

Northwest Washington Synod of the  
Evangelical Lutheran Church in America

**Statement of Policy Regarding Sexual Misconduct  
By Ordained Ministers, Associates in Ministry  
and Others on the ELCA Roster Maintained by the Synod**  
*Adopted by Northwest Washington Synod Council January 13, 1996*

The Northwest Washington Synod ("Synod") of the Evangelical Lutheran Church in America ("ELCA") will not tolerate sexual misconduct. The Synod is committed to preventing sexual misconduct within the Church and responding with justice and compassion when such misconduct occurs. This Statement of Policy describes how the Synod will act upon these commitments.

## I. INTRODUCTION

### A. Definitions

**1. "Sexual Misconduct."** Federal and state law make distinctions among various types of sexual misconduct, such as "sexual harassment," "sexual abuse," and "sexual assault." Similarly, the governing documents of the ELCA define what types of sexual misconduct can result in the discipline of a rostered person. Some types of sexual misconduct may provide grounds for discipline but may not be unlawful.

The Synod is concerned about all types of sexual misconduct by these professionals, regardless of whether or how the misconduct is characterized by the law or by the governing documents of the ELCA. Any sexual misconduct committed by a professional rostered person should be reported to the Synod, including, but not limited to, any sexual contact between the professional and a congregant, counselee, employee, or volunteer.

It should be noted that the Synod may not be able to assume primary responsibility for addressing all allegations of sexual misconduct. For example, if a rostered person who is under call to a congregation is accused of sexually harassing another of the congregation's employees, civil law may require that the congregation take timely and appropriate action which may prevent the Synod from interfering in the situation.

**2. "Complainant."** As used in this Statement of Policy, "complainant" means a person who reports sexual misconduct to the Synod.

**3. "Rostered Person."** As used in this Statement of Policy, "rostered person" includes all rostered personnel (ordained ministers, associates in ministry, and others on the ELCA rosters maintained by the Synod). The Synod will not be responsible for accusations against non-rostered, non-called congregational employees. This responsibility shall reside with the hiring congregation or agency.

**4. "Bishop."** As used in this Statement of Policy, "bishop" includes both bishop and/or a person designated by the bishop ("bishop's designee") to act and investigate in his or her stead.

## **B. The Role of Congregations**

The Synod and its member congregations have different responsibilities and thus different roles to play in responding to reports of sexual misconduct by rostered persons.

Each ELCA congregation calls its own rostered persons, determines its rostered persons' duties and responsibilities, supervises its rostered persons' day-to-day ministry, and decides whether to terminate its rostered persons' call. The Synod has neither the authority nor the ability to make those decisions. Obviously, then, the Synod cannot be a safe place unless every one of its member congregations shares its commitment to ending sexual misconduct by rostered persons.

The Synod's role is essentially two-fold. First, the bishop is responsible for providing pastoral care and leadership to the Synod's congregations and rostered persons. Reports of clergy sexual misconduct by rostered persons invariably create an acute need for such care and leadership. Second, rostered persons who commit sexual misconduct may be disciplined—that is, they may be suspended or removed 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.

This Statement of Policy is the Synod's, and therefore it says little about the role played by congregations in preventing sexual misconduct by rostered persons. This should not obscure the fact that congregations also have a vital role to play. Congregations should encourage rostered and non-rostered staff to participate in educational events to prevent sexual misconduct.

## **C. Disclaimers**

1. Every report of sexual misconduct by rostered persons 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 sexual misconduct by rostered persons. It will not be appropriate or even possible for the Synod to follow this approach in every case.

2. When the Synod ensures pastoral care and leadership in the wake of sexual misconduct by rostered persons, it is performing acts of ministry. The freedom of the Synod to decide for itself how God has called it to minister to those harmed by sexual misconduct is a precious one that is constitutionally protected from governmental interference. The same is true of the Synod's freedom to decide who will be on its rosters, and of the freedom of each congregation to decide who will preach and teach from its pulpit. Nothing in this Statement of Policy is intended to diminish these freedoms in any respect or to create any legal rights or responsibilities.

3. In every sexual misconduct case, the bishop and his or her staff will attempt to secure pastoral care to the alleged victim of the misconduct, the alleged victim's family, the rostered person who is accused of committing sexual misconduct, the rostered person's family, the members of the rostered person's congregation, the rostered person's colleagues,

and others. However, the bishop and the bishop's staff cannot themselves function as a pastor, counselor, advocate, attorney, or other "fiduciary" to any of these people. 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.

