Central/Southern Illinois Synod
Evangelical Lutheran Church in America

STATEMENT OF POLICY REGARDING SEXUAL MISCONDUCT

BY MEMBERS OF THE CLERGY AND ROSTERED LAY PERSONS

Adopted January 18, 1997, by the Synod Council

I. Introduction

The Central Southern Illinois Synod ("Synod") of the Evangelical Lutheran Church in America ("ELCA") is committed to preventing sexual misconduct within the Church and to responding with justice and compassion when such misconduct occurs. This Statement of Policy describes how the Synod intends to fulfill these commitments. The Synod recognizes that responding to allegations of sexual misconduct requires determination, sensitivity, flexibility, and respect for all persons affected, including the victim, the rostered person, their families and friends, the congregation, the Synod, and the whole church. This policy is intended to provide a framework for guidance in dealing with these cases while preserving the Synod's discretion to treat each person and each case in the manner necessitated by differing facts, circumstances, and needs of those affected. This policy cannot be imposed as rigid law, binding the Synod and others to its dictates; it must be interpreted and applied compassionately in accordance with the theological and biblical principles of the Gospel.

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 a rostered person being disciplined. This policy is intended to address those types of sexual misconduct that may lead to discipline of a pastor or rostered lay person 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 lay person. The Synod is concerned about all types of sexual misconduct by these persons, 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 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.

   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 pastor 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, as employer, take timely and appropriate action; the law 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. This Statement of Policy will assume that the complainant is also the victim of one alleged sexual misconduct, but that may not always be the case.

3. **"Pastor" or "clergy."**

   As used in the Statement of Policy, "rostered person," "pastor," and "clergy" include ordained ministers and rostered lay persons such as associates in ministry, deaconesses, and diaconal ministers. This Statement of Policy will assume 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.

B. The role of the congregations

The Synod and its member congregations have different responsibilities and thus different roles to play in preventing and responding to reports of clergy sexual misconduct. Each ELCA congregation calls its own pastor, determines its pastor's duties and responsibilities, supervises its pastor's day-to-day ministry, and decides whether to terminate its pastor's call. The Synod has neither the authority nor the ability to make those decisions for a congregation. Obviously, then, the Synod cannot be a safe place unless every one of its member congregations shares its commitment to preventing clergy sexual misconduct.

This Statement of Policy is the Synod's, and therefore it says little about the important role played by congregations in preventing and responding to reports of clergy sexual misconduct. This should not obscure the fact that congregations also have a vital role to play. The Synod strongly urges its member congregations to develop their own sexual misconduct policies. The publication, *Safe Connections: What Parishioners Can Do to Understand and Prevent Clergy Sexual Abuse* is available from the ELCA Division for Ministry and from Augsburg Fortress, Publishers, Order Code 69-8110. This is a useful resource for congregations in addressing this issue.

C. Role of the Synod

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 pastors. Reports of clergy sexual misconduct invariably create an acute need for such care and leadership. Second, pastors who commit sexual misconduct may be disciplined, leading to possible removal from the clergy 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.

Every report of clergy sexual misconduct 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 clergy sexual misconduct. It will not be appropriate or even possible for the Synod to follow this approach in every case. The Synod reserves the right to depart from this Statement of Policy at any time and for any reason.

When the Synod provides pastoral care and leadership in the wake of clergy sexual misconduct, 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 clergy roster, 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.

In every sexual misconduct case, the bishop and his or her staff will attempt to provide pastoral care to the victim of the misconduct, the victim's family, the pastor who committed the misconduct, the pastor's family, members of the pastor's present and/or former congregation(s), the pastor's colleagues, and others. However, the bishop and the bishop's staff do not themselves function as a pastor, counselor, advocate, attorney, or other care giver to any of these individuals. 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

An ELCA Strategy for Responding to Sexual Abuse in the Church (Nov. 1992) recommended that nine elements be included in any synodical policy regarding clergy sexual misconduct. This Synod has decided to incorporate those nine elements as follows:

A. Adequate preparation

The Synod is committed to preventing clergy sexual misconduct in the following ways: First, the Synod will not tolerate clergy sexual misconduct. The Synod will make that clear in educational opportunities that it provides, in the manner in which it responds to reports of clergy sexual misconduct, in discussions that it has with seminarians and others who seek to join its clergy roster, and in its public and private statements regarding this issue.

