

TRINITY EVANGELICAL LUTHERAN CHURCH
SEXUAL MISCONDUCT POLICY
Rev. March 3, 2023

I. Introduction

Trinity Evangelical Lutheran Church desires to be a safe and secure place for all children and adults who attend or participate in its activities. We adopt this policy toward the goal of providing an environment where all participants in church activities can feel safe.

Statement of Policy

Trinity Evangelical Lutheran Church prohibits any form of sexual misconduct by any pastor, employee, officer, member, or volunteer. The Church shall always enforce the highest standards of ethical behavior and integrity in all activities.

The purposes of this policy are to:

- Set standards for behavior and conduct.
- Outline prevention and reporting procedures.
- Provide for appropriate intervention by Trinity in any alleged incidents.
- Reassure members that Trinity has a policy and procedures to prevent and expeditiously handle sexual misconduct.
- Raise teacher, staff, and volunteer awareness of their own and others' behavior and of their responsibility to report sexual misconduct.
- Limit the extent of Trinity's legal risk and liability due to sexual misconduct.

This document will cover:

- Prevention procedures, including employment screening with forms to use, policies for staff and volunteer behavior, and training.
- Reporting procedures, including who should report, when to report, to whom to report, what to report, legal reporting requirements, and legal immunity of reporters.
- Intervention and response procedures.

Jurisdiction

This policy applies to all pastors and other Called Staff, paid employees, officers, members, and volunteers. The Church and all its staff, committees, entities, subsidiary organizations, volunteers, and members will adhere to these standards, procedures, and practices.

Definitions

Sexual misconduct is an abuse of authority and power which breaches Christian ethical principles by misusing a trust relationship to gain advantage over another in an abusive, exploitative, and unjust manner. Sexual misconduct includes any offense such as unwanted sexual advances and acts, requests for sexual favors, and any other verbal harassment or physical conduct of a sexual nature.

The Guide to Reporting Child Abuse and Neglect in Kansas (Revised 1997, p. 2-3) defines child sexual abuse as “any sexual act, such as indecent exposure, improper touching to penetration (sexual intercourse), that is carried out with a child. Sexual abuse may be committed by a person under the age of 18 when that person is either older than the victim or when the abuser is in a position of power or control over another child. Under Kansas Criminal Code, sexual exploitation of a child is ‘employing, using, persuading, inducing, enticing, or coercing a child under 16 years of age to engage in sexually explicit conduct for the purpose of promoting any performance. Sexual abuse also includes any contacts or interactions between a child and/or an adult in which the child is being used for the sexual pleasure of the adult or any other person.’ “

A minor is defined as any child or youth under the age of 18.

Called Staff includes Senior and Associate Pastors, and other such staff holding a call document with Trinity Evangelical Lutheran Church.

II. Prevention Procedures

A. Worker Screening

Paid Staff and Employees All paid staff and employees will be screened before hiring. The screening procedure will include:

1. Employment Questionnaire and Criminal Records Check Authorization form will be filled out by the applicant.
2. Check of applicant’s references based on the information provided on the questionnaire will be completed with written documentation of contacts. This should be accomplished by a phone call or letter sent to the references and former churches attended.
3. A personal interview will be conducted by one or more of the following individuals: Senior or Associate Pastor, President of the Congregation, Call Committee members.
4. Background check will be conducted by vendor currently in use by Trinity for such purposes.
5. A Post-offer Pre-employment drug screening for illegal substances will be conducted before start of work.

Responses to the above items will be documented and maintained. Pre-employment screening will be the responsibility of the President of the Congregation or his designate.

Acknowledgement - As a prerequisite for employment, all new employees, including Called Staff and other paid staff, will be required to sign a statement of acknowledgement indicating they have received a copy of a summary of this policy and understand its provisions.

Volunteers The President of the Congregation or his designate will determine which positions warrant screening. Where it is deemed appropriate, other volunteers may be screened as described in the Pre-employment Screening section of this policy. Appropriate cases may include volunteers who are working with children in an extended capacity, such as youth ministry coordinators. When possible, volunteers will not be allowed to supervise or work with children until they have been in the congregation for at least six months.

