



Upstate New York Synod

Evangelical Lutheran Church in America

God's work. Our hands.

CONSTITUTION

Revised and approved by Synod Council for action by 2017 Synod Assembly – March 18, 2017

Adopted by the 2017 Synod Assembly June 2017

(bylaws in italics, continuing resolutions in bold)

Required sections marked with a †

TABLE OF CONTENTS

CHAPTER 1 NAME AND INCORPORATION	p. 3
CHAPTER 2 STATUS	p. 3
CHAPTER 3 TERRITORY	p. 3
CHAPTER 4 CONFESSION OF FAITH	p.4
CHAPTER 5 NATURE OF THE CHURCH	p.4
CHAPTER 6 STATEMENT OF PURPOSE	p.5
CHAPTER 7 SYNOD ASSEMBLY	p.9
CHAPTER 8 OFFICERS	p.13
CHAPTER 9 NOMINATIONS AND ELECTIONS	p.20
CHAPTER 10 SYNOD COUNCIL	p.25
CHAPTER 11 COMMITTEES	p.28
CHAPTER 12 CONFERENCES, CLUSTERS, COALITIONS, OR OTHER AREA SUBDIVISIONS	p.32
CHAPTER 13 CONGREGATIONS	p.34
CHAPTER 14 ROSTERED MINISTERS	p.37
CHAPTER 15 FINANCIAL MATTERS	p.44
CHAPTER 16 INDEMNIFICATION	p.45
CHAPTER 17 ADJUDICATION	p.46
CHAPTER 18 AMENDMENTS	p.47
APPENDIX #1 PROFESSIONAL MISCONDUCT OF A SEXUAL NATURE BY ROSTERED MINISTERS	p.48

Chapter 1

NAME AND INCORPORATION

- †S1.01. The name of this synod, as determined by the Churchwide Assembly shall be the Upstate New York Synod of the Evangelical Lutheran Church in America.
- †S1.02. For the purposes of this constitution and the accompanying bylaws, the Upstate New York Synod of the Evangelical Lutheran Church in America is hereafter designated as “this synod” or “the synod”.
- †S1.11. This synod shall be incorporated. Amendments to the articles of incorporation of this synod shall be submitted to the Church Council for ratification before filing.
- †S1.21. The seal of this synod is a cross with three united flames emanating from the base of the cross and three entwined circles beside the cross. The dates “1786” (the year of the origin of this synod) and “1987” (the year of the constitution convention) appear respectively to the left and right of the cross. The name “Upstate New York Synod” is lettered around the outer rim and the name “Evangelical Lutheran Church in America” is lettered around the inner rim.

Chapter 2

STATUS

- †S2.01. This synod possesses the powers conferred upon it, and accepts the duties and responsibilities assigned to it, in the Constitution, Bylaws, and Continuing Resolutions of the Evangelical Lutheran Church in America which are recognized as having governing force in the life of this synod.
- †S2.02. The name Evangelical Lutheran Church in America (ELCA or “this church”) as used herein refers in general references to this whole church, including its three expressions-congregations, synods, and the churchwide organization. The name Evangelical Lutheran Church in America is also the name of the corporation of the churchwide organization to which specific references may be made herein.
- †S2.03. No provision of this constitution shall be inconsistent with the constitution and bylaws of this church

Chapter 3

TERRITORY

- †S3.01. The territory of this synod, as determined by the Churchwide Assembly, shall be that part of the State of New York north and west of the southern boundaries of Columbia, Greene and Delaware counties except the counties of Clinton, Essex, and Franklin.
- †S3.02. “Determined by the Churchwide Assembly” as stipulated by †S3.01., is understood to include the reported changes in synod relationship made by any congregation in a border area agreed under ELCA bylaws 10.01.01. and 10.02.02.

Chapter 4

CONFESSION OF FAITH

- †S4.01. This synod confesses the Triune God, Father, Son, and Holy Spirit.
- †S4.02. This synod confesses Jesus Christ as Lord and Savior and the Gospel as the power of God for the salvation of all who believe.
- a. Jesus Christ is the Word of God incarnate, through whom everything was made and through whose life, death, and resurrection God fashions a new creation.
 - b. the proclamation of God’s message to us as both Law and Gospel is the Word of God, revealing judgment and mercy through word and deed, beginning with the Word in creation, continuing in the history of Israel, and centering in all its fullness in the person and work of Jesus Christ.
 - c. The canonical Scriptures, of the Old and New Testaments are the written Word of God. Inspired by God’s Spirit speaking through their authors, they record and announce God’s revelation centering in Jesus Christ. Through them God’s Spirit speaks to us to create and sustain Christian faith and fellowship for service in the world.
- †S4.03. This synod accepts the canonical Scriptures of the Old and New Testaments as the inspired Word of God and the authoritative source and norm of its proclamation, faith, and life.
- †S4.04. This synod accepts the Apostles’, Nicene and Athanasian Creeds as true declarations of the faith of this synod.
- †S4.05. This synod accepts the Unaltered Augsburg Confession as a true witness to the gospel, acknowledging as one with it in faith and doctrine all churches that likewise accept the teachings of the Unaltered Augsburg Confession.
- †S4.06. This synod accepts the other confessional writings in the Book of Concord, namely, the Apology of the Augsburg Confession, the Smalcald Articles and the Treatise, the Small Catechism, the Large Catechism, and the Formula of Concord, as further valid interpretations of the faith of the Church.
- †S4.07. This synod confesses the Gospel, recorded in the Holy Scripture and confessed in the ecumenical creeds and Lutheran confessional writings, as the power of God to create and sustain the Church for God’s mission in the world.

Chapter 5

NATURE OF THE CHURCH

- †S5.01. All power in the Church belongs to our Lord Jesus Christ, its head. All actions of this synod are to be carried out under his rule and authority.
- †S5.02. This church confesses the one, holy, catholic, and apostolic Church and is resolved to serve Christian Unity throughout the world.

- †S5.03. The Church exists both as an inclusive fellowship and as local congregations gathered for worship and Christian service. Congregations find their fulfillment in the universal community of the Church, and the universal Church exists in and through congregations. This church, therefore, derives its character and powers both from the sanction and representation of its congregations and from its inherent nature as an expression of the broader fellowship of the faithful. In length, it acknowledges itself to be in the historic continuity of the communion of saints; in breadth, it expresses the fellowship of believers and congregations in our day.
- †S5.04. This church, inspired and led by the Holy Spirit, participates in the Lutheran World Federation as a global communion of churches, engaging in faithful witness to the gospel of Jesus Christ and in service for the sake of God's mission in the world.

Chapter 6 STATEMENT OF PURPOSE

- †S6.01. The Church is a people created by God in Christ, empowered by the Holy Spirit, called and sent to bear witness to God's creative, redeeming, and sanctifying activity in the world.
- †S6.02. To participate in God's mission, this synod as a part of the Church shall:
- a. Proclaim God's saving Gospel of justification by grace for Christ's sake through faith alone, according to the apostolic witness in the Holy Scripture, preserving and transmitting the Gospel faithfully to future generations.
 - b. Carry out Christ's Great Commission by reaching out to all people to bring them to faith in Christ and by doing all ministry with a global awareness consistent with the understanding of God as Creator, Redeemer, and Sanctifier of all.
 - c. Serve in response to God's love to meet human needs, caring for the sick and the aged, advocating dignity and justice for all people, working for peace and reconciliation among the nations, and standing with the poor and powerless, and committing itself to their needs.
 - d. Worship God in proclamation of the Word and administration of the sacraments and through lives of prayer, praise, thanksgiving, witness, and service.
- S6.02.d.A99. **This synod shall provide a program for training laypersons to serve in the office of deacon within the congregations of the Synod. This office will include persons who have been nominated, trained, and approved as Liturgical Deacons, Preaching Deacons, Visitation Deacons and other diaconal offices called forth by specific need and supported by conference training programs.**
- e. Nurture its members in the Word of God so as to grow in faith and hope and love, to see daily life as the primary setting for the exercise of their Christian calling, and to use the gifts of the Spirit for their life together and for their calling in the world.

- f. Manifest the unity given to the people of God by living together in the love of Christ and by joining with other Christians in prayer and action to express and preserve the unity which the Spirit gives.

†S6.03. Each synod, in partnership with the Churchwide organization, shall bear primary responsibility for the oversight of the life and mission of this church in its territory. In fulfillment of this role and consistent with policies and procedures of this church, the synod shall:

- a. Provide for pastoral care of congregations and rostered ministers in the synod;
- b. Plan for, facilitate, and nurture the mission of this church through congregations:
- c. Strengthen interdependent relationships among congregations, synods, and the Churchwide organization, and foster relationships with agencies and institutions affiliated with or related to this church as well as ecumenical partners.
- d. Interpret the work of this church to congregations and to the public on the territory of the synod.

†S6.03.01. *In providing for pastoral care of congregations and rostered ministers in the synod, the responsibilities of the synod include the following:*

- a. *providing for pastoral care of congregations, ministers of Word and Sacrament and ministers of Word and Service, in the synod, including:*
 - 1) *approving candidates for the ministry of Word and Sacrament in cooperation with the appropriate seminaries of this church, which may be done through multi-synodical committees*
 - 2) *authorizing ordinations and ordaining ministers of Word and Sacrament on behalf of this church;*
 - 3) *approving ministers of Word and Service, which may be done through multi-synodical committees;*
 - 4) *authorizing consecrations and consecrating ministers of Word and Service on behalf of this church; and*
 - 5) *consulting in the call process for rostered ministers.*
- b. *providing for leadership recruitment, preparation, and support in accordance with Churchwide standards and policies, including:*
 - 1) *nurturing and supporting congregations and lay leaders;*
 - 2) *seeking and recruiting qualified candidates for the rostered ministries of this church;*
 - 3) *making provision for pastoral care, call review, and guidance;*
 - 4) *encouraging and supporting persons on the rosters of this church in stewardship of their abilities, care of self, and pursuit of continuing education to undergird their effectiveness of service; and*
 - 5) *supporting recruitment of leaders for this church's colleges, universities, seminaries, and social ministry organizations.*

- c. *providing for discipline of congregations, ministers of Word and Sacrament, and ministers of Word and Service; as well as for termination of call, appointment, adjudication, and appeals consistent with Chapter 20 of this Church's constitution*
- d. *providing for archives in conjunction with other synods.*

†S6.03.02.

In planning for, facilitating, and nurturing the mission of this church through congregations, the responsibilities of the synod include the following:

- a. *developing of new ministries, redevelopment of existing ministries, and support and assistance in the conclusion, if necessary, of a particular ministry;*
- b. *leading and encouraging of congregations in their evangelism efforts:*
- c. *assisting members of its congregations in carrying out their ministries in the world;*
- d. *encouraging congregations to respond to human need, work for justice and peace, care for the sick and the suffering, and participate responsibly in society;*
- e. *providing resources for congregational life;*
- f. *grouping congregations in conferences, clusters, coalitions, or other area subdivisions for mission purposes.*

†S6.03.03.

In strengthening interdependent relationships among congregations, synods, and the churchwide organization, and in fostering relationships with agencies and institutions affiliated with or related to this church as well as with ecumenical partners, the responsibilities of the synod include the following:

- a. *promoting interdependent relationships among congregations, synods, and the churchwide organization, and entering into partnership with other synods in the region;*
- b. *fostering organizations for youth, women, and men, and organizations for language or ethnic communities:*
- c. *developing relationships with social ministry organizations and ministries, participating in their mission planning, and providing partnership funding;*
- d. *supporting relationships with and providing partnership funding on behalf of colleges, universities, and campus ministries;*
- e. *maintaining relationships with and providing partnership funding on behalf of seminaries and continuing education centers;*
- f. *fostering supporting relationships with camps and other outdoor ministries;*
- g. *fostering supporting relationships with preschools, elementary schools, and secondary schools operated by congregations of the synod;*
- h. *fostering relationships with ecumenical and global partners;*

- i. *cooperating with other synods and the churchwide organization in creating, using and supporting regions to carry out those functions of the synod which can best be done cooperatively with other synods and the churchwide organization.*

†S6.03.04. *In interpreting the work of this church on the territory of the synod, the responsibilities of the synod include the following:*

- a. *encouraging financial support for the work of this church by individuals and congregations;*
- b. *participating in Churchwide programs;*
- c. *interpreting social statements in a manner consistent with the interpretation given by the Churchwide unit or office which assisted in the development of the statement, and suggestion of social study issues;*
- d. *providing ecumenical guidance and encouragement.*

SB/L6.03. *In fulfillment of this role, this synod shall foster supporting relationships with individuals and groups related to ministries in specialized settings.*

†S6.04 Except as otherwise provided in this constitution and bylaws, the Synod Council shall establish processes that will ensure that at least 60% of the members of the synod assemblies, councils, committees, boards, and other organizational units shall be laypersons; and that, as nearly as possible, 50% of the lay members of assemblies, councils, committees, boards or other organizational units shall be female and 50% shall be male; and that, where possible, the representation of ministers of Word and Sacrament shall be both male and female. This synod shall establish processes that will enable it to reach a minimum goal that 10% of its assemblies, councils, committees, boards, or other organizational units be persons of color and/or persons whose primary language is other than English.

S6.04.A01. It is the goal of this synod that 10% of the membership of synod assemblies, councils, committees, boards and other organizational units be persons of color or persons whose primary language is other than English.

S6.04.01 *It is the goal of this synod that at least 10% of the voting members of the Synod Assembly, Synod Council, committees, and organizational units of this synod be youth and young adults. The Synod Council shall establish a plan for implementing this goal. For purposes of the constitution, bylaws, and continuing resolutions of this synod, the term “youth” means a voting member of a congregation who has not reached the age of 18 at the time of election or appointment for service. The term “young adult” means a voting member of a congregation between the ages of 18 and 30 at the time of election or appointment for service.*

†S6.05. Each assembly, council, committee, board, commission, task force, or other body of this synod or any synodical units shall be conclusively presumed to have been properly constituted, and neither the method of selection nor the composition of any such assembly, council, committee, board, commission, task force, or other body may be challenged in a court of law by any person or be used as the basis of a challenge in a court of law to the validity or effect of any action taken or authorized

by any such assembly, council, committee, board, commission, task force, or other body.