Second, the Synod intends to provide ongoing educational opportunities regarding clergy sexual misconduct for pastors, congregations, and others. Those efforts will focus on such subjects as the dynamics of clergy sexual misconduct and the impact of such misconduct on its victims. The Synod strongly urges its pastors and congregations to take advantage of these educational opportunities as well as appropriate educational programs offered by others.

Finally, the bishop and the bishop's staff will continue to take advantage of educational opportunities that are available to them. The Synod recognizes that society generally and churches particularly have much to learn about clergy sexual misconduct. As the Synod's understanding of this problem changes, its Statement of Policy and educational efforts may change as well.

These preventative 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.

B. Initial contact — first response

Even the best preventative measures cannot completely eliminate clergy sexual misconduct. The Synod must always be prepared to respond to reports of misconduct. The more open it is to receiving such reports, the more often clergy sexual misconduct will be reported.

Anyone who knows or suspects that a pastor may have been involved in sexual misconduct should report that knowledge or suspicion to the bishop or an assistant to the bishop. The names, addresses, and telephone numbers of the bishop and his or her assistants are attached to this Statement of Policy. If a complainant is uncomfortable about contacting the bishop or an assistant to the bishop, then the complainant should contact one of the other people listed in the attachment. Those people have agreed to be available to receive reports of sexual misconduct from complainants who are uncomfortable contacting the bishop directly. However, it must be stressed that these people are acting on behalf of the Synod and any information that they are given will be shared with the bishop (unless it is the bishop who is being accused of sexual misconduct, in which case the 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 herself or himself and the pastor involved in the 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; and
5. when the complainant is anonymous, encourage the complainant to identify herself or himself and the pastor involved in the misconduct.

In 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 or other person contacted by the complainant may also 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 may include advocates who are affiliated with the ELCA and advocates who are not. The complainant will be invited to contact an advocate and to 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.

After a report of clergy sexual misconduct has been received from an identified complainant, the bishop and/or bishop's designee will interview the complainant in person or if that is not possible, by telephone. This interview may occur through a combination of meetings, calls, and correspondence. The bishop or bishop's designee will ask the complainant to provide as much information about the sexual misconduct as the complainant is comfortable sharing. The complainant will be asked to reduce the information to writing or to sign a written statement prepared by the Synod. The bishop or bishop's designee will also ask the complainant what she or

he is seeking in coming forward and whether the complainant is prepared to participate in the disciplinary process if necessary. The complainant should be given a copy of this Statement of Policy if she or he has not already received it.

This preliminary investigation will be conducted as quickly and as discreetly as is possible under the circumstances. All of those contacted will be asked to keep the contact in strictest confidence. If the Synod or a discipline hearing committee later determines that the pastor did not commit sexual misconduct, that conclusion will be communicated to those who were contacted by the Synod in the course of its preliminary investigation.

C. Conversation with the pastor

The bishop will usually meet with the pastor after the preliminary investigation is concluded. The bishop should be accompanied by the bishop's designee or another person. In some cases — such as when the pastor is aware of the complainant's report or when the pastor may pose an immediate danger to members of his or her congregation — the bishop or bishop's designee may meet with the pastor immediately after or perhaps even before the meeting with the complainant. If the bishop must meet alone with the pastor, the bishop will clarify that the meeting is not confidential, and that the bishop may disclose anything that he or she is told.