## **II. SYNOD POLICY**

The Synod's response to allegations of sexual misconduct will incorporate the following nine elements:

### **A. Adequate Preparation**

The Synod is committed to preventing sexual misconduct by rostered persons in the following ways:

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

The Synod requires all rostered persons to attend a two-day, synod-sponsored workshop on professional boundaries. The Synod will provide ongoing educational opportunities regarding sexual misconduct for pastors, other rostered persons, congregations, and others and will strongly urge congregations to take advantage of similar educational opportunities. Finally, the bishop and the bishop's staff will continue to take advantage of educational opportunities that are available to them.

The Church recognizes that society generally and congregations particularly have much to learn about sexual misconduct by rostered persons working in the Church. As the Synod's understanding of this problem changes, its Statement of Policy and its educational efforts may change as well.

These preventive 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.

It is appropriate for the bishop to have access to a group of consultants who could be utilized by the bishop in responding to the complex needs of persons accused of sexual misconduct, their families, their peers, their congregations or ministries, and their alleged victims. Members of this consultant group will not serve as part of the consultation or advisory panel that recommends a course of action to the bishop, or of the disciplinary committee convened to act upon a disciplinary process.

### **B. Initial Contact - First Response**

Even the best preventive measures cannot completely eliminate sexual misconduct

by rostered persons. The Synod must always be prepared to respond to reports of misconduct. The more open it is to receiving such reports, the more often sexual misconduct will be reported. Anyone who knows or suspects that a rostered person may have been involved in sexual misconduct should report that knowledge or suspicion to the bishop or the assistant to the bishop. If the bishop is being accused of sexual misconduct, the presiding bishop of the ELCA will be contacted.

A contact may be made with the bishop or other authorized person by mail, by telephone, or in person. The complainant need not identify herself or himself when she or he first contacts the Synod. The complainant may anonymously ask questions about how the Synod would respond to a particular complaint of misconduct. However, the Synod can do little about a report of sexual misconduct until the complainant identifies himself or herself and the rostered person involved in the alleged misconduct.

The bishop or other person contacted by the complainant will (1) assure the complainant that the Synod does not tolerate sexual misconduct and takes seriously all reports of such misconduct; (2) explain the Synod's process for responding to reports of sexual misconduct and offer to provide a copy of this Statement of Policy; (3) answer the complainant's questions about the policies and procedures of the Synod; (4) express care and concern for the complainant; (5) when the complainant is anonymous, encourage the complainant to identify himself or herself and the rostered person involved in the alleged misconduct.

The bishop or other person contacted by the complainant will also (6) offer to provide the complainant with a list of advocates who are available to provide support and to help interpret the Synod's policies and procedures. This list will include advocates who are affiliated with the ELCA and advocates who are not. The complainant will be invited to contact an advocate and be accompanied by that advocate through the reporting, investigative, and, if necessary, disciplinary processes. If the complainant requests, the Synod will contact an advocate for her or him. The complainant is welcome to use an advocate who does not appear on the list—such as a friend or family member—or to decline to use an advocate.

Promptly after a report of sexual misconduct by a rostered person has been received from an identified complainant, the bishop will interview the complainant in person or, if that is not possible, by telephone. In this and all meetings with Synod personnel, the complainant may be accompanied by a friend, family member, support person, or advocate of her or his choice. The bishop will ask the complainant to provide as much information about the sexual misconduct as the complainant is comfortable sharing. The bishop will also ask the complainant what he or she is seeking in coming forward. The complainant may be asked to commit the information to writing or to sign a written statement prepared by the Synod. The complainant will be given a copy of this Statement of Policy if he or she has not already received it. The bishop will ascertain that the complainant clearly understands the Synod's procedures for dealing with the complaint and understands the consequences of these procedures.

The bishop will discuss with the complainant how the complainant feels about the possibility that his or her identity may become known to the accused or others. Insofar as possible, the Synod will respect the wishes of the complainant regarding confidentiality.

However, at some point, the Synod may be required by civil law or by the governing documents of the ELCA (ELCA Bylaws 20.21.19) to disclose the identity of the complainant.

Also, in unusual circumstances, the fact that the bishop is responsible to the Synod may require that he or she act contrary to the wishes of the complainant. Finally, the identity of the complainant may become known despite the best efforts of the Synod to protect it. The Synod cannot guarantee confidentiality to a complainant.