- †S6.06. References herein to the nature of the relationship between the three expressions of this church-congregations, synods, and the churchwide organization-as being interdependent or as being in a partnership relationship describe the mutual responsibility of these expressions in God's mission and the fulfillment of the purposes of this church, as described in this chapter, and do not imply or describe the creation of partnerships, co-ventures, agencies, or other legal relationships recognized in civil law.

Chapter 7

SYNOD ASSEMBLY

- †S7.01. This synod shall have a Synod Assembly, which shall be its highest legislative authority. The powers of the Synod Assembly are limited only by the provisions in the Articles of Incorporation, this constitution and bylaws, the assembly's own resolutions, and the constitution and bylaws of the Evangelical Lutheran Church in America.
- †S7.11. A regular meeting of the Synod Assembly shall be held at least triennially.
- S7.11.01 *The Synod Assembly shall meet annually. The time and place of the Annual Synod Assembly shall be determined by the Synod Council. The time and place for the next regular assembly normally shall be announced at least 12 months prior to the assembly.*
- S7.12. Special meetings of the Synod Assembly may be called by the bishop with the consent of the Synod Council, and shall be called by the bishop at the request of one-fifth of the voting members of the Synod Assembly.
- a. The notice of each meeting shall define the purpose for which it is to be held. The scope of actions taken at such a special meeting shall be limited to the subject matter(s) described in the notice.
 - b. If the special meeting of the Synod Assembly is required for the purpose of electing a successor bishop because of death, resignation, or inability to serve, the special meeting shall be called by the Synod Council after consultation with the presiding Bishop of the Evangelical Lutheran Church in America.
- S7.13. Notice of the time and place of meetings of the Synod Assembly shall be given by the secretary of this synod.
- S7.13.01. *Notice of a regular or special meeting of the Synod Assembly shall be given if by first class mail, or by electronic and/or technological means, as permitted by state law, not less than ten (10) days or more than fifty (50) days before the date of the meeting, or if by any other class of mail not less than thirty (30) nor more than sixty (60) days before the date of the meeting.*
- S7.14. One-half of the members of the Synod Assembly shall constitute a quorum.

- †S7.21. The membership of the Synod Assembly, of which at least 60% of the voting membership shall be composed of laypersons, shall be constituted as follows:
- a. All ministers of Word and Sacrament under call on the roster of this synod in attendance at the Synod Assembly shall be voting members.
 - b. All ministers of Word and Service, under call, on the roster of this synod shall be voting members in the Synod Assembly, in addition to the voting membership of lay members of congregations provided in item †S7.21.c.
 - c. A minimum of one lay member elected by each congregation with fewer than 175 baptized members and a minimum of two lay members elected by each congregation with 175 or more baptized members related to this synod, normally one of whom shall be male and one of whom shall be female, shall be voting members. The Synod Council shall establish a formula to provide additional lay representation from congregations on the basis of the number of baptized members in the congregation. The Synod Council shall seek to ensure that, as nearly as possible, 50 percent of the lay members of the assembly shall be female and 50 percent shall be male. Additional members from each congregation normally shall be equally divided between male and female.
 - d. Voting membership shall include the officers of this synod.

†S7.21.01. *Voting members shall begin serving with the opening of a regular Synod Assembly and shall continue serving until voting members are seated at the next regular Synod Assembly.*

S7.21.02 *Congregations shall be entitled to one additional lay voting member at the Synod Assembly for each 250 confirmed communing members or portion thereof over 500 as reported in the most recent parochial report. Additional members from each congregation shall be equally divided between male and female except that the odd-numbered member, if any, may be either male or female.*

S7.21.c.A99. Each congregation will be allowed at least two voting members to the Synod Assembly.

S7.22. The membership of the Synod Assembly shall include in addition to those specified in S7.21 ministers of Word and Sacrament on the roster of this synod who are serving as interim ministers of Word and Sacrament (vacancy and intentional interim, ministers of Word and Sacrament and ministers on leave from call serving in a congregation) at the request of the Bishop, and all retired persons on the roster of this synod. All such persons on the roster of this synod shall remain as members of the Synod Assembly so long as their names appear on the roster of this synod. This synod may establish processes that permit its rostered ministers, , or those designated as disabled, or on leave from call, on the roster of the synod to serve as voting members of the Synod Assembly, consistent with †S7.21.c. If the synod does not establish processes to permit rostered ministers specified above to serve as voting members, they shall have voice but not vote in the meetings of the Synod Assembly.

- S7.22.01. Rostered leaders who are on leave from call and serving in a congregation in an interim capacity at the request of the bishop, may gain voice and vote privileges in the Synod Assembly by sending a letter to the bishop requesting such privileges.*
- S7.23.** The presiding Bishop of the Evangelical Lutheran Church in America and such other official representatives of this church as may be designated from time to time by the Church Council shall have voice but not vote in the meetings of the Synod Assembly. Like privileges shall be accorded to those additional persons whom the Synod Assembly or Synod Council shall from time to time designate.
- S7.23.01. Chief Executive Officers of the Upstate New York Synod Social Ministry Organizations who are not otherwise members of the Synod Assembly shall be accorded the privilege of voice, but not vote, in meetings of the Synod Assembly.*
- S7.24.** Ministers under call on the rosters of this synod shall remain as members of the Synod Assembly so long as they remain under call and so long as their names appear on the rosters of this synod. Lay members of the Synod Assembly, representing congregations shall continue as such until replaced by the election of new members or until they have been disqualified by termination of membership. Normally, congregations will hold elections prior to each regular meeting of the Synod Assembly.
- †**S7.25.** Except as otherwise provided in this constitution or in the *Constitution, Bylaws and Continuing Resolutions of the Evangelical Lutheran Church in America* each voting member of the Synod Assembly shall be a voting member of a congregation of this synod.
- S7.26.** This synod may establish processes through the Synod Council that permit representatives of under development and authorized worshipping communities of the synod, which have been authorized under ELCA bylaw 10.02.03, to serve as voting members of the Synod Assembly, consistent with †S7.21.
- S7.27.** This synod may establish processes through the Synod Council to grant a minister from a church body with which a relationship of full communion has been declared and established by the Churchwide Assembly of the Evangelical Lutheran Church in America the privilege of both voice and vote in the Synod Assembly during the period of that minister's service in a congregation of this church.
- S7.27.A07.** **A minister of Word and Sacrament from a church body with which a relationship of full communion has been declared and established by the Churchwide Assembly of the Evangelical Lutheran Church in America during the period of that ordained minister's service in a congregation of this church may gain voice and vote privileges in the Synod Assembly by sending a letter to the Bishop requesting such privileges.**
- S7.28.** Duly elected voting members of the Synod Council who are not otherwise voting members of the Synod Assembly under †7.21 shall be granted the privilege of both voice and vote as members of the Synod Assembly.
- †**S7.31.** Proxy and absentee voting shall not be permitted in the transaction of any business of this synod.

S7.32. Robert’s Rules of Order, latest edition, shall govern parliamentary procedures of the Synod Assembly.

S7.32.01. All resolutions to be proposed to the Assembly shall be directed to the Synod Council. The deadline for submitting such resolutions to the Synod Council is two weeks before its January meeting preceding the Synod Assembly. The Synod Council shall present such resolutions together with its recommendations to the Synod Assembly. All such resolutions shall be distributed to the voting members of the Synod Assembly a minimum of 15 days prior to the opening of the Assembly. Resolutions received by Synod Council after the January deadline, may be addressed by the Synod Council and/or be directly referred to the Reference and Counsel Committee at Synod Assembly.

The Synod Council shall appoint an ad hoc Reference and Counsel task force to process the resolutions received by Council. At least one member of the ad hoc taskforce shall be a member of the Assembly Reference and Counsel committee. The taskforce should have at least no less than three or more than five appointed and at least one member will be a Synod Council member.

The ad hoc task force shall submit to Synod Council for its March meeting the recommendations for each resolution taking into consideration the limits stated in S7.32.A17.

S7.32.A17. After having considered the recommendations of the ad hoc task force for each resolution the Synod Council shall, with respect to each resolution:

- 1) Present the resolution as received to the Assembly for adoption; or**
- 2) Modify the resolution received by them and present the modified version, along with the original resolution, to the Assembly recommending that the modified resolution be adopted as a substitute; or**
- 3) Recommend the resolution be referred to an appropriate committee or to the Synod Council; or**
- 4) Report to the Assembly that they have received the resolution and recommend that it not be adopted together with the reason for that recommendation; or**
- 5) Present the resolution to the Assembly with such other recommendation as may be approved by the Synod Council.**

In the event there is not a consensus on the Synod Council with respect to the recommendation to go forward with the resolution, a summary of the votes taken with respect to that resolution shall also be forwarded to the Assembly.

S7.33. “Ex-officio” as used herein means membership with full rights of voice and vote unless otherwise expressly limited.

Chapter 8 OFFICERS

†S8.01. The officers of this synod shall be a bishop, a vice-president, a secretary and a treasurer.

S8.10. Bishop

†S8.11. The bishop shall be elected by the Synod Assembly. The bishop shall be a minister of Word and Sacrament of the Evangelical Lutheran Church in America.

†S8.12. As this synod's pastor, the bishop shall:

- a. Preach, teach, and administer the sacraments in accord with the Confession of Faith of this church.
- b. Have primary responsibility for the ministry of Word and Sacrament in this synod and its congregations, providing pastoral care and leadership for this synod, its congregations, its ministers of Word and Sacrament and its ministers of Word and Service.
- c. Exercise solely this church's power to ordain (or provide for the ordination by another synodical bishop of) approved candidates who have received and accepted a properly issued, duly attested letter of call for the office of ministry of Word and Sacrament (and as provided in the bylaws of the Evangelical Lutheran Church in America).
- d. Consecrate (or provide for the consecration of) approved candidates who have received and accepted a properly issued, duly attested letter of call for service as ministers of Word and Service of this church.
- e. Attest letters of call for persons called to serve congregations in the synod, letters of call for persons called by the Synod Council, and letters of call for persons on the rosters of this synod called by the Church Council.
- f. Install (or provide for the installation of) rostered ministers whose calls the bishop has attested.
- g. Exercise leadership in the mission of this church and in so doing:
 - 1) interpret and advocate the mission and the theology of the whole church;
 - 2) lead in fostering support for and commitment to the mission of this church within this synod;
 - 3) coordinate the use of the resources available to this synod as it seeks to promote the health of this church's life and witness in the areas served by this synod;
 - 4) submit a report to each regular meeting of the Synod Assembly concerning the synod's life and work; and
 - 5) advise and counsel this synod's related institutions and organizations.
- h. Practice leadership in strengthening the unity of the Church and in so doing:
 - 1) exercise oversight of the preaching, teaching, and administration of the sacraments within this synod in accord with the Confession of Faith of this church;

- 2) be responsible for administering the constitutionally established processes for the resolution of controversies and for the discipline of rostered ministers and congregations of this synod;
 - 3) be the chief ecumenical officer of this synod;
 - 4) consult regularly with other synodical bishops and the Conference of Bishops;
 - 5) foster awareness of other churches throughout the Lutheran world communion and, where appropriate, engage in contact with leaders of those churches;
 - 6) cultivate communion in faith and mission with appropriate Christian judicatory leaders functioning within the territory of this synod; and
 - 7) be ex officio a member of the Churchwide Assembly.
- i. Oversee and administer the work of this synod and in so doing:
- 1) serve as the president of the synod corporation and be the chief executive and administrative officer of this synod, who is authorized and empowered, in the name of this synod, to sign deeds or other instruments and to affix the seal of this synod;
 - 2) preside at all meetings of the Synod Assembly and provide for the preparation of the agenda for the Synod Assembly, Synod Council and the council's Executive Committee;
 - 3) ensure that the constitution and bylaws of the synod and of the churchwide organization are duly observed within this synod, and that the actions of the synod in conformity therewith are carried into effect;
 - 4) exercise supervision over the work of the other officers;
 - 5) coordinate the work of all synodical staff members;
 - 6) appoint all committees for which provision is not otherwise made;
 - 7) be a member of all committees and any other organizational units of the synod, except as otherwise provided in this constitution;
 - 8) provide for preparation and maintenance of synodical rosters containing:
 - a) the names and addresses of all rostered ministers of this synod and a record of the calls under which they are serving or the date on which they become retired or disabled;
 - 9) Annually bring to the attention of the Synod Council the names of all rostered ministers on leave from call or engaged in approved graduate study in conformity with the constitution, bylaws, and continuing resolutions of this church and pursuant to prior action of this synod through the Synod Council.
 - 10) Provide for prompt reporting to the secretary of this church of:
 - a) additions to and subtractions from the rosters of this synod and the register of congregations;
 - b) the issuance of certificates of transfer, for rostered ministers in good standing who have received and accepted a properly issued, duly attested, regular letter of call under the jurisdiction of another synod; and
 - c) the entrance of the names of such persons for whom proper certificates of transfer have been received.
 - 11) Provide for preparation and maintenance of a register of the congregations of this synod and the names of the laypersons who have been elected to represent them; and

- 12) Appoint a statistician of the synod, who shall secure the parochial reports of the congregations, and make the reports available to the secretary of this church for collation, analysis, and distribution of the statistical summaries to this synod and the other synods of this church.

†S8.13. The synodical bishop may appoint an attorney, admitted to the bar within the territory of the synod or the state where the synod is located, to be Synod Attorney. The appointment must be approved by the Synod Council and reported to the Synod Assembly and to the ELCA secretary. The appointment continues until resignation or until a successor is appointed. The synod Attorney provides legal advice and counsel to the synodical officers and the Synod Council. The Synod Attorney is expected to be familiar with the governing documents and policies of the synod and, as necessary, to attend meetings of the Synod Council. The Synod Attorney serves without salary but may be retained and compensated for specific legal services requested by the synod.

S8.14. The bishop may have such assistants, as the synod shall from time to time authorize.

†S8.15. The presiding bishop of this church, or the appointee of the presiding bishop, shall install into office, in accord with the policy and approved rite of this church, each newly elected synodical bishop.

