



# Southeastern Minnesota Synod Policy and Procedures Regarding Sexual Misconduct by Rostered Ministers

## I

### Commitment Relationships Responsibility

#### **Grounding Values**

Rooted in God's grace and steadfast love, we are called as followers of Jesus to live a life "of bold trust in God and joyful, generous service to everyone we know and meet in daily life."<sup>1</sup> Affirming God's gracious covenant made with us in baptism, we commit to live in right relationship with God and our neighbors.

Rostered ministers serving in parishes or in specialized ministries are highly involved in the personal lives of their parishioners and people they serve. Pastors and deacons in ministry often deal with people who are in crisis situations or are otherwise vulnerable and in need of help. Members of congregations look to their rostered leaders as their spiritual leaders. Leadership inevitably connotes power. Rostered ministers may not perceive or understand the degree of power held in relationship to their congregational and community members. This power is heightened when persons come to them for counseling or spiritual help.

The power of the ministerial office contains the authority and symbols derived from God. Such symbolic authority not only gives rostered ministers power but also establishes the expectation that people may come to them without fear of exploitation or abuse. As professionals, rostered ministers should not become sexually involved with congregation members, counselees or employees of the congregation. To do so often constitutes an abuse of the power inherent in their role and substitutes personal gratification for the needs of the people served. The power of the office makes it very difficult for a rostered minister and parishioners or people they serve to be in a relationship of equality.

The Office of Ministry implies trust. The relationship between rostered ministers and those they serve has similarities to the relationship between counselors and counselees.

Minnesota Statute Chapter §604.2 strictly proscribes sexual contact of any kind between

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<sup>1</sup> <https://elca.org/Faith>

counselors and counselees and may be read broadly to include most clergy and most congregants.

When the gift of relationship with God and our neighbors is violated or used inappropriately, there is a need for accountability and just action. It is in this context that we, as a church body, establish guidelines for our conduct, actions, and ways in which we communicate with one another. These guidelines are necessary as we “continue in the covenant God made with us”<sup>2</sup> in our baptism to ensure that all people, and the church in particular, are protected from harmful or inappropriate actions, speech, communications, or other misconduct. As church, we must abide in a context that holds ourselves, and one another, to account for the sake and care of the whole church.

The following definitions and guidelines for discipline are set forth with the understanding that, following misconduct, the desired outcome is restoration of right relationships with God and with one another. This church embraces disciplinary processes which may include elements of counseling, admonition, and correction with the objective of healing and reconciliation. This church also acknowledges certain circumstances where reconciliation and restoration to the community may not be possible or may cause further harm. Particularly egregious conduct may result in suspension or removal from the roster.

### **Our commitment as a Church**

The Southeastern Minnesota Synod of the ELCA is committed to maintaining a caring Christian community free from sexual misconduct. The Church is called to create and maintain a climate in which all persons are respected, safe and cared for.

Therefore, this Synod encourages persons who have been victimized by sexual harassment or abuse to disclose such experiences.

In turn this Synod will work to hold harassers and abusers accountable and strive to offer appropriate resources and pastoral care for all concerned – individuals, families, congregations and communities.

### **The relationship between rostered ministers and congregations**

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<sup>2</sup> In the rite of Affirmation of Baptism (Evangelical Lutheran Worship, p. 236), the presiding minister asks: “You have made public profession of your faith. Do you intend to continue in the covenant God made with you in holy baptism:  
to live among God's faithful people,  
to hear the word of God and share in the Lord's supper,  
to proclaim the good news of God in Christ through word and deed,  
to serve all people, following the example of Jesus,  
and to strive for justice and peace in all the earth?”

Theologically, the relationship between rostered ministers\*\* and congregations is based on the scriptural understanding of Call. Legally, the relationship between rostered ministers and their congregations is that of employee and employer. A congregation calls its rostered minister, determines that person’s duties and responsibilities, provides day-to-day supervision, and decides if and when that person’s call needs to be terminated.

### **The relationship between rostered ministers and the Synod**

The relationship between rostered ministers and the Synod is ecclesiastical. The Synod has neither the resources nor the authority to supervise and control the daily activities of rostered ministers. But the Synod is responsible for administering the Church’s disciplinary process. If a rostered person commits “conduct incompatible with the character of the ministerial office,”<sup>3</sup> the Synod can act to remove that person from the ELCA rosters. More importantly, the Synod is charged with providing pastoral care and leadership for its member congregations. Congregations look to the Synod for assistance, advice, and care when a rostered minister is suspected of sexual misconduct.

*\*\*Rostered ministers are Ministers of Word and Sacrament and Ministers of Word and Service.*

### **The congregation’s legal responsibility**

The law requires that a congregation “take reasonable action” when it becomes aware of sexual misconduct (*MN Statute §604.2*, <https://www.revisor.mn.gov/statutes/cite/604.20>). If, for example an employee of a congregation accuses the pastor of sexual harassment, Minnesota law requires that the congregation take timely and appropriate action. The Synod can offer assistance and advice to the congregation, but it cannot fulfill the congregation’s legal obligations. This policy is not intended to diminish in any way the legal and moral responsibilities of congregations.

## II

### Reporting sexual misconduct

#### **What should be reported?**

Any sexual contact between a rostered minister and a parishioner, counselee, employee, or anyone else to whom that person is not married should be reported to the Synod and/or to the person’s employer, as should any unwelcome sexual advance, request for sexual favor,

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<sup>3</sup> See ELCA Policy document *Definitions and Guidelines for Discipline*

sexually motivated physical contact, or other verbal or physical conduct or communication of a sexual nature.

