

<p style="text-align:center">POLICY ON SEXUAL MISCONDUCT WITH ADULTS NORTHEASTERN OHIO SYNOD</p>
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INTRODUCTION

The Northeastern Ohio Synod of the Evangelical Lutheran Church in America (the synod) is committed to preventing sexual misconduct within the church, and to responding with justice and compassion when such misconduct occurs. The synod recognizes that responding to allegations of sexual misconduct requires adherence to the requirements of the law, and sensitivity and respect for the rights of the persons involved, the congregation, synod, and the church.

This policy is intended to provide a framework for guidance in dealing with situations involving allegations of sexual misconduct and sexual misconduct while preserving the synod's discretion to treat each case in a manner necessitated by differing facts, circumstances, and the needs of those affected. This policy must be interpreted and applied compassionately in accordance with the theological and biblical principles of the Gospel.

The synod will deal with allegations of sexual misconduct and sexual misconduct in the light of God's Word and with a view toward the well-being of persons, the honor and integrity of the synod and the church, the credibility of the Gospel, the safety of children and vulnerable adults, and the requirements of the law.

Copies of this policy will be available on the Synod's web site or at the Synod office. The policy will be provided to any one upon request.

DEFINITIONS (See Appendix I for definitions under the Ohio Revised Code §2907.01)

The term Sexual Misconduct includes inappropriate Sexual Conduct, Sexual Contact, Sexual Activity, Sexual Abuse, Sexual Exploitation and Sexual Harassment.

Sexual Conduct means the same conduct described in Ohio Revised Code §2907.01(A).

Sexual Contact means the same conduct described in Ohio Revised Code §2907.01(B).

Sexual Activity means the same conduct described in Ohio Revised Code §2907.01(C).

Sexual Abuse means victimization of another by use of unlawful sexual conduct or sexual contact.

Sexual Exploitation means any manipulation of another by use of sexual misconduct.

Sexual Harassment means to subject another to recurring, unwelcome, sexually-oriented language.

A rostered person is an ordained clergy, a called or appointed associate in ministry, or a diaconal minister.

INITIAL CONTACT

Anyone who knows or reasonably suspects that a rostered person has engaged in sexual misconduct shall report the conduct to the synod bishop or his/her designee at the earliest time possible. If the victim of such misconduct is a child (a person under the age of eighteen years) or a mentally retarded, developmentally disabled or physically impaired child under the age of twenty-one) there may be a mandatory requirement to make a report to the public children services agency or a municipal or county peace officer in the county in which the child resides. Such reporting on the part of the bishop's office does not relieve the congregation from its mandatory reporting requirement.

Information regarding sexual misconduct by a rostered person which is provided to the bishop or his/her designee, unless required by law to be divulged to law enforcement or children service agencies, shall be treated in confidence pursuant to this policy, and an inquiry regarding the alleged sexual misconduct will be made immediately. The bishop or his/her designee will not act upon anonymous reports of sexual misconduct; however, a report of sexual misconduct may be made by an identified person on behalf of a victim. A person making an initial contact regarding sexual misconduct, whether as a victim or on behalf of a victim, will be designated as the complainant.

The bishop will provide to the complainant names of persons who are available to provide support to a victim of sexual misconduct. A support person will be called an advocate. The victim of sexual misconduct is not required to use a named advocate and may choose another person to serve in the position of advocate. The victim may proceed without an advocate. No member of the synod staff shall serve as an advocate.

INVESTIGATION OF THE COMPLAINT

The bishop will meet with the complainant at the earliest possible time after a report of sexual misconduct is made. A copy of the synod's policy(s) regarding sexual misconduct will be provided to the complainant. If the complainant is someone other than the alleged victim, the bishop will make every effort to meet with the victim at the initiation of the inquiry. The investigation of the complaint may proceed, however, even if the victim does not come forward. The investigation will proceed upon the submission of a written, signed statement of the sexual misconduct. If a written, signed statement of sexual misconduct is not submitted, the bishop may continue an investigation upon credible evidence that sexual misconduct has occurred.