Evaluation of screening information Any of the following situations will eliminate any Called Staff, employee, member of the congregation, or volunteer from providing service in any church sponsored activity or program for children or youth.

1. A past conviction, guilty plea, or no contest plea for child abuse/molestation or a violent crime against another adult. A subsequent religious conversion situation will not change this position for any applicant.
2. A reference check (paid staff and employees only) which indicates a concern about the workers suitability for working with minors until the concern can be explained or eliminated.
3. A criminal reference check which indicates “not guilty” on a charge of child abuse/molestation until a check can be made with a prosecutor or investigator’s office of the reason for dismissal.
4. Failure to complete all or part of the forms.
5. Positive result on drug screen indicating use of illegal substances. (Paid/called staff only. Volunteers are not asked to submit to a drug screening).

Storage of and access to screening information. The senior pastor will maintain personnel records on each employee, including Called Staff. Records that are maintained may include: application for employment, any employment questionnaires, reference responses, the acknowledgement, and any other relevant documentation. Volunteer screening data will also be retained. Records that are maintained may include Personal questionnaire, interview, reference check and KBI/police background check information. This information shall be held confidential. Access to this information will be limited to those who have a need to know. Confidentiality and secure storage of the screening data will be the responsibility of the senior pastor.

B. Worker Supervision

The following will apply to all Trinity activities and programs:

Activities involving minors.

1. Two adult supervisors (preferably one male and one female) will be present during any church activity involving children and youth. This includes the period before, during and after an activity. Seventh through twelfth graders (less than 18 years old) may work as assistant Nursery caregivers, teacher assistants or classroom helpers, as long as an adult is present.
2. Any over night activities for minors will require supervision of at least two adults.
3. Activities with children will not take place in private rooms or isolated parts of the building. All spaces that will be used for children and youth should be as open and visually accessible as possible.
5. Activities will be held in rooms with windows in the doors or the doors will be left open.
6. Where transportation is provided to and from an activity, or to and from a minor’s home, no adult unscreened supervisor will be alone with one child without meeting the following qualifiers:
 - a. Prior written parental or guardian permission must be obtained before each instance, and
 - b. Another church leader must be notified in advance.
7. Windows shall be installed in classroom and office doors where activities involving children or youth take place or the doors will be left open.

8. Church nursery personnel must clearly identify the children with the parents or guardians and only release children to a preauthorized adult.
9. Supervisors, pastoral staff, Sunday school superintendents, and other responsible adults will randomly monitor all children's activities by making unannounced visits.
10. Any inappropriate conduct or relationship between an adult and a child or youth must be confronted immediately as specified in the Reporting section. Any conduct deemed inappropriate should be confronted immediately and investigated with either warnings or termination of the worker's services depending on the gravity of the behavior. This will be done according to the procedures described in the Reporting Procedures section.
11. Diapering will be performed by parent or guardians, when possible, otherwise it will be performed with another adult present or where visible to others.

Activities involving adults.

Pastors conducting counseling should make every effort to do so during daytime office hours. If individual counseling is being conducted, it should be conducted in a room with a window in the door. If individual evening counseling is necessary, it should be done at a time when other people are present in the outer church offices or nearby areas.

C. Training

Called Staff, employees, and screened volunteers will be provided training on sexual misconduct. Other volunteers, as deemed appropriate by the chairs of the Boards of the ministry in which they are volunteering, will also be provided such training. Members of the Campus Coordinating Committees will be provided annual training by the President of the Congregation or by his designee. Board chairs will then provide this training to their Board members. The training program will cover prevention and reporting procedures, and the response of Trinity to sexual misconduct allegations. A summary of the Trinity Sexual Misconduct Policy will be provided during the training. A complete copy of the Trinity Sexual Misconduct Policy will be available in the church office for anyone desiring to inspect it. Other training sessions will be conducted on a regular basis depending on the need.

