

CALC

Canadian Association of Lutheran Congregations

CALC's Guidelines for Diaconal Ministers

Guidelines and Procedures for the Discipline of CALC's Diaconal Ministers

Guidelines and Procedures for the Discipline of CALC's Diaconal Ministers

Grounds for Discipline:

Subject to the provisions of the Constitution and Bylaws of any Member congregation of CALC, a Diaconal Minister serving a congregation of CALC may be suspended from his/her duties or dismissed and his/her call to the congregation terminated for the following causes:

- (a) teaching of doctrine in conflict with the Confession of Faith of this Church as expressed in CALC's constitution;
- (b) wilful disregard of the constitution, administrative bylaws and enactments of this Association;
- (c) conduct unbecoming a Diaconal Minister. [1]

The term "*conduct unbecoming a Diaconal Minister*" shall include, without limitation the following: [2]

- (1) **Conviction of a Criminal Offence.** Canadian society has placed a high premium upon the role of law in regulating the rights and duties of individuals. Canadian laws define certain conduct as a criminal offence. The commission of an indictable offence, in the absence of some reasonable explanation for such conduct, is conduct unbecoming a rostered Diaconal Minister and grounds for discipline. [3]
- (2) **Membership in Certain Organizations:** No rostered Diaconal Minister shall belong to any organization that, in its documents, rites or practices, contradicts the Gospel of salvation through faith in Jesus Christ. (Section 2 of Part 3 of CALC's Bylaws). [4]
- (3) **Relationship to Family:** Rostered Diaconal Ministers, whether married or single, are expected to uphold Christian ideals of marriage in their public ministry as well as in private life. A rostered Diaconal Minister's spouse and children are to be regarded by the minister with love, respect, and commitment. Any departure from this normative behavior shall be considered conduct unbecoming a rostered Diaconal Minister. Such departure might include any of the following: (i) Separation or divorce that occurs without consultation with the congregation's church council and without the rostered Diaconal Minister taking appropriate action on any agreement reached in such consultation. Each case of separation or divorce must be considered pastorally. (ii) Desertion or abandonment of spouse or children. (iii) Abuse of spouse or children. (iv) Repeated failure to meet legally determined family support obligations. [5]
- (4) **Substance Abuse:** The misuse of alcohol or mind-altering substances impairs the ability of a rostered Diaconal Minister to perform the duties of the office with full effectiveness. The failure to embark on an effective treatment program or to follow through on treatment and abide by the terms of such treatment and the consequent impairment of performance is conduct unbecoming a rostered minister and grounds for discipline. [6]
- (5) **Financial Responsibilities:** Rostered Diaconal Ministers are expected to conduct their financial affairs in accordance with ethical and legal requirements. Among those financial activities which shall be considered conduct incompatible with the character of the office of the Deacon are: (i) indifference to or avoidance of legitimate and neglected personal debts; (ii) embezzlement of money or improper appropriation of the property of others; and (iii) using the Pastoral office improperly for personal financial advantage. [7]
- (6) **Sexual Matters:** Sexual acts, including, adultery, promiscuity, addiction to pornography, the sexual abuse of another, or the misuse of counselling relationships for sexual favours or other advantage would constitute conduct unbecoming a rostered minister and grounds for discipline. [8]
- (7) **Sexual Harassment:** Sexual Harassment constitutes conduct unbecoming a rostered minister and grounds for discipline.[9]

"Sexual harassment" shall be defined as any unwelcome, unwarranted, unsolicited or offensive sexual conduct that is directed at a person or persons by one in a position of authority, power or leadership and which demeans and undermines the inherent self-worth and dignity of that person or persons or denies individual human rights as guaranteed by Provincial or Canadian Human Rights Code(s). It includes any conduct that coerces, pressures, manipulates, or threatens persons, or curtails a person from participating in the life of the church, fulfilling the duties of their position in the church workplace, freely expressing their ideas, practicing in their chosen church vocation, or freely advancing in their church employment, whether it is a single incident or several incidents over a period of time. "Sexual harassment" may involve two or more persons of the opposite or of the same gender, male or female. [10]