†S8.16. **Conflicts of Interest**

†S8.16.01. *The following procedures shall govern matters of potential conflicts of interest for synodical bishops:*

- a. *Whenever a synodical bishop determines that a matter of the kind described in †S8.16.01.b. may require his or her determination or action with respect to a related individual as defined in †S8.16.01.c., the synodical bishop shall withdraw from personal involvement in such matter and shall so notify the presiding bishop. The presiding bishop shall then appoint another synodical bishop from the same region to handle the matter to conclusion. In dealing with such matter, the appointed bishop shall exercise all of the functions and authority to the same extent as if the appointed bishop were the elected bishop of the withdrawing bishop's synod.*
- b. *Matters include any proceedings under Chapter 20, proceedings under provision 7.46. of the Constitution, Bylaws and Continuing Resolutions of the Evangelical Lutheran Church in America (†S14.13.), candidacy, reinstatement, and similar matters where determinations or actions by the synodical bishop could change, limit, restrict, approve, authorize, or deny the related individual's ministry on one of the official rosters of this church.*
- c. *A related individual is one who, with respect to the synodical bishop, is a spouse, parent, son, daughter, sibling, uncle, aunt, niece, nephew, grandparent, grandchild, including corresponding members of blended families and in laws (parent, son, daughter, or sibling of a spouse, spouse of a sibling, or the parent or sibling of the spouse of a sibling).*

S8.20. Vice President

†S8.21. The vice president shall be elected by the Synod Assembly. The vice president shall be a layperson. The vice president shall be a voting member of a congregation of this synod. The vice president shall not receive a salary for the performance of the duties of the office.

S8.21.01. *The Vice President shall:*

- a. *preside at meetings of the Synod Council;*
- b. *be consulted by the Bishop in the appointment of committees of Synod Council;*
- c. *meet with the Bishop in the creation of the agenda for Synod Council and Executive Committee meetings;*
- d. *preside at meetings of the Synod Council Executive Committee;*
- e. *serve, at the invitation of the Bishop or Synod Council, as a representative of the synod at congregational or other ministry events;*
- f. *meet with the Bishop to review synod life;*
- g. *be appointed to the assembly Planning Team.*
- h. *The vice president may call, in consultation with the Bishop, a meeting of the Executive Committee.*

S8.22. The vice president shall chair the Synod Council.

S8.23. In the event of the death, resignation, or disability of the bishop, the vice president, after consultation with the presiding bishop of the Evangelical Lutheran Church in America, shall convene the Synod Council to arrange for the conduct of the duties of the bishop until a new bishop shall be elected, or, in the case of temporary disability, until the bishop resumes full performance of the duties of the office.

S8.30. Secretary

†S8.31. The secretary shall be elected by the Synod Assembly. The secretary shall be a voting member of a congregation of this synod. The secretary may be either a layperson or a minister of Word and Sacrament.

†S8.32. The secretary shall:

- a. keep the minutes of all meetings of the Synod Assembly and Synod Council, be responsible for the printing and distribution of such minutes, and perform such other duties as this synod may from time to time direct.
- b. be authorized and empowered in the name of this synod, to attest all instruments which require the same, and which are signed and sealed by the bishop.
- c. in consultation with the bishop, classify and arrange all important papers and documents and deposit them in the archives of this synod.
- d. submit to the secretary of this church at least nine months before each regular Churchwide Assembly a certified list of the voting members elected by the Synod Assembly.

S7.32.01. The secretary shall keep the minutes of all meetings of the Synod Council and Executive Committee and be responsible for the printing and distribution of such minutes.

S8.40. Treasurer

†**S8.41.** The treasurer may be elected by the Synod Assembly or may be appointed by the Synod Council. The treasurer shall be a voting member of a congregation of this synod. The treasurer may be either a layperson or a minister of Word and Sacrament.

S8.42. The treasurer shall provide and be accountable for:

- a. management of the monies and accounts of this synod (except funds under the control of the Lake Chautauqua Lutheran Center Committee/Director), its deeds, mortgages, contracts, evidences of claims and revenues, and trust funds, holding the same at all times subject to the order of this synod.
- b. investment of funds upon the authorization of the Synod Council.
- c. receipt and acknowledgment of offerings, contributions, and bequests made to this synod, collecting interest and income from its invested funds, and paying regular appropriations and orders on the several accounts as approved and directed by the Synod Council. The treasurer shall transmit each month to the treasurer of the Evangelical Lutheran Church in America the funds received by this synod for the general work of this church.
- d. maintenance of a regular account with each congregation of this synod and informing each congregation, at least quarterly, of the status of this account.
- e. rendering at each regular meeting of the Synod Assembly a full, detailed and duly audited report of receipts and disbursements in the several accounts of this synod for the preceding fiscal year, together with the tabulation, for record and publication in the minutes, of the contributions from the congregations.
- f. obtaining a fidelity bond in the amount determined by the Synod Council for persons handling synod funds, which bond shall be in the custody of the secretary. The premium of the bond shall be paid by this synod. Fidelity coverage provided by the Evangelical Lutheran Church in America shall be deemed a fulfillment of the requirement.

S8.50. General Provisions

†**S8.51.** The terms of office of the officers of this synod shall be:

- a. The bishop of this synod shall be elected to a term of six years and may be reelected.
- b. The vice president and secretary of this synod shall be elected to a term of four years and may be reelected.

- c. The treasurer of this synod shall be elected to a four year term and may be reelected or reappointed.

S8.52. The terms of the offices other than Bishop shall begin upon election and qualification. The term of the bishop shall begin on the first day of September following election, or, in special circumstances, at a time designated by the Synod Council.

†**S8.53.** Each officer shall be a voting member in a congregation of this synod, except that the bishop need not be a member of a congregation of this synod at the time of election.

†**S8.54.** Should the bishop die, resign, or be unable to serve, the vice president, after consultation with the presiding bishop of the Evangelical Lutheran Church in America, shall convene the Synod Council to arrange for the appropriate care of the responsibilities of the bishop until an election of a new bishop can be held or, in the case of temporary disability, until the bishop is able to serve again. Such arrangements may include the appointment by the Synod Council of an interim bishop, who during the vacancy or period of disability shall possess all of the powers and authority of a regularly elected bishop. The term of the successor bishop, elected by the next Synod Assembly or a special meeting of the Synod Assembly called for the purpose of election, shall be six years with the subsequent election to take place at the Synod Assembly closest to the expiration of such a term and with the starting date of a successor term to be governed by constitutional provision S8.52.

S8.55. Should the vice president, secretary, or treasurer die, resign, or be unable to serve, the bishop with the approval of the Executive Committee of the Synod Council shall arrange for an appropriate care of the responsibilities of the officer until an election of a new officer can be held or, in the case of temporary disability, until the officer is able to serve again. The successor officer shall be elected by the next Synod Assembly to complete the unexpired term of the predecessor officer.

†**S8.56.** The Executive Committee of the Synod Council shall determine whether an officer is unable to serve, the officer may appeal the decision of the Executive Committee by requesting a hearing before the Synod Council. A meeting to determine the ability of an officer to serve shall be called upon the request of at least three members of the Executive Committee and prior written notice of the meeting shall be given to the officer in question at least ten calendar days prior to the meeting.

†**S8.57.** The recall or dismissal of an officer and the vacating of office may be effected for willful disregard or violation of the constitutions, bylaws, and continuing resolutions of this church; for such physical or mental disability as renders the officer incapable of performing the duties of office; or for such conduct as would subject the officer to disciplinary action as a rostered minister or as a member of a congregation of this church.

- a. Proceedings for the recall or dismissal of a synodical bishop shall be instituted by written petition by:
 - 1) the Synod Council on an affirmative vote of at least two-thirds of its elected members present and voting;

- 2) the Synod Assembly on an affirmative vote of at least two-thirds of its members present and voting;
 - 3) at least 10 synodical bishops; or
 - 4) the presiding bishop of this church.
- b. Proceedings for the recall or dismissal of an officer of a synod, other than the synodical bishop, shall be instituted by written petition by:
- 1) the Synod Council on an affirmative vote of at least two-thirds of its elected members present and voting;
 - 2) the Synod Assembly on an affirmative vote of at least two-thirds of its members present and voting; or
 - 3) the synodical bishop.
- c. The petition shall be filed with the chair of the Committee on Appeals (in care of the secretary of the Evangelical Lutheran Church in America, 8765 West Higgins Road, Chicago, Illinois 60631) and shall set forth the specific charge or charges.
- d. Upon the filing of a written petition, the Executive Committee of the Synod council may temporarily suspend the officer from service in the synod without prejudice, but with continuation of compensation, including benefits, if the officer is a salaried employee of the synod.
- e. In the case of alleged physical or mental incapacity of an officer of the synod, the procedures outlined in †S8.56. shall be followed, and such officer shall comply with the decision of the Synod Council. If such officer fails or refuses to comply, the Synod Council may proceed to petition for recall or dismissal as follows:
- 1) the Synod Council will submit a written report of their findings and the basis of their decision to the Committee on Appeals.
 - 2) the Committee on Appeals, other than those who are disqualified, shall review the findings and decision of the Synod Council and by an affirmative vote of at least two-thirds of those present and voting may adopt the findings and grant the petition.
- f. If the synod officer is a minister of Word and Sacrament, grounds for recall or dismissal include those set forth in ELCA bylaw 20.21.01. and as defined under the process described in ELCA constitutional provisions 20.20. and 20.21. as grounds for discipline. If the officer is a minister of Word and Service, grounds for recall or dismissal include those set forth in ELCA bylaw 20.22.01. and as defined under the process described in ELCA constitutional provisions 20.20. and 20.21. as grounds for discipline.
- g. If the officer is a layperson, grounds for recall or dismissal include those set forth in ELCA bylaw 20.41.01. as grounds for discipline.
- h. If the case of alleged willful disregard or violation of the constitutions, bylaws, and continuing resolutions or of alleged conduct as would subject the officer to disciplinary action, the following procedures shall apply:
- 1) the petition shall be referred to the Committee on Appeals, which shall function as the discipline hearing committee that shall conduct a hearing in accordance with the rules provided for in ELCA bylaw 20.21.16.

except to the extent that those rules are in conflict with the provisions of this bylaw; and

2) the members of the Committee on Appeals, other than those who are disqualified, may grant the petition by an affirmative vote of at least two-thirds of those present and voting.

i. Written notice of a decision by the Committee on Appeals that the charges have been sustained shall be given to the affected officer and to the Synod Council, and the office shall be vacated.

†S8.58. If the bishop is to be temporarily absent from the synod for an extended period, the bishop, with the consent of the Synod Council, may appoint as acting bishop for such period a minister of Word and Sacrament of this church. Except as limited by action of the Synod Council, an acting bishop shall possess all of the powers and authority of a regularly elected bishop other than authority to ordain or to authorize the ordination of properly approved candidates for ordination.

Chapter 9 NOMINATIONS AND ELECTIONS

†S9.01. The Synod Assembly shall elect such officers of this synod and such other persons as the constitution and bylaws may require, according to procedures set forth in the bylaws. The Synod Assembly shall elect members of the Churchwide Assembly in accordance with bylaw 12.41.11. of the constitution and bylaws of the Evangelical Lutheran Church in America.

S9.01.A17. Representative(s) to the Board(s) of the United Lutheran Seminary will be nominated by the Synod Council for election at a meeting of the Synod Assembly. Additional nominations may not be made from the floor.

†S9.02. In all elections by the Synod Assembly, other than for the bishop, a majority of the legal votes cast shall be necessary for election.

S9.03. There shall be a Nominating Committee consisting of seven (7) members who shall be elected by the Synod Council upon nomination by each conference to serve for each regular and special meeting of the Synod Assembly. Additional nominations may be made from the floor for all elections for which nominations are made by the Nominating Committee.

S9.04. The bishop shall be elected by the Synod Assembly by ecclesiastical ballot. The initial steps for the ecclesiastical ballot for the election of a bishop and will follow the provisions of S/CR9.04. Three-fourths of the votes cast shall be necessary for election on the first ballot conducted at the Assembly. The second ballot shall be limited to the seven persons (plus ties) who received the greatest number of votes on the first ballot. Two-thirds of the votes cast on the second ballot shall be necessary for election. The third ballot shall be limited to the five persons (plus ties) who received the greatest number of votes on the second ballot, and 60% of the votes cast shall be necessary for election. The fourth ballot shall be limited to the three persons (plus ties) who received the greatest number of votes on the third ballot, and 50% of the votes cast shall be necessary for election. On subsequent ballots a majority of the votes cast shall be necessary for election. These ballots shall be

limited to the two persons (plus ties) who receive the greatest number of votes on the previous ballot.

S9.04.A02. The following shall be used for the gathering of names for ecclesiastical ballots:

a. Early in an election year, the Synod Vice President shall send to each rostered minister, to each congregational council and to all others who will be eligible to vote at the coming Synod Assembly, instructions on the process of nominating and electing a Bishop for the Upstate New York Synod. The Vice President shall:

- 1) give sufficient advance notice;**
- 2) include process instructions;**
- 3) point out the ELCA Yearbook list of rostered clergy;**
- 4) list constitutional qualifications for a Bishop;**
- 5) explain “ecclesiastical nominating procedure”*;**

By “ecclesiastical” we mean:

- a) Each person eligible to vote shall seek the guidance of the Holy Spirit and may with openness nominate any qualified person the Spirit may suggest.**
- b) “ecclesiastical” allows for designated members of the Church, both clergy and lay to vote.**
- c) Guidance of the Holy Spirit is understood to include thoughtful, informed voting, with more information about persons being given as the field of candidate’s narrows.**
- d) The process of reducing the original list of names suggested to one final person will be systematic, and may proceed at a pace swifter than that of a pure ecclesiastical ballot which only eliminates the candidate with the lowest number of votes on each ballot.**

- 6) instruct congregations and those persons eligible to nominate to develop their own process for determining names to submit in nomination;**
- 7) engage in prayer and thoughtful discussion;**
- 8) encourage congregations to include the nominations in the Prayers of the Church on the Sunday that names are submitted.**

b. Each person eligible to vote at the coming Synod Assembly may submit to the designated Lay Synod Council Representative from his or her Conference one name in nomination of Synod Bishop.

