

GUIDANCE ON THE POLICY ON REPORTING AND RESPONDING TO SEXUAL MISCONDUCT

I. INTRODUCTION

Abiding Savior Lutheran Church is committed to preventing sexual misconduct within the church and throughout our communities by rostered ministers, other employees, congregation members, participants, or volunteers, and to responding promptly with justice and compassion when such misconduct occurs. This Guidance supplements the Policy on Reporting and Responding to Sexual Misconduct (“Policy”) adopted by Abiding Savior Lutheran Church Council on May 21, 2019.

God wishes for all people to be respected and to feel respected. Jesus says in John 13:34-36, “I give you a new commandment, that you love one another. Just as I have loved you, you also should love one another. By this everyone will know that you are my disciples, if you have love for one another.” Similarly, in Matthew 22:37-40, “You shall love the Lord your God with all your heart, and with all your soul, and with all your mind.’ This is the greatest and first commandment. And a second is like it: ‘You shall love your neighbor as yourself.’ On these two commandments hang all the law and the prophets.”

Sexual misconduct violates the will of God. Through the sinful actions of sexual misconduct, victims are violated and harmed. Sexual misconduct betrays the trust implicit in healthy relationships. The harm caused can be even greater when the sexual misconduct occurs within the context of the church community. Sexual misconduct by clergy, church staff, members, and volunteers at the church not only harms victims physically and emotionally, it deepens the possibility that this misconduct can destroy their faith in God.

Abiding Savior Lutheran Church, the Saint Paul Area Synod, and the Evangelical Lutheran Church in America (ELCA) treat sexual misconduct by clergy, staff, members, and volunteers within the congregation with utmost seriousness. Every person should be treated with dignity and respect and should expect to live in freedom from all forms of sexual misconduct. Although women, children, and vulnerable adults statistically are the most frequent targets of sexual misconduct, this Sexual Misconduct Policy is designed to help protect all people, regardless of gender or gender identity, and to put in place policies and procedures for reporting sexual misconduct if it occurs.

II. OVERVIEW

Abiding Savior Lutheran Church recognizes that responding to allegations of sexual misconduct requires a sense of urgency, determination, sensitivity, flexibility, respect and care for all persons affected – the person making the complaint (“complainant”), the person accused of the

misconduct (“respondent”), rostered ministers, staff members, congregation members, or volunteers, their families and friends, other participants in congregational activities, the congregation, the synod, and the whole church. Each person is to be treated with respect and concern throughout the processes described below.

Abiding Savior Lutheran Church is concerned with sexual misconduct and other inappropriate sexual behavior within the church, regardless of whether or how the misconduct or behavior is characterized by the law or by the governing documents of the ELCA or the Saint Paul Area Synod.

III. DEFINITIONS

- a. Rostered minister means a pastor (minister of word and sacrament) or a deacon (minister of word and service) who is rostered as provided under the ELCA constitution and by-laws.
- b. Sexual misconduct as defined in the Policy means any unwelcome behavior of a sexual nature that is committed without consent or by force, intimidation, coercion, or manipulation. Sexual misconduct can be committed by a minister of any gender, and it can occur between people of the same or different genders. Examples of sexual misconduct include sexual assault, sexual harassment, sexual exploitation, sexual intimidation, and contact of a sexual nature without consent. For purposes of this policy, consent is a freely and affirmatively communicated willingness to participate in particular sexual activity or behavior, expressed either by words or clear, unambiguous actions. Regardless of expressed willingness, consent cannot be given by a minor to an adult, between persons where there is a power differential, or where a person is incapable of making an informed judgment because of mental incapacity.

IV. POLICY

Abiding Savior Lutheran Church’s Policy on Reporting and Responding to Sexual Misconduct states that Abiding Savior Lutheran Church “will not tolerate sexual misconduct by any rostered minister, other employee, congregational member, participant, or volunteer. Abiding Savior Lutheran Church is committed to taking appropriate action to prevent and promptly respond to allegations of any such misconduct against a member, participant, rostered minister, or other staff engaged in congregational activities.”

