



Minneapolis Area Synod Policy and Procedures Regarding Sexual Misconduct by Rostered Ministers

Approved May 2019

I

God's Call, Our Commitment

God intends for the Church to be a safe place for all people to experience God's love and mercy, grow in faith, and equip themselves for ministry in the world. And yet at times the church has not been a safe place and sexual misconduct has caused injury and pain to individuals and communities. As one expression of the church, the Minneapolis Area Synod (MAS) is committed to creating and maintaining a safe climate and working to prevent sexual harassment and misconduct in all its forms. Moreover, if violations occur, the MAS will create a culture of safe reporting, promptly investigate, and support all those impacted.

The MAS has specific responsibilities related to *rostered ministers*. This includes managing the roster status of rostered ministers. The congregation has responsibility for employment matters for both rostered ministers and lay persons. The MAS will provide support, training, and resources for congregational leaders in developing their own policies and practices on preventing and responding to misconduct by rostered ministers¹, employees, volunteers, or members. Please see the [MAS website](#) for additional information and sample policies.

The particular challenges of rostered leadership

Rostered ministers serving in parishes or in specialized ministries are highly involved in the personal lives of 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 and others receiving spiritual care look to their rostered ministers as their spiritual leaders. Leadership inevitably connotes power. Rostered ministers may not perceive or understand the degree of power held in relation to their congregational and

¹ In the Evangelical Lutheran Church in America, there are two lists of professional ministers called within the church. These lists are called rosters. Pastors are ordained to the Ministry of Word and Sacrament. Deacons are ordained to the Ministry of Word and Service.

community members. This power is heightened when people come to them for counseling or spiritual help.

The power of the ministerial office contains 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 date or become sexually or emotionally involved with congregation members, counselees, or employees of the congregation, including other rostered ministers. To do so constitutes an abuse of the power inherent in their role and elevates personal gratification over 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 is considered the same as the relationship between psychotherapists and their patients. [Minnesota Statute Chapter §604.20 – 604.205](#) includes clergy members in the definition of psychotherapist, and strictly forbids sexual contact of any kind between psychotherapists and patients, and therefore prohibits sexual contact between rostered ministers and members of congregations.

II

Synod and Congregational Responsibilities for Addressing Misconduct

The relationship between rostered ministers and congregations

Legally, the relationship between rostered ministers and their congregations is that of employee and employer. Theologically, the relationship between rostered ministers and congregations is based on the scriptural understanding of call. 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. When a rostered minister engages in sexual misconduct, it is often members of their congregation or other rostered ministers or staff of the congregation who are impacted most and who first learn of misconduct.

The relationship between rostered ministers and the Synod

The relationship between rostered ministers and the Synod is ecclesiastical. With the exception of Synod staff, the Synod is not the employer and does not have the authority or the resources to supervise and control the daily activities of rostered ministers, but the Synod is primarily responsible for administering the Church's disciplinary process regarding rostered ministers. If a rostered minister commits "conduct incompatible with the character of the ministerial office," the Bishop is empowered to initiate a disciplinary process which can ultimately result in the removal of that person from the ELCA roster. If the alleged abuse involves a minor or a

vulnerable adult, the synod may have a legal responsibility to report the allegation. If the misconduct is directed toward another rostered minister, these policies and procedures apply to each rostered minister.

The relationship between the Synod and congregations

The Synod is charged with providing pastoral care and leadership for its member congregations. The Synod can offer assistance, advice, and care to the congregation, but the Synod cannot fulfill the congregation's legal obligations. This policy is not intended to diminish in any way the legal and moral responsibilities of congregations including, but not limited to, their responsibilities as employers under both Minnesota and federal law. Congregations should have up-to-date policies regarding sexual harassment and misconduct. Please see resources and sample policies on the Synod or ELCA website or consult with a human resources or employment law professional.

The relationship between the Synod and specialized ministries

In some situations, the employer does not call the rostered minister and so the letter of call is issued by the Synod Council. These specialized ministers include chaplains, campus ministers, assistants to the bishop, and other calls. To the extent that this document refers to rostered ministers serving congregations, it also refers to the rostered ministers serving schools, hospitals, and many other institutions. Each of these institutions maintain employment policies and have the authority to hire and fire rostered ministers. However, their ecclesiastical call² comes from the Synod and therefore this document covers their rostered status within the ELCA.

III

Reporting Sexual Misconduct of a Rostered Minister

Definition of Terms

Reporter *The person who makes a report.*

Complainant *The person who directly experienced misconduct.*

Accused *The rostered minister about whom the complaint is made.*

What Should Be Reported

Any sexual misconduct between a rostered minister and a parishioner, counselee, employee, or another rostered minister should be reported to the Synod and may also be reported to the rostered minister's employer. Sexual misconduct includes unwelcome sexual advances, request for sexual favor, sexually motivated physical contact, or any other verbal or physical conduct or communication of a sexual nature, such as:

² Ecclesiastical call refers to the administered call by congregations or synods of the ELCA for each professional minister of this church.