Sexual harassment may include, but is not limited to, the following: (i) Sexual comments that are offensive. (ii) Unwelcome jokes with sexual overtones. (iii) Subtle innuendo or open taunting regarding perfections or imperfections about a person's body. (iv) Unwelcome displays of sexually offensive material such as pictures, photographs, sexually manipulative objects or sexual desire stimulants. (v) Sexually offensive gestures or facial expressions. (vi) Sexually humiliating, insulting or

intimidating behaviour including, but not limited to, boundary or space intrusion to obtain sexual favours. (vi) Unwelcome physical contact. (i.e. touching, patting, pinching, cornering, etc.) (vii) Unwelcome invitation, direct or in person, by mail or through any other form of communication to engage in behaviour of a sexual nature. (viii) Prolonged, sexually suggestive staring. (ix) Unwelcome pressure for dates. (x) Indecent exposure. (xi) Verbal abuse or threats. (xii) Retaliation against an individual for having invoked this policy on behalf of oneself or other individuals, or participated or co-operated with any investigation under this policy; or been associated with a person who has invoked this policy or participated as a witness.

[11]

Sexual harassment does not apply in a relationship of mutual consent or in the expression of affection between friends as long as one's behaviour is not imposed on another. However, it is stressed that where one person holds power over another, either in fact or perceived, a relationship of mutual consent may be impossible to achieve. It is inappropriate for a rostered Diaconal Minister to date a parishioner or someone working under the Diaconal Minister's supervision within the congregation he or she is serving, until said Pastor's relationship with the congregation has ceased for a period of at least one year. [12]

CALC's Policy on Sexual Harassment.

The congregations of CALC recognize that every person has the right to be treated with dignity and respect as a child of God, and therefore the right to freedom from all forms of sexual abuse and sexual harassment. [13]

Sexual abuse or sexual harassment by any rostered Diaconal Minister, seminarian, or other person serving under call or appointed by CALC, will not be tolerated by the congregations of CALC. [14]

The disclosure of any abusive sexual conduct shall be in writing and signed by the complainant, the alleged victim's representative or a third party. [15]

All disclosures of abusive sexual conduct shall be addressed promptly. [16]

Throughout the process, pastoral care will be provided to the complainant, the respondent, and, as appropriate, their respective congregations or institutions. [17]

Confidentiality and discretion will be maintained by the church to the extent possible to protect the innocence and identity of those involved. [18]

Rostered Diaconal Ministers and congregational council members are responsible for discouraging non-rostered employment-related harassment or abuse and ensuring that congregational members are aware of their responsibilities to prevent harassment or abuse. [19]

Congregations are responsible for their own sexual abuse and harassment policies relating to non-rostered members or adherents of their congregations. [20]

Any allegations concerning the sexual abuse of children will be immediately reported to the appropriate civil authorities. [21]

Should criminal proceedings be initiated against a rostered minister, completion of the church's investigative and disciplinary procedures may be suspended pending completion of the criminal proceedings. [22]

Procedure to be Followed in Cases Involving Sexual Harassment:

Any complaint of sexual harassment or abuse by a rostered Diaconal Minister shall be reported to the President in all instances. [23]

A complainant also may wish to pursue other courses of action such as:

- (a) Filing a complaint with the provincial Human Rights Commission in accordance with the provincial code or Act.
- (b) Reporting to the local police department for investigation under the provisions of the Criminal Code any complaints involving sexual assault, obscene phone calls, intimidation or criminal harassment causing fear for one's safety.
- (c) Taking civil action against the person who caused the injury if mental or physical damage is deemed to have been suffered.
- (d) Employing a mediator for resolution if both parties agree and it is appropriate under the circumstances. The decision to pursue an alternative course of action does not preclude the subsequent initiation of procedures outlined in these guidelines. [24]

Procedure to be Followed For Discipline of a Diaconal Minister:

The following procedure shall be followed if it is alleged: (a) teaching of doctrine in conflict with the Confession of Faith of this Church as expressed in this constitution; (b) conduct unbecoming a Diaconal Minister; (c) wilful disregard of the constitution, administrative bylaws and enactments of this Association. [25]