- a. **Commitment to action.**

Abiding Savior Lutheran Church will take seriously any report of sexual misconduct and will take action on substantiated allegations, including reporting alleged criminal conduct to the appropriate authorities.

b. Respect and integrity.

All parties involved in the matter are to be treated respectfully and without prejudice as to the final result of the process.

c. Safety precautions.

To ensure the safety of individuals, where appropriate, immediate action should be taken to prevent any subsequent acts from occurring or the perception that such acts may occur.

d. Appropriate response.

Because sexual misconduct varies greatly by type, degree, and effect on those involved, Abiding Savior Lutheran Church is committed to responding appropriately to each case, while not tolerating any misconduct determined to have occurred.

e. Timing of report.

Any person who believes they have been or someone else has been the victim of sexual misconduct, is encouraged to report the information as soon as possible. Regardless of when a report is made, Abiding Savior Lutheran Church will follow-up on the information to the extent possible.

V. WHERE TO REPORT MISCONDUCT

Under ELCA and the Saint Paul Area Synod policy, different procedures apply to reports against rostered ministers (pastors and deacons) and non-rostered individuals (including other congregation employees, volunteers, or other participants). There are two procedures used to investigate and follow up on reports of sexual misconduct.

- a. Reports against rostered ministers (pastors and deacons) must be made to the [Bishop's Office of the Saint Paul Area Synod 651.224.4313, ext. 1009](tel:651.224.4313).
- b. Reports against any other person who is not a rostered pastor or deacon must be made to the congregation by contacting any pastor by calling the church office at 763.784.5120 or by contacting any member of the Church Council. Pastors and Church Council members names and contact information are listed on a bulletin board in the church library across from the office.

- c. See Section VI, Reporting Misconduct for additional information on how to make a report.

VI. REPORTING MISCONDUCT

Anyone who believes they have been the victim of sexual misconduct or knows or suspects that another person has been the victim of sexual misconduct by a rostered minister, staff member, congregation member/participant, or volunteer in an activity or event held, sponsored by, or associated with Abiding Savior Lutheran Church is encouraged, or required as stated below, to report that knowledge or suspicion.

- a. **Report against rostered pastor or deacon.**

If the report is against a pastor or deacon, the report must be made to the Saint Paul Area Synod. If a pastor, the parish administrator, a congregational council member, or other person in authority receives a report, they shall immediately refer the report to the Saint Paul Area Synod. If the complainant does not make a report to the synod, the report shall be forwarded to the synod as provided in d., below.

- b. **Report against a person who is not a rostered pastor or deacon.**

If the report is against a person who is not a rostered pastor or deacon, including a staff member, lay leader, congregation member, participant, or volunteer, the report may be made to a pastor, the parish administrator, or a congregational council member. If the complainant does not make a report to the Saint Paul Area Synod, the report shall be forwarded to the synod as provided in d., below.

- c. **Anonymous reports.**

A complainant is not required to provide their identity when they contact a congregation representative to make a report. The complainant may ask questions anonymously about how the congregation would proceed in response to a particular report of misconduct. If the complainant does not provide complete information regarding the name of the victim or person against whom the report is made, the congregation will follow up to the extent possible based on the information received and refer reports against a pastor or deacon to the Saint Paul Area Synod. The complainant should be informed that the congregation or synod may not be able to fully address the report if complete information is not provided.

- d. **Forwarding report.**

Any pastor, staff member, or council member of Abiding Savior Lutheran Church who receives a report or otherwise learns of alleged sexual misconduct must immediately contact the appropriate person or persons of authority including the

synod, lead pastor, parish administrator, or council president to initiate appropriate action in accordance with this policy. If the pastor, parish administrator, or council president is the subject of the report, the notice must be given to a person in authority who is not the subject of the report.

e. **Support for synod.**

Abiding Savior Lutheran Church will support the work of the Saint Paul Area Synod as it proceeds to investigate any report against a pastor or deacon, and as it works with the congregation and others to help ensure that care and support are available to those harmed by sexual misconduct in violation of this policy.

