

**NEW ENGLAND SYNOD
EVANGELICAL LUTHERAN CHURCH IN AMERICA**

**Statement of Policy:
Response to Sexual Misconduct**

Approved by Synod Council of the New England Synod

Contents

I. Introduction.....	2
A. The Role of the Congregation.....	3
B. The Role of the Synod	3
C. Goals of this Response Policy.....	4
II. Nine Elements of Response to Sexual Misconduct	
A. Prevention Efforts	4
B. First Contact	5
C. Initial Investigation	6
D. Meeting with the Bishop	
7	
E. Assessment of the Information & Determination of Action	8
F. Consultation of Advisory Panel	8
G. Formal Hearing	
8	

H. Disclosure

9

I. Follow-up10

III. Conclusion: For the Sake of the Gospel10

Introduction

As Christians, we believe that all people are "fearfully and wonderfully made" in the image of God. This ought to inspire awe, wonder, and an attitude of loving respect one for another. It is surely God's intention that we model towards each other the kind of faithful care and respect that God wills for all people.

Friendships and strong, healthy relationships between individuals within the Body of Christ are always appropriate. People who worship and pray together have opportunities to build deep personal bonds. We encourage the development of such relationships, and encourage sisters and brothers in Christ to express themselves in these relationships in ways that are appropriate.

This policy addresses sexual misconduct committed by any rostered person (ordained pastor or rostered lay leader; hereafter referred to as "minister"). The minister is always responsible for setting appropriate boundaries in relationships with parishioners, clients, staff members, organizational employees, and others with whom they are carrying out their responsibilities as a minister. This policy is not about healthy relationships, appropriately expressed. This policy deals with the misuse of power by ministers and with behaviours that are violations of appropriate boundaries. Such behaviours may be unwelcome, uninvited or part of a pattern, but they are always inappropriate, even when objections remain unspoken.

Sexual misconduct shall be defined as any activity in which a minister engages in sexual behaviour with a parishioner, client, staff member, organizational employee, or other person with whom the rostered person is carrying out his/her ministerial responsibilities. This can include, but is not limited to, kissing, fondling, sexual intercourse, oral sex, sexual jokes, inappropriate sexual conversation, or suggestions of sexual or romantic involvement.

Such behaviours are also inappropriate when practiced within the life of the congregation by its members. It is expected that ministers shall provide education, oversight and protection so that the church is a safe place in which the gospel can be taught and shared. It is especially important to protect children and vulnerable adults. All members shall comply with government laws pertaining to the reporting of sexual and other abuse, and leaders shall be proactive in seeking guidance and training for ways to prevent and remedy abusive situations.

The New England Synod ("Synod") of the Evangelical Lutheran Church in America ("ELCA") is committed to preventing sexual misconduct within the church and to responding with justice and compassion when such misconduct occurs. This Statement of Policy describes how the Synod intends to fulfill these commitments. It is primarily addressed to the situation of misconduct of

ministers, but its policies and intent shall serve as a guide for advice and action related to any situation of sexual misconduct that shall arise within the Synod.

The Synod recognizes that response to allegations of sexual misconduct requires determination, sensitivity, flexibility, and respect for all persons affected. This policy is intended to provide a framework for guidance in dealing with these cases while preserving the synod's discretion to deviate when necessary to respond to differing facts, circumstances, and needs of those affected. This policy shall not be imposed as rigid law, binding the synod and others to its dictates; it must be interpreted and applied compassionately in accordance with the theological and biblical principles of the Gospel.

A. The Role of the Congregation

The Synod and its member congregations have different responsibilities and different roles to play in preventing and responding to reports of sexual misconduct. Each ELCA congregation calls its own minister, determines its minister's duties and responsibilities, and supervises its minister's day-to-day ministry. The Synod has neither the authority nor the ability to make those 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 Synod, that finally may decide to terminate a minister's call as a response to a situation of misconduct if the minister does not resign of his or her own accord. Obviously, then, the church cannot be a safe place unless every one of its member congregations shares the Synod's commitment to preventing sexual misconduct.

