

Personnel Committee Report to Synod Council

May 30, 2019

The SES Personnel Committee at its meeting on April 8, 2019 raised several issues for Synod Council consideration.

The first, is the Synod Severance Policy. This was initially prepared for presentation and approval about a year ago but questions were raised relative to calling it a "Policy" vs. "Guidelines." It had previously been called "Guidelines" but the committee, relying on the advice of the people on the committee with a personnel background chose to change "Guidelines" to "Policy." The discussion, as the committee understands it is that if you leave it as "Guidelines," it addresses the following issues:

- Struggle between flexibility in applying especially for rostered people versus a firm policy which applies no matter what
- Less legal issues if this is a "guideline" instead of a "policy".
- Concerned whether Personnel Committee can easily be contacted and quickly act

The response of the Committee to these issues was a vote to:

make the recommendation to change "Policy" to "Guidelines" and include the sentence on the back of page 2: "EXCEPTIONS. Exceptions to these guidelines may be made with the approval of the Personnel Committee. The Policy, as revised, is at the end of this report.

Second, the committee has developed and reviewed a new "suggested" hiring process document. It is recognized that there may be situations when this document may not apply, at least not in its entirety. However, with a new Bishop being elected and new staff being hired/called, it was thought that such a document would be helpful and it is largely modeled off the process that is either currently being used or largely aspired to being used. That document can also be found at the end of this document.

Third, the committee would like to call to the attention of the Synod Council the reviewed document of the Synod Sexual Misconduct Policy for Ministers (abbreviated name) also attached to the end of this document. This existing policy was reviewed and updated by Rachel Alley and Ben Moravitz and run by the Personnel Committee Chair, then presented to Synod Council for approval at the January, 2018 meeting. At that meeting, action was postponed to the June 31, 2018 meeting. However, apparently because of the staff turnover and other issues, that did not occur and has not yet occurred. Therefore, that Policy is being presented again to the council for action and is once again, attached to the end of this document.. At this time, the entire committee has reviewed the document and presents it for approval with the proviso: Based on the status of Trustworthy Servants (rewrite of the Vision and Expectations Document), the Southeastern Synod Sexual misconduct Policy may need to be changed.

STAFF SEVERANCE POLICY Guidelines

(Original policy adopted by Southeastern Synod Council in Feb. 1990, patterned after the policy recommended by ELCA Conference of Bishops in Oct. 1989; restatement adopted by Southeastern Synod Council in June 2007 and amended in September 2010.)

PURPOSE. These severance benefits are to be understood as providing support during the transition to another call or employment.

ELIGIBLE PERSONS. The persons eligible for these benefits are the bishop and assistants to the bishop in the Southeastern Synod of the Evangelical Lutheran Church in America who were either:

- * Elected bishop of the Southeastern Synod of the Evangelical Lutheran Church in America, or
- * Selected as an assistant to the bishop

and whose office or employment by the synod was involuntarily terminated due to action of the synod by non-election of the incumbent synodical bishop, budget restraints, change of position functions, or resignation upon request of a newly elected bishop. Disability is not covered under these provisions, since disability is covered under the provisions of the Disability Benefits Plan of the Board of Pensions. Persons planning retirement and, therefore, voluntarily declining election or appointment, are not eligible for these severance benefits. Eligible persons will be hereinafter referred to as severance benefits recipients.

EFFECTIVE DATE. This severance benefits policy, as well as any changes to it, shall be effective immediately upon approval by the synod council.

BENEFITS. The severance benefits shall:

- * Begin upon vacating the synodical office or position and following the period covered by unused vacation time earned during the twelve months prior to termination.
- * Be paid on the benefits recipients' regular pay periods.
- * End as of the date that a recipient begins a new call or other employment, if the compensation payable under the new call or employment is at least 90 percent of that paid by the synod to the recipient immediately prior to termination. Responsibility for notification of a call or other employment and the associated compensation rests with the severance benefits recipient.
- * Regardless of any other factors, be paid for a maximum of three months for the severance benefits recipient who has served at least one full term as bishop or at least four years as an assistant to the bishop; pro-rated benefits for periods shorter than three months are payable to assistants to the bishop who have served for fewer than four years.

AMOUNT OF BENEFITS. During the benefit period of up to three months, a severance benefits recipient will receive:

- * The difference between current monthly compensation (salary, housing and FICA reimbursement, if applicable) and compensation under a new call or other full or part-time employment arrangement(s), if such new compensation (from one or more sources) totals to less than 90 percent of that paid by the synod to the recipient immediately prior to termination. Responsibility for notification of a call or other employment and the associated compensation rests with the severance benefits recipient.
- * Participation in the ELCA Board of Pension Plans – pensions at the designated rate, Survivor Benefits Plan, Major Medical/Dental Benefits Plan, and Disability Benefits Plan for the months of severance benefits.