Local Action: Such charges shall first be treated locally in accordance with the Word of God and with prayer. It is recommended that the following Scripture passages, among others, be consulted and practiced when such charges are being handled. (1) Deuteronomy 19:15 (the requirement of two or three witnesses). (2) Matthew 18:15-20 (one concerned brother meeting with

an apparently offending brother in private; if necessary leading to another meeting with one or two others present; and if necessary, culminating in action by the congregation). (3) I Timothy 5:19-20 (the seriousness of such charges, the need for two or three witnesses, and the objective of counteracting sin). (4) Luke 17:1-10 (If our brother sins, rebuke is necessary, and if he repents, forgiveness is necessary). [25]

The form that the local action is to take and the motivation underlying the local action are defined and shaped by the provisions of Matthew 18:15-20. The whole purpose of this local action is to restore the broken relationship between the Diaconal Minister and those who he/she has hurt and offended through, confession, contrition, repentance, forgiveness, absolution and reconciliation. If a Diaconal Minister has fallen, that is, sins or stumbles and injures a congregant or some other he/she owes a duty to, these steps must be taken in order to avert a permanent falling out between the Diaconal Minister, those hurt, and the entire congregation. A threefold procedure aimed at reconciliation is defined:

1. First, the one harmed and the Diaconal Minister are to meet privately and quietly. The one harmed is to tell the Diaconal Minister his/her fault. If the Diaconal Minister listens to the one harmed, confesses his/her sin, repents and asks forgiveness, the one harmed has repaired the broken bond and restored wholeness to the community (cf. Lev 19:7-18).
2. In the event that the Diaconal Minister is stubborn and refuses to admit or confess the sin, repent and ask forgiveness of the one harmed; then the victim must take one or two others as witnesses and try again to reason with the Diaconal Minister (cf. Deuteronomy 19:15; 2 Corinthians 13:1; 1 Timothy 5:19). If the Diaconal Minister listens to the one harmed and the witnesses, confesses his/her sin, repents and asks forgiveness, the one harmed and the witnesses have repaired the broken bond and restored wholeness to the community (cf. Lev 19:7-18).
3. If the efforts of the one harmed and the witnesses should also be in vain and the Diaconal Minister does not repent and reconcile with the one harmed, the one harmed is to take the matter to the congregation, to the solemn assembly of the sisters and brothers. The entire community is summoned to help regain one straying sheep, to hear the facts and circumstances, which led to the falling out between the Diaconal Minister and those he/she has hurt. The aim is to hold the Diaconal Minister and those he/she has hurt within the forgiving embrace of the church. However, it is possible that the exhortations of the congregation may fail to move the Diaconal Minister to repentance. In that event, the Diaconal Minister is to be treated as one who is outside the congregation. [26]

When the efforts taken pursuant Matthew 18:15-20 fail, the church council of the relevant congregation may institute disciplinary proceedings against the Diaconal Minister in accordance with its constitution and bylaws. Any decision by a congregation on a matter of discipline against a Diaconal Minister under its constitution and bylaws shall be deemed and considered full and final by CALC. [27]

Appeal to CALC:

The congregation may appeal to CALC for assistance in proceedings which may lead to the imposition of discipline against their Diaconal Minister, provided that: (1) the congregation has attempted to comply with the provisions of Matthew 18:15-20 under Paragraph [26] above, and such efforts have failed, and (2) the church council does not wish to take formal disciplinary action against its Diaconal Minister under its own constitution and bylaws by reason of conflicts of interest or similar impediments that would make a formal disciplinary hearing by the congregation even appear unfair or biased. [28]

CALC's Response to the Appeal:

Appeal to President: For the sake of confidentiality, the matter may be directed to the President of CALC for counsel. The President may follow the same procedure of Matthew 18:15-20 or may otherwise attempt to mediate between the Diaconal Minister and the congregation for the purpose bringing about a peaceful solution to the controversy between the Diaconal Minister, those hurt and the congregation. [29]

Hearing Before the Board of Elders: If such counsel of CALC's President fails to resolve the subject dispute, it shall be referred to the Board of Elders for hearing who shall take appropriate action (such as exoneration, suspension, or dismissal of the Diaconal Minister), and the Board of Elders shall act upon such recommendation and report such action to the next General Convention. The hearing before the Board of Elders shall comply with the procedures described below. [30]

