

Northeastern Pennsylvania Synod, ELCA

POLICY ON SEXUAL MISCONDUCT OF ROSTERED MINISTERS

*Adopted by the Synod Council of the
Northeastern Pennsylvania Synod, ELCA on September 29, 1994
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DEFINITIONS

Advisor: Member of the synod staff assigned by the bishop to assist in coordination and implementation of the Policy on Sexual Misconduct of Rostered Ministers and to be a primary participant as cases arise.

Complainant: A person who reports sexual misconduct to the synod bishop or staff.

Parishioner: Includes not only those individuals who are on a congregation's rolls, but also all other individuals who relate with the rostered minister within the context of a church-sponsored function or the rostered minister's responsibilities.

Employee: An individual who works for an organization or congregation which is served by a rostered minister.

Recorder: Anyone appointed by the bishop to keep an official record of the process.

Rostered minister: Includes pastors or deacons assigned to this synod, no matter where they serve, including those on leave from call or retired. A rostered minister need not receive remuneration for services rendered for the parishioner.

Sexual misconduct: Includes any of the following actions by a rostered minister, whether or not occurring with consent and regardless of whether it occurred during any counseling, consultation, assessment, interview, or any other meeting or contact:

1. Verbal or physical conduct or communication of a sexual nature with anyone other than the rostered minister's spouse, including by internet or social media, such as:
 - a. Sexual conduct or communication that creates an intimidating, hostile, or offensive environment;
 - b. Requiring submission to sexual conduct or communication in order to obtain the services of the church or to be employed there;
 - c. Attempts to punish rejection of, or to reward submission to, sexual conduct by one seeking services or employment within the church;
 - c. Sexual conduct or communication that interferes with employment or the services received from the church or those affiliated with the church.

2. Sexual contact, which includes sexual intercourse or any intrusion, or the touching of or contact with anyone other than the rostered minister's spouse for the purpose of sexual gratification or arousal.
3. Request by the rostered minister for conduct described in the preceding item.
4. The observation by a rostered minister of anyone other than the roster minister's spouse engaging in self-stimulation.
5. Requesting, permitting, or directing observation by anyone other than the rostered minister's spouse engaging in self-stimulation.

Victim Advocate: A person providing support to the alleged victim during the complaint process.

EDUCATION AWARENESS PROGRAM

The Synod is concerned about all types of inappropriate sexual behavior by rostered ministers, regardless of whether or how the misconduct is characterized by the law or by the governing documents of the ELCA. This policy is intended to address those types of sexual misconduct that may lead to discipline of a rostered minister under Chapter 20 of *Constitutions, Bylaws, and Continuing Resolutions of the Evangelical Lutheran Church in America*. These distinctions should not concern a person who is troubled about the sexual conduct of a pastor or rostered layperson. Any inappropriate sexual behavior should be reported to the church.

This Statement of Policy assumes that the rostered person who is accused of sexual misconduct is under call to a congregation, but it may also be adapted to calls in other circumstances. Any sexual misconduct committed by one of these persons should be reported to the Synod, including, but not limited to, any sexual contact between the rostered person and a congregant, counselee, employee, or volunteer.

- A. The synod shall provide an education awareness program for all rostered ministers. This program will define issues; highlight the problems of sexual abuse by rostered ministers; identify areas of vulnerability; provide strategies for preventing incidents; indicate the effect of sexual misconduct upon congregations, parishioners, and the families of rostered ministers; describe the process for reporting misconduct; and provide a forum for the explanation and discussion of the synod policy. The synod shall provide similar programming for congregations and agencies upon request.
- B. The synod secretary shall send the Policy on Sexual Misconduct of Rostered Ministers to rostered ministers, each congregation council, and agencies and institutions of the synod, and to the synod Committees on Consultation and on Discipline every three years.
- C. The advisors along with the bishop shall develop an education awareness workshop for rostered ministers.
 1. Initial workshops will be offered initially in two or three locations. These workshops will explain and discuss the policy more fully.

