STATEMENT OF POLICY REGARDING SEXUAL MISCONDUCT BY ROSTERED MINISTERS

A Policy of the Pacifica Synod of the Evangelical Lutheran Church in America (ELCA)

Adopted by the Pacifica Synod Council on March 19, 2022

OVERVIEW

Set the believers an example in speech and conduct, in love, in faith, in purity. – 1 Timothy 4:12b

The apostle Paul wrote the above instructions to Timothy, who was serving as a pastor in that day. Paul's words continue to guide us in ministry today. One of the ways we set an example is by doing our best to prevent sexual misconduct by rostered ministers, provide a safe environment for victims to tell their stories, investigate thoroughly all allegations, and take disciplinary action where required.

The Office of the Bishop of the Pacifica Synod recognizes that sexual misconduct of any kind between a rostered minister and another person causes harm to the victim, to the congregation, and to the integrity of Christian ministry. Sexual misconduct is not acceptable and will be vigorously addressed.

This Office is committed both to preventing sexual misconduct within the church and to responding with justice when such misconduct occurs. This Statement of Policy describes how the Office of the Bishop intends to fulfill these commitments.

Except where the Bishop is the accused, the Bishop will respond when a person comes forward with claims of sexual misconduct. The Bishop will listen to the victim, investigate the claim, and consult with designated supports. The Bishop will then proceed with determination, flexibility, respect and care for all persons affected, including the victim, the rostered minister, their families and friends, the congregation, the synod, and the whole church. This policy is intended to provide a framework for guidance as circumstances and needs of those affected will vary.

Should the alleged victim of the sexual misconduct be a minor or an elderly/vulnerable adult, the allegation will be immediately reported to the appropriate governmental agencies as required by state law.

What is sexual misconduct?

"Sexual Misconduct" occurs whenever a rostered minister commits sexual abuse against another person. "Sexual abuse" means rape; sexual assault; sexual harassment; sexual relations with a minor child or a person otherwise not capable of consent; sexual relations resulting from threats, intimidation, coercion, blackmail, extortion, or manipulation; and sexual relations (outside of marriage) between a rostered minister and a person with whom the rostered minister has a pastoral or supervisory relationship, including, but not limited to, an employee, volunteer, student, or counselee, or a person in the congregation or other ministry served by the rostered minister.

The ELCA document *Definitions and Guidelines for Discipline* defines what types of sexual misconduct can result in a rostered minister being disciplined. (You may download the document here). This policy outlines steps that may be taken. (See *Definitions and Guidelines for Discipline*

When this policy refers to “rostered” ministers it includes ministers of Word and Sacrament (pastors), ministers of Word and Service (deacons), and, in this context, Synod Authorized Ministers and candidates for rostered ministry (including interns), This Statement of Policy assumes that the rostered minister who is accused of sexual misconduct is under call to a congregation, but it may also be adapted to calls in other circumstances. Any sexual misconduct committed by one of these persons should be reported to the Office of the Bishop, including, but not limited to, any sexual contact between the rostered minister and a congregant, counselee, intern, student, employee, or volunteer.

The following dynamics are considered when someone reports misconduct:
- It is often very difficult for a victim to speak out regarding someone who is admired by others and possibly admired by the one reporting as well. This policy calls for care to be taken to assure the person making the report that they are doing the right thing.
- Many victims expect that they won’t be believed, that they will be blamed, that other relationships will be harmed and that very little will actually be done. In other words, they fear they will experience re-victimization. This policy calls for victims to be treated with respect, to be listened to, and to have their allegations thoroughly investigated.
- Much time may have passed before a victim comes forward with their story. This policy calls for investigation no matter how long ago the abuse occurred, and disciplinary action against the rostered minister if the allegation is found to be true.
- Abuse may be overt, but it is can also be covert, happening in subtle and coercive ways. Because of the nature of ministry and the inherent power imbalance between leaders and members, sexual behavior of any kind between a rostered minister and a person in their care may constitute sexual misconduct. This policy calls for an understanding of the power imbalance, and voice and support for all victims.
- “We acknowledge that some cultures and populations have been more vulnerable to sexual misconduct. This policy calls for paying particular attention and offering culturally sensitive care. All efforts will be made to allow victims to speak in their first language and to have that confidentially translated to the Bishop.