At their meeting the bishop will provide the pastor with information regarding the complaint and ask the pastor to respond. The bishop may ask the pastor to reduce his or her response to writing. The bishop will also:

1. assure the pastor that, while the Synod does not tolerate sexual misconduct, the Synod will give any pastor who denies an allegation of sexual misconduct a full and fair 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 pastor's questions about the policies and procedures of the Synod;
4. express care and concern for the pastor, the pastor's family, and the affected congregation;
5. strongly discourage the pastor from having any contact with the complainant, either directly or indirectly, and
6. invite the pastor to contact and advocate and to be accompanied by that advocate through the investigative, and, if necessary, disciplinary processes. If the pastor requests, the Synod will assist the pastor in finding an advocate. The pastor may decline to use an advocate.

Depending upon the circumstances, the bishop may ask the pastor to voluntarily agree to certain restrictions upon his or her ministry — such as agreeing not to have contact with children — until the investigation and/or disciplinary proceedings are concluded. If the pastor refuses, the bishop may ask the congregation to impose the restrictions upon the pastor. The bishop may also ask the pastor to take a leave of absence — either with or without pay — until the investigation and/or disciplinary proceedings are concluded. If the pastor refuses, the bishop may ask the congregation to place the pastor on involuntary leave of absence, or, in extreme circumstances, the bishop may temporarily suspend the pastor without prejudice. Finally, the bishop may ask the pastor to resign

his or her call from the clergy roster of the ELCA. The bishop cannot force the pastor to resign. Only a discipline hearing committee can remove the pastor from the clergy roster.

The bishop or bishop's designee 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 pastor and will inform the pastor of significant developments. That contact person will also be available to respond to the pastor's questions and concerns about the process.

D. Assess the information

After meeting with the pastor, the bishop will carefully review the information provided by the complainant, discovered during the preliminary investigation, and provided by the pastor. The bishop will then decide upon a course of action. Among options available to the bishop are the following: no further action; further investigation; requesting the pastor to undergo a psychodiagnostic evaluation; requesting the pastor's congregation to take some action; convening a consultation of advisory panel; or initiating the formal disciplinary process.

E. Consultation or advisory 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 advisory panel. The function of a consultation or advisory panel is described at length in Sections 20.21.04 to 20.21.06 of the Constitution and Bylaws of the ELCA 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* (Nov. 20, 1995). Both of these documents are available from the Synod.

Essentially, a consultation or advisory panel is a small group of clergy and lay persons who are asked to recommend a course of action to the bishop. Before making that recommendation, the panel may interview the complainant, the pastor, the bishop, the bishop's designee, and/or 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 advisory or consultation 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 pastor's denial of the report appear credible, and no one but the complainant and the pastor can know for certain who is being truthful. The consensus of a panel may be the best indicator of who to believe.

F. Formal hearing

Disciplinary proceedings are the process by which the ELCA determines if a pastor is guilty of the charges and, if so, what the penalty should be. The process is governed by Chapter 20 of the Constitution and Bylaws of the ELCA and by the Rules Governing Disciplinary Proceedings. A pastor may be disciplined for committing "conduct incompatible with the character of the ministerial office," which is defined in *Definitions and Guidelines for Discipline of Ordained Ministers* (Dec. 5, 1993) to include "adultery, 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 will initiate the proceedings against a pastor by filing written charges setting forth the offense that the pastor 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 pastor is alleged to have abused and the date, place, time, and other circumstances of the alleged abuse. A committee of twelve persons is appointed to hold a hearing on the charges. The hearing resembles a court trial. The bishop presents testimony and other evidence in support of the charges, and then the pastor presents testimony and other evidence in opposition to the charges. A bishop generally will not initiate formal disciplinary proceedings unless the complainant agrees to testify against the pastor. The governing documents of the ELCA provide for certain rights for the accuser, the accused, and the complaining witnesses.