This Statement of Policy does not elaborate on the important role played by congregations in preventing and responding to reports of sexual misconduct. This should not obscure the fact that congregations also have a vital role to play. The Synod strongly urges its member congregations to develop their own sexual misconduct policies, and to provide regular training in safe church practices for all congregational workers.

B. Role of the Synod

The Synod's role is twofold. First, the bishop is responsible for providing pastoral care and leadership to the Synod's congregations and ministers. Reports of sexual misconduct by ministers invariably create an acute need for such care and leadership. Second, ministers who commit sexual misconduct may be disciplined, leading to possible removal from the roster of the ELCA. The bishop is primarily responsible for overseeing the preliminary or consultation stage of the disciplinary process and for initiating the formal stage of the disciplinary process. When the bishop provides pastoral care and leadership in the wake of ministerial sexual misconduct, he or she is truly engaged in the Synod's ministry.

Every report of ministerial sexual misconduct involves unique people and unique circumstances. This Statement of Policy merely describes the general approach that the Synod will follow in responding to reports of ministerial sexual misconduct. It will not be appropriate or even possible for the Synod to follow this approach in every case. The Synod reserves the right to depart from this Statement of Policy when circumstances demand other actions. In every sexual misconduct case, the bishop and his or her staff will attempt to provide pastoral care for the victim of the misconduct, the victim's family, the minister who committed the misconduct, the minister's family, members of the minister's present and former congregation(s), the minister's colleagues, and others. 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 the Synod, and not to any individual within the Synod. If a conflict arises between what is in the Synod's interests and what is in the interests of someone else, the bishop and the bishop's staff are obligated to act on the Synod's behalf. In unusual circumstances, the fact that the bishop and bishop's staff are responsible to the Synod may require that they act contrary to the wishes of the complainant.

C. Goals of the Response Policy

This Synod of the ELCA is committed to making the church a safe place in which Christ's life-giving love is shared. For that reason, all workers shall be held accountable to the highest standards of conduct and integrity, such as those set forth in the ELCA "Visions and Expectations for Ordained Ministers of the ELCA" (Adopted by the ELCA Church Council, 1990). The Synod shall also provide education, resources, policies, standards, and disciplinary procedures pertaining to violations of these standards; it shall insist that the truth be told in love when Christ's love for his people is betrayed by misconduct; and it shall strive, even in painful and distressing instances of human brokenness, to express the justice and strong love of God for sinners.

The policy of this Synod for responding to all allegations of sexual misconduct is designed to accomplish the following goals in a timely and compassionate manner.

1. The complainant is heard and taken seriously.
2. The accused minister is heard and taken seriously.
3. The complainant is helped toward healing and wholeness.
4. The dignity and integrity of the office of ministry is safeguarded.
5. Where guilt exists, the accused is led to repentance, confession, the making of amends, renewal of self and vocational reassessment.
6. Pastoral care and concern is extended to all those affected by allegations of sexual misconduct, and ongoing healing work is provided to congregations and other ministry settings in which sexual misconduct has taken place.
7. Appropriate disclosure is made so that rumor, secrecy and avoidance of truth do not undermine ministry.
8. Steps are taken to assure that abuse and victimization do not continue in ministry settings that have been the site for misconduct or harassment.
9. Assuring that reporting abuse of minors and vulnerable adults according to the requirements of law is done.

II. Nine Elements of Response to Sexual Misconduct

A. Prevention Efforts

The Synod is committed to preventing ministerial sexual misconduct in the following ways:

First, the Synod will not tolerate sexual misconduct by ministers. The Synod will make that clear in educational opportunities that it provides, in the manner in which it responds to reports of ministerial sexual misconduct, in discussions that it has with seminarians and others who seek to join its rosters, and in its public and private statements regarding this issue.

Second, the Synod intends to provide ongoing educational opportunities regarding sexual misconduct for ministers, congregations, and others. Those efforts will focus on such subjects as the dynamics of ministerial sexual misconduct and the impact of such misconduct on its victims. The Synod strongly urges its ministers and congregations to take advantage of these educational opportunities, as well as other appropriate educational programs.