- 1) Each congregation should identify lay voting members, in accordance with the guidelines specified in the Synod Constitution, to submit nominations and participate in Conference discussions and votes. Even if lay delegates will not be attending the Assembly.**

- 2) **In the spirit of an ecclesiastical ballot, each person voting shall nominate according to personal spiritual conscience after careful and prayerful consideration.**
- 3) **This nomination shall be mailed to the designated Lay Synod Council Representative of his or her Conference in a sealed envelope post-marked no later than March 15 of the election year.**
- 4) **Each congregation shall determine its own process for nominating candidates for Bishop.**

c. The designated Lay Synod Council Representative of the Conference shall:

- 1) **Compile an alphabetical listing of nominees (not including the number of nominations) and submit it to the Conference Dean.**
- 2) **Contact each nominee**
- 3) **Solicit from each nominee a declaration of “intent to serve, if elected” and place the name of each declared person on a candidate list and**
- 4) **Send each nominee a biographical sheet to be completed by the nominee, asking for:**
 - **personal and ministry information, including congregations served and special calls;**
 - **a statement of the candidate’s faith journey;**
 - **a vision for the synod statement; and**
 - **other information the candidate considers important**

The biography:

- **shall not exceed both sides of an 8 ½ x 11 sheet with one inch margins on all sides;**
 - **shall be returned to the Lay Synod Council Representative within one week on typed or computer paper and in a reproducible form; and**
 - **shall include a 5x7 candidate photo to be displayed at the Synod Assembly.**
- 5) **The lay Synod Council Representative shall prepare a complete list of candidates, with all available information and shall submit it to the dean of the conference.**

d. The dean shall distribute the materials to the conference not less than two weeks before the Conference Assembly as information for narrowing the list of candidates to not more than seven.

- 1) **The conference shall determine its own process for consideration of candidates and its own process for narrowing the list.**
- 2) **After the Conference Assembly, the Lay Synod Council Representative (LSCR) shall submit the conference’s candidate list and all available information to the Synod Vice President by May 1 of the election year.**

- e. **The Synod Vice President shall then:**
 - 1) **sort the seven LSCR submissions and compile an alphabetical list of all the candidates (only those who have submitted by May 1 a declaration of “intent to serve, if elected” shall be on the list compiled by the Vice President);**
 - 2) **determine which candidates intend to be at the Synod Assembly;**
 - 3) **ensure that the candidate biographical sheets are reproduced and distributed to assembly voting members two (2) weeks prior to the Synod Assembly and shall arrange a photo display of the listed candidates at the assembly site.**
- f. **To respect the integrity of the election process, no additional information on any candidate will be distributed prior to Assembly.**
- g. **Once the Assembly has been opened, each voting member will be given a preprinted ballot listing the candidates for Bishop of the Upstate New York Synod. Only these candidates may stand for election. Any additional names appearing on the ballot shall cause that ballot to be declared invalid.**
- h. **Prior to the first ballot conducted at the assembly, all candidates will be introduced and those present will be invited to come to the platform.**

- S9.05.** The Nominating Committee shall nominate at least two persons for vice-president; additional nominations may be made from the floor.
- S9.06.** The Nominating Committee shall nominate two persons for secretary; additional nominations may be made from the floor.
- S9.07.** Synod Council shall nominate at least one person for treasurer; additional nominations may be made from the floor.
- S9.08.** In all elections conducted at the Assembly, except for the officers, the name of the persons receiving the highest number of votes, but not elected by a majority of the votes cast on a preceding ballot, shall be entered on the next ballot to the number of two for each vacancy unfilled.
- S9.09.** The result of each ballot in every election shall be announced in detail to the assembly.
- †S9.10.** When notified by the secretary of this church, on behalf of the Nominating Committee of the Churchwide Assembly, the Synod Assembly shall nominate two persons in the specified categories for possible election by the Churchwide Assembly to the Church Council.
- †S9.12.** Background checks and screening shall be required and completed for persons nominated as synodical officers prior to their election, if possible, or as soon as practical after their election. The specific procedures and timing of background checks and screening shall be determined by the Synod Council.

S9.12.A10. The Synod Council Executive Committee shall provide for background screening for persons nominated for synodical office prior to the Synod Assembly at which the election will take place or as soon as possible after the Synod Assembly for newly elected officers nominated from the floor were not identified as nominees prior to the assembly. The process shall be as follows:

- a. Prior to the Synod Assembly appropriate notice of the background screening requirement and protocol will be provided to voting members, potential nominees, and others as directed by the Synod Council.
- b. Nominees and newly elected officers are required to provide written consent to a background screening and all information necessary to complete a background screening, which should be completed prior to Synod Assembly with respect to nominees and prior to installation for newly elected officers, if possible.
- c. The Synod Council's Executive Committee shall designate one Executive Committee or Synod Council member to obtain the background screenings.
- d. All background screenings for nominees and newly elected officers will entail a criminal background check. A financial background check will be completed for nominees for treasurer. The Executive Committee shall decide whether additional types of background checks are appropriate for each officer position.
- e. The background screening results shall be provided to that nominee or elected officer and to the Synod Council's Executive Committee. Further disclosure of the results may be determined by the Executive Committee.
- f. The Executive Committee may adopt other procedures or protocols as are necessary to provide for background screening for nominees and newly elected synodical officers and shall report such actions to the Synod Council.

Chapter 10

SYNOD COUNCIL

†S10.01. The Synod Council consisting of the four officers of the synod, 10 to 24 other members, and at least one youth and at least one young adult, shall be elected by the Synod Assembly.

- a. Each person elected to the Synod Council shall be a voting member of a congregation of this synod, with the exception of ministers on a roster of this synod who reside outside the territory of this synod. The process for election and the term of office when not otherwise provided shall be specified in the bylaws. A member of the Church Council of the Evangelical Lutheran Church in America, unless otherwise elected as a voting member of the Synod Council, may serve as an advisory member of the Synod Council with voice but not vote.

S10.01.01. The term of office for ministers of Word and Sacrament and lay members of the Synod Council shall be four (4) years. Clergy and lay members of the Synod Council shall be eligible for nomination and election to no more than two consecutive terms.

- b. The term of office of members of the Synod Council, with the exception of the officers and the youth member, shall be four years.

S10.01.02. The term of office for the members of the Synod Council other than the bishop shall commence at the close of the Synod Assembly at which they were elected.

†S10.02. The Synod Council shall be the board of directors of this synod and shall serve as its interim legislative authority between meetings of the Synod Assembly. It may make decisions that are not in conflict with actions taken by the Synod Assembly or that are not precluded by provisions of this constitution or the constitution ~~of~~ and bylaws of the Evangelical Lutheran Church in America.

S10.03. The functions of the Synod Council shall be to:

- a. Exercise trusteeship responsibilities on behalf of this synod.
- b. Recommend program goals and fiscal proposals to the regular meetings of the Synod Assembly.
- c. Carry out the resolutions of the Synod Assembly.
- d. Provide for an annual review of the roster of ministers of Word and Sacrament and the roster of ministers of Word and Service, receive and act upon appropriate recommendations regarding those persons whose status is subject to reconsideration and action under the constitution and bylaws of the ELCA, and make a report to the Synod Assembly of the Synod Council's actions in this regard.
- e. Issue letters of call to rostered ministers as authorized by Chapter 7 of the constitution and bylaws of the ELCA.
- f. Fill vacancies until the next regular meeting of the Synod Assembly except as may otherwise be provided in the constitution or bylaws of this synod, and determine the fact of the incapacity of an officer of this synod upon appeal from a decision of the Executive Committee.
- g. Report its actions to the regular meeting of the Synod Assembly.
- h. Perform such other functions as are set forth in the bylaws of this synod, or as may be designated to it by the Synod Assembly.
- i. The Synod Council shall elect representatives to the steering committee of Region VII, the Northeast.

S10.03.01. The principal of the following temporarily restricted funds and portions of otherwise permanently restricted funds shall not be expended without a 75% majority vote of the Synod Council:

- *LCLC Conservancy Endowment Fund*
- *Christ, Buffalo Fund*
- *Redeemer Buffalo Fund*
- *Synodical History Fund*
- *Synod Memorial Fund*
- *Eugene Kreider Memorial Fund*
- *Minden Church Fund*
- *St. Mark's, Guilderland/Our Saviour, Schenectady Fund*
- *Lillie Seel Scholarship Fund*
- *Martin L. Kling Memorial Fund*
- *Lee M. Miller I Equipping the Saints Fund*
- *Edward K. Perry Seminarian Scholarship Fund*
- *Samuel Trexler Fellowship Fund*
- *Weiskotten Memorial Fund*
- *Winter-Rowan Ministerial Education Fund*

S10.04. Any proposal to appropriate funds, whether by amendment to the fiscal proposal or otherwise, which is presented to a meeting of the Synod Assembly without the approval of the Synod Council shall require a two-thirds vote for adoption.

S10.05. No elected member of the Synod Council shall receive compensation for such service.

S10.06. If a member of the Synod Council ceases to meet the requirements of the position to which she or he was elected the office filled by such member shall at once become vacant. If a member of the Synod Council resigns or is absent from three successive regular meetings of the Synod Council without cause, the office filled by such a member shall at once become vacant. The person filling such vacancy shall be elected by the Synod Council upon nomination by the conference whose seat is vacant to complete the unexpired term of the predecessor member.

S10.06.01. If any seat of the Synod Council shall become vacant other than provided in the first sentence of S10.06., the person filling such vacancy shall be elected by the Synod Council upon nomination by the Conference whose seat is vacant to complete the unexpired term of the predecessor member.

S10.06.02. If a member of the Synod Council ceases to be a voting member of a congregation of the conference from which the member was nominated, the office filled by such a member shall become vacant.

S10.07. Conferences shall nominate for election by the Synod Assembly lay members and ministers of Word and Sacrament to the Synod Council for four (4) year terms in accordance with the bylaws.

S10.07.01. Conferences shall nominate individuals for election to the Synod Council in accordance with the following table

Hudson-Mohawk Conference [one] member
Foothills Conference [one] member

Central Crossroads Conference [one] member
Southern Tier Conference [one] member
Genesee Finger Lakes Conference [one] member
Niagara Frontier Conference [one] member
Southwestern Conference [one] member

In addition, all conferences shall nominate one person of color and/or primary language other than English with two to be elected at large by the Synod Assembly as provided in SB/L10.07.B. Conferences also shall nominate one youth, age 16 – 18, and one young adult, age 18 – 30, with one youth, and one young adult to be elected at large by the Synod Assembly as provided in SB/L10.07.B

S10.07.02. The following provisions shall govern the election of the two at-large lay persons of color or primary language other than English, and one youth, age 16 – 18, and one young adult, age 18 – 30, to serve as Synod Council members.

- a. Each conference shall nominate one person of color or primary language other than English, and one youth, and one young adult for consideration by the Synod Assembly.*
- b. The Synod Assembly shall elect two persons of color or primary language other than English at least one of whom shall be lay, and one youth, and one young adult from the nominees for each at-large seat. At least one of the youth or young adults elected must be a lay person.*
- c. In an effort to ensure diversity, should it be necessary and only in the case of the at-large nominees, the Synod Assembly may accept floor nominations of persons of color or primary language other than English, and one youth, and one young adult for consideration by the Synod Assembly.*
- d. It is desirable that the at-large nominees include both males and females and be geographically diverse.*

S10.07.03. The Committee of Deans shall elect their representative member to the Synod Council, with voice and vote, to a two (2) year term. The Dean may serve no more than a maximum of two (2) consecutive terms.

S10.08. The Synod Council shall hold at least three (3) regular meetings per year. Special meetings may be called by the bishop or, in the case of the bishop's death or disability of the bishop, by the vice president or other officer.

S10.08.01. Conferences shall nominate individuals for election as voting members of the Churchwide Assembly in accordance with the bylaws of this Church and guidelines set by the Synod Council.

S10.08.A15. The voting member seats assigned to the Upstate New York Synod for the ELCA Churchwide Assembly will be assigned as follows:

- a. Each conference will have at least one voting member.**
- b. Two at large voting members of the Churchwide Assembly from this Synod shall be persons of color or persons whose primary language is other than English (PCL)**

- 1) Each conference shall nominate one PCL lay person for consideration by the Synod Assembly.
 - 2) The Synod Assembly shall elect two PCL persons from among the nominees, one lay and one female.
 - 3) For the purpose of assuring diversity, should it be necessary and only in the case of the at-large PCL nominees, the Synod Assembly may accept nominations from the floor for the two at-large PCL voting members of the Churchwide Assembly.
- c. The required minister of Word and Sacrament female seat advances each assembly.
 - d. Normally no two voting members of the Churchwide Assembly shall be from the same congregation.
 - e. The synod Bishop and vice president are ex-officio voting members to the Churchwide Assembly.
 - f. Additional members of the Churchwide Assembly shall be allocated according to relative sizes of conferences and equal opportunities for lay and clergy and for male and female members to be selected. A table for this purpose shall follow.

**Voting members of the ELCA Churchwide Assembly 2013
in addition to the Bishop, Vice-President, and Two Lay PCL**

	Clergy	Lay Male	Lay Female
1. Central Crossroads	Yes		Yes
2. Foothills	Yes	Yes	
3. Genesee Finger Lakes	Yes		Yes
4. Hudson-Mohawk	Yes		Yes
5. Niagara Frontier	Yes	Yes	
6. Southern Tier		Yes	
7. Southwestern			Yes

S10.09 A majority of the members of the Synod Council shall constitute a quorum.

**Chapter 11
COMMITTEES**

†**S11.01.** There shall be an Executive Committee, a Consultation Committee, a Committee on Discipline, a Mutual Ministry Committee, an Audit Committee and such other committees as this synod may from time to time determine. The duties and functions of such committees, or any other organizational units created by this synod, and the composition and organizational structure of such units, shall be as set forth in this constitution or in the bylaws or continuing resolutions and shall be subject to any applicable provisions or requirements of the constitution and bylaws of the Evangelical Lutheran Church in America.

S11.01.01. The executive committee shall be composed of the officers of the synod plus the Dean serving on the Synod Council.

S11.01.02. There shall be a Committee of Deans, chaired by the bishop of the synod, which shall advise and assist the bishop in the discharge of pastoral duties and confer with the bishop as to the needs of the church on the territory of the several conferences and such other tasks as the Synod Council shall determine. The committee of deans shall elect its own secretary.

S11.01.03. The term of office for the members of committees elected by the Synod Assembly shall commence at the close of the Synod Assembly at which they were elected.