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 of 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 clergy roster of the ELCA for a designated period of time or until the pastor complies with specified conditions, or removal from the clergy roster. The discipline hearing committee's decision is generally made about four months after charges are filed.

G. Disclosure

Except in unusual circumstances, the Synod will disclose all serious allegations of clergy sexual misconduct. Although disclosure can increase the short-term pain caused by clergy sexual misconduct, experience has demonstrated that disclosure speeds the healing of the primary and secondary victims of the misconduct, empowers unknown victims to come forward and seek help, protects others from being victimized by the same pastor, and demonstrates the commitment of the Church to deal openly and honestly with the problem.

Decisions regarding who will make what disclosure to whom and when will vary from case to case. In general, though, the Synod will abide by the following guidelines:

1. Disclosure of clergy sexual misconduct will be made to the leadership of the pastor's congregation, the members of the pastor's present congregation, the members of the pastor's family, and other pastors within the Synod. In some situations, wider disclosure to previous congregations or even to the news media may be made as well.

2. Disclosure will be made when:

    a. the pastor admits to committing sexual misconduct;

    b. the pastor resigns his or her call or from the clergy roster of the ELCA after being

accused of sexual misconduct;

c. the pastor is placed on leave of absence or temporarily suspended in response to an allegation of sexual misconduct;

d. the pastor is suspended or removed from the clergy roster as a result of formal disciplinary proceedings; or

e. secular legal proceedings (civil or criminal) are initiated against the pastor.

3. The Synod intends to work closely with the congregational leaders regarding appropriate disclosure to the members of the congregation. Disclosure to the members will usually be made by one or more of the leaders or by the bishop.

4. To protect the privacy of those named by the misconduct, only the following will be disclosed:

   a. the fact that the pastor has been accused of, admitted to, resigned, or been found guilty of committing sexual misconduct;

   b. the gender of the complainant;

   c. whether the complainant was an adult or a minor at the time of the misconduct; and

   d. whether the complainant was a member of the pastor's congregation or a person to whom the pastor was providing pastoral care. Disclosure should never include the name of the complainant or facts from which she or he could readily be identified. If the pastor has denied the allegations, that fact will also be disclosed.

5. Persons who believe that they have been harmed (directly or indirectly) by the pastor will be invited to contact the leaders of the congregation, the Synod, or others who have agreed to be available to those persons.

H. Follow-up

The Synod will work with congregations and others to help ensure that care and support are available to those harmed by clergy sexual misconduct. As noted above, the Synod cannot provide this care itself, but it will assist the primary and secondary victims of sexual misconduct to find resource persons and materials that might help them on their journey to healing.

ATTACHMENT

Bishop Greg G. Busboom
Office: 217-753-7915
Cell: 217-357-1529
Email: greg.busboom@csis-elca.org

Rev. Amy Ziettlow, Assistant to the Bishop for Transformational Leadership
Office: 217-753-7915
Cell: 217-972-0314
Email: amy.ziettlow@csis-elca.org

Deacon Jason Fisher, Director for Evangelical Mission
Office: 217-753-7915
Cell: 315-277-3703
Email: jason.fisher@csis-elca.org

Central/Southern Illinois Synod
524 S 5th St, Springfield, IL 62701
Telephone: 217-753-7915 • Fax: 217-753-7976 • Email: synodoffice@csis-elca.org

The following individuals have agreed to be available to receive reports of sexual misconduct from complainants who are uncomfortable contacting the bishop and/or his assistants directly. However, it must be stressed that these people are acting on behalf of the synod and any information that they are given will be shared with the bishop (unless it is the bishop who is being accused of sexual misconduct, in which case the bishop of the ELCA will be contacted).

Mrs. Molly Berry, Vice President
Cell: 217-521-6257
Email: mberry@millikin.edu

Rev. Christine McNeal, Secretary
Email: csmcneal@earthlink.net

Mr. Daniel Simmons, Attorney
Email: dsimmons@hrva.com