III. Reporting Procedures

When the necessity of reporting suspected sexual misconduct arises, the protection of the victim will be paramount. Any case of suspected sexual misconduct must be reported under the provisions of The Trinity Evangelical Lutheran Church Sexual Misconduct Policy.

Sexual misconduct involving child or youth victims.

Trinity policy requires all employees and volunteers to immediately make a verbal report to (1) a member of the Called Staff and a church officer (Preferred), or (2) the Social and Rehabilitation Services (SRS) or a law enforcement agency immediately upon learning of or suspecting the likelihood of sexual misconduct in the case of a minor. If the reporter elects to call the SRS or a law enforcement agency, he or she should also report it to a member of the Called Staff and a Trinity officer.

When to report? A report must be made if there is any reason to suspect that a child or youth has been subject to sexual misconduct. Reason to suspect means that there is credible evidence or a discrepant or inconsistent history in explaining a child's condition. The law does not require proof that abuse has occurred or that the reporter witnessed the incident in question. The reporter is relieved of the need to make a final determination of whether the abuse occurred. The reporting is only a request for an inquiry. The actual determination of whether abuse has occurred is the responsibility of SRS or appropriate law enforcement agencies.

Who is required to report? Kansas law does not specify church staff or volunteers, except for church school personnel, as legally mandated reporters of sexual abuse. That is, they are not required by law to report suspected sexual abuse. Kansas law does not impose criminal penalties on church staff or volunteers for failure to report such abuse.

Kansas law does provide that "any person with reason to suspect a child has been injured by physical, emotional or sexual abuse or neglect may report the matter." **It is, therefore, the policy of Trinity Evangelical Lutheran Church that all Called Staff, employees, and volunteers are required to immediately report suspected sexual misconduct involving children or youth.**

To whom should reports be made? For sexual misconduct involving minors, immediate reporting is critical. Trinity staff and volunteers are required to report the suspected abuse to either (**Preferred**) (1) a **Called Staff member and a Church officer who are then required to report it to the SRS**, or (Alternate) (2) Social and Rehabilitation Services (SRS) or law enforcement agency. Reports can be made to the SRS at (913) 651-6200 or the Kansas Child Abuse Hotline at 1-800-922-5330. If the individual decides to report to the authorities, he or she should then immediately tell a Called Staff member and a Church officer of that action. Suspected sexual misconduct involving Called Staff should be reported to the Chair of the Board of Elders and President of the Congregation, who are then required to report it to the SRS. In all the above the matter should not be discussed with anyone else until an appropriate investigation has taken place. The Senior Pastor and/or President will provide a report to the Board of Directors.

What information should be reported? Reports can be made orally followed by a written report if requested. Include the name and address of the child or youth, age, parents or guardian, location, condition, and other information showing the cause or extent of the sexual abuse. Detailed written records of all conversations and actions should be maintained and given to the church officer or Called Staff member who received the report.

Immunity from lawsuits for reporters. Kansas law provides immunity from lawsuits against reporters of child abuse. Reporters are legally protected from any civil liability if required to participate in court proceedings as a witness. Kansas law provides that the identity of the reporter may not be disclosed to persons having responsibility for the child, except if the case is heard in court or a hearing.

Misconduct involving adult victims.

Suspected sexual misconduct of Called Staff should be reported to the Chair of the Board of Elders and President of the Congregation. Suspected sexual misconduct of all other staff or volunteers should be reported to the Senior or Associate Pastor and a Church officer.

It is recognized that Called Staff may be the objects of unwelcome personal or sexual attention, harassment, or misconduct from members of the congregation. Called Staff should report any alleged inappropriate behavior toward them to the Chair of the Board of Elders and President of the Congregation.

Confidentiality

It is recognized that confidentiality is crucial in reports of alleged sexual misconduct. Information will be disclosed to only those persons with a need to know in order to investigate and decide an appropriate response.