S11.01.04. There shall be a Candidacy Committee which shall have the function of assessing and approving candidates for rostered ministry. The committee shall function according to candidacy policies and guidelines established by the Evangelical Lutheran Church in America.

S11.01.A04. A standing committee shall be established to oversee the ongoing work of the deacons of this synod.

This committee shall consist of at least one pastor and one deacon from each conference participating in the program.

Committee members representing conferences shall be elected or appointed in a manner determined by each conference.

This committee shall:

- a. produce, evaluate, and continually revise a “Handbook on Deacons” which shall include standards and expectations for those serving in the office of deacon as well as suggested procedures for the election of deacons and a process for discipline of deacons. This handbook and all subsequent revisions shall be subject to approval by the Synod.**
- b. plan and provide for synod wide continuing education events for deacons.**
- c. occasionally gather persons who serve as deacon trainers to share ideas, improve programs and revise minimum training expectations.**
- d. create and maintain a contact list of deacons currently serving in this synod.**
- e. provide for a newsletter or other forms of communication to support and sustain the work of deacons.**

S11.01.04.B01. Persons serving as Synodical Deacons shall have voice, but no vote at the Synod Assembly.

†S11.02. The Consultation Committee of this synod shall consist of at least six persons and no more than 12 persons, of whom half shall be ministers of Word and Sacrament and half shall be laypersons, who shall each be elected by the Synod Assembly for a term of six years without consecutive reelection. The functions of the Consultation Committee are set forth in Chapter 20 of the *Constitution, Bylaws, and Continuing Resolutions of the Evangelical Lutheran Church in America* and in Chapter 17 of this constitution. The size of the Consultation Committee, in accord with this provision, shall be defined in this synod’s bylaws.

S11.02.01. The Consultation Committee shall have twelve members. This committee shall be utilized only in cases involving the discipline of a rostered minister or a

congregation. The bishop of the synod shall be a member of the Consultation Committee in addition to the twelve elected members except in instances when the bishop brings charges against a rostered person. The following procedures shall be employed:

- a. *From this committee the Synod Council, or a committee authorized by the Synod Council to make the selection, shall appoint five members (three ministers of Word and Sacrament and two laypersons) to serve as a special Consultation Committee to consider the dispute. The special committee shall meet with the accused and the accuser(s) in an effort to resolve the issue(s). If, as a result of the consultation, the charges are withdrawn, no further proceeding shall be required. If the charges are not withdrawn, this special Consultation Committee shall:
 - 1) *In the case of charges that do not anticipate disciplinary action, submit a report in writing to the Bishop of the synod which sets forth the charges and the action or actions recommended by the special Consultation Committee; or*
 - 2) *In the case of charges that may result in disciplinary action, refer the charges in writing to the Committee on Discipline for a hearing.**
- b. *In the case of charges which do not anticipate disciplinary action, the bishop shall convey the recommendations of the special Consultation Committee to the parties.*
- c. *If either party does not accept the recommendation, that party may appeal the matter to the Synod Council whose decision shall be final.*

S911.02.A01. Persons elected to the Consultation Committee may simultaneously serve on other structures of the synod if they are so selected or elected.

†**S11.03.** The Committee on Discipline of this synod shall consist of 12 persons of whom six shall be ministers of Word and Sacrament and six shall be laypersons, who shall each be elected by the Synod Assembly for a term of six years without consecutive reelection.

- a. The functions of the Committee on Discipline of this synod are set forth in Chapter 20 of the *Constitution, Bylaws and Continuing Resolutions of the Evangelical Lutheran Church in America*.
- b. The Synod Council shall fill vacancies on the Committee on Discipline for any unexpired term.

S11.03.01. This committee shall be utilized only in cases involving the discipline of a rostered minister or a congregation. The bishop of the synod shall not be a member of the Committee on Discipline.

- a. *Each biennium the Synod Council shall designate the chair of the Committee on Discipline from among the members of the Committee on Discipline.*
- b. *When a specific case arises, the chairperson of the Committee on Discipline shall advise the vice-president of the synod of the need for the appointment*

of six persons (three ministers of Word and Sacrament and three laypersons) from the synodical Committee on Discipline to serve.

- c. When a specific case arises, the chairperson of the Committee on Discipline shall advise the vice-president of the ELCA of the need for the appointment of six persons from the Churchwide Committee on Discipline to serve with the synodical Committee on Discipline. The vice-president, as chair of the Church Council, shall then bring the matter to the Executive Committee of the Church Council for the selection of the six persons from their panel.*
- d. In each specific case that may result in discipline, the synodical committee, as thus constituted, shall, within 45 days after receipt of the charge meet with the rostered minister and the accuser(s) and render its judgment. If the charges are sustained, the committee shall impose the discipline appropriate to the case. Written notice of date, time, and place of the hearing and a copy of the charges shall be delivered to the accused rostered minister and to the accuser(s) at least 20 days prior to the date of the hearing. At the hearing the accuser(s) may present evidence in support of the charges and thereafter the accused rostered minister shall be entitled to present evidence. The accused and the accuser(s), or another person acting on behalf of them, shall be entitled to question the other party or any of the witnesses appearing on behalf of the other party. A verbatim record shall be made by a stenographer or by transcription of a recording of the hearing. The decision of the Committee on Discipline shall be final unless, within thirty days, the accused rostered minister shall appeal the case to the Committee on Appeals. The decision of the Committee on Appeals shall be final. If, in the course of the proceedings, it shall become apparent that the pastoral office cannot be conducted effectively in the parish being served by the ordained minister due to local conditions, the bishop of the synod may temporarily suspend the minister of Word and Sacrament from service in the parish without prejudice and with pay provided through a joint churchwide-synod fund and with housing provided by the congregation.*

S11.03.A01. Persons elected to the Discipline Committee may simultaneously serve on other structures of the synod if they are so selected or elected.

†**S11.04.** The Mutual Ministry Committee shall be appointed by the Executive Committee of the Synod Council to provide support and counsel to the bishop.

S11.04.01. The Mutual Ministry Committee shall consist of the bishop plus three (3) persons who shall be selected jointly by the bishop and the Executive Committee.

†**S11.05.** The Audit Committee of this synod shall consist of three to six persons, none of whom are members of the synod staff. Up to half of the committee members may be Synod Council members. The Audit Committee members shall be elected by the Synod Council for a term of three years and be eligible for re-election to a second consecutive three year term. The terms of the Audit Committee members shall be staggered. The Audit Committee shall be responsible for assisting the Synod Council in fulfilling its general oversight of the synod's accounting, financial reporting, internal control systems, and external audit processes as provided in †S15.31.

S11.10. General Provisions

S11.11. The synod shall in its bylaws or by continuing resolution establish a process to ensure that the members of its committees and other organizational units will be persons possessing the necessary knowledge and competence to be effective members of such units, and to meet the requirements of †S6.04. With the exception of ministers of Word and Sacrament on the roster of this synod who reside outside the territory of this synod, each member of a committee of this synod, or any other organizational unit created by this synod, shall be a voting member of a congregation of this synod.

S11.11.01. If a seat on any committee becomes vacant before the completion of a term, the election of a successor shall be for the remained of that term.

S11.11.02. A member of any committee who serves at least one day longer than one-half (1/2) of a full term shall be considered as having served a full term for the purpose of term limitations.

Chapter 12

CONFERENCES, CLUSTERS, COALITIONS, AREA SUBDIVISIONS, AND NETWORKS

†**S12.01.** This synod may establish conferences, clusters, coalitions, area subdivisions, and networks as appropriate within its territory and in collaboration with other synods and partners, as specified in the bylaws and continuing resolutions. The purpose of such groupings shall be to foster interdependent relationships for missional purposes among congregations, synods, the churchwide organization, and other partners.

†**S12.02.** The synod shall be composed of seven (7) conferences, each of which shall be composed of the congregations within specified areas, their pastors, the ministers of Word and Sacrament and retired ministers of Word and Sacrament assigned to them by the bishop and such active ministers of Word and Service as are assigned to them by the bishop.

S12.02.A15. The conference boundaries shall be:

Central Crossroads Conference **Congregations in the counties of Cayuga, Cortland, Herkimer (excluding St. James, Starkville), Jefferson, Lewis, Madison, Oneida, Onondaga, Oswego, St. Lawrence and Seneca.**

Foothills Conference **Congregations in the counties of Delaware (excluding St. Luke's, Sidney), Fulton, Hamilton, Montgomery, Otsego and Schoharie and including St. James Starkville.**

Genesee Finger Lakes Conference **Congregations in the counties of Livingston, Monroe, Ontario, Wayne and Yates and including Concordia, Kendall and Zion, Cohocton.**

Hudson-Mohawk Conference	Congregations in the counties of Albany, Columbia, Greene, Rensselaer, Saratoga, Schenectady, Warren & Washington.
Niagara Frontier Conference	Congregations in the counties of Erie (excluding Holy Cross, Farnham), Niagara and Orleans (excluding Concordia, Kendall) and Wyoming
Southern Tier Conference	Congregations in the counties of Broome, Chemung, Chenango, Schuyler, Steuben (excluding Zion, Cohocton), Tioga and Tompkins and including St. Luke's, Sidney.
Southwestern Conference	Congregations in the counties of Allegany, Cattaraugus and Chautauqua, and Holy Cross, Farnham.

S12.03. The purposes of the conferences are for communication, representation, planning and programming for this church's mission on the territory of the synod. Clusters for ministry are encouraged and will be included in a conference when desirable.

S12.03.01. Each conference shall hold meetings of the lay voting members of the congregations, their pastors, the ministers of Word and Sacrament and retired ministers of Word and Sacrament assigned to it by the bishop, such active ministers of Word and Service as are assigned to it by the bishop and there may be at-large youth voting members equaling no more than 10 percent of lay voting members of the congregation at least twice a year. Lay voting members of the congregations shall be apportioned on the same basis as at Synod Assemblies. The meeting held in the spring of the year shall be the Annual Meeting of the conference. All elections of the conference shall take place at the conference's Annual Meeting.

S12.03.02. Each conference shall have a Conference Nominating Committee which shall establish a process to meet the inclusiveness requirements of S6.04. of the Constitution.

S12.03.C.A09. That each conference shall have an Election Committee appointed for the purpose of conducting the election(s). This will include the preparation of ballots, their distribution, their count, and the announcement of the results. The term of office ends at the adjournment of the meeting for which they were appointed.

Full disclosure of the results will take place. Specifically, on any given election, the exact number of ballots cast, the number of invalid ballots, the total valid ballots, and the results either in terms of ballots for each candidate in the case of election of officers, etc. or the total count of yea and nay votes on various propositions.

The Secretary of the Conference will forward a copy of the exact vote results to the Synod Bishop or Vice President in the case of election of the Bishop.

S12.04. Conferences shall elect for their presiding officer a minister of Word and Sacrament from the conference as their dean. The dean represents the synod bishop in the conference. The term of office of the dean shall be four (4) years. The dean shall serve no more than two (2) consecutive terms.

S12.04.01. At the conference assembly next preceding the conference Annual Meeting at which a dean is to be elected, a conference nominating committee shall be elected, which committee shall present at least two (2) and not more than five (5) nominations for dean to the Annual Meeting. Additional nominations may be made as part of the first ballot.

An election for dean shall be conducted in the same manner as that for a bishop (see S9.04. of the Constitution.)

S12.04.02. 1. Should a vacancy in the Office of Dean occur during the term of office due to resignation or death, the Conference/Cabinet/Executive committee shall appoint an Interim Dean from the conference ministers of Word and Sacrament until the following Spring Conference Assembly.

2. The four year term of office shall begin June 1, following the election at Spring Conference Assembly.

S12.05. Conferences may have a conference executive committee composed of the dean, secretary, Synod Council members from the conference and such other lay, and rostered ministry members as the conference shall determine.

Chapter 13 CONGREGATIONS

†**S13.01.** Each congregation except those certified as congregations of the Evangelical Lutheran Church in America by the uniting churches, prior to being listed in the register of congregations of this synod, shall adopt the Model Constitution for Congregations or one acceptable Evangelical Lutheran Church in America.

a. **New congregations.** A congregation newly formed by this church and any congregation seeking recognition and reception by this church shall:

- 1) Accept the criteria for recognition and reception as a congregation of this church, fulfill the functions of the congregation, and accept the governance provisions as provided in Chapter 9 of the ELCA constitution and bylaws.
- 2) Adopt governing documents that include fully and without alterations the Preamble, Chapter 1, where applicable and all required provisions of Chapters 2,3,4,5,6,7,8,9,15,16,17,18, and 19 in the *Model Constitution for Congregations* consistent with requirements of the constitutions, bylaws, and continuing resolutions of this church. Bylaws and continuing resolutions, appropriate for inclusion in these chapters and not in conflict with these required provisions in the *Model Constitution for Congregations*, the constitution of this synod, or the *Constitution*

and Bylaws, and Continuing Resolutions of the Evangelical Lutheran Church in America, may be adopted as described in Chapters 16 and 18 of the Model Constitution for Congregations.

3) Accept the commitments expected of all congregations of the ELCA as stated in *C6.01., *C6.02., and *C6.03., of the Model Constitution for Congregations

b. **Congregations from another church body.** If a congregation is a member of another church body, the leaders of the congregation first should consult with the appropriate authorities of that church body before taking action to leave its current church body. After such consultation, leaders of the congregation should make contact with the ELCA synod bishop or staff where the congregation is located.

c. **Recognition and reception.** Recognition and reception into this church of transferring or independent congregations by the Evangelical Lutheran Church in America is based on the judgment of the synod and action by the synod through the Synod Council and Synod Assembly. The synod bishop shall provide for prompt reporting of such additions to the secretary of this church for addition to the register of congregations.

†S13.02. It shall be the responsibility of each congregation of this synod annually to choose from among its voting members laypersons to serve as members of the Synod Assembly as well as persons to represent it at meetings of any conference, cluster, coalition, or other area subdivision of which it is a member. The number of persons to be elected by each congregation and other qualifications shall be as prescribed in guidelines established by this synod.

S13.11. When a rostered minister resigns, the Congregation Council shall receive the letter of resignation, report it to the congregation, and at once notify the bishop of this synod.

S13.12. A congregation under financial obligation to its former rostered minister shall make satisfactory settlement of the obligation before calling a successor.

