

Las Placitas Presbyterian Church

Sexual Misconduct Policy

Health & Safety Committee

Approved by Session September 18, 2023

Policy & Purpose

It is the goal of Las Placitas Presbyterian Church (LPPC) to ensure that all members of the church community have a safe environment in which to participate. Sexual misconduct by any member of the LPPC community in any form is unacceptable and impermissible. Acts of sexual misconduct break the mutual trust between members of our church community, violate the LPPC's mandate to protect all members of the church community – particularly those most vulnerable – from harm, and undermine LPPC's efforts to always act in the best interests of members of the church community. They may also be unlawful. LPPC is adopting this Sexual Misconduct Policy (the "Policy") to clarify the expectations LPPC has for all volunteers, employees, and parishioners, to provide a clear framework for responding to allegations of sexual misconduct, and to ensure that all incidents are handled with consistency and integrity.

Definitions

Sexual Misconduct: Sexual Misconduct is the comprehensive term used in this policy to include:

- **Child Sexual Abuse:** This 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 person or of a third person. The behavior may or may not involve touching. Sexual behavior between a child and an adult is always considered forced, whether or not consented to by the child. In the Presbyterian Church (U.S.A.), the term child sexual abuse applies to anyone under age eighteen (18).
- **Sexual Abuse:** "Sexual Abuse" is defined herein as defined in the *Book of Order*: "Sexual abuse of another person is any offense involving sexual conduct in relation to (1) any person under the age of eighteen (18) years or anyone over the age of eighteen (18) years without the mental capacity to consent; or (2) any person when the conduct includes force, threat, coercion, intimidation, or misuse of ordered ministry or position." See *Book of Order*, D-10.0401c.
- **Sexual Harassment:** Sexual advances, requests for sexual favors, and 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 their continued status in an institution.
 - (2) Submission to or rejection of such conduct is used as the basis for employment decisions affecting such an individual.

(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; or

(4) An individual is subjected to unwelcome sexual jokes, unwelcome or inappropriate touching, or display of sexual visuals that insult, degrade, and/or sexually exploit men, women, or children.

- **Sexual Assault:** Any sexual contact by force, threat, or intimidation. In this context, sexual contact is defined as the unlawful and intentional touching of or application of force, without consent, to the intimate parts of another. See NMSA 1978, §30-9-12.
- **Sexual Malfeasance:** This refers to any sexual activities within a professional relationship that result in misuse of office or position arising from the professional relationship.
- **Misuse of Technology:** The use of technology that results in sexually harassing or abusing another person, including texting or emailing suggestive messages and images. When the misuse of technology involves a person under the age of eighteen (18), it is considered child abuse. There is never an expectation of personal privacy when using technological equipment owned by the church or any church entity or within the context of ministry.

Principles

- Sexual misconduct can violate a relationship of trust between or among LPPC members, volunteers, staff, and parishioners. This is particularly concerning when church community members hold authority and power over another and use said authority and/or power to gain an advantage over another. LPPC reiterates that it is the responsibility of LPPC members, volunteers, staff and parishioners to maintain appropriate boundaries, roles and relationships, specifically avoiding any sexual misconduct or improper sexual relationship(s).
- All members of the LPPC community subject to this Policy must commit to taking any and all allegations of sexual misconduct seriously and treat such allegations with sensitivity. Wherever possible, in responding to an allegation of sexual misconduct, LPPC will take action to protect the confidentiality and privacy of all individuals involved.
- Beyond responding to allegations of sexual misconduct, members of the LPPC community will commit to preventative action, doing all they can to ensure that future violations do not occur and educating members of the LPPC community on appropriate conduct.
- Beyond following the procedures outlined herein, members of the LPPC community must follow all reporting requirements required by state, local and federal law, including but not limited to NMSA 1978, §32A-4-3. LPPC notes that it is a misdemeanor under New Mexico law for a clergy member to fail to report to law enforcement, the New Mexico Children, Youth, and Family Department (CYFD), or tribal authorities (as appropriate) non-privileged information when the clergy member knows or has a reasonable suspicion that a child is abused or neglected.

Sexually Explicit Images

Sexually explicit images include inappropriate (non-criminal) images as well as images which may be of a criminal nature. Such crimes include but are not limited to those crimes specified under NMSA 1978, §§30-9-1 to -21.

