

# **POLICY ON SEXUAL MISCONDUCT NORTHEASTERN OHIO SYNOD**

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## **INTRODUCTION**

The Northeastern Ohio Synod of the Evangelical Lutheran Church in America 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. The synod recognizes that responding to allegations of sexual misconduct requires determination, sensitivity, flexibility, and respect for all persons affected, including the victim, the rostered person, their families and friends, the congregation, the synod, and the whole church.

This policy is intended to provide a framework for guidance in dealing with these situations while preserving the synod's discretion to treat each person and each case in the manner necessitated by differing facts, circumstances, and needs of those affected. This policy cannot 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.

This synod is determined to deal with allegations of misconduct and the implementation of this policy in the light of God's Word and with a view toward the well-being of persons, the honor and integrity of the church and its leadership and the credibility of the Gospel. This synod, through the office of its bishop, will insure that the provisions of its constitution and by-laws are duly observed and that the Gospel is compassionately brought to bear.

## **INITIAL CONTACT**

Anyone who knows or reasonably suspects that a rostered person has engaged in inappropriate sexual conduct should report such information to the bishop or his/her designees at the earliest opportune time. A rostered person is an ordained clergy, a called or appointed associate in ministry, or a diaconal minister.

The information regarding inappropriate sexual conduct may be presented to the bishop by mail, telephone or in person. Such information will be held in confidence by the bishop or the bishop's designee and an inquiry will be made immediately. The bishop will not act upon anonymously presented information; however, a report of sexual misconduct of a rostered person may be made by an identified person other than the victim of such misconduct. The person providing the initial report will be referred to in this document as the complainant.

The bishop will provide to the complainant names of those who are available to provide support. The support person will be called advocate. The complainant and/or victim is not required to use a listed advocate and may choose an advocate of his/her choice or decline to use an advocate. No member of the synod staff shall serve as an advocate.

The confidentiality of information by the bishop or the bishop's designee is intended to protect parties from embarrassment or unfounded allegations.

## **INVESTIGATION OF THE COMPLAINT**

The bishop will meet with the complainant as soon as possible after an allegation of sexual misconduct has been made to hear the complainant's story. If the complainant is someone other than the alleged victim, the bishop will make every effort to meet with the victim at this point. This policy can proceed even if the victim does not come forward.

**INVESTIGATION OF THE COMPLAINT (con't)**

It will be made clear by the bishop that sexual misconduct is unacceptable behavior. The complainant will be provided with a copy of the synod's policy regarding sexual misconduct. Because it is vital that the bishop get as much specific information as accurately and completely as possible, the complainant will be asked to provide a written and signed statement which will initiate an investigation.

People who may have information relevant to the allegations will be interviewed. The investigation, at all times, will be handled with care and discretion in order to ascertain the facts and to avoid inappropriate disclosure of the matter.

Insofar as possible, the allegations and investigation will be confidential but the bishop cannot guarantee confidentiality. The bishop will tell the complainant that his/her identity may become known to the accused or others.

It will be made known to the complainant that if the bishop learns that a child or vulnerable adult may have been neglected or physically or sexually abused, the bishop may be legally required to report that information to law enforcement and/or social service agencies.

The complainant 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. Under no circumstances will the bishop or the bishop's staff function as the complainant's advocate, pastor, or counselor. The bishop will appoint a policy liaison to keep regular contact with the complainant, informing the complainant of significant developments and/or responding to questions and concerns about the process. This liaison may or may not be a member of the bishop's staff.

If the complainant chooses not to submit the allegations in writing, the bishop will continue the investigation should there appear to be sufficient evidence that misconduct occurred.

**MEETING WITH THE ROSTERED PERSON**

The bishop will meet with the rostered person as a part of the investigation. The bishop will notify the accused that the discussion is not confidential. At this initial meeting the bishop should disclose the allegations that have been made about the rostered person and invite the rostered person to respond.

During this meeting the bishop should:

1. inform the accused that he/she may not contact the complainant;
2. describe the policy and procedure of this synod and the 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 accused may have;
4. inform the accused that he/she may choose to have an advocate present during the investigation and, if necessary, disciplinary process.

**MEETING WITH THE ROSTERED PERSON (con't)**

The bishop should express appropriate Christian care and concern for the accused and the accused's family and encourage them to seek pastoral care and professional counseling as appropriate. Under no circumstances will the bishop or the bishop's staff act as counselor to the accused or the accused's family.