Following the expiration of the severance benefits, benefits recipients may retain their participation in the Survivor Benefits, Major Medical/Dental Plan, and Disability Plan at their own expense according to the provisions of the applicable plans. Solely for the purpose of determining rights to continue benefits under those plans, the benefits recipients' termination of call/employment will be deemed to occur on the date severance benefits cease.

| EXCEPTIONS. Exceptions to these guidelines may be made with the approval of the Personnel Committee.

DISPOSITION. In case of a difference of opinion in interpretation of this Severance Benefits Policy, the synod council will make the final disposition.

Suggested Southeastern Synod Hiring Process

- Posting
 - Typically posted for four weeks
 - Posted as needed to:
 - Synod
 - Synod Site (page similar to congregations in the Call Process)
 - E-news
 - Email to the Deans (though better direct to individuals)
 - ELCA wide candidates
 - Seminaries
 - Synod congregations and in the community (non-rostered, secretarial, etc)
- Describe the position
 - Ministry description including responsibilities, hours, travel expected
 - Salary range and benefits
 - Reports to
 - Funded by
 - Rostered or not
 - Location / city
 - % time expected in office or work from home
 - Experience desired
 - Skills desired
 - Application requirements (ex. demonstrated Word processing or spreadsheet skills)
- Interviewing
 - All candidates interviewed in the same way (Zoom, in person, etc.)
 - Suggested that three people be involved in the interview process
 - Bishop approval required. Personnel committee contacted for advice only
- Offer contingent on
 - Reference checks (2-3)
 - Background check
 - Drug Screening (if needed)
- Contract includes
 - Ministry description
 - Salary
 - Benefits
 - Health
 - Life
 - Ex. mileage/phone/reimbursements/computer
 - Reports to, office location, % time in office or at home, % travel expected
 - Funding source
- Introduce the new hire through Synod E-news

POLICY REGARDING SEXUAL MISCONDUCT BY ROSTERED MINISTERS OF THE ELCA SOUTHEASTERN SYNOD

INTRODUCTION

At its 1989 churchwide assembly, the Evangelical Lutheran Church in America (ELCA) adopted a resolution establishing a commitment for this church to be a safe place for all persons. For the sake of the church's witness to the Gospel of Jesus Christ, we must be forthright, open and clear about the integrity and the standard of conduct to which it is called, and appointed leaders are held accountable. Ordination of Ministers of Word and Sacrament and the Consecration of Ministers of Word and Service are based on the Holy Scriptures and questions are asked of the rostered minister during those services that relate to the church's call as God's call, the acknowledgement of the creeds and the Lutheran Confessions, the willingness to witness to God's love in the world, participation in prayer and the leading by example in holy living. To each question, the appropriate response is "I will and I ask God to help me." *Vision and Expectations* has been approved by the ELCA Church Council as a statement of how we live within a community and what we expect from one another, especially of those in positions of trust and responsibility in this church.

Sexuality is a good gift of God. The faithful response to God who has created us male and female is our commitment to use our sexuality only in ways that glorify God.

When God's gift of sexuality is used faithfully, the Church is a safe place for all to worship, learn, work, and be helped in a manner that is free from sexual exploitation, abuse or harassment. When the Church becomes an unsafe place, the integrity of the gospel is impaired, particularly among those who are victimized.

The Southeastern Synod (this synod) of the Evangelical Lutheran Church in America (ELCA) is committed to preventing sexual misconduct within the church and responding with justice and compassion when such misconduct occurs.

This Statement of Policy describes how this synod intends to fulfill these commitments. This synod recognizes that responding to allegations of sexual misconduct requires determination, sensitivity, flexibility, respect and care for all persons affected, including the victim, the rostered minister, their families and friends, the congregation, this synod, and the whole church. This policy is intended to provide a framework for guidance in dealing with these cases while preserving this synod's discretion to treat each person and each case in a manner necessitated by differing facts, circumstances, and needs of those affected. This policy will be interpreted and applied consistently to sexual misconduct and harassment allegations in this synod. This policy cannot be imposed as rigid law, binding this synod and others to its dictates; it must be interpreted and applied compassionately in accordance with the theological and biblical principles of the Gospel.

It must always be remembered, however, that any suspected sexual contact with a minor must be reported to the appropriate governmental agency as required by state laws concerning reporting of child abuse.