- sexual remarks, jokes, advances, leering, whistling, sexual gestures;
- sexually explicit or otherwise offensive posters, cartoons, photographs, music, video, or other media shared in any way including email, text message, social media, or other channels;
- sexual touching, fondling, molestation, assault, or other intimate physical contact;
- compelling another person to engage in a sexual act by threats or fear or undue influence;
- providing or displaying pornographic materials to another person.

Minnesota and federal laws address various types of sexual misconduct, such as sexual harassment, sexual abuse and sexual assault. Similarly, [chapter 20 of the ELCA Constitution](#) and the [Definitions and Guidelines for Discipline](#) adopted by the ELCA's Church Council define the types of sexual misconduct that can result in discipline of a rostered minister. The Synod is concerned about all types of inappropriate sexual behavior by rostered ministers. Any inappropriate sexual behavior should be reported to the Synod for investigation and appropriate action.

Discerning Readiness to Make a Report

The synod recognizes that it may be a difficult decision to make a report. When a person is deciding whether or not to make a report, local conversation partners (listed on the [synod website](#)) and the [ELCA hotline](#) (773-380-2568) can provide resources and conversation that may help in making that decision.

Who Makes a Report

Sexual misconduct may be reported by *anyone*, including the person who experiences the misconduct, a member of that person's family, a member of the congregation, a concerned person, or a colleague of the rostered minister. The MAS recognizes that reporting sexual misconduct may be difficult, but reports are essential to the health of those hurt by misconduct, the congregation, the synod, and the accused rostered minister.

How To Make a Report

The Synod seeks to remove barriers for reporting misconduct. Therefore, there are various ways to make a report including:

- To the Minneapolis Area Synod
122 W. Franklin Ave, Suite 600
Minneapolis, MN 55404
612-870-3610
- The Bishop and their staff (j.nagel@mpls-synod.org)
- [The ELCA hotline](#)
773-380-2568
- Other designees listed on the [synod website](#)

Any report will be sent to the bishop promptly. The congregational leadership is informed when sexual misconduct is substantiated.

What To Expect After Misconduct Is Reported

If you have experienced misconduct, please know that it is the goal of the Synod to:

- Listen respectfully to allegations
- Affirm the need for and provide spiritual care as desired
- Provide an opportunity for someone to advocate for you, if desired
- Encourage professional therapy
- Provide you with a copy of this policy and other relevant information

For your spouse and/or family, the Synod will:

- Affirm the need for and provide spiritual care as desired
- Encourage professional therapy
- Provide them with a copy of this policy and other relevant information

If you have been accused of misconduct, the Synod will:

- Follow the process outlined in the section entitled Process of Investigating a Complaint of Misconduct
- Affirm the need for and provide spiritual care as desired
- Encourage professional therapy
- Provide you with a copy of this policy and other relevant information
- Review possible consequences of the behavior

If your spouse and/or immediate family member has been accused of misconduct, the Synod will:

- Affirm the need for and provide spiritual care as desired
- Provide them with a copy of this policy and other relevant information
- Should the family desire consultation, the bishop's office may provide information about possible consequences and the investigative process

To the extent possible, confidentiality will be maintained throughout the process.

Certain types of misconduct (e.g. minors and vulnerable adults) will require the Synod to report the allegations to state or county authorities or to law enforcement agencies. Civil and/or criminal procedures against the accused may follow.

The Synod strongly encourages reports of any form of misconduct committed by a rostered minister, including reports from other rostered ministers. If the misconduct is directed toward another rostered minister, the same procedures for reporting are followed. The MAS is committed to supporting rostered ministers in the difficult discernment in these situations and preventing adverse impact or retaliation when possible. Should temporary leave be necessary for the complainant, the Synod will encourage the congregation to provide appropriate financial support and benefits.

IV

Process of Investigating a Complaint of Misconduct

Step One: Report of Misconduct

The allegation of misconduct against a rostered minister is reported. See the previous sections on “Who Makes a Report” and “How to Make a Report.”

Step Two: Meeting with Reporter and/or Complainant

The bishop or designee (listed above) will meet with the reporter and/or complainant to hear the nature of the allegations and the sources of the information shared. The bishop may ask another confidential person to join this conversation. If the reporter is not the complainant, the bishop or designee will then attempt to meet with the complainant. The Synod encourages the complainant to bring someone to support them through the process of report and investigation.

Step Three: Written Statement

Although not mandatory, the bishop will request a signed, written statement from the complainant. The written statement records the serious nature of the complaint and verifies the accuracy and completeness of the information discussed in the meeting in Step One.

To the extent possible, confidentiality will be maintained throughout the process. The statement is not intended to be made available to anyone other than the bishop, the Synod staff, and the Synod’s attorney. The statement may be subject to disclosure through a court order or other legal process.

Step Four: Investigation

The bishop or designee will promptly investigate each report made. During the investigation, it is the bishop’s goal to gather information and determine the extent of the accusations. Where appropriate, the bishop may attempt to gather corroborative information from sources such as the reporter, the complainant, other possible witnesses or impacted people, and investigative reports obtained from civil authorities.