The Role of Congregations

The Office of the Bishop, the Pacifica Synod, and its member congregations have different responsibilities and different roles to play in preventing and responding to reports of sexual misconduct. Each ELCA congregation governs itself and exercises control over its internal practices and policies and the use of its property. The congregation is responsible for its mission and ministry to the community and for its life together. The congregation elects its leadership, and employs and supervises its own staff. Each congregation calls its own rostered minister, determines its rostered minister's specific duties and responsibilities, sets the rostered minister’s salary and benefits, and supervises its rostered minister's day-to-day ministry. Each congregation has sole responsibility for its lay staff and employees. The Office of the Bishop has neither the authority nor the ability to make decisions for a congregation in these matters.

It is the congregation, in accordance with the Constitutions, Bylaws, and Continuing Resolutions of the Evangelical Lutheran Church in America, that finally decides whether to terminate the rostered minister’s call. The congregation is also authorized to initiate disciplinary action against its rostered ministers as well as its members. The church cannot be a safe place unless every one of its member congregations shares the commitment to preventing sexual misconduct by rostered ministers. This Statement of Policy is the Office of the Bishop's. It says little specifically about the important role played by congregations in preventing and responding to reports of sexual misconduct. This should not obscure the fact that congregations have a vital role to play.

The Office of the Bishop strongly urges Pacifica Synod 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 and can be downloaded here. The Office of the Bishop recommends this publication as a useful resource for congregations addressing this issue.

Role of the Office of the Bishop

The Office of the Bishop's role is essentially twofold. First, the bishop is responsible for providing pastoral care and leadership to the Synod's congregations and rostered ministers. Reports of sexual misconduct invariably create an acute need for such care and leadership. Second, rostered ministers who commit sexual misconduct may be disciplined, leading to possible removal from the roster of the ELCA. The bishop is primarily responsible for overseeing the preliminary or consultation stage of the disciplinary process and, typically, the bishop initiates the formal stage of the disciplinary process if necessary. In every sexual misconduct case, the bishop will attempt to provide for the pastoral care of the victim of the misconduct, the victim's family, the rostered minister who committed the misconduct, the rostered minister's family, members of the rostered minister's present or former congregation, the rostered minister's colleagues, and others affected by the misconduct.

However, the bishop and the bishop's staff do not themselves function as pastor, counselor, advocate, attorney, or other care giver to any of these individuals. The ultimate responsibility of the bishop and their staff is to the Synod as a whole, 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. In unusual circumstances, the fact that the bishop and bishop's staff are responsible to the Synod may require that they act contrary to the wishes of the complainant.

It should also be noted that the Office of the Bishop may not be able to assume primary responsibility for addressing an allegation of sexual misconduct by a rostered minister where local law enforcement is also investigating. For example, if a rostered minister who is under call is being investigated for civil or criminal penalties, the law may prevent the Office of the Bishop from interfering in the situation. Nevertheless, the Office of the Bishop should be informed of all sexual misconduct cases involving rostered ministers.

Every report of sexual misconduct by rostered ministers involves unique people and unique circumstances. This Statement of Policy merely describes the general approach that the Office of the Bishop will follow in responding to reports of sexual misconduct. It will not be appropriate or even possible for the Office of the Bishop to follow this approach in every case. The Office of the Bishop reserves the right to depart from this Statement of Policy at any time and for any reason.

SEXUAL MISCONDUCT PROCESS

The Office of the Bishop of the Pacifica Synod will, in general, follow the process outlined below in preventing and investigating claims of sexual misconduct.

A. Preventative Measures

The Office of the Bishop is committed to take action to prevent sexual misconduct by rostered ministers. The Office of the Bishop will make its position on this issue clear in educational opportunities that it provides, in the manner in which it responds to reports of sexual misconduct, in discussions that it has with seminarians and others who seek to join its rosters, and in its public and private statements on the subject.

First, the Office of the Bishop will not tolerate sexual misconduct by rostered ministers. This means, the Office of the Bishop will respond to reports, will conduct an investigation, will act upon substantiated allegations, and will properly disclose findings of sexual misconduct by a rostered minister. This is not to say that the Office of the Bishop will treat every case exactly the same. Sexual misconduct varies greatly by type, by degree, and by its effect on those involved. The Office of the Bishop will attempt to respond appropriately to each case while not tolerating any misbehavior discovered to exist.

Second, the Office of the Bishop shall provide or promote ongoing educational opportunities regarding the prevention of sexual misconduct for rostered ministers. The Office of the Bishop strongly urges its pastors and deacons to take advantage of these opportunities, as well as appropriate educational programs offered by others. In addition, the bishop and the bishop's staff will continue to take advantage of educational opportunities that are available to them.