There will be an attempt to interview all persons who may have information relevant to the allegations of sexual misconduct. The investigation will be handled at all times with care and discretion so that inappropriate disclosure of information can be avoided. Insofar as possible, details of an allegation of sexual misconduct and its investigation will be held in confidence. The bishop, however, cannot guarantee confidentiality.

If the bishop learns that a child or vulnerable adult may have been neglected or physically or sexually abused, he/she may be legally required to make a report of such information to the appropriate law enforcement and/or social service agency.

Upon the initiation of any investigation under this policy, the complainant/victim will be encouraged to seek pastoral care and counseling. A list of available counselors and/or agencies trained in matters of sexual misconduct will be made available through the office of the bishop. Under no circumstances will the bishop or the bishop's staff serve as the complainant/victim's advocate, pastor, or counselor. The bishop will appoint a person to serve in the capacity as a policy liaison person to keep regular contact with the complainant/victim for the purpose of providing information regarding developments in the investigation and/ or responding to questions and concerns about the process. The policy liaison person may or may not be a member of the bishop's staff.

MEETING WITH THE ROSTERED PERSON.

The bishop will meet with the rostered person as a part of the investigation. The bishop will notify the person accused of any act of sexual misconduct that such meeting is not confidential and that responses of the

rostered person are subject to disclosure to appropriate law enforcement and/or social service agency(s).

The bishop shall disclose the allegations of sexual misconduct which have been made and permit the rostered person to respond. In addition, the bishop shall:

1. Inform the rostered person that he/she may not contact the complainant/victim;
2. Describe the policy and procedure of this synod and the Evangelical Lutheran Church in America (ELCA) as outlined in:
 - a) the Northeastern Ohio Synod Constitution, chapter 14;
 - b) the Northeastern Ohio Synod policy document pertaining to sexual misconduct;
 - c) the ELCA Constitution and By-Laws, chapter 20;
 - d) the Rules Governing Disciplinary proceedings Against an Ordained Minister , a Rostered Layperson, or a Congregation of the ELCA;
3. Answer any questions the rostered person may have;
4. Inform the rostered person that he/she may choose to have an advocate present during the investigation and, if necessary, disciplinary process.

The bishop will express appropriate Christian care and concern for the accused rostered person and that person's family, and will encourage them to seek pastoral care and professional counseling. Under no circumstances will the bishop or the bishop's staff act as counselor to the rostered person or his/her family.

Before the conclusion of the first meeting with the accused rostered person, the bishop will assign a contact person who will provide information regarding developments in the investigation and/or respond to the rostered person's questions and concerns about the process. The contact person may or may not be a member of the bishop's staff.

During any investigation of complaint of sexual misconduct, or upon completion of the investigation, the bishop reserves the right to take one or more of the following courses of action:

1. Ask the rostered person to consider restrictions and/or a leave of absence in consultation with the rostered person and his/her congregation;
2. Ask the congregation to impose restrictions upon the rostered person's congregational activities;
3. Ask the congregation to place the rostered person on leave of absence;
4. Suspend the rostered person without prejudice;
5. Ask the rostered person to resign from his/her call and/or the roster of the Evangelical Lutheran Church in America.

CONVENE AN ADVISORY PANEL

Following completion of any investigation of sexual misconduct by a rostered person and assessment of the results of the investigation, the bishop may convene a panel which shall serve as a consulting body to the bishop as he/she proceeds with formal charges against the accused rostered person. The membership and function of such advisory panel are described in Section 20.21.04 through 20.21.06 of the Constitution and By-Laws of the ELCA (August 1995), and in Section (D) of “Rules Governing Disciplinary Proceedings Against an Ordained Ministered, a Rostered Layperson, or a Congregation of the ELCA” (November 1995). The panel is an advisory body. The bishop has the right to proceed with the disciplinary process as he/she determines is necessary and appropriate.

FORMAL DISCIPLINARY PROCEEDINGS

Formal disciplinary proceedings begin when a copy of the written charges, drafted by the bishop, is delivered to the rostered person and to the Secretary of the ELCA. Certification of such deliveries will be made by any appropriate method and will be placed in the synod’s file regarding such matter.