RELATIONSHIPS

The ~~rostered minister~~Rostered Minister Relationship is the context within which an ordained, consecrated or commissioned rostered minister exercises pastoral care, spiritual direction, teaching, or therapeutic guidance with another person. The relationship exists with all members of a congregation in all counseling relationships, even those of a more “informal” nature, and frequently with persons in the general public.

~~Among other dynamics which characterize this rostered minister relationship, an~~An imbalance of power is always present. Rostered ministers are vested and entrusted with great power which stems out of our traditional respect for clergy and church workers, professional status, credentials, knowledge, specialized education, and conditions and circumstances that provide access and opportunity to be close to the intimate and vulnerable aspects of persons lives. Because of the power and authority vested in the rostered minister by the church, and the vulnerability of those who seek care from rostered ministers, all relationships between rostered ministers and parishioners are characterized by an imbalance of power.

In order to safeguard the well-being of persons and uphold the integrity of the office, rostered ministers must give careful attention to maintaining professional boundaries. Such boundaries allow us to live safely and effectively. Boundaries in a relationship of trust and vulnerability work to keep us faithful to the purpose of the relationship. The rostered minister is always responsible for maintaining the integrity and safety of the pastoral relationship and is likewise accountable whenever a professional boundary violation occurs. For a rostered minister, there is no defense ~~which that~~ mitigates responsibility for any act of sexual abuse, harassment or misconduct.

DEFINITIONS

A. Sexual Misconduct

Federal and state law make distinctions among various types of sexual misconduct, such as "sexual harassment," "sexual abuse," and "sexual assault." Similarly, the governing documents of the ELCA ~~defines~~define what types of sexual misconduct can result in a rostered minister being disciplined. This policy is intended to address those types of sexual misconduct that may lead to discipline of a rostered minister which or can be found in Chapter 20 of Constitutions, Bylaws, and Continuing Resolutions of the Evangelical Lutheran Church in America and can be downloaded at elca.org by searching Constitutions, Bylaws, and Continuing Resolutions.

While these distinctions exist, this synod is concerned about all types of sexual misconduct. A person, who is troubled about the sexual conduct of a pastor or deacon, is encouraged to report any such sexual misconduct to this synod. This includes, but is not limited to, any intimate physical sexual contact between a rostered minister and a congregant, counselee, another rostered minister, employee, intern, or volunteer. Sexual misconduct injurious to the physical or emotional health of another, ~~such as~~ includes 1) suggestions of sexual or romantic involvement, 2) inappropriate conversation (either in person or through electronic means), 3) offensive, obscene or suggestive language, 4) ~~or~~ inappropriate or unwelcome behavior of unwelcome touching or fondling, 5) rape or sexual contact by force, threat, or intimidation and ~~or~~ 5) child abuse. Such misconduct will not be tolerated. Misconduct may occur with or without the consent of the victim.

Because these activities do not affirm the value of the persons involved as children of God and because the involvement of ministers in such activity threatens the integrity of the Gospel, commercial sexual exploitation is not tolerated. Sexual exploitation includes viewing pornographic

videos, downloading pornography from the internet, visiting strip clubs, engaging in simulated sex by phone or computer, using escort services, participating in sex tourism. [A Message on Commercial Sexual Exploitation](#), adopted by the Church Council, can be downloaded at elca.org by searching commercial sexual exploitation.

The Office of the Bishop is concerned about all types of sexual misconduct by these ~~persons~~rostered ministers, regardless of whether or how the misconduct is characterized by the law or by the governing documents of the ELCA in keeping with our goal of providing a safe environment to conduct ministry. These distinctions do not need to be determined before reporting an incident of alleged misconduct by a rostered minister to the ~~Bishop~~bishop, an ~~Assistant~~assistant to the ~~Bishop~~bishop, or a dean. Contact information can be found at www.elca-ses.org

B. "Complainant"

As used in this Statement of Policy, "complainant" means a person who reports sexual misconduct to this synod. This Statement of Policy will assume that the complainant is also the victim of the alleged sexual misconduct, but that may not always be the case.

C. "Rostered Minister"

As used in this Statement of Policy, "rostered minister" includes, those on the ELCA roster of Ministers of Word and Sacrament (pastors) and the ELCA roster of Ministers of Word and Service (deacons).

This policy also applies to those ministers on the roster of full communion partner churches serving under appointment in this synod.

This Statement of Policy ~~will assume that the~~applies to all rostered ~~minister who is~~ministers accused of sexual misconduct is including those serving under call to a congregation, ~~but it also applies to a rostered minister serving in a call in another circumstance, or to a rostered person who is presently not~~ under call to non-congregational ministry, on leave from call, or to a person on the retired roster.

