



SEXUAL ABUSE OR HARASSMENT POLICY

Evangelical Lutheran Church in Canada

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I. APPLICATION

- A. This policy applies to all rostered ministers, seminarians and other persons serving under call or by synodical appointment.
- B. If a complaint is lodged against any person identified in A. above, or abusive sexual conduct is confessed or acknowledged by any such person, the procedures outlined in the ELCIC Manual Re: *Discipline of Rostered Ministers* and the *ELCIC Administrative Bylaws* governing discipline shall apply.

II. DEFINITIONS

- A. The definition of what constitutes sexual abuse and sexual harassment is governed by provincial legislation under the *Human Rights Code(s)* in most provinces.
- B. For our purposes the definition of the terms used in this manual will be as follows:
 - “bishop” means the bishop of a synod, unless stated otherwise.
 - “complainant” means the person who lodges a complaint.
 - “complainant’s representative” means a person who acts on behalf of the complainant of sexual abuse or sexual harassment during the period of time when the incident is first reported through to the final resolution of the matter.
 - “defendant” means one who is accused of abusive sexual conduct and includes variations of the term such as abuser, perpetrator, accused.
 - “rostered minister” means an ordained minister on the roster of ordained ministers or diaconal minister on the roster of diaconal ministers of this church.
 - “pastoral care support person” means persons who are skilled in dealing with matters of sexual abuse or sexual harassment in the church and are appointed by the synod to act in this role. Their role is to “walk with” the complainant or the accused, providing guidance, information and pastoral care.
 - “sexual abuse” means the use of one’s authority or power, either explicitly or implicitly, to coerce, threaten, force or persuade another person into sexual activities or to punish a person for his or her refusal to participate in the sexual activities.
 - “sexual harassment” means any unwelcome, unwarranted, unsolicited or offensive sexual conduct that is directed at a person or persons by one in a position of authority, power or leadership and which demeans and undermines the inherent self-worth and dignity of that person or persons or denies individual human rights as guaranteed by Provincial or Canadian *Human Rights Code(s)*. It includes any conduct that coerces, pressures, manipulates,

or threatens persons, or curtails a person from participating in the life of the church, fulfilling the duties of their position in the church workplace, freely expressing their ideas, practicing in their chosen church vocation, or freely advancing in their church employment, whether it is a single incident or several incidents over a period of time. “Sexual harassment” may involve two or more persons of the opposite or of the same gender, male or female.

Sexual harassment may include, but is not limited to, the following:

- Sexual comments that are offensive.
- Unwelcome jokes with sexual overtones.
- Subtle innuendo or open taunting regarding perfections or imperfections about a person’s body.
- Unwelcome displays of sexually offensive material such as pictures, photographs, sexually manipulative objects or sexual desire stimulants.
- Sexually offensive gestures or facial expressions.
- Sexually humiliating, insulting or intimidating behaviour including, but not limited to, boundary or space intrusion to obtain sexual favours.
- Unwelcome physical contact. (i.e. touching, patting, pinching, cornering, etc.)
- Unwelcome invitation, direct or in person, by mail or through any other form of communication to engage in behaviour of a sexual nature.
- Prolonged, sexually suggestive staring.
- Unwelcome pressure for dates.
- Indecent exposure.
- Verbal abuse or threats.
- Retaliation against an individual for having:
 - invoked this policy on behalf of oneself or other individuals, or
 - participated or co-operated with any investigation under this policy; or
 - been associated with a person who has invoked this policy or participated as a witness.

Sexual harassment does not apply in a relationship of mutual consent or in the expression of affection between friends as long as one’s behaviour is not imposed on another. However, it is stressed that where one person holds power over another, either in fact or perceived, a relationship of mutual consent may be impossible to achieve. It is inappropriate for a rostered minister to date a parishioner or someone working under the minister’s supervision within the congregation he or she is serving, until that relationship has ceased for a period of at least one year and after consultation with the synod bishop.

“third party” means a person or persons other than the complainant or the complainant’s representative.

“victim” means a person who has been sexually abused or sexually harassed, and includes variations of the term such as complainant.

