

**POLICIES AND PROCEDURES FOR DEALING  
WITH CLERGY SEXUAL MISCONDUCT  
ALLEGATIONS AND ADMISSIONS  
IN THE SOUTHEASTERN IOWA SYNOD, ELCA**

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**INTRODUCTION**

The following policy is to be used within the Southeastern Iowa Synod of the ELCA in dealing with allegations of sexual misconduct made against rostered persons within the church. Our unwavering commitment is to the elimination of sexual misconduct. In order to fulfill this commitment, rostered leaders of the church must renew, maintain and have a full appreciation for the power that inheres in the pastoral role, the abuse of which can lead to harm to individuals and communities. Although many of the following comments relate to pastors, sexual misconduct by any leader of the church, including associates in ministry, deaconesses and diaconal ministers is reprehensible. Implementation of this policy will be adapted to all circumstances of sexual misconduct by any rostered person.

**PURPOSE**

This policy provides general guidelines that are to be followed by the Southeastern Iowa Synod of the ELCA in dealing with allegations of sexual misconduct. Unless required by church constitutional or bylaw provisions, the guidelines are not rigid rules. There may be circumstances in which it would not be appropriate for the Synod to follow a particular guideline discussed herein. The Synod therefore specifically reserves the right to handle each matter on a case-by-case basis.

According to synodical and ELCA governing documents the bishop of the Synod is responsible for overseeing and administering the work of the Synod and providing pastoral care and leadership to its congregations and rostered persons. The bishop's responsibilities include

upholding standards of conduct and initiating the ELCA's disciplinary process. To the extent any of these guidelines are in conflict with ELCA mandated process, the latter necessarily will prevail.

The bishop of the Synod works with assistants and advisors to accomplish the work of synodical ministry, including the work of dealing with allegations and admissions of sexual misconduct. The bishop will form a Synodical Advocates Focused on Education, Advocacy & Prevention of Sexual Misconduct (SAFE) Team. The purpose of the SAFE Team is to provide additional expertise on the issues and to assist and advise the bishop, as individual cases need to be considered. The Team shall also provide additional access for individuals to bring complaints of abuse, and shall provide educational opportunities for the prevention of abuse.

## **PASTORAL STANDARDS OF CONDUCT**

The basic standards of conduct required of ordained ministers are embodied in the ELCA's governing documents. Under 7.22 of the ELCA Constitution, an ordained minister of the church must be a person "who is diligent and faithful in the exercise of the ministry" and "whose life and conduct are above reproach and maintain a life consistent with the Gospel ... and competence in interpersonal relationships." Under ELCA Bylaw 7.21.01, an ordained minister is subject to discipline for "conduct incompatible with the character of the ministerial office."

On November 19, 1989, the ELCA's Church Council adopted policies and guidelines entitled "Definition and Guidelines for Discipline." These policies prescribe various grounds for which ordained ministers may be subject to discipline. This document reaffirms that "in all matters of morality and personal ethics, this church expects its ordained ministers to be exemplary in conduct.... The biblical understanding which this church affirms is that the normative setting for sexual intercourse is marriage. In keeping with this understanding, chastity before marriage and fidelity within marriage are the norm. Adultery, promiscuity, the sexual abuse of another, or the misuse of counseling relationships for sexual favors constitute conduct that is incompatible with the character of the ministerial office...."

By constitution (ELCA Const. 20.11) this Synod shares the responsibility for discipline of rostered persons. Similarly, the synodical bishop is empowered to resolve situations by consultations, upon indication of cause for discipline but before charges are made (ELCA Bylaw 21.04).

## **DISCIPLINARY PROCEDURES**

Disciplinary procedures set forth in Chapter 20 of the Constitution and Bylaws of the ELCA are briefly summarized here in order to demonstrate the guidelines followed by the Synod. A disciplinary action begins with the investigation of the facts being alleged. These procedures may include, at the discretion of the bishop, the appointment of a consultation or advisory panel to hold an informal hearing with either the complainants or the concerned pastor or both. If these efforts fail to resolve the matter, the bishop may file written charges that will be the subject of a formal hearing before a discipline hearing committee. An appellate committee exists to review the disciplinary committee's actions upon demand of the accuser or accused minister. The system was designed to provide fairness for all persons involved. Both the accused and accuser have the right to be represented, introduce evidence and witnesses, and confront and cross-examine witnesses. A record will be made of the proceedings.