In the event that any member of the LPPC church community, while participating in a LPPC-sponsored event, is accused of sending sexually explicit images on an electronic device or shown such images to another person, the following procedure shall be followed:

Management Responsibilities

1. **Suspected criminal actions.** If an individual is accused of an action which is a suspected crime or he/she may be the victim of a crime, the pastor shall be notified immediately. The pastor shall notify the police as required by law, and, if the individual is a child, the parent/guardian responsible for the child.
2. **Non-criminal actions.** If the individual is not suspected of having committed a crime or being the victim of a crime, but has merely shown or electronically sent sexually explicit images at an LPPC event, then the person responsible for the LPPC event shall report this incident to the pastor. In the event that the person responsible for the LPPC event is the individual suspected of showing or sending the image(s), then another witness may report the incident to the pastor. The pastor will meet with the accused individual. That individual will not be allowed on LPPC grounds, nor may that individual attend any LPPC sponsored events until this meeting has taken place. At this meeting, the pastor will try to determine, using best judgment, whether the accusation is true. If, after investigation, the pastor believes the accusation to be true, the individual will not be allowed to bring electronic devices to any future events sponsored by LPPC. If the individual is found to disregard this prohibition, he/she will be asked not to return to LPPC.

Responding to Allegations of Sexual Misconduct

Volunteer and Employee Responsibilities

Volunteers and employees may become aware of sexual misconduct involving individuals involved in LPPC-sponsored activities. In the event that an individual becomes aware of suspected sexual misconduct, this should be reported immediately to the person in charge, who will pass the information to the pastor for further action. In the event that the pastor is accused of being involved in the incident, the incident should be reported immediately to the Clerk of Session.

Management Responsibilities

LPPC management has a duty to investigate any allegation of sexual misconduct. In the event that an incident of sexual misconduct is alleged to have occurred during LPPC-sponsored programs and activities, the following procedure shall be followed by the pastor, or in the event that the pastor is accused, the Clerk of Session:

1. If the victim is a child, the parent or guardian of the child will be notified.

2. If the alleged perpetrator of the misconduct denies the allegation, they will be required to remain away from the premises and be instructed to have no contact with the victim or with any witnesses during steps 2 (a-d), described below.
 - a. If the pastor believes the complaint is not an allegation of sexual misconduct, the pastor may decide to deal with it on a pastoral counseling level. A report of the incident and follow-up should be filed electronically by the pastor. However, if the pastor determines that sexual misconduct is being alleged, the pastor will refer it to an investigating committee composed of the pastor, the Clerk of Session, a member of the Personnel Committee and one other person appointed by the pastor. The pastor does not have the authority, by virtue of this policy, to decide if an allegation of sexual misconduct is true.
 - b. If the investigating committee concludes there is sufficient evidence that misconduct has occurred, the investigating committee is authorized to request that the accused voluntarily comply with appropriate sanctions as determined by the investigating committee. These might include such things as requesting the accused resign from their church offices, and/or that the accused remain away from premises except under supervision.
 - c. The investigating committee might, alternatively, decide to bring the matter to the attention of Session, and Session may refer the case to the Presbytery of Santa Fe for formal investigation and possible legal intervention.
 - d. If the accusation results in civil litigation, a criminal charge, or a disciplinary charge (according to the Book of Order), the Presbytery and the Session of LPPC will be notified.
3. If there is insufficient evidence that the alleged misconduct occurred, or it is judged not to have occurred, the allegation will be dismissed. If either party (the alleged perpetrator or the accuser) wishes to dispute the decision, they may appeal to the Session.
4. If the pastor, an elder, or a deacon is accused of being involved in the incident there are two courses of action that are not mutually exclusive:
 - a. The accuser may request an internal investigation by a committee of the same composition as in #3, except that if the pastor is the accused the committee membership will consist of the Clerk of Session, a member of the Personnel Committee, and two additional appointees by the Clerk of Session. If the misconduct is judged to have occurred, the committee may request that the accused resign from their church office and remain away from the premises except under supervision.
 - b. The accuser may ask that the procedure outlined in the Book of Order (beginning with section D-10.0000-D-10.0106) be followed. In accordance with this procedure, and in the event the pastor is accused, he or she shall be placed on administrative leave, and may not perform any pastoral, administrative, educational, or supervisory duties. The pastor also may not officiate at any functions such as baptisms, funerals, or weddings pending the outcome of the investigation.