†S13.19. A congregation considering a relocation shall confer with the bishop of the synod in which it is territorially located and the appropriate unit of the churchwide organization before any steps are taken leading to such action. The approval of the Synod Council shall be received before any such action is effected.

†S13.20. A congregation considering development of an additional site to be used regularly for worship shall confer with the bishop of the synod in which it is territorially located and the appropriate unit of the churchwide organization before any steps are taken leading to such action

S13.21. The alignment of congregations in pastoral charges, and all alteration in any alignment, shall be subject to approval by the Synod Council.

†S13.22. Each congregation of the Evangelical Lutheran Church in America within the territory of this synod, except those which are in partnership with the Slovak Zion Synod, shall establish and maintain a relationship with this synod.

- †S13.23. Provision 9.71 of the ELCA constitution shall govern the relationship of this synod and a congregation of this synod regarding the property of the congregation. This synod may transfer or convey property to a congregation of the synod, subject to restrictions accepted by the congregation, including provision that if the Synod Council, in its sole and exclusive discretion, determines (1) that the property is not being used to serve the mission and ministry needs of this church, or (2) that the congregation has transferred, encumbered, mortgaged, or in any way burdened or impaired any right, title, or interest in the property without the prior approval of the Synod Council, then title to the property shall revert to the synod, and the congregation, upon written demand, shall reconvey the property to the synod.
- S13.24. If any congregation of this synod has disbanded, or if the members of the congregation agree that it is no longer possible for it to function as such, or if it is the opinion of the Synod Council that the membership of a congregation has become so scattered or so diminished in numbers as to make impractical for such a congregation to fulfill the purposes for which it was organized or that it is necessary for this synod to protect the congregation's property from waste and deterioration, the Synod Council, itself or through trustees appointed by it, may take charge and control of the property of the congregation to hold, manage, and convey the same on behalf of this synod. The congregation shall have the right to appeal the decisions to the Synod Assembly.
- S13.25. This synod may temporarily assume administration of a congregation upon its request or with its concurrence.
- S13.26. The parish records (including membership, baptism, confirmation, marriage and funeral records) of a congregation that disbands, is declared defunct by the Synod Council, or leaves the ELCA by any of the provisions of the Chapter 6 of the Model Constitution for Congregations, become property of this synod and shall be placed in the synod archives as designated by the Synod Council for reference and safekeeping.
- S13.26.01. *Parish records under provision S13.26. shall be transferred to the official archives designated by the Synod Council. Any fees and costs and transportation expenses are the responsibility of the congregation and shall be paid prior to closure or departure of the congregation. The Synod archivist may be consulted in regards to the care of the congregational records during this process.*
- S13.30. **Discipline**
- †S13.31. Congregations and members of congregations are subject to discipline in accordance with the provisions of Chapter 20 of the ELCA constitution and bylaws.
- S13.40. Synodically Authorized Worshiping Communities
- S13.41. Authorized worshiping communities, acknowledged under criteria, policies and procedures approved by the Church Council of the Evangelical Lutheran Church in America, shall accept and adhere to the Confession of Faith and Statement of Purpose of this church, shall be served by leadership under the criteria of this church, and shall be subject to the discipline of this church.

Chapter 14
ROSTERED MINISTERS

†S14.10. Ministers of Word and Sacrament

†S14.11. The time and place of the ordination of those persons properly called to congregations or non-congregational service of this synod shall be authorized by the bishop of this synod.

†S14.12. Consistent with the faith and practice of the Evangelical Lutheran Church in America

a. Every minister of Word and Sacrament shall:

- 1) preach the Word;
- 2) administer the sacraments;
- 3) conduct public worship;
- 4) provide pastoral care;
- 5) seek out and encourage qualified persons to prepare for the ministry of the Gospel;
- 6) impart knowledge of this church and its wider ministry through distribution of its communications and publications;
- 7) witness to the Kingdom of God in the community, in the nation and abroad; and
- 8) speak publicly to the world in solidarity with the poor and oppressed, calling for justice and proclaiming God's love for the world.

b. Each pastor with a congregational call shall, within the congregation:

- 1) offer instruction, confirm, marry, visit the sick and distressed, and bury the dead;
- 2) relate to all schools and organizations of the congregation;
- 3) install regularly elected members of the Congregation Council;
- 4) with the council, administer discipline; and
- 5) endeavor to increase the support given by the congregation to the work of the ELCA Churchwide organization and of this synod.

S14.13. The pastor (a) shall keep accurate parochial records of all baptisms, confirmations, marriages, deaths, communicants, members received, members dismissed, or members excluded from the congregation, (b) shall submit a summary of such statistics annually to this synod, and (c) shall become a member of the congregation upon receipt and acceptance of the letter of call. In a parish of multiple congregations, the pastor shall hold membership in one of the congregations.

S14.14. Whenever members of a congregation move to such a distance that regular attendance at its services becomes impractical, it shall be the duty of the pastor to commend them, upon their consent, to the pastoral care of a Lutheran congregation nearer to their place of residence.

S14.15. Each minister of Word and Sacrament on the roster of this synod shall submit a report of his or her ministry to the bishop of the synod by March 1 each year.

- †S14.16. When a congregation of this church desires to call a pastor or a candidate for the ministry of Word and Sacrament of this church:
- a. Each congregation of this synod shall consult the bishop of this synod before taking any steps leading to the extending of a call to a prospective pastor.
 - b. For issuance of a letter of call to a pastor or candidate by a congregation of this synod in accord with ELCA constitutional provision 7.41, a two-thirds vote shall be required of voting members of the congregation present and voting at a meeting regularly called for the purpose of issuing such a call.
 - c. When the congregation has voted to issue a call to a prospective pastor, the letter of call shall be submitted to the bishop of this synod for the bishop's signature.

S14.17. No minister of Word and Sacrament shall accept a call without first conferring with the bishop of this synod. A minister of Word and Sacrament shall respond with an answer of acceptance or declination to a letter of call within thirty days of receipt of such call. In exceptional circumstances with the approval of the bishop of this synod and the chair of the Congregation Council of the congregation issuing the call, an additional fifteen days may be granted to respond to a letter of call.

- †S14.18. The provisions for termination of the mutual relationship between a minister of Word and Sacrament and a congregation shall be as follows:
- a. The call of a congregation, when accepted by a pastor, shall constitute a continuing mutual relationship and commitment which, shall be terminated only by death or, following consultation with the synodical bishop for the following reasons:
 - 1) mutual agreement to terminate the call or the completion of a call for a specific term;
 - 2) resignation of the pastor; which shall become effective, unless otherwise agreed, no later than 30 days after the date on which it was submitted;
 - 3) inability to conduct the pastoral office effectively in that congregation in view of local conditions;
 - 4) physical disability or mental incapacity of the pastor;
 - 5) suspension of the pastor through discipline for more than three months;
 - 6) resignation or removal of the pastor from the roster of ministers of Word and Sacrament of this church;
 - 7) termination of the relationship between this church and the congregation;
 - 8) dissolution of the congregation or the termination of a parish arrangement, or
 - 9) suspension of the congregation through discipline for more than six months.
 - b. When allegations of physical disability or mental incapacity of the pastor under paragraph a.4) above, or ineffective conduct of the pastoral office

under paragraph a.3) above, have come to the attention of the bishop of this synod,

- 1) the bishop in his or her sole discretion may investigate such conditions personally together with a committee of two rostered ministers and one layperson, or
- 2) when such allegations have been brought to the synod's attention by an official recital of allegations by the congregation council or by a petition signed by at least one-third of the voting members of the congregation, the bishop personally shall investigate such conditions together with a committee of two rostered ministers and one layperson.

- c. In case of alleged physical disability or mental incapacity under paragraph a.4) above, the bishop's committee shall obtain and document competent medical opinion concerning the pastor's condition. When a disability or incapacity is evident to the committee, the bishop of this synod may declare the pastorate vacant. When the pastorate is declared vacant, the Synod Council shall list the pastor on the roster of ministers of Word and Sacrament as disabled. Upon removal of the disability and restoration of the pastor to health, the bishop shall take steps to enable the pastor to resume the ministry, either in the congregation last served or in another appropriate call.
- d. In the case of alleged local difficulties that imperil the effective functioning of the congregation under paragraph a.3) above, the bishop's committee shall endeavor to hear from all concerned persons, after which the bishop together with the committee shall present their recommendations first to the pastor and then to the congregation. The recommendations of the bishop's committee must address whether the pastor's call should come to an end and, if so, may suggest appropriate severance arrangements. The committee may also propose other actions that should be undertaken by the congregation and by the pastor, if appropriate. If the pastor and congregation agree to carry out such recommendations, no further action need be taken by the synod.

S14.18.01. If a congregational constitution prescribes a final appeal to the Synod Council if either party fails to assent, the Synod Council shall hear all concerned parties and shall render a decision. The decision of the Synod Council shall be final.

- e. If either party fails to assent to the recommendations of the bishop's committee concerning the pastor's call, the congregation may dismiss the pastor only at a legally called meeting after consultation with the bishop, either (a) by a two-thirds vote of the voting members present and voting where the bishop and the committee did not recommend termination of the call, or (b) by a majority vote of the voting members present and voting where the bishop and the committee recommended termination of the call.
- f. If, in the course of proceedings described in paragraph c. or paragraph d. above, the bishop's committee concludes that there may be grounds for disciplinary action, the committee shall make recommendations concerning disciplinary action in accordance with the provisions of this church's constitution, bylaws, and continuing resolutions.

S14.18.a.A17. See Appendix#1 found at the end of this constitution: “Professional Misconduct of a Sexual Nature by Rostered Ministers of Word and Sacrament and Ministers of Word and Service”

- †S14.19. Ministers of Word and Sacrament shall respect the integrity of the ministry of congregations which they do not serve and shall not exercise ministerial functions therein unless invited to do so by the pastor, or if there is no duly called pastor, then by the interim pastor in consultation with the Congregation Council.
- †S14.21. The parochial records of all baptisms, confirmations, marriages, burials, communicants, members received, members transferred or dismissed, members who have become inactive, or members excluded from the congregation shall be kept accurately and permanently. They shall remain the property of each congregation. At the time of the closure of a congregation, such records shall be sent to the regional archives. The secretary of the congregation shall attest to the bishop of this synod that such records have been placed in his or her hands in good order by a departing pastor before:
- a. installation in another call, or
 - b. approval of a request for change in roster status.
- †S14.22. The pastor shall make satisfactory settlement of all financial obligations to a former congregation before:
- a. installation in another call, or
 - b. approval of a request for change in roster status.
- †S14.23. During service to a congregation, an interim pastor shall have the rights and duties in the congregation of a regularly called pastor. The interim pastor may delegate the same in part to an interim supply pastor with the consent of the bishop of this synod. The interim pastor and any rostered minister who may assist shall refrain from exerting influence in the selection of a pastor. Upon completion of service the interim pastor shall certify to the bishop of this synod that the parochial records, for the period for which the interim pastor was responsible, are in order.
- †S14.24. With the approval of the synodical bishop expressed in writing which sets forth a clear statement of the purpose to be served by such a departure from the normal rule of permanency of the call as expressed in †S14.18., a congregation may call a pastor for a specific term. Details of such calls shall be in writing setting forth the purpose and conditions involved. Prior to the completion of a term, the bishop of this synod or a representative of the bishop shall meet with the pastor and representatives of the congregation for a review of the call. Such call may also be terminated before its expiration in accordance with the provisions of †S14.18.
- S14.25. All ministers of Word and Sacrament under a call shall attend meetings of the Synod Assembly, and the pastors of congregations shall also attend the meetings of the conference, cluster, coalition or other area subdivision to which the congregation belongs.

†S14.30. Ministers of Word and Service

†S14.31. The time and place of the consecration of those persons properly called to congregations or non-congregational service of this synod shall be authorized by the bishop of this synod.

†S14.32. Consistent with the faith and practice of the Evangelical Lutheran Church in America, every Minister of Word and Service shall:

- a. Be rooted in the Word of God, for proclamation and service;
- b. Advocate a prophetic diakonia that commits itself to risk-taking and innovative service on the frontiers of the Church's outreach, giving particular attention to the suffering places in God's world;
- c. Speak publicly to the world in solidarity with the poor and oppressed, calling for justice and proclaiming God's love for the world, witnessing to the realm of God in the community, the nation, and abroad;
- d. Equip the baptized for ministry in God's world that affirms the gifts of all people;
- e. Encourage mutual relationships that invite participation and accompaniment of others in God's mission;
- f. Practice stewardship that respects God's gift of time, talents, and resources;
- g. Be grounded in a gathered community for ongoing diaconal formation;
- h. Share knowledge of the ELCA and its wider ministry of the gospel, and advocate for the work of all expressions of this church; and
- i. Identify and encourage qualified persons to prepare for ministry of the gospel.

S14.33. The minister of Word and Service shall become a member of the congregation upon receipt and acceptance of the letter of call. In a parish of multiple congregations, the minister of Word and Service shall hold membership in one of the congregations.

S14.34. Each minister of Word and Service on the roster of this synod shall submit a report of his or her ministry to the bishop of the synod at least 90 days prior to each regular meeting of the Synod Assembly.

†S14.41. When a congregation of this church desires to call a minister of Word and Service or a candidate for the ministry of Word and Service of this church:

- a. Each congregation of this synod shall consult the bishop of this synod before taking any steps leading to the extending of a call to a prospective minister of Word and Service.
- b. For issuance of a letter of call to a minister of Word and Service or candidate by a congregation of this synod in accord with ELCA

constitutional provision 7.71., a two-thirds vote shall be required of members of the congregation present and voting at a meeting regularly called for the purpose of issuing such a call.

- c. When the congregation has voted to issue a call to a prospective minister of Word and Service, the letter of call shall be submitted to the bishop of this synod for the bishop's signature.

S14.42. No minister of Word and Service shall accept a call without first conferring with the bishop of this synod. A minister of Word and Service shall respond with an answer of acceptance or declination to a letter of call within 30 days of receipt of such call. In exceptional circumstances with the approval of the bishop of this synod and the chair of the Congregation Council of the congregation issuing the call, an additional 15 days may be granted to respond to a letter of call.