The Office of the Bishop recognizes that society generally and churches particularly have much to learn about sexual misconduct. As the Office of the Bishop's understanding of this problem changes, this Statement of Policy and educational efforts may change as well. This Office of the Bishop’s 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

Anyone who knows or suspects that a rostered minister may have been involved in sexual misconduct is encouraged to report that knowledge or suspicion to Barbara Keller, the ELCA’s Consultant for Prevention of Sexual Misconduct, at 773-380-2568 or to the Bishop at 619-692-2791. As used in this Statement of Policy, the term “complainant” means a person who reports sexual misconduct. This Statement of Policy assumes that the complainant is also the victim of the alleged sexual misconduct, but that may not always be the case.

A contact may be made with Barbara Keller or the Bishop by mail, email, or telephone. The complainant need not identify themself when first making contact. The complainant may ask questions anonymously about how the Office of the Bishop would respond to a particular complaint of misconduct. However, the Office of the Bishop can do little about a report of sexual misconduct until the complainant identifies both themself and the rostered minister involved in the misconduct.

The complainant will be assured of the following: (1) the Office of the Bishop does not tolerate sexual misconduct and takes seriously all reports of such misconduct; (2) the Office of the Bishop has a process for responding to reports of sexual misconduct and will offer to provide a copy of this Statement of

Policy; (3) the complainant will receive answers to questions about the policies and procedures of the Office of the Bishop; (4) the complainant will be treated with compassion and care; (5) insofar as possible, the Office of the Bishop will respect the wishes of the complainant regarding confidentiality.

C. First Response

After a report of sexual misconduct by a rostered minister has been received from an identified complainant, the bishop will interview the complainant in person or, if that is not possible, by telephone. The bishop will in general, not meet alone with the complainant, but will have another person, most often another staff member of the Office of the Bishop, with the bishop to hear the complaint. This interview may continue through a series of meetings, calls, and correspondences. The bishop will ask the complainant to provide as much detailed information about the sexual misconduct as the complainant is comfortable sharing. The bishop will also ask the complainant what they are 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 they have not already received it.

In all meetings with Office of the Bishop personnel, the complainant may be accompanied by a friend, family member, or support person of their choice. The complainant may contact a support person and may be accompanied by that person through the reporting, investigative, and, if necessary, disciplinary processes. Under no circumstances will any employee of the Office of the Bishop function as the complainant's support person; however, at the complainant’s request, the Office of the Bishop will contact a support person for them.

The bishop will discuss with the complainant how they feel about the possibility that their identity may become known to the accused or others. Insofar as possible, the Office of the Bishop will respect the wishes of the complainant regarding confidentiality. However, the identity of the complainant may be revealed by others or become known despite the best efforts of the Office of the Bishop to protect it. The Office of the Bishop cannot guarantee confidentiality to a complainant.

The bishop will discuss with the complainant their needs for pastoral care and may suggest professional counseling. If the complainant requests, the bishop will help to put the complainant in touch with persons who can provide pastoral care or professional counseling. No employee of the Office of the Bishop can function as the complainant's pastor, therapist or counselor.

The bishop will appoint a contact person within the Office of the Bishop. That contact person (who may be the bishop) 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.

If the bishop learns that a child or vulnerable adult may have been neglected or physically or sexually abused, the bishop is legally required to report that information to law enforcement authorities. The bishop or designee may also urge and assist the complainant to file a report with the authorities. If possible, the complainant will be notified before such a report is made by the Office of the Bishop.

D. Initial Investigation of the Complaint

After interviewing the complainant, the bishop will carefully review the information provided by the complainant. The bishop may consult with people in the ELCA Churchwide office who aid in the investigation of complaints of sexual misconduct. If the report appears credible and involves sexual

misconduct for which the perpetrator might be disciplined, the bishop shall conduct a preliminary investigation to determine whether information either supporting or contradicting the report exists. This preliminary investigation may include (1) further discussions with the complainant; (2) a review of the records of the Office of the Bishop, another ELCA Synod, the ELCA, or an entity affiliated with the ELCA; (3) interviews of former bishops of the rostered minister, those who served as assistants to former bishops of the rostered minister, rostered ministers who succeeded the rostered minister at congregations that they served, rostered ministers who served on the same staff with the rostered minister at congregations that they served, rostered ministers who presently serve on the same staff with the rostered minister, members of congregations that the rostered minister served, members of the congregation that the rostered minister now serves; (4) persons identified by the complainant, or friends, family members, rostered ministers, or counselors of the complainant.