## **RESPONDING TO REPORT OF COMPLAINT**

### **1. ALLEGATIONS OF ABUSE OF MINORS OR DEPENDENT ADULTS**

The bishop, bishop's assistants and members of the SAFE team will comply with the legal and ethical obligations for reporting suspected abuse of minors and dependent adults. When there is a reasonable suspicion that such abuse has occurred, a report will be filed with the Iowa Department of Human Services. While this defers the responsibility to ascertain the veracity of the allegations to the state authorities and may initially supercede some of the procedures outlined below, it ultimately remains the responsibility of the synod to ascertain the veracity and the seriousness of the allegations for its purposes and to follow as many of the procedures outlined below as possible.

### **2. CLAIMANT CONFERENCE.**

The first step in the investigation of allegations of sexual misconduct against an ordained minister is a confidential meeting by the bishop or an assistant to the bishop with each person making the allegations (herein sometimes called "the complainant") in order to hear and evaluate the complainant's story. The complainant will be assured of the confidential nature of this conference and may be accompanied by another person. The bishop must evaluate the seriousness of the allegations and the credibility of the information presented in order to determine the appropriate course of action. More than one meeting may be necessary to establish the degree of trust and rapport necessary for a full and frank discussion of the allegations and their implications.

### **3. CREDIBILITY.**

The Synod will not proceed with the actions described below unless and until the bishop is satisfied that the allegations being made are credible. In this context, allegations may be deemed credible if a reasonable person would believe under all the facts and circumstances that the allegations merit further consideration. If the bishop determines the allegations are credible, and the complainant is available and willing to proceed with a complaint, the bishop shall proceed as set forth below. It is possible that the bishop shall determine the allegations are credible, but if there is no available complainant or the complainant is not willing to proceed with a complaint as delineated below, then the bishop may be unable to proceed.

The bishop may find the allegations are not credible. If the bishop determines the allegations are not credible, he shall notify the accused pastor of the allegations (if the pastor has not already been made aware of the complaint) and of the bishop's finding of non-credibility. The bishop may in his discretion place a letter in the pastor's file with the circumstances of the allegation and the determination of non-credibility. The bishop may also take steps to restore the accused pastor's credibility, as the bishop deems appropriate on a case by case basis.

### **4. COMPLAINANT'S INFORMATION AND SUPPORT.**

Assuming the bishop is satisfied that the allegations are credible; the complainant will be informed of the nature and steps involved in the ELCA's disciplinary procedures, including the possibility of a hearing. At this early stage a complainant need not necessarily have decided to testify if a hearing is held, but will be asked to make a commitment to sign a written statement, as discussed in the next paragraph. The complainant will be offered the opportunity to have a designated advocate present with them in all meetings to advocate for their interests and provide support as the process moves forward. The advocate will be mutually determined, offered by the bishop based on the advocate's knowledge of the procedures of the church and other expertise, but chosen by the complainant.

## **5. COMMITMENT TO WRITTEN STATEMENT.**

Assuming the complainant desires to pursue the complaint, he/she will be invited to prepare and sign a written statement containing a summary of relevant events. The written statement shall include facts as known to the complainant and include a signed promise that the facts have been stated as known to them. The Synod will offer assistance to the complainant in preparing the complaint.

The statement itself will not be made available to anyone other than the Synod's attorney, the bishop and the bishop's assistants or advisors, and will not be given to any other persons unless the person who signed the statement gives written permission. The ELCA's disciplinary procedures, unlike the procedures involved in civil litigation, do not provide for pretrial discovery, so the statement itself will not ordinarily be presented to either the consultation or advisory panel or the discipline hearing committee. Nor will the statement be voluntarily disclosed to the pastor, the pastor's attorney, or the pastor's congregation. The statement is subject to involuntary disclosure only through a court order or other legal process.

## **6. FURTHER INVESTIGATION: DISCRETION.**

Depending on the nature of the information presented, further investigation may be undertaken prior to the actions described below. The bishop may investigate further at this stage to the extent the bishop deems it necessary under the facts of the case in order to insure that the charges under consideration are as comprehensive as reasonably appropriate. If information is readily available which would support the inclusion of additional allegations, those allegations should be included at the outset of the process to avoid later disruption and delay. However, the investigation at this stage need not be exhaustive. The focus should be on obtaining information that bears on the plausibility of the allegations and the credibility of the complainants. Should disciplinary procedures prove necessary, further investigation can be undertaken based on information then available.

The investigation might not involve a meeting between the bishop and the pastor. A pastor who in fact has been involved in sexual misconduct may be in a position to unfairly and unscrupulously influence future events or to threaten or harm complainants upon becoming aware of the allegations before the Synod has determined whether or not formal disciplinary proceedings should be invoked.

## **B. PREPARATION OF CHARGES**

If the bishop is satisfied that the allegations being made are credible and the (complainants) have documented their allegations in statements and are willing to cooperate in further proceedings, the bishop will have formal charges prepared. In compliance with 20.21.03 of the ELCA Bylaws, the charges must be specific and in writing, and, in cases of alleged sexual misconduct, will ordinarily be subscribed to by the bishop. The drafting of the charges at this stage does not mean that a final decision has been made to proceed to discipline. Rather, the purpose of preparing formal charges is to bring into focus the issues raised by the allegations.