- †**S14.43.**
- a. The call of a congregation, when accepted by a minister of Word and Service, shall constitute a continuing mutual relationship and commitment which shall be terminated only by death or, following consultation with the synodical bishop, for the following reasons:
 - 1) mutual agreement to terminate the call or the completion of a call for a specific term;
 - 2) resignation of the minister of Word and Service, which shall become effective, unless otherwise agreed, no later than 30 days after the date on which it was submitted;
 - 3) inability to conduct the office effectively in that congregation in view of local conditions;
 - 4) physical disability or mental incapacity of the minister of Word and Service;
 - 5) suspension of the minister of Word and Service through discipline for more than three months;
 - 6) resignation or removal of the minister of Word and Service from the roster of Ministers of Word and Service of this church;
 - 7) termination of the relationship between this church and the congregation;
 - 8) dissolution of the congregation or the termination of a parish arrangement; or
 - 9) suspension of the congregation through discipline for more than six months.
 - b. When allegations of physical disability or mental incapacity of the minister of Word and Service under paragraph a.4) above, or ineffective conduct of the ministry of Word and Service under paragraph a.3) above, have come to the attention of the bishop of this synod,
 - 1) the bishop in his or her sole discretion may investigate such conditions personally together with a committee of two rostered ministers and one layperson, or
 - 2) when such allegations have been brought to the synod's attention by an official recital of allegations by the Congregation Council or by a petition signed by at least one-third of the voting members of the congregation, the bishop personally shall investigate such conditions together with a committee of two rostered ministers and one layperson.

- c. In case of alleged physical disability or mental incapacity under paragraph a.4) above, the bishop's committee shall obtain and document competent medical opinion concerning the minister of Word and Service's condition. When a disability or incapacity is evident to the committee, the bishop of this synod may declare the position vacant. When the position is declared vacant, the Synod Council shall list the deacon on the roster of Ministers of Word and Service as disabled. Upon removal of the disability and restoration of the minister of Word and Service to health, the bishop shall take steps to enable the minister of Word and Service to resume the ministry, either in the congregation last served or in another appropriate call.
- d. In the case of alleged local difficulties that imperil the effective functioning of the congregation under paragraph a.3) above, the bishop's committee shall endeavor to hear from all concerned persons, after which the bishop together with the committee shall present their recommendations first to the minister of Word and Service and then to the congregation. The recommendations of the bishop's committee address whether the minister of Word and Service's call should come to an end and, if so, may suggest appropriate severance arrangements. The committee may also propose other actions that should be undertaken by the congregation and by the minister of Word and Service, if appropriate. If the minister of Word and Service and congregation agree to carry out such recommendations, no further action need be taken by the synod.
- e. If either party fails to assent to the recommendations of the bishop's committee concerning the minister of Word and Service's call, the congregation may dismiss the minister of Word and Service only at a legally called meeting after consultation with the bishop, either (a) by a two-thirds vote of the voting members present and voting where the bishop and the committee did not recommend termination of the call, or (b) by a majority vote of the voting members present and voting where the bishop and the committee recommended termination of the call.
- f. If, in the course of proceedings described in paragraph c. or paragraph d. above, the bishop's committee concludes that there may be grounds for disciplinary action, the committee shall make recommendations concerning disciplinary action in accordance with the provisions of this church's constitution, bylaws, and continuing resolutions.

†S14.44. Ministers of Word and Service shall respect the integrity of the ministry of congregations which they do not serve and shall not exercise ministerial functions therein unless invited to do so by the Congregation Council.

†S14.45. The minister of Word and Service shall make satisfactory settlement of all financial obligations to a former congregation before:

- a. installation in another call, or
- b. approval of a request for change in roster status.

†S14.46. With the approval of the synodical bishop expressed in writing, which sets forth a clear statement of the purpose to be served by such a departure from the normal rule of permanency of the call as expressed in †S14.43., a congregation may call a minister of Word and Service for a specific term. Details of such calls shall be in writing setting forth the purpose and conditions involved. Prior to the completion of a term, the bishop of this synod or a representative of the bishop shall meet with the minister of Word and Service and representatives of the congregation for a review of the call. Such call may also be terminated before its expiration in accordance with the provisions of †S14.43.

S14.47. All ministers of Word and Service under a call shall attend meetings of the Synod Assembly, and the ministers of Word and Service of congregations shall also attend the meetings of the conference, cluster, coalition, or other area subdivision to which the congregation belongs.

Chapter 15 FINANCIAL MATTERS

†S15.01 The fiscal year of this synod shall be February 1 through January 31.

†S15.11. Since the congregations, synods, and churchwide organization are interdependent units that share responsibly in God's mission, all share in the responsibility to develop, implement, and strengthen the financial support program of the whole church. The gifts and offerings of the members of the Evangelical Lutheran Church in America are given to support all parts of this church and thus partnership in this church should be evidenced in determining each part's share of the gifts and offerings. Therefore:

- a. The mission of this church beyond the congregation is to be supported by such a proportionate share of each congregation's annual budget as each congregation determines. This synod shall develop guidelines for determining "proportionate share", and shall consult with congregational leaders to assist each congregation in making its determination.
- b. This synod shall receive the proportionate share of the mission support from its congregations, and shall transmit that percentage or amount of each congregation's mission support as determined in consultation with the churchwide organization and approved by the Synod Assembly as part of its budget consideration.
- c. Should the Synod Assembly not approve the proportionate share of mission support determined in consultation with the churchwide organization, a new consultation with the churchwide organization shall take place. The Synod Council is authorized to amend the budget adopted by the Synod Assembly to reflect the results of this consultation.

†S15.12. The annual budget of this synod shall reflect the entire range of its own activities and its commitment to partnership funding with other synods and the Churchwide organization.

- S15.13.** On the basis of estimated income, the Synod Council shall authorize expenditures within the budget for the fiscal year. Expenditure authorizations shall be subject to revision, in light of changing conditions, by the Synod Council.
- S15.14.** Except when such procedure would jeopardize current operations, a reserve amounting to no more than 16% of the sum of the amounts scheduled in the next year's budget for regular distribution to synodical causes shall be carried forward annually for disbursement in the following year in the interest of making possible a more even flow of income to such causes. The exact number of dollars to be held in reserve shall be determined by the Synod Council.
- S15.21.** No appeal to the congregations of this or any other synod of the Evangelical Lutheran Church in America for the raising of funds shall be conducted by congregations or organizations related to or affiliated with this synod without the consent of the Synod Assembly or the Synod Council.
- †**S15.31.** This synod shall arrange to have an annual audit of its financial records conducted by a certified public accountant firm recommended by the synod Audit Committee and approved by the Synod Council. The audited annual financial report shall be submitted by this synod to the Churchwide Office of the Treasurer and to the congregations of this synod. The financial reports shall be in the format approved from time to time by the Churchwide Office of the Treasurer.
- †**S15.32.** This synod shall maintain adequate, continuous insurance coverage in accordance with standards recommended by the Churchwide organization. Insurance programs offered or endorsed by the Churchwide organization shall be deemed to fulfill this obligation.

Chapter 16

INDEMNIFICATION

- †**S16.01.** Subject to the limitations and duties imposed by law, each person who is or was made or threatened to be made a party to any proceeding by reason of the present or former capacity of that person as a Synod Council member, officer, employee, or committee member of this synod shall be indemnified against all costs and expenses incurred by that person in connection with the proceeding. Indemnification of any person by reason of that person's capacity as a director, officer, employee, or committee member of any other organization, regardless of its form or relationship to this synod, is subject to the provisions of section †S16.02.
- a. The term "proceeding" means a threatened, pending, or completed lawsuit, whether civil or criminal, an administrative or investigative matter, arbitration, mediation, alternative dispute resolution, or any other similar legal or governmental action. Except as otherwise required by law, the term "proceeding" does not include (a) any action by this synod against the individual seeking indemnification, or (b) subject to †S16.04., a disciplinary hearing or related process described in Chapter 20 of the *Constitution, Bylaws, and Continuing Resolutions of the Evangelical Lutheran Church in America*.

- b. The term “indemnification” includes reimbursement and advances of costs and expenses for judgments, penalties, fines, settlements, excise taxes, reasonable attorneys’ fees, disbursements, and similar required expenditures.

†S16.02. Whenever a person who, while a Synod Council member, officer, committee member, or employee of this synod, is or was serving at the request of this synod as (or whose duties in that position involve or involved service in the capacity of) a director, officer, partner, trustee, employee, or agent of another organization, is or was made or threatened to be made a party to a proceeding by reason of such capacity, then such person shall be entitled to indemnification only if (a) the Synod Council has established a process for determining whether a person serving in the capacity described in this section shall be entitled to indemnification in any specific case, and (b) that process has been applied in making a specific determination that such person is entitled to indemnification.

†S16.03. This synod may purchase and maintain insurance on behalf of itself or any person entitled to indemnification pursuant to this chapter against any liability asserted against and incurred by this synod or by such other person in or arising from a capacity described in section †S16.01. or section †S16.02.

†S16.04. When written charges against a rostered minister_of this church are made in disciplinary proceedings under Chapter 20 of the Constitution, Bylaws, and Continuing Resolutions of the Evangelical Lutheran Church in America by the synodical bishop or when written charges against a congregation are made in disciplinary proceedings by the Synod Council or the synodical bishop, and the discipline hearing committee determines that no discipline shall be imposed, then if such determination is not reversed or set aside on appeal, indemnification shall be made by the synod to the accused for reasonable attorney’s fees and other reasonable expenses related to the defense of the charges. The determination of the reasonableness of such fees and expenses shall be decided by the Synod Council

Chapter 17 ADJUDICATION

†S17.01. The synodical bishop and the Executive Committee of the Synod Council shall be available to give counsel when disputes arise within this synod.

†S17.02. The synodical bishop and the Executive Committee of the Synod Council shall receive expressions of concern from rostered ministers of this church, congregations, and organizations within this synod; provide a forum in which the parties concerned can seek to work out matters causing distress or conflict; and make appropriate recommendations for their resolution. When the matter at issue cannot be resolved in this manner, the prescribed procedures for investigation, decision, appeal, and adjudication shall be followed. Allegations or charges that could lead to the discipline of a rostered minister_of this church shall not be addressed by the Executive Committee but shall be resolved through the disciplinary process set forth in the *Constitution, Bylaws, and Continuing Resolutions of the Evangelical Lutheran Church in America*.

- †S17.03. When there is disagreement among units of this synod on a substantive issue that cannot be resolved by the parties, the aggrieved party or parties may appeal to the synodical bishop and the Executive Committee of the Synod Council for a consultation. If this consultation fails to resolve the issue, a petition may be addressed by the parties to the Synod Council requesting it to arbitrate the issue. The decision of the Synod Council shall be final.
- †S17.04. When a component or beneficiary of a synod has a disagreement on a substantive issue that it cannot resolve, it may address an appeal to the synodical bishop and the Executive committee of the Synod Council. In this case the decision of the Executive Committee shall prevail, except that upon the motion of a member of the Synod Council, the decision shall be referred to the Synod Council for final action.
- †S17.10. **Adjudication in a Congregation**
- †S17.11. When there is disagreement among factions within a congregation on a substantive issue that cannot be resolved by the parties, members of a congregation shall have access to the synodical bishop for consultation after informing the chair of the Congregation Council of their intent. If the consultation fails to resolve the issue(s), the Consultation Committee of this synod shall consider the matter. If the Consultation Committee of this synod shall fail to resolve the issue(s), the matter shall be referred to the Synod Council, whose decision shall be final.
- †S17.14. An amendment to this constitution may also be adopted by this synod by a two-thirds vote at a regular meeting of the Synod Assembly after having been presented in writing at the previous regular meeting of the Synod Assembly upon the recommendation of the Synod Council. Such amendments shall become effective upon ratification by the Churchwide Assembly or by the Church Council.

Chapter 18

AMENDMENTS, BYLAWS, AND CONTINUING RESOLUTIONS

- †S18.10. **Amendments to Constitution**
- †S18.11. Certain sections of this constitution incorporate and record therein required provisions of the constitution and bylaws of this church. If such provisions are amended by the Churchwide Assembly, corresponding amendments shall be introduced at once into this constitution by the secretary of this synod upon receipt of formal certification thereof from the secretary of the Evangelical Lutheran Church in America.
- †S18.12. Whenever the secretary of the Evangelical Lutheran Church in America officially informs this synod that the Churchwide Assembly has amended the *Constitution for Synods*, this constitution may be amended to reflect any such amendment by a majority vote at any subsequent meeting of the Synod Assembly without presentation at a prior Synod Assembly. An amendment that is identical to a provision of the Constitution for Synods shall be deemed to have been ratified upon its adoption by this synod. The Church Council, through the secretary of this church, shall be given prompt notification of its adoption.

- †S18.13. Other amendments to this constitution may be adopted by this synod through either of the following procedures:
- a. An amendment may be adopted by a two-thirds vote at a regular meeting of the Synod Assembly after having been presented in writing at the previous regular meeting of the Synod Assembly over the signatures of at least 30 members and having been approved by a two-thirds vote of the voting members present and voting at such a regular meeting of the Synod Assembly.
 - b. The Synod Council may propose an amendment with notice to be sent to the congregations of this synod at least six months prior to the next regular meeting of the Synod Assembly. Such an amendment shall require for adoption a two-thirds vote of the voting members present and voting at such a regular meeting of the Synod Assembly.

All such amendments shall become effective upon ratification by the Churchwide Assembly or by the Church Council.

†S18.20. **Amendments to Bylaws**

†S18.21. This synod may adopt bylaws not in conflict with this constitution or with the constitution and bylaws of the churchwide organization. This synod may amend its bylaws at any meeting of the Synod Assembly by a two-thirds vote of voting members of the assembly present and voting. Newly adopted bylaws and amendments to existing bylaws shall be reported to the secretary of this church.

†S18.30. **Amendments to Continuing Resolutions**

†S18.31. This synod may adopt continuing resolutions not in conflict with this constitution or its bylaws or the constitution, bylaws, and continuing resolutions of the churchwide organization. Such continuing resolutions may be adopted or amended by a majority vote of the Synod Assembly or by a two-thirds vote of Synod Council. Newly adopted continuing resolutions and amendments to existing continuing resolutions shall be reported to the secretary of this church.