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 authorities. If possible, the complainant will be notified before such a report is made.

The bishop will discuss with the complainant his or her needs for counseling or pastoral care. If the complainant requests, the bishop will help to put the complainant in touch with persons who can provide such care or counseling. Under no circumstances will any employee of the Synod (i.e. Synod office staff) function as the complainant's advocate, pastor, or counselor.

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

### **C. Initial Investigation of the Complaint**

After interviewing the complainant, the bishop will carefully investigate the information provided by the complainant. A 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; and/or (3) strictly confidential interviews of former bishops of the rostered person, those who served as assistants to former bishops of the rostered person, rostered persons who succeeded the rostered person at congregations that he or she served, rostered persons who served on the same staff with the rostered person at congregations that he or she served, rostered persons who presently serve on the same staff with the rostered person, respected members of congregations that the rostered person served, respected members of the congregation that the rostered person now serves, friends of the rostered person, and/or friends, family members, pastors or counselors of the complainant.

This preliminary investigation will be conducted as quickly and confidentially as possible under the circumstances. The purpose of the initial investigation is to determine whether there is sufficient cause to continue with the investigative and disciplinary process. If there is not sufficient cause, that conclusion will be communicated to the complainant and to those who were contacted by the bishop in the course of the preliminary investigation. All of those contacted will be asked to keep the contact in strictest confidence.

### **D. Conversation with the Rostered Person**

The bishop will usually meet with the accused rostered person after the preliminary investigation has been concluded. The bishop and the accused rostered person will each be accompanied by a person of his or her own choice. The bishop will clarify that the meeting is not confidential, and that the bishop may disclose anything that he or she is told. The bishop will also clarify that the bishop cannot act as the accused rostered person's confessor.

The bishop will provide the rostered person with all information regarding the complaint (except the name of the complainant) and ask the rostered person to respond. The bishop may ask the rostered person to reduce his or her response to writing. The bishop will also (1) assure the rostered person that, while the Synod does not tolerate sexual misconduct, the Synod will give any rostered person who denies an allegation of sexual misconduct a fair and full 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 rostered person's questions about the policies and procedures of the Synod; (4) express care and concern for the rostered person; (5) forbid the rostered person to have any contact with the complainant (if she or he is known to the rostered person), either directly or indirectly, and admonish the rostered person that any future contact between the rostered person and complainant will take place in accordance with these procedures; (6) urge the rostered person to contact an advocate who will accompany the rostered person through the investigative, and, if necessary, disciplinary processes.

The bishop will offer to provide the rostered person with a list of advocates who are available to provide support and to help interpret the Synod's policies and procedures. This list will include advocates who are affiliated with the ELCA and advocates who are not. This official advocate should not be a member of the rostered person's family.

Depending upon the nature of the allegation the bishop may ask the rostered person to agree to certain restrictions in his or her ministry until the investigation and/or disciplinary proceedings are concluded. If the rostered person refuses, the bishop may ask the supervisory body (e.g. church council, board of directors) to impose restrictions upon the ministry of the rostered person. The bishop may also ask the rostered person to take a leave of absence until the investigation and/or disciplinary proceedings are concluded. If the rostered person refuses, the bishop may ask the supervisory body to place the rostered person on involuntary leave of absence, or, in extreme circumstances, the bishop may temporarily suspend the rostered person without prejudice (ELCA Bylaws 20.21.23; 20;21.24; 20;22;06). If the accused rostered person admits the allegation and resigns from the roster of the ELCA, that admission and resignation shall be made public. The bishop cannot force the rostered person to resign; only a discipline committee hearing can remove a rostered person involuntarily from the roster.

The bishop will discuss with the rostered person his or her needs for pastoral care and professional counseling. If the rostered person requests, the bishop will help put the rostered person in touch with persons who can provide such care and counselling. Under no circumstances will any employee of the Synod (i.e. Synod office staff) function as the rostered person's advocate, pastor or counselor.

The bishop will appoint a contact person with the Synod. That contact person (who may be the bishop or bishop's designee) will keep in regular contact with the rostered

person and will inform the rostered person of significant developments. That contact person will also be available to respond to the rostered person's questions and concerns about the process.