D. "Consultation or Advisory Panel"

A small team of clergy and laypersons selected by the bishop to serve at the bishop's discretion throughout the investigative process as ~~outlined~~described in the Synod Constitution S14.18.b

THE ROLE OF CONGREGATIONS

As one of the three expressions of the ELCA, the congregations of this synod have their own role to play in preventing and responding to reports of a rostered minister's sexual misconduct.

Each ELCA congregation calls its rostered minister, determines the rostered minister's duties and responsibilities, oversees the rostered minister's day-to-day ministry, and may, as the constitutions of this church provide, terminate the rostered minister's call. This synod has neither the authority nor the ability to make these decisions for a congregation.

In accordance with the *Constitutions, Bylaws, and Continuing Resolutions of the Evangelical Lutheran Church in America*, it is the congregation, in consultation with the Office of the Bishop, which finally decides whether to terminate the rostered minister's call. The congregation is also authorized to initiate disciplinary action against a rostered minister or member of the congregation. Making the church a safe place is the work of each individual congregation of this synod as well as this synod as a whole.

This Statement of Policy is this synod's policy. Congregations also have a vital role to play. This synod strongly urges its member congregations to develop their own sexual misconduct policies. A sample

~~policy can be downloaded at elca.org. Search Sample Sexual Misconduct Prevention Policy. The publication, Safe Connections: What Parishioners Can Do to Understand and Prevent Sexual Abuse is available to download at elca.org and search. Search "Safe Connections,".~~ This publication is a useful resource for congregations in addressing this issue.

This synod should be consulted in all cases of suspected sexual misconduct involving rostered ministers. However, this synod may not be able to assume primary responsibility for addressing all allegations of sexual misconduct by rostered ministers. For example, in the case where a rostered minister is accused of sexually harassing another employee of the congregation, civil law may require that the congregation, as the employer, take timely and appropriate action; the law may prevent this synod from interfering in the situation.

DATING BY ROSTERED MINISTERS

~~Vision and Expectations states that rostered ministers who wish to marry should seek the counsel and guidance of the synodical bishop and that they should make their intention to marry known to the people that he or she serves. In addition to this expectation, should a~~ Before a rostered minister choose to ~~enters into a dating relationship with anyone with whom he or she they have (or recently had) a Rostered Minister Relationship including, but not limited to, any member of a congregation he or she served, the rostered they serve, the minister should~~ ~~they should consult with the bishop.~~

When a pastor or deacon enters into a dating relationship with a member of his or her own congregation, a pastoral or ministerial relationship with that person is replaced by the dating relationship. Should the dating relationship be terminated, it is difficult, if not impossible to restore a normal pastoral or ministerial relationship with that person. ~~If a pastor or deacon should be inclined to date a parishioner, she or he shall first discuss this with the synod bishop.~~ When a dating relationship between a pastor or deacon and a parishioner exists it should always be a public relationship. The couple shall follow the bishop's recommendation for counseling and guidance that addresses the change in the pastoral or ministerial relationship and its effects on the parishioner. When a dating relationship between a pastor or deacon and a parishioner exists, the parishioner should seek another person to serve as his or her pastor. Transferring membership to another congregation may be advisable. If the rostered minister and the congregant remain in the same congregation and the relationship is terminated, it may be best for the rostered minister to seek another call.

THE ROLE OF THIS SYNOD

This synod's role is essentially twofold. First, the bishop is responsible for providing pastoral care and leadership to this synod's congregations and rostered ministers. Reports of sexual misconduct by a rostered minister invariably creates an acute need for such care and leadership. Second, rostered ministers who commit sexual misconduct may be disciplined - that is, they may be suspended or removed from the roster of the ELCA. The bishop is primarily responsible for overseeing the preliminary or consultation stage of the disciplinary process and, usually, the bishop initiates the formal stage of the disciplinary process, if necessary.

It is understood that every report of sexual misconduct by rostered ministers involves unique individuals and unique circumstances. This Statement of Policy describes the general approach that this synod will follow in responding to reports of rostered minister sexual misconduct. It will not be appropriate or even possible for this synod to follow this approach in every case. This synod reserves the right to depart from this Statement of Policy at any time and for any reason as deemed best in the particular circumstance.

When this synod through the Office of the Bishop provides pastoral care and leadership in the wake of sexual misconduct by a rostered minister, it is performing acts of ministry. The freedom of this synod to decide for itself how God has called it to minister to those harmed by sexual misconduct is a precious one that is constitutionally protected from governmental interference. The same is true of this synod's freedom to decide who will be on its ministry rosters, and of the freedom of each congregation to call those who will provide its ministry of Word and Sacrament, or Word and Service. Nothing in this Statement of Policy is intended to diminish these freedoms in any respect or to create any legal rights or responsibilities under civil law.