2. Upon completion of a workshop, rostered ministers shall sign a statement indicating that they attended the workshop and that they understand and are aware of the synod's Policy on Sexual Misconduct of Rostered Ministers. The signed statement will be placed in each rostered minister's permanent file.
 3. All rostered ministers, congregations, institutions, and agencies will be notified of the synod policy requiring rostered ministers to attend a workshop at least every three years and of the dates and places of the workshops.
- D. Upon completion of the series of workshops, the bishop's office will compare the synod roster and the list of workshop participants. For any rostered minister who has not attended a workshop:
1. The bishop's office will notify the rostered minister of his or her need to participate in the next program. If the rostered minister fails to attend the next program, the bishop's office will notify the rostered minister's congregation council or agency board that he or she has not complied with this synod policy;
 2. The rostered minister shall not be eligible for a synod call or for a recommendation for a congregational call until the requirement is fulfilled, or until some equivalent education, as determined by the bishop, is completed.
- E. An education awareness workshop will be held regularly for those who are new to the synod or who have not previously attended a workshop. As part of the call process, all individuals shall receive a copy of the Policy on Sexual Misconduct of Rostered Ministers.

THE COMPLAINT PROCESS

A. INITIAL REPORT

1. The initial report concerning a violation of sexual boundaries on the part of a rostered minister may come from the alleged victim(s), a member of the alleged victim(s)' family, or a witness to the unethical behavior. If the report does not come directly from the alleged victim, efforts shall be made to encourage that person to come forward. Taking action on the basis of hearsay is unlikely.
2. The report shall be made to the bishop or to an associate of the bishop with the understanding that, in the latter case, the associate of the bishop will confer with the bishop immediately.
3. Rostered ministers are obligated to share with the bishop complaints related to alleged sexual misconduct shared with them about a rostered colleague that are not confidential under 7.45 of the Constitution, Bylaws, and Continuing Resolutions of the ELCA.
4. In cases where a minor is the alleged victim, civil authorities, as well as the Bishop's Office, shall be contacted immediately.

B. CONTACT WITH THE BISHOP

1. The bishop shall arrange for an interview with the alleged victim(s) as quickly as possible. If this is not possible, a telephone interview may be conducted.
2. The primary purpose of the interview(s) is to gather information, arrange for care for the alleged victim(s), and to review possible courses of action.
3. Attending the interview(s) shall be the bishop, a member of synod staff who shall act as recorder, and the alleged victim(s). The alleged victim(s) shall be encouraged to bring a support person.
4. The bishop will encourage the alleged victim(s) to select a support person (e.g., friend, therapist or counselor, pastor) who could:
 - a. Provide support for the alleged victim(s);
 - b. Assist the alleged victim(s) in bringing to light the full story of the alleged misconduct;
 - c. Assist the alleged victim(s) in understanding the process.
5. The bishop will discuss with the complainant the possibility that her or his identity may become known to the accused or others. As far as possible, the bishop and staff will respect the wishes of the complainant regarding confidentiality. However, the bishop or staff may be required by civil law or by governing documents of the ELCA to disclose the identity of the complainant. Also, the identity of the complainant may be revealed by others or become known despite the best efforts of the Synod to protect it. The Synod cannot guarantee confidentiality to the complainant.
6. If the bishop is unable to oversee the case, the bishop or executive associate of the bishop may designate a member of synod staff to oversee it.
7. The recorder shall begin the process of keeping a detailed log and minutes of all meetings and contacts between synod authorities and the victim(s). This step is the beginning of the formal complaint process.

C. INITIAL INVESTIGATION OF THE COMPLAINT

1. The bishop, together with such persons as the bishop designates, will engage in an initial review of the complaint to determine what additional investigation is necessary, whether there may be additional victim(s), how the alleged victim's (s') story can be best documented, whether state law may have implications for the process, whether other synods or institutions need to be involved, how the alleged victim(s)' story may be corroborated, whether immediate intervention with the rostered minister in question is necessary, and like matters.
2. The initial investigation also includes review of records and documentation provided by the victim, review of synod records, and talking with others, who may include prior and succeeding pastors, persons with knowledge identified by the

victim, etc.

3. At the same time, the bishop should determine how to provide for the pastoral care and the needs of the alleged victim(s), and to determine ways to keep the alleged victim(s) informed of developments.