The Church at every level (congregation, cluster, peer, synod, region and national) acknowledges its responsibility for pastoral care and support to all persons accused of sexual misconduct. That care is to be given throughout the processes of inquiry and discipline in any case, no matter what the allegation is or what level of guilt by the accused is acknowledged or determined. The person who is deemed guilty of a serious violation of sexual conduct is entitled to the fullest extent of pastoral care and support the church offers to any and all persons.

### **E. Assess the Information**

After meeting with the rostered person, the bishop will carefully review the information provided by the complainant, discovered during the preliminary investigation, and provided by the rostered person. The bishop will then decide upon a course of action. If an investigation is to be pursued, disclosure may be made to the leaders of the rostered person's congregation at a meeting of the congregational council and/or the board of directors. The Synod will then work closely with the leaders regarding appropriate disclosure to the members of the congregation. Disclosure to the members will be made by the bishop.

To protect the privacy of the complainant, only the following will be disclosed: (1) the fact that the rostered person has been accused of or admitted to committing sexual misconduct; (2) the nature of the offense (i.e. inappropriate language, touching, sexual intercourse, etc.); (3) whether the alleged victim was an adult or a minor at the time of the misconduct; and (4) whether or not the alleged victim was a member of the rostered person's congregation or a person to whom the rostered person was providing pastoral care. Disclosure will almost never include the name of the complainant or facts from which he or she could be readily identified. If the rostered person has denied the allegations, that fact will also be disclosed.

The bishop may choose among the following courses of action: no further action; requesting a rostered person to undergo a psychodiagnostic evaluation; requesting the rostered person's supervisory body to take some action; convening a consultation or advisory panel; or initiating the formal disciplinary process.

### **F. Consultation or Advisory Panel**

Reports of sexual misconduct present the 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 (ELCA Bylaws 20.21.04 to 20.21.06 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* [Dec. 5, 1993]). Essentially, a consultation or advisory panel is a small group of clergy and laypersons who are asked to make non-binding recommendations to the bishop for a course of action. Before making those recommendations, the panel will interview the complainant,

the rostered person, the bishop, a bishop's designee and/or others. If possible, the panel will seek to respond to the allegation through recommendations that are pastoral and therapeutic. If a solution does not appear possible, the panel will advise the bishop whether or not it believes that the disciplinary process should be initiated. The accused rostered person can reject the recommendations of the bishop and request a formal hearing.

### **G. Formal Hearing**

The disciplinary process is the process by which the ELCA determines if a rostered person should be suspended or removed from its clergy roster (see ELCA bylaws, chapter 20, and *Definitions and Guidelines for Discipline of Ordained Ministers* [Dec. 5, 1993]). In this process the bishop becomes the bearer of the formal petition for disciplinary action. This process is conducted at the Churchwide level (ELCA Bylaws 20.21.02 and 20.22.02).

A bishop may initiate disciplinary proceedings against a rostered person by filing written charges setting forth the offense that the rostered person 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 rostered person is alleged to have abused and the date, place, time and other circumstances of the alleged abuse. The bishop generally will not initiate formal disciplinary proceedings unless a complainant agrees to testify against the rostered person.

A committee of twelve persons is appointed as a disciplinary committee to hold a hearing on the charges (ELCA Bylaws 20.21.08). The hearing resembles a court trial. The bishop presents testimony and other evidence in support of the charges, and then the rostered person presents testimony and other evidence in opposition to the charges. The governing documents of the ELCA provide for certain rights for the bishop, the rostered person, and the complaining witnesses.

Following the hearing, the discipline hearing committee decides in a timely fashion whether the charges are true, and, if so, what discipline should be imposed. The options available include private censure and admonition, suspension from the clergy roster of the ELCA for a designated period of time or until the rostered person complies with specified conditions, or removal from the clergy roster (ELCA Bylaws 20.22.02). The decision of the disciplinary hearing committee may be appealed under the provisions of those same ELCA Bylaws.

### **H. Disclosure**

Except in unusual instances, the Synod will disclose the decisions of the disciplinary hearing committee.

### **I. Follow-up**

The Synod will work with congregations and others to help insure that care and support are available to those harmed by the sexual misconduct of its rostered persons. As noted above, the Synod cannot provide this care itself, but it will assist the primary and

secondary victims of sexual misconduct to find human and material resources that might help them on their journey to healing.

### **III. RESIGNATION**

In situations in which a rostered person resigns from a call for reasons of alleged sexual misconduct, the resignation is deemed to be a resignation from the ELCA roster. Such a person will not be eligible for reinstatement to the ELCA roster for at least five years.