In every case of sexual misconduct-~~case~~, the bishop and his or her staff will attempt to provide pastoral care ~~to~~for the victim of the misconduct, the victim's family, the rostered minister who committed the misconduct, the rostered minister's family, the members of the rostered minister's congregation, the rostered minister's colleagues, and others-~~However; however~~, the bishop and the bishop's staff do not themselves function as a pastor, counselor, advocate, attorney, or other caregiver to any of these individuals. The ultimate responsibility of the bishop and his or her staff is to this synod as a whole rather than to any one individual.

SYNOD POLICY

An ELCA Strategy for Responding to Sexual Abuse in the Church (Nov. 1992) recommended that nine elements be included in any synodical policy regarding clergy sexual misconduct by its rostered ministers. This synod has decided to incorporate those nine elements as follows:

1. Adequate Preparation

This synod is committed to preventing sexual misconduct by rostered ministers in the following ways:

First, this synod will not tolerate sexual misconduct by rostered ministers. This synod will make that clear in preventive educational opportunities that it provides, in the manner in which it responds to reports of rostered minister sexual misconduct, in discussions that it has with seminarians and candidates who seek to become rostered in this church, and in its public and private statements regarding this issue. This synod will attempt to respond appropriately to each situation.

Second, this synod intends to ~~provide or~~ promote ongoing ~~preventive~~ educational opportunities regarding the prevention of sexual misconduct for rostered ministers, congregations, and others. Those efforts will focus on such subjects as prevention of sexual misconduct, the impact of such misconduct on its victims, and how congregations can help to make churches safe places. This synod expects its rostered ministers to participate in a certificated program for boundary training at least every three years. This synod also strongly urges congregations to seek and take advantage of appropriate educational programs and opportunities that may be offered by this synod or others.

Additionally, the bishop ~~and~~, the bishop's staff, and all adults who work with children, youth, and adults ~~persons~~ with diminished capacity on behalf of the synod will be required to complete additional, ~~appropriate specialized~~ boundary training. This synod recognizes that society generally and churches particularly have much to learn about sexual misconduct. As this synod's understanding of these problems change, its educational efforts and policies may change as well.

This synod's preventive efforts are intended to complement similar efforts by this synod's member congregations, by the churchwide organization, by ELCA seminaries, and by other entities affiliated with the ELCA.

2. Initial Contact - First Response

Even the best preventive measures cannot completely eliminate sexual misconduct by rostered ministers. This synod must always be prepared to respond to reports of misconduct. The more open this synod is to receiving such reports, the more often rostered minister sexual misconduct will be reported and possibly prevented.

Anyone who knows or suspects that a rostered minister is or may have been involved in sexual misconduct should report that knowledge or suspicion to the bishop, an assistant to the bishop, or a dean. [Contact information can be found here for synod staff and here for deans.](#)

A contact may be made with the bishop or bishop's designee, in person, ~~or~~ by telephone, mail, or other electronic communication. The complainant need not identify herself or himself when she or he first contacts this synod. The complainant may anonymously ask questions about how this synod would respond to a particular complaint of misconduct. However, this synod can do little about a report of sexual misconduct until the complainant agrees to identify herself or himself, and, the rostered minister involved in the misconduct.

The bishop or other person contacted by the complainant will: (1) attempt to assure the complainant that this synod does not tolerate sexual misconduct and takes seriously all reports of such misconduct; (2) explain this synod's process for responding to reports of sexual misconduct and provide a copy of this Statement of Policy; (3) answer the complainant's questions about the policies and procedures of this synod; (4) express care and concern for the complainant; and (5) when ~~appropriate~~appropriate, reassure the complainant of the synod's commitment to prevent ~~realiation-~~retaliation (6) when the complainant is anonymous, encourage the complainant to identify herself or himself, and the rostered minister involved in the misconduct.

In all meetings with this synod's personnel, the complainant may be accompanied by a friend, family member, or other support person or advocate of her or his choice. The bishop or other person contacted by the complainant may also offer to provide the complainant with a list of persons who are available to provide such support and to help interpret this synod's policies and procedures. This list may include persons who are affiliated with the ELCA and persons who are not. The complainant may contact a support person or advocate from this list, or another of his or her choice, and may be accompanied by that support person or advocate through the reporting, investigative, and, if necessary, disciplinary processes. The complainant is welcome to use a support person such as a friend or family member, or to decline to use a support person.