One such educational opportunity that is available for Synod ministers and lay leaders is the *Safe Church Program* of the Episcopal Church in New England. This established program, offered at various times and places throughout New England, is available for our Synod's use. All active ministers and retired pastors serving congregations are expected to participate in the basic course offered by this program at a minimum of once every three years, and to consider attendance at other events of continuing education which it offers. Lay leaders are strongly encouraged to make use of this program as well. Ministers who attend such seminars are asked to forward a copy of the certificate indicating participation to the Synod office.

Finally, the bishop and the bishop's staff will continue to take advantage of educational opportunities that are available to them. The Synod recognizes that society generally and churches particularly have much to learn about ministerial sexual misconduct. As the Synod's understanding of this problem changes, this Statement of Policy and educational efforts may change as well.

These preventative efforts are intended to complement similar efforts that have been or will be made by the Synod's member congregations, by the churchwide organization, by ELCA seminaries, and by other entities affiliated with the ELCA.

B. First Contact

1. The First Contact Person

A First Contact Team has been established so that persons who have reason to believe they may be victims of ministerial sexual misconduct have an initial place to turn, "a listening ear." A complainant may expect to be heard in confidence by a member of the First Contact Team and to receive information about his or her options to make an official complaint. A complainant may also contact the bishop or any staff person directly.

First Contact Team Persons are mature Christians and compassionate, wise listeners. Their names and phone numbers will be highlighted in Synod publications and in brochures distributed to every congregation and church-affiliated institution. These persons will:

- listen to the complainant's story (asking questions for clarification and taking notes for accurate recall);
- answer questions;
- provide written and oral explanation of Synod policy and procedures, and give an approximate timeline of "what happens next", should the complaint be pursued further;
- recommend the complainant ask someone she or he trusts to be an advocate who can be supportive throughout the process, or offer to provide an advocate if the complainant desires such help from the Synod;
- ask if counseling or other help is needed, provide appropriate references for these services, and outline any financial assistance which the Synod can offer;
- ask what the complainant wants to have happen;
- have the complainant sign a release in order to forward a report of their conversation to the Synod office.
- assure compliance with reporting laws.

(Note: If the complainant requests anonymity, that is, that his or her name not be divulged to the Synod office for the time being, a general summary of the conversation, in which the complainant's name is

replaced by a code word will be filed with the Synod. The Team person will make it clear in this case that only limited action by the Synod will be possible if anonymity continues to be honored.)

2. Synod Staff Person as "Case Manager"

The Synod bishop shall designate one staff person as an overall "case manager" for each complaint of this nature that reaches the Synod office. This person will receive reports from the First Contact person and, in conversation with the bishop, determine how best to proceed with each complaint. In cases where the complainant has agreed to be identified to the Synod by name, the staff person will:

- promptly contact the complainant by telephone and by posting a letter
- assure him or her of the Synod's concern and resolve to address the complaint;
- discuss possible next steps, timelines, and consequences;
- consider providing assistance for the pastoral and therapeutic needs of the complainant;
- ask what the complainant wants to have happen;
- stay in frequent contact, especially when action is taken ;
- consult with legal counsel regarding state laws governing cases of sexual misconduct, particularly if a child is involved and report abuse as required by law;
- clearly explore with the complainant the role of confidentiality in this process so that there is an understanding of the difference between communication that is helpful and needful, and communication that will hurt them or limit the effectiveness of the process;

In cases where the complainant has not agreed to be identified to Synod by name, the staff person will receive a general summary from the First Contact Person and will discuss with the bishop what, if any, action can be taken to investigate the complaint independently. The staff person will keep the First Contact Person apprised of the situation, so that he or she can inform the complainant of any action or decisions by Synod.