5. All allegations of misconduct in which a child is alleged to be a victim should be reported to the appropriate civil authorities (i.e. New Mexico Children, Youth, and Family Department (CYFD) at 1-855-333-SAFE (7233) or #SAFE from a cell phone), and the organization will comply with the state's requirements regarding mandatory reporting of such misconduct as required by law. LPPC will fully cooperate with the investigation of the incident by civil authorities.
6. The church's insurance company will be notified, and LPPC will complete an insurance incident report. LPPC may need to share documents related to an incident to insurance providers as required. In such cases, LPPC will make all efforts to protect confidentiality wherever possible.
7. The pastor shall serve as the spokesperson to the media concerning incidents of misconduct, except in the case when the pastor is accused of being involved in the incident. In such a case, the Clerk of Session shall be the spokesperson to the media. The advice of legal counsel will be sought before responding to media inquiries or releasing information about the situation to the congregation. All other representatives (staff) of the organization are asked to refrain from speaking to the media on the church's behalf.
8. A pastoral visit will be arranged for those who desire it. This should be for the purpose of providing pastoral support during the time of crisis and not for the purpose of investigating the incident or influencing the investigation. In the event that the pastor is accused of being involved in the incident, this pastoral support shall be provided by an ordained person from within the Presbytery of Santa Fe, but it should not be made by LPPC's pastor.
9. Any person who is convicted of a crime involving the alleged misconduct, who is found liable in a civil lawsuit involving the alleged misconduct, or who is found guilty in disciplinary trial of the Presbyterian Church (USA) as described in the Book of Order (D-11.000-D.11.0800), or who does not dispute any such charge will be removed from their position. They will not be allowed to be on the premises of LPPC unsupervised.

Former Members of the LPPC Community

It is possible for LPPC to become aware of allegations of sexual misconduct regarding former members of the LPPC community. Though LPPC may not have jurisdiction over the former member of the LPPC community, LPPC management does have a duty to investigate the details of the allegations, gather additional information necessary to evaluate the veracity of the allegations, inform and work with any victims or individuals involved who remain part of the LPPC community, as well as with any law enforcement agencies that may be involved in the investigation, and collaborate to determine an appropriate course of action. LPPC must inquire as to each of these allegations to determine whether preventative action must be taken to avoid similar incidents in the future.

Record Keeping

LPPC will make every effort to maintain dated written reports regarding all reported incidents of sexual misconduct, whether the perpetrator is a church leader or a member. Electronic copies and one hard copy notebook of these reports must be kept in the main office for a period of at least ten (10) years.

Employment Screening

LPPC will follow all pre-employment screening procedures as set out in the “Selection of Workers” section of the LPPC Children and Youth Protection Policy. With specific regard to sexual misconduct, potential church workers and volunteers should be asked whether they have ever been convicted of a crime of a sexual nature. Any criminal incident involving sexual misconduct as it is defined herein and/or any offenses enumerated in NMSA 1978, §30-9-1 to -21, may be considered a disqualifying offense that will keep an individual from working either as an LPPC staff member or volunteer. Disqualifying offenses will be determined by the Session on a case-by-case basis in light of all the surrounding circumstances.

Liability and Insurance

Under state and federal law, it is possible that LPPC may be held liable for actions of sexual misconduct committed by LPPC staff and volunteers. LPPC may maintain insurance policies with endorsements to its general liability insurance policy to specifically cover acts of sexual misconduct. Where an allegation of sexual misconduct occurs, LPPC’s church’s insurance company will be notified, and LPPC will complete an insurance incident report. LPPC may need to share documents related to an incident to insurance providers as required. In such cases, LPPC will make all efforts to protect confidentiality wherever possible.

Prevention and Education

LPPC commits to being as proactive as reasonably possible in educating members of the LPPC community regarding sexual misconduct, and the policies, procedures, responsibilities and duties of LPPC regarding the same.

Training

All church officers and staff must receive orientation to these policies prior to being allowed to work in any activities sponsored by LPPC. It will be the joint responsibility of the pastor and the Session to ensure that this training takes place. The pastor will administer this training and every employee or volunteer shall be retrained in these policies every two years. After having received the training on this policy, each worker shall be required to sign an acknowledgment indicating the worker’s understanding and receipt of a copy of this policy.

I have received a copy of this policy. I understand its terms and agree to abide by its terms.

Signature

Date

Witness

References

- Graystone Presbyterian Church. 2013. Sexual Misconduct Policy with Appendixes A, B & C. https://s3.amazonaws.com/media.cloversites.com/ec/ec26962a-a86e-49d3-a6e7-c363bbc838a6/documents/Final_Sexual_Misconduct_Policy.pdf
- Maumee Valley Presbytery (Ohio, Michigan). 2020. Sample Sexual Misconduct Policy. https://maumeevp.org/wp-content/uploads/2023/06/MVP_Manual_of_Operations_-_Dec_2022.pdf
- PCUSA. 2013. Presbyterian Church (U.S.A.) Sexual Misconduct Policy and Its Procedures. <https://www.pcusa.org/resource/presbyterian-church-us-sexual-misconduct-policy-an/>
- Presbyterian Church (U.S.A.) 2019. Book of Order. Part II. Office of the General Assembly.