## **C. MEETING WITH THE ACCUSED PASTOR**

If it is determined to proceed further with the complaint, the bishop will then schedule a meeting with the accused pastor. At this meeting, the bishop will inform the pastor of the allegations that have been made and explain the ELCA's disciplinary procedures. The extent to which the bishop informs the pastor of the details of the allegations is within the discretion of the bishop and will depend upon the circumstances of each case. The bishop will also provide copies of

Chapter 20 of the ELCA Constitution and Bylaws and other relevant materials, including this document. While the charges should be in reasonably final form at the time of this meeting, they need not be served at that meeting.

Unless the bishop is persuaded during the meeting that the allegations previously investigated and reviewed are somehow not credible or the bishop concludes there is good cause for further investigation, the pastor will be advised that disciplinary proceedings will take place unless he/she submits his/her resignation. The scope of the resignation requested will depend on the nature of the allegations. In most cases, especially when more than one person has signed a written statement documenting alleged sexual misconduct, the pastor will be advised that discipline will be initiated unless he/she resigns from his/her current position and from the ELCA clergy roster.

In some circumstances, it may be more appropriate for the bishop to request the pastor to resign from his/her current position or practice ministry in another restricted way. In such a circumstance, the pastor may be expected to undergo a psycho-diagnostic evaluation by a mental health professional selected by the bishop. Insistence on the pastor's resignation from a present ministry is a possible consequence even in those rare cases where removal from the clergy roster is not sought.

The pastor will also be advised at the conclusion of the meeting that he/she will be given a reasonable period of time to consult with his/her family or other advisors in order to determine his/her course of action. What is "reasonable" may vary according to individual circumstances, but typically a week should be the outside limit. An attempt by the pastor to delay his/her decision unreasonably will generally result in the initiation of disciplinary proceedings.

If the pastor decides to resign, the Synod will make disclosure to the congregation, as it deems appropriate and will work with the congregational council to resolve transition issues such as the appropriate time for the ending of the pastor's active ministry in that congregation. To the extent feasible under the circumstances, the Synod will also attempt to work with the pastor and his/her family to facilitate their transition.

If the pastor decides not to resign, the bishop may begin disciplinary proceedings as provided in the ELCA Constitution and Bylaws.

### **CONSULTATION/ADVISORY PANEL**

The Synod recognizes that bringing charges of sexual misconduct against a member of the clergy is an extremely serious matter. In order to provide for additional careful consideration of the charges prior to invocation of the disciplinary process by the filing of formal written charges, the bishop and the Synod's attorney, at the bishop's discretion, may review the entire matter or selected aspects thereof with either a consultation or advisory panel of 5 persons (3 ordained ministers and 2 lay persons). If the bishop elects to follow this process, ELCA Bylaw 20.21.04 provides:

*"A consultation panel or advisory panel shall advise the synodical bishop as to whether or not the bishop should bring charges or may make other recommendation for resolution of the controversy that would not involve proceedings before a discipline hearing committee. To these ends, the panel may meet with complaining witnesses as well as with the concerned ordained minister. If requested by the synodical bishop, members of the panel may also assist in the presentation of evidence and examination of witnesses before a discipline hearing committee."*

## **DISCLOSURE TO CONGREGATIONS**

Decisions as to how allegations or admissions of sexual misconduct by a pastor should be disclosed to his/her congregation must be made on a case-by-case basis. As a general rule, however, the bishop will work with the leadership and council of the congregation involved in determining the most appropriate means of disclosure.

The bishop may make disclosure in another congregation where the pastor has previously served, or the bishop may recommend disclosure to the appropriate bishop if the congregation is in another synod. The primary purpose is to encourage any additional and to date unknown victims to come forward and receive assistance and care from the proper church body. In all cases of disclosure where victims are known to the bishop and are members of the congregation in which the disclosure will take place, care will be taken to preserve the anonymity of the victims/complainants and to minimize as much as possible any re-victimization as a result of the disclosure process. The facts of the misconduct will be disclosed in a manner that will protect the anonymity of complainants and victims as much as possible.

## **CONCLUSION**

These matters are difficult to confront and resolve. Deep wounds, spiritual and emotional, result from the boundaries violated by pastors. Lives are disrupted by allegations and admissions of misconduct. It is the synod's goal to eliminate sexual misconduct. Recognizing it exists is a first step. All members of the synod are invited to share in this worthy goal, as we pledge to continue to deal with the problem truthfully and responsibly.