C. Initial Investigation of the Complaint

After interviewing the complainant, the bishop or bishop's associate will carefully review the information provided by the complainant. If the report appears credible and involves sexual misconduct for which the perpetrator might be disciplined, the bishop or bishop's associate may conduct a preliminary investigation to determine whether information either supporting or contradicting the report exists. This preliminary investigation may include (1) further discussions with the complainant; (2) a review of the records of the Synod, another ELCA synod, the ELCA, or an entity affiliated with the ELCA; or (3) interviews of former bishops of the minister, those who served as assistants to former bishops of the minister, ministers who succeeded the accused minister at congregations that he or she served, ministers who served on the same staff with the accused minister at congregations that he or she served, ministers who presently serve on the same staff with the accused minister, respected members of congregations that the minister served, respected members of the congregation that the 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 the Synod or a discipline hearing committee later determines that the minister did not commit sexual misconduct, that conclusion will be communicated to those who were contacted by the Synod in the course of its preliminary investigation.

In circumstances where there is an investigation by civil authorities, the internal investigation may be delayed as necessary to avoid interference with or tainting of the civil investigation.

D. Conversation with the Minister

The bishop will usually meet with the minister after the preliminary investigation is concluded. The bishop should be accompanied by the bishop's associate or another person. In some cases --such as when the minister is aware of the complainant's report or when the minister may pose an immediate danger to members of his or her congregation --the bishop or bishop's associate may meet with the minister immediately after or perhaps even before meeting with the complainant. If the bishop meets alone with the minister, the bishop will clarify that the meeting is not confidential, and that the bishop may disclose anything that he or she is told.

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

Depending upon the circumstances, the bishop may ask the minister to voluntarily agree to certain restrictions upon his or her ministry --such as agreeing not to have contact with children -- until the investigation and/or disciplinary proceedings are concluded. If the minister refuses, the bishop may ask the congregation to impose the restrictions upon the minister. The bishop may also ask the minister to take a leave of absence --either with or without pay --until the investigation and/or disciplinary proceedings are concluded. If the minister refuses, the bishop may ask the congregation to place the minister on involuntary leave of absence, or, in extreme circumstances, the bishop may temporarily suspend the minister without prejudice.

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

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

The bishop or bishop's associate will appoint a contact person within the Synod. That contact person (who may be the bishop or bishop's associate) will keep in regular contact with the minister and will inform the minister of significant developments. That contact person will also be available to respond to the minister's questions and concerns about the process.

In some cases, it may be necessary for the bishop to meet with the congregation council president to disclose the fact that an investigation has been undertaken against the minister

based on allegations of misconduct. This is a privileged, preliminary disclosure intended to prevent congregation leaders from being taken by surprise.

E. Assess the Information

After meeting with the minister, the bishop will carefully review the information provided by the complainant, discovered during the preliminary investigation, and provided by the minister. The bishop will then decide upon a course of action. Among options available to the bishop are the following: no further action; further investigation; requesting the minister to undergo a psycho-diagnostic evaluation; requesting the 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.

F. 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 Constitution and Bylaws of the ELCA and Section D of *Rules Governing Disciplinary Proceedings Against an Ordained Minister, a Rostered Layperson, or a Congregation of the Evangelical Lutheran Church in America*. Both of these documents are available from the Synod.

Essentially, a consultation or advisory panel is a small group of clergy 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 minister, the bishop, the bishop's associate, and/or others. If possible, the panel will seek to resolve the controversy 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 minister's denial of the report appear credible, and there is no corroborating evidence supporting either version. Numerous other reasons may also cause the bishop to call for a consultation or advisory panel.

G. Formal Hearing

Disciplinary proceedings are the process by which the ELCA determines if a minister is guilty of the charges and, if so, what the penalty should be imposed. The process is governed by Chapter 20 of the Constitution and Bylaws of the ELCA and by the Rules Governing Disciplinary Proceedings. A minister may be disciplined for committing "conduct incompatible with the character of the ministerial office," which is defined in *Definitions and Guidelines for Discipline of Ordained Ministers* to include "adultery, promiscuity, the sexual abuse of another, or the misuse of counseling relationships for sexual favors." *Definitions and Guidelines* is available from the Synod.