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 Office of the Bishop or a discipline hearing committee later determines that the rostered minister did not commit sexual misconduct, that conclusion will be communicated to those who were contacted by the Office of the Bishop in the course of its preliminary investigation. If a criminal investigation, or other official investigation by law enforcement authorities, is underway, the Office of the Bishop may need to postpone its own investigation pending the outcome of the government's inquiry or prosecution. However, a final determination in a related civil or criminal legal proceeding does not necessarily dictate the necessity for, or the outcome of, the church's disciplinary process.

E. Conversation with the Rostered Minister

The bishop will usually meet with the accused rostered minister after the preliminary investigation is concluded. The bishop should be accompanied by the bishop's designee or another person. The bishop will clarify that the meeting is not confidential, and that the bishop may disclose anything that they are told. At the meeting, the bishop will provide the rostered minister with information regarding the complaint and ask the rostered minister to respond. The bishop may ask the rostered minister to put their response in writing.

The bishop may also (1) assure the rostered minister that, while the Office of the Bishop does not tolerate sexual misconduct, the Office of the Bishop will give any rostered minister who denies an allegation of sexual misconduct a full and fair opportunity to contest it; (2) explain the Office of the Bishop's process for responding to reports of sexual misconduct and provide a copy of this Statement of Policy; (3) answer the rostered minister's questions about the policies and procedures of the Office of the Bishop; (4) express care and concern for the rostered minister, the rostered minister's family, and the affected congregation; (5) strongly discourage the rostered minister from having any contact with the complainant, either directly or indirectly; and (6) invite the rostered minister to contact a support person and to be accompanied by that support person through the investigative, and, if necessary, disciplinary processes. If the rostered minister requests, the Office of the Bishop will assist the rostered minister in finding a support person. The rostered minister may decline to use a support person. In appropriate cases, the bishop may ask the rostered minister to resign their call or resign from the roster of the ELCA. If the rostered minister resigns from the roster, the next step in the process is under "H. Disclosure."

Depending upon the circumstances, the bishop may ask the rostered minister to voluntarily agree to certain restrictions upon their ministry until the investigation and/or disciplinary proceedings are concluded. If the rostered minister refuses, the bishop may ask the congregation council to impose the

restrictions upon the rostered minister. The bishop may also ask the rostered minister to take a leave of absence -- either with or without pay -- until the investigation and/or disciplinary proceedings are concluded. Again, if the rostered minister refuses, the bishop may ask the congregation to place the rostered minister on an involuntary leave of absence. In extreme circumstances, the bishop may consider temporarily suspending the rostered minister without prejudice. The bishop will discuss with the rostered minister their needs for pastoral care or professional counseling, as well as the care of the rostered minister's family. If the rostered minister requests, the bishop will help to put the rostered minister in touch with persons who can provide such care or counseling. Under no circumstances will any employee of the Office of the Bishop function as support person, pastor, or counselor to the rostered minister or the rostered minister's family. The bishop will appoint a contact person within the Office of the Bishop. That contact person (who may be the bishop) will keep in regular contact with the rostered minister and will inform the rostered minister of significant developments. That contact person will also be available to respond to the rostered minister's questions and concerns about the process.

F. Deciding on a Course of Action

After meeting with the rostered minister, the bishop will carefully review the information provided by the complainant, discovered during the preliminary investigation, and provided by the rostered minister. The bishop also may consult with other advisors. The bishop will then decide upon a course of action, keeping in mind that changed circumstances may require changes in direction as the matter progresses. Among options available to the bishop are the following: taking no further action at this time; pursuing further investigation; requesting the rostered minister to undergo a psycho-diagnostic evaluation; seeking a resolution by consulting directly with the parties; requesting the rostered minister's congregation to take some action; convening a consultation or advisory panel; initiating the formal disciplinary process. These latter two options are discussed further below. Depending upon the circumstances, additional options may be considered as well, including inviting the rostered minister to resign from the call, from the roster, or both.

G. Consultation or Advisory Panel

Reports of sexual misconduct always present a bishop with difficult decisions. To assist in making these decisions, a bishop may, at their sole discretion, appoint a consultation or advisory panel. The function of a consultation or advisory panel is described at length in Bylaws 20.21.04 to 20.21.06 of the *ELCA Constitution and Bylaws*. The constitution and bylaws can be downloaded here.