D. CONVERSATION WITH THE ROSTERED MINISTER

1. The bishop will typically contact the accused rostered minister for conversation after the initial investigation is complete. The bishop should emphasize to the rostered minister that the meeting is not confidential.
2. The bishop, in the company of a staff member who shall act as recorder, will provide the rostered minister with information on the complaints made against her/him, ask her/him for an immediate initial response to those complaints, describe the synod's policy and procedure, discuss options, and make recommendations to the rostered minister and provide for pastoral care for her/him. The bishop should not disclose the identity of the alleged victim(s) to the rostered minister.
3. The rostered minister may bring a support person to conversations during the process.
4. The bishop shall offer to meet with the rostered minister's family to arrange for pastoral care and counseling for the rostered minister, spouse, and family. The bishop will urge the spouse and family to have professional counseling. If no meeting with the bishop is scheduled with the rostered minister's family, the bishop will attempt phone contact with the spouse as soon as possible.
5. The bishop should also clarify that the rostered minister in question is to have no contact with possible victim(s) and is not to engage in or cause reprisal or retaliation of any kind against the victim(s), or who the rostered minister might believe the victim(s) to be.
6. The bishop should determine ways to keep the rostered minister informed of developments.
7. In appropriate cases, the bishop may ask the pastor to resign his or her call or resign from the clergy roster of the ELCA. The bishop cannot force the pastor to submit a resignation.

E. ASSESSING THE INFORMATION

1. The bishop shall determine a fair and equitable response to the complaint, keeping in mind that changed circumstances may require changes in direction as the matter progresses. These options may include no further action; further investigation; requesting the rostered minister to undergo a psycho-diagnostic evaluation; seeking a resolution by consulting directly with the parties; requesting the rostered minister's congregation to take some action; requesting the rostered minister's resignation; convening a consultation or advisory panel; or proceeding directly to written charges and hearing before a discipline hearing committee. The bishop may also need to decide whether temporary suspension pursuant to ELCA 20.21.23 and 20.21.24 or 20.22.06 and 20.22.07 is in order.

F. CONSULTATION OR BISHOP'S 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 bishop's panel. The function of a consultation or bishop's panel is described at length in the ELCA Constitution and Bylaws.

Essentially, a consultation or bishop's 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 do its own investigation including interviewing the complainant, the rostered minister, the bishop, the bishop's designee, and 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 consultation or bishop's panel 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 there is no corroborating evidence supporting either version. Numerous other reasons may also cause the bishop to call for a consultation or advisory panel or the bishop may decide to utilize such panels routinely.

G. FORMAL HEARING

Disciplinary proceedings are the process by which the ELCA determines if a rostered minister is guilty of the charges and, if so, what the penalty should be. The process is governed by Chapter 20 of the *Constitutions, Bylaws, and Continuing Resolutions of the Evangelical Lutheran Church in America* and by the Rules Governing Disciplinary Proceedings. A rostered minister may be disciplined for committing "conduct incompatible with the character of the ministerial office," which according to *Definitions and Guidelines for Discipline of Ordained Ministers* includes "[a]dultery, 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, generally the bishop as "accuser" will initiate the proceedings against a rostered minister, as the "accused," by filing written charges setting forth the offense that the rostered minister is accused of committing, detailing the facts supporting the charge, and describing any other circumstances concerning the alleged misconduct. A committee of twelve persons – six from a panel elected by the Synod and six from a panel elected by the Churchwide Assembly – are convened to hold a hearing on the charges. The hearing resembles a court trial, at which an appointed hearing officer presides. The bishop presents testimony and other evidence in support of the charges, and then the rostered minister presents testimony and other evidence in opposition of the charges. The governing documents of the ELCA provide for certain rights for the accuser, the accused, and the witnesses. Typically, a bishop will not initiate formal disciplinary proceedings unless the complainant agrees to be a witness against the rostered minister, but that is not always the case.

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 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 rostered minister's roster of the ELCA for a designated period of time or until the rostered minister complies with specified conditions, or removal from the rostered minister's roster. The discipline hearing committee's decision is generally made about four months after charges are filed. There is a process for appeals to the churchwide Committee on Appeals.