After a report of sexual misconduct by a rostered minister has been received from an identified complainant, the bishop or bishop's designee will interview the complainant in person or, if that is not possible, by telephone. With the approval of the complainant, the bishop or bishop's designee will include another person in the interview to help assure the accuracy of hearing. This interview may occur through a combination of meetings, calls, and correspondence. The bishop or bishop's designee will ask the complainant to provide as much information about the sexual misconduct as the complainant is comfortable sharing. The complainant will be asked to place the information in written form or to sign a written summary statement prepared by this synod after the interview. The bishop or bishop's designee will also normally ask the complainant what she or he is seeking in coming forward and whether the complainant is prepared to participate in the disciplinary process if necessary. The complainant should be given a copy of this Statement of Policy if she or he has not already received it.

The bishop or bishop's designee will discuss with the complainant how she or he feels about the

possibility that her or his identity may become known to the accused or others. Insofar as possible, this synod will respect the wishes of the complainant regarding confidentiality. ~~However;~~ however, at some point, this synod may be required by civil law or by the governing documents of the ELCA to disclose the identity of the complainant. Also, the identity of the complainant may become known despite the best efforts of this synod to protect it. This synod cannot guarantee confidentiality to a complainant.

If the bishop or bishop's designee learns that a child (or ~~adult person~~ with diminished capacity) may have been neglected or physically or sexually abused, the bishop or bishop's designee is legally required to report that information to law enforcement authorities.

The bishop or bishop's designee will discuss with the complainant her or his needs for pastoral care and may suggest professional counseling. If the complainant requests, the bishop or bishop's designee will help to put the complainant in touch with persons who can provide such care or counseling. Under no circumstances should an employee of this synod function as the complainant's advocate, pastor, or counselor.

The bishop or bishop's designee will inform the complainant of significant developments and also be available to respond to the complainant's questions and concerns about the process.

3. Initial Investigation of the Complaint

After interviewing the complainant, the bishop and/or bishop's designee will carefully review the information provided by the complainant. If the report appears credible and involves sexual misconduct for which the rostered minister might be disciplined, the bishop or bishop's designee may conduct a preliminary investigation to determine whether information either supporting or contradicting the report exists. This preliminary investigation may include, but is not limited to: (1) further discussions with the complainant; (2) a review of the records of this synod, another ELCA synod, the churchwide expression of the ELCA, or an entity affiliated with the ELCA; (3) interviews of former bishops of the rostered minister, those who served as assistants to former bishops of the rostered minister, pastors or other rostered ministers who succeeded the rostered minister in question at congregations that he or she served, other rostered ministers who presently serve on the same staff with the rostered minister being investigated, respected members of congregations that the rostered minister served, members of the congregation that the rostered minister now serves; or (4) persons identified by the complainant, or friends, family members, pastors, or counselors of the complainant.

This preliminary investigation will be conducted as quickly and as discreetly as is possible under the circumstances. All of those contacted will be asked to keep the contact in strictest confidence.

If a criminal investigation, or other official investigation by law enforcement authorities, is underway, this synod may be required to postpone its own investigation pending the outcome of the civil inquiry, investigation or prosecution. However, a final determination in a civil or criminal legal proceeding does not necessarily dictate the direction or outcome of the church's disciplinary process related to similar or the same allegations.

4. Conversation with the Rostered Minister

The bishop shall meet with the accused rostered minister after the preliminary investigation is concluded, in the company of another person designated by the bishop. In some cases, such as when the rostered minister is aware of the complainant's report or when the rostered minister is deemed to pose an immediate danger to members of his or her congregation, the bishop or bishop's designee may meet with the accused rostered minister immediately after, or perhaps even before, meeting

with the complainant. If the bishop must meet alone with the rostered minister, then the bishop will clarify that the meeting is not confidential, no evidentiary privileges apply, and that the bishop may disclose anything that he or she is told.

At this meeting, the bishop will provide the rostered minister with information regarding the complaint and ask the rostered minister to respond. The bishop may ask ~~that~~ the rostered minister to place his or her response in written form. The bishop will also: (1) assure the rostered minister, ~~that~~ while this synod does not tolerate sexual misconduct, this synod will give any rostered minister who denies an allegation of sexual misconduct a full and fair opportunity to contest it; (2) explain this synod's process for responding to reports of sexual misconduct and provide a copy of this Statement of Policy; (3) answer the rostered minister's questions about the policies and procedures of this synod; (4) express care and concern for the rostered minister, the rostered minister's family, and the affected congregation; (5) strongly discourage the rostered minister from having any contact with the complainant, either directly or indirectly, unless the contact is initiated or requested by the complainant; and (6) invite the rostered minister to contact a support person or advocate and to be accompanied by that support person or advocate through the investigative process, ~~and~~, if necessary, disciplinary processes. If the rostered minister desires, this synod will assist the rostered minister in finding a support person or advocate. The rostered minister may ~~also~~ decline to use a support person or advocate.