f. **Post-reporting care and support.**

Abiding Savior Lutheran Church will assist those harmed by sexual misconduct, including the individual making the report and the respondent, to obtain resources needed to deal with any impact of the sexual misconduct, including pastoral care and referral to professional counseling or other services. No pastor, deacon, or other employee of the congregation may provide the complainant or respondent counseling or therapy related to the report, but shall instead refer the complainant or respondent to other available counseling resources. If a report is made against a pastor or deacon, the congregation will assist in identifying a pastor outside the congregation to offer pastoral care. The congregation may contact the synod office for assistance in identifying appropriate referrals.

g. **Reports outside the congregation.**

If an individual reports sexual misconduct outside the congregational community to a pastor, staff, or lay leader, the person receiving the report is encouraged to refer the individual to local law enforcement and other resources in the community and to assist the individual through pastoral care or other means of support.

h. **Record retention.**

All records pertinent to a report of sexual misconduct, regardless of the outcome of the report, shall be maintained in the congregation's confidential files.

VII. CONFIDENTIALITY

All information received regarding a report, including the name of the complainant, must be kept confidential to the greatest extent possible. Pastors, staff, or council members are acting on behalf of the Congregation, and any information they are given must be shared only with individuals responsible for or assisting with appropriate follow-up, including the synod. State law requires that certain information regarding misconduct against children or vulnerable adults

be reported to law enforcement or other government authorities. See Minnesota Statutes sections 626.556 and 626.557.

VIII. REPORTS TO LAW ENFORCEMENT

a. Required reporting and assisting with reports to law enforcement.

The Congregation must immediately report sexual misconduct to local authorities when required by law to do so under the Maltreatment of Minors Act or Vulnerable Adults Act or other applicable law. The Congregation should contact local authorities to determine if the alleged sexual misconduct requires mandatory reporting. With the consent of the complainant, the Congregation may report or assist in reporting other alleged sexual misconduct to local law enforcement even if the law does not require mandatory reporting.

b. Noninterference with reports to law enforcement.

Nothing in this policy shall be interpreted to delay, discourage or prohibit reporting allegations of sexual abuse or other sexual misconduct to local law enforcement.

IX. INVESTIGATION AND DISCIPLINE OF REPORTS AGAINST A CONGREGATION STAFF MEMBER, CONGREGATION MEMBER, PARTICIPANT, OR VOLUNTEER

Abiding Savior Lutheran Church will promptly investigate allegations of sexual misconduct against a staff member, congregation member, participant or volunteer under this section, including conducting an interview of the complainant. In all meetings with congregational personnel or representatives, the complainant may be accompanied by a friend, family member, support person, or advocate of their choice, but in no circumstance will a congregation pastor, employee, or council member serve in such a role. The type of inquiry or investigation initiated by Abiding Savior Lutheran Church will take into consideration the nature of the reports, the complexity of the matter, and other factors, following consultation with the Saint Paul Area Synod.

The Congregation shall follow the discipline procedures of the ELCA (http://download.elca.org/ELCA%20Resource%20Repository/Definitions_and_Guidelines_2014.pdf) and Saint Paul Area Synod (<https://www.spas-elca.org/resources/report-misconduct/>), recognizing that a complainant shall not be required to directly address a respondent in any resolution process.

X. PREVENTION

Abiding Savior Lutheran Church is committed to following the example of our Savior Jesus Christ by honoring, valuing, and protecting all people from the harm caused by sexual misconduct. Resources on creating a healthy climate and preventing sexual misconduct are available on the congregation's web page at www.abidingsavior.org; click on the Resources tab and choose the Prevent and Report Misconduct button.

XI. NO RETALIATION

As provided in the Policy, the Congregation "will not tolerate any form of retaliation against any individual who makes a good faith report of sexual misconduct." The congregation will take appropriate steps to prevent retaliation against an individual who makes a good faith report of sexual misconduct, and will investigate any reports of retaliation and take appropriate action.