

POLICY ON

SEXUAL MISCONDUCT

WESTERN NORTH DAKOTA SYNOD

EVANGELICAL LUTHERAN CHURCH IN AMERICA

ADOPTED BY THE SYNOD COUNCIL
May 9, 2023

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I. INTRODUCTION

A. PURPOSE

Rooted in God’s grace and steadfast love, we are called as followers of Jesus to live a life “of bold trust in God and joyful, generous service to everyone we know and meet in daily life.”¹ Affirming God’s gracious covenant made with us in baptism, we commit to living in a proper relationship with God and our neighbors.

When the gift of relationships with God and neighbors are violated or misused, there is a need for accountability and just action. It is in this context that we, as a church body, establish guidelines and policies for our conduct, actions, and the ways in which we communicate with one another. These guidelines and procedures are necessary as we “continue in the covenant God made with us” in our baptism to ensure that all people, particularly the church, are protected from harmful or inappropriate actions, speech, communications, or other misconduct.² As a church, we must abide by a context that holds ourselves and one another to account for the sake and care of the whole Church.

For the sake of its witness to the Gospel of Jesus Christ, this church needs to be direct and clear about what procedures are followed when there are allegations of sexual misconduct. This document sets forth the policies and procedures followed by the Western North Dakota Synod of the Evangelical Lutheran Church in America (ELCA) for addressing allegations of sexual misconduct.

The materials included in this document seek to be faithful to the spirit of the basic standards of conduct required of a rostered minister. It recognizes that sexual misconduct may not only have legal and ecclesiastical implications but also causes much harm and pain to the alleged perpetrator and family, the affected congregation, and the entire community. It seeks to proceed in a manner consistent with the laws of the State of North Dakota.

¹ <https://elca.org/Faith>

² Evangelical Lutheran Worship, Affirmation of Baptism liturgy

The goals of this policy are:

1. To provide procedures for inquiry and effective response to allegations in a manner that respects the alleged victim and the alleged perpetrator and maintains the integrity of the church body.
2. To provide healing through spiritual support, counseling, and treatment for alleged victims, alleged perpetrators, and congregations.
3. To prevent victimization and sexual misconduct through information and education.
4. To assure that congregations and church-related institutions of this synod are safe places for all people to hear and experience the love of God.

B. SCOPE

The synod and its member congregations have different responsibilities and, thus, different roles to play in preventing and responding to reports of rostered person's sexual misconduct. This policy outlines the synod's response to alleged sexual misconduct committed by a rostered minister only. The synod suggests that each congregation adopt its own policies to address alleged sexual misconduct by the congregation's employees and volunteers.

The immediate responsibility of the bishop and the bishop's staff is to the synod and not to any individual within the synod. If a conflict arises between what is in the synod's best interest and other interests, the bishop and the bishop's staff are obligated to act on the synod's behalf.

C. THEOLOGICAL GROUNDING

Our faith is grounded in the word of God as revealed to us in the life, death, and resurrection of Jesus Christ. We believe that the Spirit calls and gathers communities of faith, the church, to bear witness to God's love for the world.

We believe that God is the source of all life and that the gift of life is given equally to all people. We believe that our sexuality is a gift from God. Due to human sinfulness, the gift of sexuality is sometimes misused.³ It is misused when a person in power crosses sexual boundaries. This is a sin against the person and a sign of the fallen state of creation.

God's activity in Jesus Christ is to redeem the lost, restore what is broken, and offer salvation and hope where there is transgression and despair.⁴ The Church's mission and ministry is the redemption of all creation.⁵ The Church's ministry includes recognizing and preventing sexual misconduct and working toward healing for all involved.

³ Matthew 5:27-30

⁴ John 8

⁵ Colossians 1:20

When an allegation results in confession and repentance, there is forgiveness. However, forgiveness does not eliminate consequences for inappropriate behavior.

II. SYNOD POLICIES AND PROCEDURES

A. PREPARATION

A synod will be best positioned to receive and process a complaint when properly prepared. Being prepared to receive a complaint means that the synod has policies and procedures in place and has established an inviting and hospitable atmosphere for hearing complaints of sexual abuse by rostered ministers. In addition to an ongoing educational effort regarding sexual abuse, a synod needs to provide clear and well-publicized information to congregations, related agencies, and institutions on how the synod will respond – and who should be contacted within the synod structure. Adequate preparation also implies an effort of theological reflection about sexual abuse in the church.