Depending upon the circumstances, the bishop may ask the rostered minister to voluntarily agree to certain restrictions upon his or her ministry until the investigation and/or disciplinary proceedings are concluded. If the rostered minister refuses, the bishop may ask the congregation to impose restrictions upon the rostered minister. The bishop may also ask the rostered minister to take a leave of absence - either with or without pay - until the investigation and/or disciplinary proceedings are concluded. If the rostered minister refuses, the bishop may ask the congregation to place the rostered minister on involuntary leave of absence, or, in extreme circumstances, the bishop may temporarily suspend the rostered minister without prejudice.

In appropriate cases, the bishop may also ask the rostered minister to resign from his or her call or resign from the roster of the ELCA. The bishop cannot force the rostered minister to resign. In most cases, only a discipline hearing committee can remove the rostered minister from the roster.

The bishop will discuss with the rostered minister his or her needs for pastoral care or professional counseling, as well as the care of the rostered minister's family. If the rostered minister requests, the bishop will help to put the rostered minister in touch with persons who can provide such care or counseling. Under no circumstances will any employee of this synod function as an advocate, pastor, or counselor to the rostered minister or the rostered minister's family.

The bishop will inform the accused rostered minister of significant developments and also will also be available to respond to the rostered minister's questions and concerns about the process.

5. Assess the Information

After meeting with the rostered minister, the bishop will carefully review the information provided by the complainant, discovered during the preliminary investigation, and provided by the rostered minister. The bishop may consult with staff or other advisors. The bishop will then decide upon a course of action, keeping in mind that changed circumstances may require changes in direction as the matter progresses. Among options available to the bishop are the following: taking no further action; pursuing further investigation; requesting the rostered minister to undergo a psycho-diagnostic evaluation; requesting the rostered minister's congregation to take some action; convening a consultation or advisory panel; or initiating the formal disciplinary process. Depending upon the

circumstances, additional options may be considered as well, including inviting the rostered minister to resign from the call, from the roster, or both.

6. Consultation or Advisory Panel

Reports of sexual misconduct always present a bishop with difficult decisions. To assist him or her in making these decisions, a bishop may, at his or her sole discretion, appoint a consultation or advisory panel. The function of a consultation or advisory panel is described at length in Sections 20.21.04 to 20.21.06 of the [Constitutions, Bylaws, and Continuing Resolutions of the ELCA](#), ~~which can be downloaded at elca.org.~~

Essentially, a consultation or advisory panel is a small group of rostered ministers and laypersons who are asked to recommend a course of action to the bishop. Before making that recommendation, the panel may interview the complainant, the accused rostered minister, the bishop, the bishop's designee, and others. If possible, the panel will seek to resolve the matter through recommendations that are pastoral and therapeutic and that will eliminate the need for disciplinary proceedings if they are accepted by all concerned. If such a resolution does not appear possible, the panel will advise the bishop whether it believes that the disciplinary process should be initiated.

Whether to employ the advisory or consultation process is always discretionary with the bishop. Use of such panels may be beneficial in a variety of circumstances. For example, a bishop may be confronted with "one person's word against another's" - that is, a situation in which both the complainant's report and the rostered minister's denial of the report appear credible, and no one but the complainant and the rostered minister can know for certain who is being truthful. The consensus of a panel may be the best indicator of whom to believe.

7. Formal Hearing

Disciplinary proceedings are the process by which the ELCA determines if a rostered minister should be suspended, removed from its roster, or otherwise disciplined. The process is governed by Chapter 20 of the [Constitution, Bylaws and Continuing Resolutions of the ELCA](#). This chapter of the Constitution also describes in part causes for which a rostered minister shall be subject to discipline.

To briefly summarize the disciplinary process, generally, the bishop will initiate the proceedings against a rostered minister by filing written charges setting forth the offense that the rostered minister is accused of committing, detailing the alleged facts supporting the charge, and describing the circumstances of the alleged sexual misconduct. A committee of twelve persons -- six from a panel pre-elected by this synod and six from a panel pre-elected by the Churchwide Assembly -- is convened to hold a hearing on the charges. The hearing resembles a court trial with an appointed hearing officer presiding. The bishop presents testimony and other evidence in support of the charges, and then the rostered minister presents testimony and other evidence in opposition to the charges. A bishop generally will not initiate formal disciplinary proceedings unless the complainant agrees to testify against the rostered minister. The governing documents of the ELCA provide for certain rights for the accuser, the accused, and the witnesses.