III. POLICY

- A. This church recognizes that every person has the right to be treated with dignity and respect as a child of God, and therefore the right to freedom from all forms of sexual abuse and sexual harassment.
- B. Sexual abuse or sexual harassment by any rostered minister, seminarian, or other person serving under call or by synodical appointment will not be tolerated by this church.
- C. The disclosure of any abusive sexual conduct shall be in writing and signed by the complainant, the alleged victim's representative or a third party. (Appendix: A)
- D. All disclosures of abusive sexual conduct shall be addressed promptly.
- E. Throughout the process, pastoral care will be provided to the complainant, the defendant, and, as appropriate, their respective congregations or institutions.
- F. Confidentiality and discretion will be maintained by the church to the extent possible to protect the innocence and identity of those involved.
- G. The synod shall be responsible to discourage sexual abuse or sexual harassment through a continuing program of education of rostered ministers, and other persons in positions of authority.
 - 1. All rostered ministers shall review this church's policy governing sexual conduct, and agree in writing to abide by this church's policy as a condition of continued employment or future appointment.
 - 2. When a person is to be added to a synod roster, he or she shall review this church's policy governing sexual conduct, and agree in writing to abide by this church's policy as a condition of employment or appointment.
 - 3. A signed Acknowledgment Form (Appendix: B) signifies that the person signing it has read and reviewed this church's policy governing sexual abuse and harassment, understands it, and agrees to abide by the conditions set out therein.
- H. Rostered ministers and congregational council members are responsible for discouraging non-rostered employment-related harassment or abuse and ensuring that congregational members are aware of their responsibilities to prevent harassment or abuse.
- I. Congregations are responsible for their own sexual abuse and harassment policies relating to non-rostered members or adherents of their congregations.
- J. Any allegations concerning the sexual abuse of children will be immediately reported to the appropriate civil authorities.

- K. Should criminal proceedings be initiated against a rostered minister, completion of the church's investigative and disciplinary procedures may be suspended pending completion of the criminal proceedings.

IV. ALTERNATIVE COURSES OF ACTION

- A. A complaint of sexual harassment or abuse by a rostered minister, seminarian, or other person serving under call or by synodical appointment shall be reported to the bishop in all instances. The decision to pursue an alternative course of action does not preclude the subsequent initiation of procedures outlined in the ELCIC Manual Re: *Discipline of Rostered Ministers* and the *ELCIC Administrative Bylaws* governing discipline.
- B. A complainant also may wish to pursue other courses of action such as:
 - 1. Filing a complaint with the provincial Human Rights Commission in accordance with the provincial code or Act.
 - 2. Reporting to the local police department for investigation under the provisions of the *Criminal Code* any complaints involving sexual assault, obscene phone calls, intimidation or criminal harassment causing fear for one's safety.
 - 3. Taking civil action against the person who caused the injury if mental or physical damage is deemed to have been suffered.
 - 4. Employing a mediator for resolution if both parties agree and it is appropriate under the circumstances.

V. SUPPLEMENTARY DIRECTIVES

- A. Each synod may add supplementary directives as deemed necessary to their particular synod for the guidance of members within the synod.

APPENDIX: A

FORMAL COMPLAINT FORM

RE: MISCONDUCT BY A ROSTERED MINISTER OF THE SYNOD

A. Date of complaint: _____

B. Name of accused: _____

C. Name of congregation or employing agency of accused: _____

D. Name to whom complaint is made: _____

E. Details:

1. Fully describe the incident(s) including dates, times and places as accurately as possible (please use reverse side of this form to continue, if necessary):

2. Name any witness(s) who know about or has witnessed the incident(s), including address if known:

3. If sexual abuse or sexual assault is involved, identify what other independent corroborating physical or medical evidence is available:

4. If sexual abuse or sexual assault of a minor(s) is involved, has this been reported to the civil authorities as required by law? Name the agencies and date reported:

 5. If the incident(s) is criminal in nature, has it been reported to the police? Name the police department and date reported:

 6. Are you aware of any other incident(s) involving other persons in relation to the defendant? Identify:

 7. Is there any other relevant information regarding this complaint you wish to disclose that might prove helpful?
- F. Have you received a copy of the ELCIC Manual Re *Discipline of Rostered Ministers* regarding disciplinary procedures?
- G. Do you understand the disciplinary procedure which will follow from your complaint?

H. Do you understand that a pastoral care support person will be assigned to you if you so desire?

I. IDENTITY OF COMPLAINANT

1. Name: _____

2. Address: _____

3. Phone/Fax/Email: _____

4. Signature: _____

(Implies your consent to proceed with the complaint.)

APPENDIX: B

ACKNOWLEDGMENT FORM
SEXUAL ABUSE OR HARASSMENT POLICY
OF THE EVANGELICAL LUTHERAN CHURCH IN CANADA

Name: _____

_____ I have been given a copy of the *Sexual Abuse or Harassment Policy of the Evangelical Lutheran Church in Canada*.

_____ I understand the contents of this policy.

_____ I understand that to function as a rostered minister, seminarian, or any person serving under call or by synodical appointment in the Evangelical Lutheran Church in Canada I must comply with this policy.

If you cannot check off any of the above statements, or if you have questions about this, please contact your bishop prior to signing the document.

This form is to be completed and returned to your Synod Office and shall be retained in your confidential personnel file.

(Signature)

(Date)