Step Five: Meeting with the Accused

The bishop or designee will meet with the accused after the initial investigation is complete. It is the bishop’s goal to provide the accused rostered minister with the Synod’s process for complaints of misconduct, an unbiased report of the complaint(s) made against them, and the potential consequences of these complaints. In this meeting, the rostered minister will then have an opportunity for an initial response. The bishop may encourage a psychological assessment, professional therapy, and/or help arrange for pastoral care. The bishop will instruct the accused to refrain from contacting the complainant or reporter(s), or engaging in retaliation of any kind against them.

Step Six: Consultation Committee or Advisory Panel

If possible, the bishop will attempt to resolve the situation by consultation, using the assistance of a consultation panel or an advisory panel.³ Such consultation will help the bishop determine whether or not to bring charges through the Church's disciplinary process. The consultation panel or advisory panel may recommend that the rostered minister resign from the current call and/or from the roster of ministers. Whenever possible, the consultation panel or advisory panel will try to resolve the issue through recommendations that are pastoral and therapeutic. If the recommendations are accepted by the accused, a disciplinary hearing will not be necessary.

Step Seven: Disciplinary Hearing

If the bishop is unable to resolve the situation through the Consultation Committee or advisory panel process, then the bishop must decide whether to file charges against the accused rostered minister and thereby initiate the ELCA's disciplinary process.

If the bishop decides to initiate that process, the bishop and one other person will meet with the accused rostered minister to identify charges and explain the action being sought. The accused rostered minister will be informed of the ELCA's disciplinary process. The Synod's attorney will draft charges. In compliance with [ELCA Constitution §20.21.21](#), the charges must be specific and in writing. Outcomes may include private censure and admonition by the Bishop of the synod, suspension from the office and functions of the ministry, or removal from the ministry of this church.

Step Eight: Informing the Complainant

Throughout the process, the bishop will keep the complainant as informed as possible. The complainant will be informed of the final results. The bishop will affirm the need for and provide spiritual care and support as desired. The bishop will also encourage professional therapy.

V

³ ELCA Constitution 20.21.04 When there are indications that a cause for discipline may exist and before charges are made, efforts shall be made by the bishop of the synod to resolve the situation by consultation; for assistance in these efforts, the bishop may utilize either a consultation panel or an advisory panel as herein provided:

a. When requested by the synodical bishop, a consultation panel consisting of five persons (three ministers of Word and Sacrament and two laypersons) appointed from the members of the Consultation Committee of the synod by the synodical bishop, or, at the request of the synodical bishop, by the Synod Council's Executive Committee or other committee authorized to do so by the Synod Council, shall assist the synodical bishop in efforts to resolve a situation by consultation.

b. When requested by the synodical bishop, an advisory panel consisting of five persons (three ministers of Word and Sacrament and two laypersons) appointed by the synodical bishop shall assist the synodical bishop in efforts to resolve a situation by consultation.

Healthy Congregational Disclosure

The congregational leadership is informed when sexual misconduct is substantiated. Allegations of sexual misconduct are particularly susceptible to rumors and distortions which over a period of time can destroy a congregation; therefore, it is healthier for a congregation to deal with the matter openly. Disclosure of the problem is the first step in the healing process leading to the congregation's future health and wellbeing.

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

The bishop will work with the lay leadership and the congregation council in determining the most appropriate time and means of disclosure.

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

- Inform the congregational leadership of substantiated allegations
- Disclose the investigative process
- Request a meeting with the council
- Help the council draft a letter to be distributed to each member of the congregation
- Seek the council's invitation to meet with the congregation to disclose the allegations and the process
- Seek interim spiritual leadership and care where needed for the congregation and staff
- Update council and congregation regularly
- Encourage other complainants to come forward
- Should the complainant be a rostered minister or another employee of the congregation, the Synod will encourage the congregation to provide appropriate financial support and benefits.

VI

Rebuilding Trust

Restoring trust and the task of healing is a journey that takes a community of support, time, and commitment. Healing requires personal contact such as listening to stories, responding to and standing alongside the abused. This journey toward healing cannot be ignored or set aside, but needs attention and hard work. This is gospel work, holy work, liberative work, justice work.

[FaithTrust Institute](#) (a multifaith, multicultural training and education organization working to end sexual and domestic violence) offers the following "Elements of Justice-Making" to assist congregations in rebuilding trust:

1. **Truth-telling:** Give voice to the reality of the abuse.
2. **Acknowledging the violation:** Hear the truth, name the abuse and condemn it as wrong.
3. **Compassion:** Listen to and empathize with the person who experienced the misconduct.
4. **Protecting the vulnerable:** Take steps to prevent further abuse.
5. **Accountability:** The abuser is confronted and negative consequences are imposed; this step makes repentance possible.
6. **Restitution:** Make symbolic restitution of what was lost; give a tangible means to acknowledge the wrongfulness of the abuse and the harm done and to bring about healing (e.g., payment for therapy).
7. **Vindication:** To aid the process of setting those impacted by sexual misconduct free from the pain caused by the abuse.⁴

Please see resources on the synod website for assistance with the complex task of healing and rebuilding trust.

⁴ [Faith Trust Institute](#), *Clergy Misconduct: Sexual Abuse in the Ministerial Relationship*