### **Who should report sexual misconduct?**

Sexual misconduct may be reported by **anyone**—including the victim or a member of the victim’s family; a member of the congregation or a concerned person(s); or a colleague of the rostered leader. The misconduct should be reported to the bishop or the bishop’s representative and, if possible, the conduct should be reported to the president of the congregation that employs the accused perpetrator. The bishop or the bishop’s representative should be notified directly by phone or in person. If it is impossible to notify the bishop’s office directly, a letter stating the complaint should be sent to the bishop.

### **What happens with the victim after the misconduct is reported?**

The bishop or bishop’s representative will attempt to meet with the alleged victim. If the victim wishes, an advocate may accompany the victim through the process of reporting and investigating.

State or county authorities may be notified. If the victim is a minor or a vulnerable adult, the Synod **may be required by law** to report the allegations to state or county authorities. Civil and/or criminal procedures against the alleged perpetrator may follow. The Synod will strive to cooperate with law enforcement agencies.

Regarding victims, it is the goal of the bishop’s office to:

- Listen respectfully to allegations**
- Affirm that the Church cares about them**
- Refer them to an advocate**
- Encourage professional therapy**
- And provide them with a copy of the Sexual Misconduct Policy**

### **What happens with the allegations after the misconduct is reported?**

Upon receipt of any allegation(s) of sexual misconduct by a rostered minister, the bishop or a representative of the bishop’s office will meet with the complainant to hear and evaluate the complaint. The bishop and their representative may attempt to gather corroborative information from appropriate sources such as the complainant, the victim, the accused, colleagues of the accused, other possible victims, and investigative reports obtained from civil authorities.

### **The allegations are recorded**

The complainant will be asked to provide the allegations via a signed written statement or through a conversation with the bishop, their designated staff member, or another witness. In instances where the complainant provides a verbal statement a staff member of the Office of the Bishop will take notes throughout the meeting. The notes will be made available to the complainant after the meeting.

To the extent possible, confidentiality will be honored throughout the process. Any statement provided by the complainant is not intended to be made available to anyone other than the bishop and bishop's staff and the Synod's legal counsel. The statement may be subject to involuntary disclosure through a court order or other legal process.

### **How does the accused become aware of the complaint against them?**

The bishop provides the rostered minister with information on the complaints made against them, provides them with the opportunity for an initial response to those complaints, describes the action the Synod intends to take in this case, discusses options, including a psychological assessment if appropriate, makes recommendations to the rostered minister, and helps to arrange for their pastoral care for. The bishop may request that the accused not contact possible complainant(s). The accused is not to engage in retaliation of any kind against the complainant(s).

Regarding the accused, it is the goal of the bishop's office to:

- Arrange for pastoral care**
- Advise the rostered minister of allegations, process and support**
- Present the allegations without bias**
- Follow due process of the ELCA disciplinary procedure**
- Provide them with a copy of the Synod's Sexual Misconduct Policy**
- Request psychological assessment when appropriate**
- Outline potential consequences to the behavior**
- Encourage professional therapy**

### **When a formal discipline hearing is necessary**

When appointed at the request of the synodical bishop, a consultation or advisory panel (*see ELCA Constitution, Chapter 20: Consultation, Discipline, Appeals, and Adjudication, <https://www.elca.org/About/Churchwide/Office-of-the-Secretary/Constitutions>*) advises the bishop.

If the bishop chooses not to use the consultation or advisory panel, or if the consultation or advisory panel is appointed but fails to resolve the situation, then the bishop must decide whether to file charges against the accused pastor and thereby initiate the disciplinary process.

If the bishop decides to do so, the bishop and one other person will meet with the accused rostered minister to identify charges and explain what action is being sought. The accused pastor will be informed of the ELCA's disciplinary process. The Synod's attorney will draft charges. In compliance with ELCA Constitution, Chapter 20: Consultation, Discipline, Appeals, and Adjudication, the charges must be specific and in writing.  
(<https://www.elca.org/About/Churchwide/Office-of-the-Secretary/Constitutions>)

### III

## Healthy disclosure

The congregation will be informed if there is evidence of a rostered person's sexual misconduct. It is healthier for a congregation to deal with the matter openly. Allegations of sexual misconduct are particularly susceptible to rumors and distortions which, over a period of time, could destroy a congregation. Disclosure of the problem is the first step in the healing process leading to the congregation's future health and wellbeing.

The Synod also discloses the misconduct in order to fulfill its mission of reaching out to those who need love, healing and reconciliation. Disclosure may also help prevent future abuse within the congregation and the community.

Finally, disclosure helps protect both the Synod and the congregation from potential legal liability for the actions of a rostered person involved in sexual misconduct. The Synod will work with the lay leadership and congregation council in determining the most appropriate means of disclosure.

Regarding the congregation, it is the goal of the bishop's office to:

- Inform the congregation of the allegations**
- Request a meeting with the congregation council**
- Request the council's invitation to meet with the congregation**
- Share the policy guidelines at the congregational meeting**
- Seek interim pastoral care where needed**
- Update council and congregation as appropriate**
- Encourage other victims to come forward**

- In consultation with the congregation, provide ongoing care and healing support for the congregation, its staff and future staff.**

## IV

### **Concluding Remarks**

God desires for humans to enjoy right relationship with one and other. Human sin breaks these relationships. This church is committed to listening to and taking seriously the concerns and experiences of victims. This church is committed to just and fair practices of accountability. The Southeastern Minnesota Synod strives to uphold these commitments.

If you have been a victim of or witness to sexual misconduct in the church, please make a report.