DISCLOSURE

A. NATURE OF DISCLOSURE

1. To protect the privacy of those harmed by the rostered minister, only the following will be disclosed:
 - a. The fact that the rostered minister has been accused of, admitted to, resigned, or been found guilty of committing sexual misconduct;
 - b. Whether the alleged victim(s) or actual victim(s) was/were an adult or a minor at the time of the alleged or actual misconduct.
 - c. Whether the alleged victim(s) or actual victim(s) was a member of the rostered minister's congregation or agency or a person to whom the rostered minister was providing pastoral care.
2. Disclosure will almost never include the name of the complainant(s) or alleged victim(s) or actual victim(s) or facts from which she or he could readily be identified.
3. If the rostered minister has denied the allegations, that fact will also be disclosed.

B. DISCLOSURE TO THE ROSTERED MINISTER'S CONGREGATION OR AGENCY

1. Prior to disclosure to the congregation or agency, the congregation's staff or appropriate agency personnel will be informed.
2. Appropriate disclosure of a rostered minister's alleged or actual sexual misconduct will be made to the congregation or agency in which the rostered minister is employed or from which the church worker has resigned to avoid disciplinary proceedings. Updates may be given when or if new information is discovered, as appropriate.
3. The method for disclosing allegations or admissions of sexual misconduct by a rostered minister to the congregation or agency will be decided on a case-by-case

basis. Synod staff will work with the leadership of the congregation or agency involved to determine the most appropriate means of disclosure.

C. DISCLOSURE TO PREVIOUSLY SERVED CONGREGATIONS OR AGENCIES

The bishop will contact the congregation council or appropriate persons in agencies in which the church worker previously served as paid staff or as a volunteer to inform them of the church worker's alleged or actual sexual misconduct. The bishop will determine with these persons if and how the congregation or agency shall be informed. Disclosure also will be made to synods where the rostered minister previously served.

D. ADDITIONAL DISCLOSURE

Disclosure may be made in other settings, or to other individuals, as deemed appropriate by the office of the bishop, in consultation with the congregation council. This may include, but is not limited to cluster groups, professional leaders' groups, ecumenical colleagues. Such communication may be written or oral.

E. DISCLOSURE TO THE MEDIA

1. Media disclosure should be determined on a case by case basis.
2. A single individual representing the bishop's office and the executive committee of the congregation council or agency board shall serve as a spokesperson for both groups, disclosing as much as necessary on a case-by-case basis.
3. Appropriate synod staff and the executive committee of the congregation council or agency board will be prepared to answer inquiries from the media.
4. This policy document, upon request, shall be made available to the media and to any interested party.

CARE OF CONGREGATIONS AND AGENCIES

A. APPOINTMENT OF A LIAISON

1. A synod staff person or other liaison shall be appointed by the bishop to work with the congregation or agency served by the rostered minister, to provide education and to enable the healing process to begin.
2. The staff of the congregation or agency shall be encouraged to name an ordained person from outside the congregation's or agency's staff to serve as the staff's pastor during the process. If necessary, the bishop shall appoint an individual(s) to provide pastoral care to the church worker's colleagues.
3. If a pastoral vacancy occurs, a transition pastor with skills in this type of intervention should be appointed to care for the congregation and the staff.

CONGREGATIONAL AFTER CARE

A. TRANSITION PERIOD

1. The transition pastor serving the congregation may choose to participate in team meetings, which will include a consultant, a pastor/mentor who has served in a similar capacity, a member of the bishop's staff, and other congregational staff members (as appropriate).
2. Instead of meeting with a team of individuals, the transition pastor may choose to meet with any of the above-named persons individually. Should the transition pastor choose to meet with a consultant, the cost of the consultant will be paid by the Office of the Bishop.
3. During this period, there shall be regular contact between the associate of the bishop for the mission district and the congregation council.

B. NEW PASTOR

1. When a new pastor is called, that person may choose to take advantage of the support offered above. The interim will be available for meetings as requested by the newly-called pastor.
2. At the first and second anniversary following the church worker's resignation or removal, the above-mentioned team, or some part of it, will meet with the council and/or other appropriate group to assess the climate of the congregation.