Before the meeting with the accused rostered person concludes, the bishop will assign a contact person who will respond to the accused's questions about the process and inform the accused of significant developments.

Once the necessary information has been gathered, the process will continue with the assessment of the information.

As a result of the investigation and the meeting with the rostered person, the bishop reserves the right to:

1. ask the rostered person to consider certain voluntary restrictions and/or a leave of absence, as arranged by the rostered person and congregation, in conjunction and consultation with the synod;
2. ask the congregation to place certain restrictions on the rostered person's congregational activities;
3. ask the congregation to place the rostered person on involuntary leave of absence should the rostered person refuse voluntary leave of absence;
4. suspend the rostered person without prejudice until the official investigation and possible disciplinary proceedings are completed;
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**

After the information has been assessed and there are indications cause for discipline exists, the bishop may convene an advisory panel. The purpose of this panel is to consult with the bishop as he/she proceeds with formal charges against the individual accused of sexual misconduct. The membership and function of this 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 Minister, a Rostered Layperson, or a Congregation of the ELCA" (November, 1995). This panel is an advisory group. The bishop maintains the right to proceed as she/he believes is necessary and appropriate.

**FORMAL DISCIPLINARY PROCEEDINGS**

When the bishop has determined disciplinary proceedings against the accused rostered person are in order, formal disciplinary proceedings begin when a copy of the written charges drafted by the bishop detailing the specific offense is delivered by the bishop to the accused and the Secretary of the ELCA.

A twelve-member Disciplinary Hearing Committee is appointed by the ELCA's Office of the Secretary to review the formally filed charge of sexual misconduct. Those involved in this formal hearing will be permitted to have their attorney(s) present. The Disciplinary Hearing Committee decides whether the charges are credible and the disciplinary action warranted. The options include:

- a) a private censure and admonition;

**FORMAL DISCIPLINARY PROCEEDINGS (con't)**

- b) removal from the congregation and suspension from the ELCA's clergy roster for a designated period of time, during which certain conditions are met (e.g., psychological evaluation and/or psychotherapy as designated by the committee);
- c) complete removal from the roster of the ELCA.

The Disciplinary Hearing Committee has sixty days after the charges are filed with the ELCA's Office of the Secretary in which to make a formal decision regarding the future of the individual accused of the sexual misconduct.

**DISCLOSURE**

To support and enhance the process of healing for individuals, congregations, and the community, the bishop will oversee disclosure of allegations of sexual misconduct as well as all adjudicated incidents of sexual misconduct by rostered persons. Decisions about who will make what disclosure, to whom and when, will vary. In general, these guidelines apply:

1. Disclosure will be made if:

- a. the rostered person admits to committing sexual misconduct;
- b. the rostered person resigns his or 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 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 discipline proceedings;
- or
- e. secular legal proceedings (civil or criminal) are initiated against the rostered person.

2. Only the following will be disclosed:

- a. the fact that a rostered person has been accused of, admitted to, or been found guilty of sexual misconduct;
- b. the gender of the complainant or victim;
- 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.

Disclosure will not include the name of the victim or facts from which she or he could readily be identified. If the rostered person has denied the allegations, that fact will be disclosed as will any disciplinary action taken.

3. Disclosure by the bishop will first be made to the leaders of the rostered person's congregation at a meeting with the officers or with the congregational council where decisions regarding disclosure to the congregation will be made jointly.

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

5. An opportunity may be announced for persons who believe they have been harmed directly or indirectly by the accused to contact the leaders of the rostered person's congregation, the bishop, or others who have agreed to be available to such persons.

**DISCLOSURE (con't)**

6. Upon disclosure to the congregation, the bishop will provide for the pastoral care of the congregation. In most cases, the pastor/counselor will not be the bishop or a member of the bishop's staff. This person will have special training or background that has prepared him/her to care for a congregation dealing with issues related to sexual misconduct. The pastoral care will be provided as soon as possible after disclosure of the sexual misconduct has been made to the congregation, and it will continue as long as the bishop and congregational leadership deem necessary.

Nothing in this policy is to be construed to contradict or alter provisions of the Evangelical Lutheran Church in America Constitution, Bylaws, and 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) nor the Constitution and Bylaws of the Northeastern Ohio Synod of the Evangelical Lutheran Church in America.

Adopted by The Northeastern Ohio Synod in Assembly , June 6, 1997 NEOS97.6.22