The Disciplinary Hearing Committee appointed by the ELCA Secretary will review the bishop’s charge of sexual misconduct and convene a formal hearing pursuant to ELCA policy. Those involved in the formal hearing may have an attorney and/or advocate present during such hearing. The Disciplinary Hearing Committee decides whether the charges are credible and the disciplinary action warranted, including:

1. Private censure and admonition;
2. Removal from the congregation and suspension from the ELCA’s clergy roster for a designated period of time during which imposed conditions must be met (e.g., psychological evaluation and/or psychotherapy);
3. Permanent removal from the roster of the ELCA.

The Disciplinary Hearing Committee shall complete its formal review within sixty days, forwarding their findings or charges to the office of the Secretary of the ELCA.

DISCLOSURE

The bishop will oversee any disclosure of information regarding sexual misconduct of a rostered person and/or investigation of a complaint of sexual misconduct. In general, the following guidelines will be applied.

1. Disclosure by the bishop will be made under the following circumstances:
 - a) The rostered person admits the sexual misconduct;
 - b) The rostered person resigns his/her call or resigns from the clergy roster after being accused of sexual misconduct;
 - c) The rostered person is placed on leave of absence or is temporarily suspended in response to an allegation of sexual misconduct;

- d) The rostered person is suspended or removed from the roster as a result of formal disciplinary proceedings; or
- e) Secular legal proceedings (civil or criminal) are initiated against the rostered person.

2. Disclosure by the bishop will be limited to the following information:

- a) The fact that the rostered person has been accused of, admitted to, or been found guilty of sexual misconduct;
- b) The denial or admission of the charges by the rostered person;
- c) Whether the victim was an adult or minor at the time of the misconduct;
- d) Whether the victim was a member of the rostered person's congregation or a person for whom the rostered person was providing pastoral care.
- e) Any disciplinary action(s) taken.

3. Disclosure will not include the name of any victim or facts from which a victim could readily be identified.

4. Disclosure by the bishop will first be made to the leaders of the rostered person's congregation at a meeting with congregational officers and/or council. Decisions regarding further disclosure to the congregation will be made jointly by the bishop and officers and council.

5. Disclosure will also be made to members of the rostered person's family and to the synod. As necessary, disclosure will also be made to other congregations/agencies served by the rostered person.

6. The bishop may also announce the opportunity for persons who feel they have been harmed directly or indirectly by the sexual misconduct of a rostered person to contact the bishop.

7. Pastoral care for the congregation will be provided as soon as possible upon disclosure of the sexual misconduct, and will continue as long as deemed necessary by the bishop and the congregational leadership. In most cases, the pastor/counselor will not be the bishop or a member of the bishop's staff, but will have appropriate training or experience.

Nothing in this policy on sexual misconduct is to be construed to contradict or alter provisions of the Evangelical Lutheran Church in America Constitution, Bylaws, Continuing Resolutions or its policies (including Rules Governing Disciplinary Proceedings Against an Ordained Minister, a Rostered Layperson, or a Congregation of the Evangelical Lutheran Church in America) or the Constitution and Bylaws of the Northeastern Ohio Synod of the Evangelical Lutheran Church in America.

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APPENDIX I

Ohio Revised Code

§2907.01(A) “Sexual Conduct” means vaginal intercourse between a male and female; anal intercourse, fellatio, and cunnilingus between persons regardless of sex; and, with out privilege to do so, the insertion, however slight, of any part of the body or any instrument, apparatus, or other object into the vaginal or anal cavity of another. Penetration, however slight, is sufficient to complete vaginal or anal intercourse.

§2907.01(B) “Sexual Contact” means any touching of an erogenous zone of another, including without limitation the thigh, genitals, buttock, pubic region, or, if the person is a female, a breast, for the purpose of sexually arousing or gratifying either person.

§2907.01(C) “Sexual Activity” means sexual conduct or sexual contact, or both.