There is an alternative discipline process, described in ELCA Bylaws 20.23.01 through 20.23.09, which shall apply when the written charges specify that the accuser will not seek removal or suspension for a period exceeding three months. In such cases, the proceedings are conducted before a hearing committee of six members with less formality and without all of the procedural requirements of the full hearing process.

Under either process, the discipline hearing committee decides whether the charges are true, and, if so, what discipline should be imposed. The options available (except under the alternative process

described in the preceding paragraph) are private censure and admonition, suspension from the roster of the ELCA for a designated period of time or until the rostered minister complies with specified conditions, or removal from the roster. The discipline hearing committee's decision is generally made about four months after charges are filed. An appeals process is also provided in the ELCA bylaws.

8. Disclosure

Except in unusual circumstances, this synod will disclose all serious allegations of a rostered minister's sexual misconduct. Although disclosure can increase the short term pain caused by sexual misconduct by a rostered minister, experience has demonstrated that disclosure speeds the healing of the primary and secondary victims of the misconduct, empowers unknown victims to come forward and seek help, protects others from being victimized by the same rostered minister, and demonstrates the commitment of the Church to deal openly and honestly with the problem.

Decisions regarding who will make what disclosure to whom, and when such disclosure will be made will vary from case to case. In general, though, this synod will abide by the following guidelines:

Disclosure of sexual misconduct by a rostered minister will be made to the leadership of the rostered minister's congregation, the members of the rostered minister's present congregation, and as deemed appropriate, to other congregations where the rostered minister has served, and to other rostered ~~leaders~~ ministers within the conference or this synod. In some situations, wider disclosure to previous ministry settings of the rostered ~~leader~~ minister or even to the news media may be made as well.

In most cases, disclosure will be made when: (1) the rostered minister admits to committing sexual misconduct; (2) the rostered minister resigns his or her call or from the roster of the ELCA after being accused of sexual misconduct; (3) the rostered minister is placed on leave of absence or temporarily suspended in response to an allegation of sexual misconduct; (4) the rostered minister is suspended or removed from the ELCA roster as a result of formal disciplinary proceedings; or (5) secular legal proceedings (civil or criminal) are initiated against the rostered minister. Other circumstances may give cause for disclosure, as well.

This synod intends to work closely with the congregational leaders regarding appropriate disclosure to the members of the congregation. The victim's concerns regarding disclosure will be considered. The actual announcement to the membership of the congregation will usually be made by one or more of the congregational leaders or by the bishop and usually to the adult members only.

To protect the privacy of those alleged to have been harmed by the misconduct, only the following will be disclosed: (1) the fact that the rostered minister has been accused of, admitted to, resigned, or been found guilty of committing sexual misconduct; (2) the gender of the complainant; (3) whether the complainant was an adult or a minor at the time of the misconduct; and sometimes, (4) whether the complainant was a member of the rostered minister's congregation or a person to whom the rostered minister was providing pastoral care. Disclosure should never include the name of the complainant or facts that will readily identify the complainant to others. If the rostered minister has denied the allegations, that fact will also be disclosed.

Persons who believe that they have been harmed (directly or indirectly) by the rostered minister will be invited to contact the leaders of the congregation, this synod, or others who have agreed to be available to those persons.

9. Follow-up

This synod will work with congregations and others to help ensure that care and support are available to those harmed by sexual misconduct by rostered ministers. As noted above, this synod cannot directly provide this care, but it will assist the primary and secondary victims of sexual misconduct to find human and material resources that might help them on their journey towards healing.

This synod will assist the congregation in dealing with the pain and disruption caused by rostered ministers' sexual misconduct and will help the congregation continue its mission and ministry for the sake of the Gospel.

Should a rostered minister be removed, a ~~Bishop's~~bishop's designee will be appointed to work with the congregation served by the rostered minister, to provide education and to enable the healing process to begin. There shall be regular contact between the ~~Bishop's~~bishop's office and congregational council. At the first and second anniversary following the rostered minister's resignation or removal, the bishop's designee will meet with the council to assess the health of the congregation.

With the assistance of the ~~Bishop's~~bishop's staff, the congregation shall be encouraged to name an ordained person from outside of the congregation or agency to serve as the rostered minister during the process. This pastor should have skills in this type of intervention. If necessary, the bishop shall appoint this rostered minister.

(This policy supersedes all previous statements of policy.)

Adopted by Synod Council June 3, 2004

~~Updated December 2017~~

Adopted by Synod Council January , 2018