To briefly summarize the disciplinary process: the bishop as "accuser" will initiate the proceedings against a minister, the "accused," by filing written charges setting forth the offense

that the minister is accused of committing --e.g., "the sexual abuse of another" --and the alleged facts supporting the charge --e.g., the name of the person that the minister is alleged to have abused and the date, place, time, and other circumstances of the alleged abuse. A committee of twelve persons --six from a panel elected by the Synod and six from a panel elected by the Churchwide Assembly --is convened to hold a hearing on the charges. The hearing resembles a court trial. The bishop presents testimony and other evidence in support of the charges, and then the minister presents testimony and other evidence in opposition to the charges. Typically, a bishop will not initiate formal disciplinary proceedings unless the complainant agrees to be a witness against the minister. The governing documents of the ELCA provide for certain rights for the accuser, the accused, and the complaining witnesses.

The hearing described in the preceding paragraph is the usual process for hearing the written charges. There is an alternative process described in ELCA Bylaws 20.23.01. through 20.23.09., that is invoked 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 minister complies with specified conditions, or removal from the synod's roster. The discipline hearing committee's decision is generally made about four months after charges are filed.

H. Disclosure

Except in unusual circumstances, the Synod will disclose all serious allegations of sexual misconduct by ministers. Although disclosure can increase the short term pain caused by ministerial sexual misconduct, 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 minister, and demonstrates the commitment of the Church to deal openly and honestly with the problem.

Decisions regarding who will make disclosure, to whom and when, will vary from case to case. In general, the Synod will abide by the following guidelines:

1. Disclosure of sexual misconduct by ministers will be made to the leadership of the minister's congregation, to the members of the minister's present congregation, to synods where the minister was previously rostered, and to other ministers within the Conference. In some situations, wider disclosure to previous congregations, to the entire synod, or even to the news media, may be made as well.
2. Typically, disclosure will be made when (1) the minister admits to committing sexual misconduct; (2) the minister resigns his or her call or from the minister roster of the ELCA after being accused of sexual misconduct; (3) the minister is placed on leave of absence or temporarily suspended in response to an allegation of sexual misconduct; (4) the minister is suspended or removed from the roster as a result of formal disciplinary proceedings; or (5) secular legal proceedings (civil or criminal) are initiated against the minister.

3. The Synod intends to work closely with the congregational leaders regarding appropriate disclosure to the members of the congregation. Disclosure to the members will usually be made by one or more of the leaders or by the bishop.

4. To protect the privacy of those harmed by the misconduct, only the following will be disclosed: (1) the fact that the 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 minister's congregation or a person to whom the minister was providing pastoral care. Disclosure should never include the name of the complainant or facts from which she or he could readily be identified. If the minister has denied the allegations, that fact will also be disclosed.

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

I. Follow-up

The Synod will work with congregations and others to help ensure that care and support are available to those harmed by ministerial sexual misconduct. The Synod cannot provide this care itself, but it will assist the primary and secondary victims of sexual misconduct to find resource persons and materials that will help them on their journey to healing. The Synod will assist the congregation in dealing with the pain and disruption caused by the minister's misconduct and will help the congregation to continue in its mission and ministry for the sake of the Gospel.

III Conclusion: For the Sake of the Gospel

When sexual misconduct happens in the church, the proclamation of the gospel is impaired. Everyone suffers: the abused, the perpetrator, the church and the world. If timely and thorough attention is not given to allegations of sexual misconduct, the hope of the gospel is hidden and people can become estranged from God and the church. Therefore, for the sake of the gospel, the New England Synod is fully committed to address the problem of sexual misconduct by preparation, education and effective policy. However, we depend on the reporting of incidents to enable us to respond faithfully.

It takes courage to report incidents of sexual misconduct, but reporting in itself can begin the process of healing and protect others from inappropriate behaviors. Reporting can also assist the person guilty of misconduct to receive the help that is needed for amendment of life. Finally, reporting improper behaviors is a necessary factor in making the church a safe place for all people.

We encourage reporting and we promise faithful and compassionate response to all parties so that the good news of Jesus Christ can be proclaimed and received fully in our ministry in the world.