IV. Intervention and Response Procedures

All allegations of sexual misconduct will be taken seriously and addressed immediately. Spiritual and psychological care of the alleged victim, the accused, and the congregation will be of utmost importance while responding to any alleged incident. The Church is prepared to contact other ministers, psychologists, doctors, or any other resources for help in addressing the needs of all parties involved in the incident.

The response to any allegations will include, but is not limited to, conducting an investigation, documenting all efforts at handling the situation, contacting a law enforcement agency, meeting with the victim and the accused, and recommending counseling or other professional assistance. The response may include placing the accused on leave, terminating employment, or release of membership as deemed appropriate. Allegations will be reported to the proper legal authorities if they involve the abuse of a minor child or other criminal behavior. A report will also be filed with the Church's insurance carrier, where appropriate.

The Called Staff and President of the Congregation will normally respond to allegations that involve employees, lay members, or volunteers. Any allegations involving pastoral staff will be referred to the District Office. Issues to consider during an investigation of alleged sexual misconduct by Trinity are outlined in Attachment B.

It is the desire of the Church to avoid contact with the media while responding to allegations of sexual misconduct. **The President of the Congregation or his designate will handle any contact with the media.** Media requests for information should be referred to him. A prepared public statement will be used to answer the press and convey information to the congregation.

ATTACHMENT A
TRINITY EVANGELICAL LUTHERAN CHURCH

Pre-Employment and Volunteer Screening Questions

1. Has a civil, criminal, or ecclesiastical complaint ever been filed against you alleging sexual misconduct by you?
2. If so, indicate the date, nature, and place of these allegations, and the name, address, and phone number of your employer at the time.
3. Have you ever resigned or been terminated from a position for reasons relating to allegations of sexual misconduct by you?
4. If so, indicate the date, nature, and place of these allegations, and the name, address, and phone number of your employer at the time.
5. Have you been required to receive professional treatment, physical or psychological, for reasons related to sexual misconduct by you?
6. If so, please give a short description of the treatment including the date and nature of the treatment, as well as the place and name, address, and phone number of the treating physician or other professional.

ATTACHMENT B
TRINITY EVANGELICAL LUTHERAN CHURCH

Issues in Responding to Allegations of Sexual Misconduct

1. Discovery and Reporting

- a. Who received the report of alleged misconduct?
- b. What immediate steps will be taken?
 - i. Will employment or volunteer service continue or be suspended or restricted during the investigation?
 - ii. Who will be notified that an investigation is under way?
 - iii. What information will be shared?
 - iv. How will notification take place?
- c. How will support be offered to those involved in making an allegation?
- d. How will support be offered to those who are accused?

2. Investigation

- a. Who will gather the information necessary to decide the facts?

3. Intervention

- b. Who will provide pastoral and other support for the principal parties involved (victim, accused, family members)?
- c. How will ministry be maintained in the Church while this issue is being addressed?

4. Adjudication

- a. Who will make the determination as to the facts of the case?
- b. Who decides appropriate action in view of the facts?
- c. Who has authority to discipline if that is necessary?
- d. What is appropriate remedial action, if advisable?

5. Pastoral care and support

- a. How will we provide for the pastoral care and support of each person, involved, recognizing that no single individual can provide adequate counsel and support to all persons involved?
- b. Do we have funding? (Through liability insurance or other means for any of the following):
 - I. Clinical evaluation, and/or treatment?
 - II. Advocacy for victim
 - III. Legal counsel for employees, members, the church?

6. Legal issues

- a. Does the allegation involve criminal-behavior or suggest that laws may have been broken?

- b. What are our legal responsibilities and liabilities?
- c. Does our legal counsel understand the complexity of these issues, including the unique status of religious institutions before the law?
- d. Are we required to report to secular authorities?
- e. How does a secular investigation affect our concern or ability to respond?

7. Insurance issues

- a. At what point are we expected to notify our insurance carrier of a potential claim?
- b. If there is an insurance investigation, how does that affect our ability to follow our policy?