B. INITIAL CONTACT – FIRST RESPONSE

Each bishop designates a qualified person (who may be the bishop) to hear fully and promptly the complainant's story, to assure the complainant that this church takes sexual abuse by rostered ministers seriously, to provide information about the synodical procedure, and to respond with pastoral concern to the complainant.

C. INITIAL INVESTIGATION OF THE COMPLAINT

The bishop (together with such persons as the bishop designates) will engage in an initial review of the complaint to determine what additional investigation is necessary, whether there may be further complaints, how the complaining witness's story can be best documented, whether state law may have implications for the process, whether other synods need to be involved, how the complainant's story may be corroborated, whether immediate intervention with the rostered person in question is necessary, and like matters. At the same time, the bishop should determine how to provide pastoral care and the needs of the complainant. A complainant has a right to be accompanied to any meetings by an advocate of their choosing at all meetings.

D. CONVERSATION WITH THE ROSTERED MINISTER

The bishop will provide the rostered minister with information on the complaints made against the rostered minister, provide the rostered minister with the opportunity for an initial response to those complaints, describe the synod's policies and procedures, inform the pastor of the action the synod will be taking in this case, discuss options and, if appropriate, make recommendations to the rostered minister and provide for the rostered minister's pastoral care. In appropriate circumstances, the bishop should also clarify that the rostered minister in question is to have no contact with possible complainant(s) and is not to engage in or cause reprisal or retaliation of any kind against the complainant(s).

During this part of the process, the synod recognizes that providing continuing care for the complainant is essential. The bishop may inform the complainant(s) of the results of the meeting

with the rostered minister in question and shall inform the complainant of the next steps in the process.

E. ASSESS THE INFORMATION

The bishop will then determine a fair and equitable response to the complaint, which may include, but is not limited to: no further action, further investigation, convening a consultation or advisory panel, or proceeding directly to written charges and hearing before a discipline hearing committee. The bishop may also need to decide whether a temporary suspension pursuant to ELCA 20.22.23 and 20.23.07 is in order.

F. CONSULTATION OR ADVISORY PANEL⁶

The bishop has the discretion to convene a consultation or advisory panel to assist the bishop in bringing a just and appropriate resolution to the complaint. When appointed at the bishop's request, a consultation or advisory panel advises the bishop on whether the bishop should bring charges. The consultation or advisory panel may recommend that the rostered minister resigns from the current call or the ELCA roster of ordained ministers. Whenever possible, a consultation or advisory panel shall endeavor to resolve the controversy through pastoral and therapeutic recommendations that, if accepted by the parties and others concerned, will eliminate the necessity for proceedings before a discipline hearing committee.

G. FORMAL HEARING⁷

Formal proceedings before a discipline hearing committee are commenced when written charges are filed, usually by the bishop. The charges set forth the offense of which the accused is alleged to be guilty with specifications stating what the accused is alleged to have done, which, if true, constitute an instance of the offense. The discipline hearing committee, composed of a non-voting chair or hearing officer and twelve voting members, six from the synod discipline committee and six from the churchwide discipline committee, then holds a formal hearing on the charges. At this time, the accuser and the accused will have the opportunity to present the testimony of witnesses and other evidence. The witness(es) for the accuser will typically include the complainant(s). This proceeding will assure due process, as defined, and due protection for the accused, other parties, including the complainant(s), and this church.

H. DISCLOSURE

The synod supports and enhances the healing process for individuals, the congregation, and the community through the appropriate disclosure of information. Except in the most unusual of circumstances, disclosure is always necessary. The disclosure must be made to those who need to know, including the congregation. Experience has demonstrated that where disclosure is made to the congregation served by the rostered minister in question, the healing within that congregation is better realized, even though the initial trauma may be more significant. Disclosure should never involve revealing the identity of the complainant(s) or facts that would make the complainant(s) readily identifiable.

⁶ ELCA bylaws 20.22.04 – 20.22.05 and 20.23.04.

⁷ ELCA bylaws 20.22.03, 20.22.07 – 20.22.22, and 20.23.05.

How much information regarding the complaint and resolution will be disclosed will be tailored to the needs of the persons and organizations most affected. Anytime there is an admission of guilt, resignation from the congregation or the ELCA roster of ordained ministers, temporary suspension, or a guilty finding in a disciplinary proceeding, disclosure is essential to the healing process of all parties – the complainant(s), congregation, the accused rostered minister, and other rostered ministers.

I. FOLLOW-UP

The synod will plan and implement long-range follow-up efforts concerning each case so that all those affected – individuals, their families, congregations, and the broader community – may experience grace, peace, and healing following this crisis.

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