Essentially, a consultation or advisory panel is a small group of rostered ministers and laypersons who are asked to recommend a course of action to the bishop. Before making that recommendation, the panel may do its own investigation including interviewing the complainant, the rostered minister, the bishop, and 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. Numerous reasons may lead the bishop to call for a consultation or advisory panel. Conversely, the bishop may decide not to employ such panels.

G. Formal Hearing

Disciplinary proceedings are the process by which the ELCA determines if a rostered minister is guilty of the charges and, if so, what the penalty should be. The process is governed by Chapter 20 of the Constitutions, Bylaws, and Continuing Resolutions of the Evangelical Lutheran Church in America and by the Rules Governing Disciplinary Proceedings.

To briefly summarize the disciplinary process, generally the bishop as accuser will initiate the proceedings against a rostered minister, by filing written charges setting forth the offense that the rostered minister is accused of committing, detailing the facts supporting the charge, and describing any other circumstances concerning the alleged misconduct. A committee of twelve persons -- six from a panel elected by the Office of the Bishop and six from a panel elected by the Churchwide Assembly -- are convened to hold a hearing on the charges. The hearing resembles a court trial, at which an appointed hearing officer presides. The bishop presents testimony and other evidence in support of the charges, and then the rostered minister presents testimony and other evidence in opposition to the charges. The governing documents of the ELCA provide for certain rights for the accuser, the accused, and the witnesses.

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 roster of the ELCA for a designated period of time or until the rostered minister complies with specified conditions, or removal from the roster. There is a process for appeals to the ELCA Churchwide Committee on Appeals.

H. Disclosure

Except in unusual circumstances, the Office of the Bishop will disclose all serious allegations of sexual misconduct by a rostered minister. Experience has demonstrated that disclosure speeds the healing of the victims of the misconduct, empowers unknown victims to come forward and seek help, protects others from being victimized by the same rostered minister, starts the congregation on the path of healing, and demonstrates the commitment of the ELCA 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 Office of the Bishop will abide by the following guidelines:

1. Typically, disclosure of sexual misconduct by a rostered minister will be made to the leadership of the rostered minster’s congregation, to the members of the rostered minister's present congregation, to Offices of the Bishops in Synods where the rostered minister was previously rostered, and to other rostered ministers within the Conference or to other rostered ministers throughout the entire Synod. In some situations, wider disclosure to previous congregations, to the entire Synod, or even to the news media may be made as well.

2. In most cases, disclosure will be made when (1) the rostered minister admits to committing sexual misconduct; (2) the rostered minister resigns their call or from the roster of the ELCA after being accused of sexual misconduct; (3) the rostered minister is placed on leave of absence or temporarily suspended in response to an allegation of sexual misconduct; (4) the rostered minister is suspended or removed from the roster as a result of formal disciplinary proceedings; or (5) secular legal proceedings

(civil or criminal) are initiated against the rostered minister. Other events may give rise to the need for disclosure as well.

3. The Office of the Bishop intends to work closely with the congregational leaders regarding appropriate disclosure to the members of the congregation. The victim's concerns regarding disclosure will be considered as well. The actual announcement to the congregation will be made by one or more of the leaders, or by the bishop, and usually to the adult members only.

4. To protect the privacy of those harmed by the misconduct, only the following will generally be disclosed: (1) the fact that the rostered minister has been accused of, admitted to, resigned, or been found guilty of committing sexual misconduct; (2) the gender of the complainant; (3) whether the complainant was an adult or a minor at the time of the misconduct; and sometimes (4) whether the complainant was a member of the rostered minister's congregation or a person to whom the rostered minister was providing pastoral care. Disclosure should never include the name of the complainant or facts from which they could readily be identified. If the rostered minister has denied the allegations, that fact will also be disclosed.

5. Persons who believe that they have been harmed (directly or indirectly) by the rostered minister will be invited to contact the leaders of the congregation, Barbara Keller, the Office of the Bishop, or others who have agreed to be available to those persons.

I. Conclusion

The Office of the Bishop will work with congregations and others to help ensure that care and support are available to those harmed by sexual misconduct by a rostered minister. As noted above, Office of the Bishop personnel cannot provide this individual care themselves, but it will assist the victims of sexual misconduct to find resource persons and materials that might help them on their journey of healing. The Office of the Bishop will assist the congregation in dealing with the pain and disruption caused by the rostered minister's misconduct and will help the congregation continue in its mission and ministry for the sake of the Gospel.

Contacts:

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For more information on reporting and preventing sexual misconduct, click here.