likelihood that the pastor/counselor will repeat the same type of misconduct now.

7. The possibility of legal liability if a jury concludes, on the basis of all evidence, that the church was negligent in hiring the pastor/counselor.

To avert the possibility of a potential accusation being brought forth by counselees where mixed counseling is to be conducted, one of the following steps will be taken.

- a. The spouse of the pastor/counselor or another individual will be present during a counseling session.
- b. The door of the room where the counseling is occurring will have a window, and another individual will be in the area adjacent to the room where the counseling is occurring.
- c. If the door of the room where the counseling is occurring does not have a window, the door will remain open, and another individual will be in the area adjacent to the room where the counseling is occurring.

D. CARELESS DRIVING OF CHURCH VEHICLES

A careful selection of drivers for church vehicles will be made. The following items will be checked as a minimum prior to authorizing a driver to operate a church vehicle:

1. Ensure the person does not have a suspended driver's license.
2. Ensure the person does not have a history of traffic offenses. Ask each prospective driver for a complete history of all traffic convictions.
3. Obtain driver's license number of each prospective driver, and ask the church's liability carrier to check on the individual's driving record.
4. Confirm the person has a current driver's license for the type of vehicle he/she will be driving.

Living Water will discontinue using a driver if reports are received that he/she is operating a church vehicle in a negligent manner. We will fully investigate such reports, and will not use the individual again unless the investigation clearly demonstrates that the complaints are without merit. All authorized drivers are required to immediately inform the church of any traffic convictions.

E. PREMISES LIABILITY

So long as a landowner exercises reasonable care in making the premises safe for invitees or if adequate warning is given about concealed perils, a landowner will not be responsible for injuries that occur. Living Water Community Church will carry liability insurance as delineated in another policy addressing that subject.

III. REPORTING PROCEDURES FOR CHURCH WORKERS

A. DISCUSS SUSPICIOUS BEHAVIOR IMMEDIATELY

Any inappropriate conduct or relationship between an adult staff member or volunteer and a child/student participating in a ministry of the church will be confronted immediately and investigated. Prompt warnings will be issued when appropriate, and the situation will be monitored very closely. The adult staff member or volunteer's services will be terminated immediately for continued violation of such warnings, or for a single

violation of sufficient gravity. Church staff or adult volunteers will notify a pastor or other church leader when a child/student participating in a ministry of the church appears aloof or withdrawn, or exhibits a marked personality change. This may indicate a problem that deserves attention.

B. WHEN TO REPORT

Report to your immediate supervisor any child or student who displays possible indicators and symptoms of child sexual abuse. Although they do not prove abuse, they are warning signs of possible problems. Document all reports in writing and bring them to the immediate attention of the church leadership.

C. MANDATORY OR PERMISSIVE REPORTERS

Under current Pennsylvania state law, Children/Student Ministry volunteers are permissive reporters, not mandatory. Permissive reporters are permitted to report to the government, but they are not legally required to do so by the government. However, Living Water requires you to report it to a pastor so a determination can be made as to what further steps may need to be taken. Members of the Pastor Staff are mandatory reporters and must report incidents of child sexual abuse/neglect to the appropriate authorities.

D. ONGONG TRAINING

There will be periodic training of workers and staff regarding the reporting procedures. This is especially important at the beginning of a new program schedule or whenever a new person begins working in a ministry or program. Training sessions will present Living Water's policy on reporting and the rationale behind it. Workers will have the opportunity to voice their concerns and questions. All church staff will know their obligation to report a possible incident, and the necessity to provide feedback to one another concerning questionable behavior. It is not Living Water's desire to create an atmosphere of fear or suspicion. Proper training can help workers to understand how reporting can be done honestly and discreetly without generating undue suspicion or anxiety.

IV. RESPONDING TO ALLEGATIONS OF ABUSE

An effective response strategy recognizes the following underlying principles:

- All allegations will be taken seriously.
- Situations will be handled forthrightly and with due respect for people's privacy and confidentiality. When an alleged abuse is disclosed to Living Water's paid or volunteer staff, the identity of the alleged victim and/or that of those who disclosed the alleged abuse/neglect will not be communicated to the accused. It will be the responsibility of the appropriate governmental authorities to disclose information to the appropriate parties. Additionally, all information regarding the incident will be held in confidence and will only be disclosed to individuals on a need to know basis (e.g. church leadership, etc).
- The Lead Pastor or his designee will immediately contact the insurance carrier.
- Full cooperation will be given to civil authorities under the guidance of our church attorney.
- Adequate care will be shown for the well being of victims.
- The victim will not be held responsible in any way.

A. OUR RESPONSE PLAN WILL:

1. Maintain adequate records.
2. Select a spokesperson.
3. Recognize reporting obligations.
4. Use a reporting procedure.
5. Incorporate a position statement.
6. Not engage in denial, minimization, or blame.
7. Use an attorney.
8. Not be accusatory.

B. IF AN ALLEGATION OCCURS:

1. Document in writing all your efforts at handling the incident.
2. Report the incident immediately to the individual responsible for the ministry and/or a member of the pastoral staff, who will contact the insurance company and attorney.
3. The Lead Pastor or his designee will contact the proper civil authorities following the guidance of the insurance company and the attorney.
4. The Lead Pastor or his designee will notify the parents or guardians.
5. The Lead Pastor or his designee(s) will confront the accused after the safety of the child or youth is secured.
6. Do not prejudge the situation, but take allegations seriously and reach out to the victim and the victim's family. Showing care and support help to prevent further hurt.
7. Extend whatever pastoral resources are needed. Remember that the care and safety of the victim is the first priority.
8. Treat the accused with dignity.
9. If the accused is a volunteer in any church ministry he/she will be relieved temporarily of his/her duties until the investigation is complete. If the person is an employee, arrangements will be made to either maintain or suspend his/her income and job responsibilities until the allegations are cleared or substantiated.
10. Use the text of the prepared public statement to answer the press and to convey news to the congregation. Be careful to safeguard the privacy and confidentiality of all involved.