Appendix #1

S14.18.a.A17. Professional Misconduct of a Sexual Nature by Rostered Ministers of Word and Sacrament and Word and Service

1. INTRODUCTION

Ministers of Word and Sacrament and ministers of Word and Service are charged with special responsibility for the gospel and for their leadership of the people of God. In conjunction with the requirements of their specific ministries as set forth by the Evangelical Lutheran Church in America pursuant to ELCA Bylaw 10.21.11., it is expected that their conduct be exemplary in all matters of morality and personal ethics. Therefore, the Upstate New York 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.

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"

Ministers of Word and Sacrament and ministers of Word and Service are expected to be trustworthy. Their church office places them in a position of power with access to a variety of resources and a sacred context in which congregants depend upon them to behave in a godly manner. Ministerial power is heightened when congregants come to them for pastoral care or counseling. Church leaders are responsible for maintaining appropriate boundaries and prohibiting sexual contact, even if a congregant asks for a sexual relationship or consents to one. **There is no such thing as mutual consent between rostered ministers and a congregant.** Sexual misconduct is the abuse of power and the betrayal of trust.

Sexual misconduct includes a wide range of verbal and/or physical behaviors which are sexual in nature. Examples of verbal behaviors include: suggestive comments, sexual innuendoes, questions seeking the details of a congregant's intimate relationships, self-disclosure of his or her partner's sexual inadequacies to a congregant, and/or tales of his or her sexual experiences or exploits. Examples of physical behaviors include: a prolonged hug when a brief one is customary, pressing a congregant up against his or her body, kissing on the lips when a kiss on the cheek would be appropriate, an inappropriate gift to a congregant such as lingerie, sexual contact which may be painful or may be arousing and satisfying to one or both persons involved.

This policy is intended to address sexual misconduct that may lead to discipline of a rostered minister under Chapter 20 of *Constitution, Bylaws, and Continuing Resolutions of the Evangelical Lutheran Church in America*.

2. "Complainant"

As used in this Statement of Policy "complainant" means a person who reports to the Office of the Bishop that he or she is a victim of alleged sexual misconduct. When the victim is a minor or a person lacking capacity the complainant may be a supporting adult.

3. "Rostered Person", "Pastor", or "Clergy"

As used in this Statement of Policy, "rostered person" "pastor" and "clergy" include rostered ministers Word and Sacrament and ministers of Word and Service. This Statement of Policy will assume that the rostered person who is accused of sexual misconduct is under call to a congregation, but the policy applies and the process may be adapted to calls in other circumstances.

4. "Resource Team"

As used in this Statement of Policy the "Resource Team" is a group appointed by the Bishop and approved by the Synod Council Executive Committee. The Team will consist of clergy and lay people of the Synod who have received special training in the area of professional misconduct of a sexual nature and/or congregational healing. The Bishop may call on team members for advice and counsel. At the Bishop's request, members will assist the Bishop by meeting with a complainant and/or alleged offender, investigating an allegation, and offering support and healing to

congregations. The Bishop may also ask other persons to assist in situations where a Resource Team member is not available. These persons will be considered members of the Resource Team for purposes of policy.

II. RESPONSE PROCEDURES

A. REPORTING AN ALLEGATION OF PROFESSIONAL MISCONDUCT OF A SEXUAL NATURE

1. Initial Contact

The Bishop of the Upstate New York Synod is to be contacted by the complainant personally. The complainant should make known that this is an emergency. If the allegation is made in regard to the Synod Bishop, contact should be made with the Presiding Bishop of the ELCA at 2-800-NET-ELCA.

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) express care and concern for the complainant; 3) explain the Synod's process for responding to reports of sexual misconduct and offer to provide a copy of this Statement of policy; 4) answer the complainant's questions about the policies and procedures of the Synod; 5) when the complainant is anonymous, encourage the complainant to identify herself or himself and the pastor involved in the misconduct; 6) ask the complainant to submit a written allegation and 7) notify the Synod's attorney.

When a complainant is made by a third party, they will be informed that the Bishop's office is unable to respond further without an allegation from the complainant. The Bishop's office is unable to respond further to third party allegations.

Recognizing that reports of sexual misconduct will occur in a variety of ways, it is important that reports are channeled to the Bishop's office. An inquiry or questioning of the complainant should not be conducted until the Bishop's office has been contacted.

2. Written Allegation

The complainant will be asked to submit a written allegation in order to continue beyond the initial meeting. The allegation shall be given/sent to the Bishop; Upstate New York Synod of the Evangelical Lutheran Church in America, 5811 Heritage Landing Drive, 1st Floor, E. Syracuse, NY 13057. Phone 315-299-4955, Fax 315-299-4981.

The allegations shall include the following information:

- (1) Names of person involved
- (2) A description of the allegation which includes relevant circumstances, context, dates, and details of the incident(s).
- (3) Religious bodies/religious affiliations/agencies of the parties involved (such as church or church camp with national church name).

Insofar as possible, the Bishop will respect the wishes of the complainant regarding confidentiality. However, at some point, the Bishop may be required by civil law or by the governing documents of the ELCA to disclose the identity of the complainant. In unusual circumstances, the fact that the Bishop is responsible to the Synod may require that he or she act contrary to the wishes of the complainant. Sometimes, the identity of the complainant may become known despite the best efforts

of the Bishop to protect that person's identity. The Bishop cannot guarantee confidentiality to a complainant.

3. Initial Recommendation

After receiving a written allegation, the Bishop, in consultation with some Conflict and Healing Team members, may determine whether or not the process will continue. If the process does not continue, the Bishop will notify the complainant. If the process continues, the complainant will be informed of the status of the process. An initial meeting will be held with the alleged offender when the decision is made to continue the process.

4. Withdrawal of Application

When the complainant submits a written allegation to the Bishop, the procedures in the Synod policy will be followed until the process is completed. If the complainant withdraws/denies the written allegation, the Bishop, in consultation with Resource Team members involved in this case, will decide if the process will continue. Any written allegation, as well as the results of any investigation, will be placed in the rostered person's file and noted on his/her record.

5. If the Allegation Involves a Minor or a Person Lacking Capacity

If the allegation involves a child, 17 years old or younger, the supportive adult (e.g. parent, relative, teacher, or friend) will report the allegation immediately to the Bishop's office. Please inform the Bishop's office if a report is made to a legal authority. Clergy are not mandated to report unless the alleged abuse occurs in a church school setting, however the Synod encourages appropriate adults to make reports to the New York State Child Abuse Hotline. If the Hotline report is appropriate and has not been made, the Bishop will arrange to file such a report. When details of the allegation are received, the Bishop, in consultation with the persons in charge of the safety of the child, will identify the supportive adult who will continue to communicate with the child and, if necessary, communicate on the child's behalf. The supportive adult will submit the written allegation to the Bishop or to the designated Resource Team members. A Supportive adult will be encouraged to act on behalf of a person lacking capacity.

6. Allegations of Past Unreported Sexual Misconduct

Allegations may be made regarding sexual misconduct which occurred in past years. The complainant may wish to participate in a healing process with the alleged offender without engaging in the formal process herein stated. If a written allegation is submitted to the Bishop's office, it will be taken seriously. There will be a response based upon the wishes of the complainant, the nature of the allegation and the discretion of the Bishop.

B. INITIAL RESPONSE TO THE COMPLAINANT

1. Initial Response

In a timely manner, the Bishop will appoint two or three Resource Team members to be involved in the proceedings. The team members will meet with the complainant. The complainant may bring a supportive person. If possible the same team members will also be present in the initial meeting with the alleged offender.

2. Documentation

Resource Team members responding to the allegations will keep notes with such information as date, time, place, context, and statements of complainant, the rostered person who is the alleged offender and other involved parties. Any meeting will conclude with the team members preparing a written summary which is factual in nature, avoiding personal feelings and speculations in documentation.

3. Meeting with Complainant

The Resource Team members will arrange a meeting with the complainant in a timely manner. The team members will address the following concerns when indicated:

- a. Be supportive of the complainant and family and express the concern of the church for them.
- b. Listen to the complainant's allegation.
- c. Assess the nature and seriousness of the accusation.
- d. Determine if the complainant is aware of other persons who have experienced this form of sexual misconduct by the rostered person. Where there are multiple victims, an opportunity for voluntary sharing among them may be provided.
- e. Assess if the complainant would be in danger if her/his identity is revealed to the rostered person. How, when, and to whom the person's identity will be revealed throughout the process needs to be stated with consideration given to the complainant's desires.
- f. Provide the complainant with information about the Statement of Policy Regarding Professional Misconduct of a Sexual Nature of the Upstate New York Synod.
- g. Determine whether or not the complainant is willing/able to participate in the investigative procedures.
- h. If a written allegation has not been received, request one at that time.
- i. Determine what response the complainant would like from the Synod.
- j. The Synod may offer to provide funds for a specified number of counseling sessions.

4. After Initial Meeting with Complainant

The Bishop in consultation with the Resource Team members, will decide whether or not to continue the process. If the process is to continue, the team members will arrange to meet with the rostered person who is the alleged offender.

C. NOTIFYING THE ROSTERED PERSON WHO IS THE ALLEGED OFFENDER

1. Meeting with the Rostered Person

The Resource Team members involved in this case will arrange a meeting with the rostered person who is the alleged offender. The rostered person may bring a supportive person. At the time of the meeting, the team members will inform the alleged offender of the allegation. If the written allegation has been received, it will be presented at that time. The team members will address the following concerns when indicated:

- a. Be supportive of the rostered person and family and express the concern of the church for them.
- b. Provide the opportunity for the rostered person to respond to the allegation.
- c. Request the rostered person to prepare a written response to the allegation. The written response will assist the team members in determining the appropriate course of action.
- d. Provide information about the Statement of Policy Regarding Professional Misconduct of a Sexual Nature of the Upstate New York Synod.
- e. A request may be made by the Bishop, in consultation with the team members, that the rostered person be evaluated at a recommended treatment center. This treatment center may be different than the possible rehabilitation center that may be used at a later date.

- f. The Bishop, in consultation with the team members, will write a statement specifying under what conditions ministerial tasks may or may not be conducted by the rostered person. This statement may be shared with key leaders of the rostered person's congregation/agency.
- g. According to the Constitution of the Upstate New York Synod (S14.13.f) the Bishop in his or her sole discretion may, when such allegations prohibit the pastoral office to be conducted effectively, temporarily suspend the rostered person without prejudice and with pay. The congregation will pay for supply pastors.
- h. If the investigation is to continue, the Bishop will call a meeting with the key leaders of the rostered person's congregation/agency.

D. INFORMING THE KEY LEADERS OF THE ROSTERED PERSON'S CONGREGATION/AGENCY

1. Meeting with Key Leaders

The Bishop will decide, in consultation with the Resource Team members involved in the case, which key leaders are to be invited. The team members will then notify the key leaders of the meeting. The team members will attend the meeting and present a description of the complainant's allegation and the rostered person's response. This disclosure does not include the name of the complainant. The team members will address the following concerns when indicated.

- a. Provide information about the Statement of Policy Regarding Professional Misconduct of a Sexual Nature of the Upstate New York Synod.
- b. Clarify that an allegation is not determined true or false until a thorough investigation has been made.
- c. Report how the rostered person will continue ministry. This decision will be made by the Bishop in consultation with the team members.
- d. Express concern for leaders and members
- e. **Insist that the key leaders not divulge any confidential information.**
- f. Keep key leaders informed of the status of the investigation.

E. INVESTIGATION

1. Procedure

The Resource Team members involved in this case will investigate allegations in a timely manner. The investigation will include any relevant inquiry which may or may not substantiate the complainant's allegations.

The investigation will be executed discreetly without implicating the rostered person or complainant. Confidentiality will be maintained throughout the investigation.

2. Recommendations

When the team members have concluded their investigation, they will consult with the Bishop regarding future proceedings. The Bishop may initiate the consultation and/or discipline procedures as set forth in the Constitution of the Upstate New York Synod and the ELCA. The complainant, the rostered person and key leaders will be notified of future proceeding.

3. Discipline

If the team members recommend that there be constitutional action, the Bishop may bring charges in accordance with the provisions and bylaws of the Evangelical Lutheran Church in America and the

Upstate New York Synod. The victim, the offender and members of the offender's congregation/agency will receive notice of this action. The Synod Council Executive Committee of the Synod and the rostered person's Dean will also receive notice of this action.

4. Forgiveness

The matter in which we respond to our sin in the Lutheran tradition is through the process of repentance. Repentance is an act of contrition in which confession and a change in behavior is sought. Repentance by the convicted offender is to be sought. One can be forgiven without being reinstated into the former position of church leadership. Demonstration of repentance may include some restitution to the victim(s) or congregation/agency to assist in healing and closure.

5. Unfounded Allegation

If the allegation is not proven at the conclusion of the investigation, the process will be considered complete. The team members will meet at separate times with the following persons to inform them of the results: the complainant, the rostered person offender and the key congregational leaders. The results will also be noted in the rostered person's file.

F. RECOMMENDATIONS FOR THE AFTER-CARE OF THE CONGREGATION

The Bishop, in consultation with the Resource Team and key congregational leaders, will establish a plan for after-care of the congregation.

1. Removal of the Rostered Person

If the rostered person is removed for disciplinary reasons, the Bishop will appoint an intentional interim pastor to the congregation. The interim pastor will work with members of the Resource Team to structure a process of recovery for the congregation.

2. The Rostered Person Accused of Unfounded Allegations

The team members will continue to offer support and resources to the rostered person who has been accused of unfounded allegations. The rostered person will be exonerated before those who knew of the allegation and such exoneration shall be noted in the rostered person's file. The team members may suggest ways in which reconciliation may be sought between the rostered person and the complainant.

3. The Complainant

The team may suggest ways of healing and reconciliation for the complainant.

4. Notice of Professional Misconduct of a Sexual Nature by a Rostered Person Formerly in the Upstate New York Synod

When the Bishop receives notice of a former rostered person of the Upstate New York Synod is being disciplined for professional misconduct of a sexual nature, he or she in consultation with the leadership of the former rostered person's congregation will decide how the news will be shared. If the news is shared, the Bishop will assign Resource Team member(s) as a resource to those affected.

PAG/kmn

Revisions: 7/14/10, 8/31/11, 8/31/12, 10/20/13, 6/10/17