Appellate Hearing Before the Board of Appeals: A Diaconal Minister who is suspended or dismissed by CALC's Board of Elders may appeal such decision to the Board of Appeals and Adjudication as provided in CALC's constitution and bylaws, whose decision shall be final. [31]

Procedure to be Followed for Disciplinary Hearings Before the Board of Elders:

Definition of Terms:

"Complainant" is the person or persons who lodge a Complaint against a rostered Deacon which, if proven, could result in discipline of the pastor. [32]

“Complaint” is the written description of the accusations made against a rostered Deacon which, if proven, could result in discipline. [33]

“Respondent” is the rostered Deacon who is the subject of a Complaint which, if proven, could result in discipline of the minister. [34]

Discipline—Preliminary Matters.

Form of Complaint Discipline of Pastor/Notice: To initiate a disciplinary hearing before the Board of Elders, the Complainant shall use:

(a) Complaint Form 1: for all allegations not involving sexual matters found on CALC’s website and attached hereto as Appendix 1; or (b) Complaint Form 2: for allegations involving sexual matters found on CALC’s website and attached hereto as Appendix 2. Online filing is preferred. [35]

Recusal of an Elder: When conducting a disciplinary hearing, the Board of Elders must be seen to be impartial and without bias toward either the Respondent or the Complainant. No Elder may participate in a disciplinary hearing who: (a) has any substantial prior knowledge of the matters to be reviewed by the Board of Elders; (b) is related to either the Respondent or the Complainant; (c) was or is a member of a congregation served by the Respondent; or (d) was or is a member of a congregation where the Complainant is a member. If at any time during a disciplinary hearing, a member of the Board of Elders discovers a conflict of interest, such a person shall declare the conflict and withdraw immediately from the hearing. [36]

Chair & Secretary: The President of CALC shall serve as chairperson of the disciplinary hearing and the Secretary of CALC shall serve as the secretary. If either is ineligible to serve, the remaining Elders shall choose a chairperson and/or secretary, as the case may be, from its members to serve as its chairperson and secretary. The chairperson shall be responsible for chairing the disciplinary hearing and any of the meetings of Board of Elders which are required by the disciplinary hearing. [37]

Hearing Date, Place and Quorum: The chairperson shall fix a time and place for the disciplinary hearing at which the Complaint will be considered. The secretary shall be responsible for keeping a record of the proceedings of the Committee, for putting together the final written report of the Committee, and for all correspondence necessary to support the work of the Committee. The quorum for a disciplinary hearing shall be the quorum for any regular meeting of the Board of Elders. [38]

Expenses: The expenses of the Board of Elders shall be the responsibility of CALC. The expenses of the Complainant shall be borne by the Complainant and the expenses of the Respondent shall be borne by the Respondent. [39]

The Disciplinary Hearing before the Board of Elders.

The Respondent shall be entitled to a full hearing before the Board of Elders, but the Board of Elders may refuse to consider evidence that clearly has no bearing upon the Complaint or that is unduly cumulative. Cumulative evidence is defined as repetitive testimony or facts or information that proves what has previously been established by other information concerning the same issue. [40]

Notice of Hearing: The Respondent, the Complainant, and their representatives, if any, shall be given at least ten days notice in writing of the time and place and date of the hearing. [41]

Continuance: The hearing before the Board of Elders shall commence at the time and place set forth in the notice issued by the President, unless in the opinion of the President, after consultation, if practical, with the parties involved or their representatives, an emergency such as snowstorm, flood, or airline strike, necessitates a postponement or change of site of the hearing. [42]

Presumptions: In the proceedings before the Board of Elders there shall be a presumption of innocence in favour of the Respondent. Among other things this requires that: (a) the Board shall reach its finding and recommendations solely on the basis of the evidence presented at the hearing before the Board; (b) the Complainant has the burden of proof as defined below; and (c) the evidence presented at the hearing, as well as the entire process before the Board of Elders, shall be in conformity with the requirements of the constitution and bylaws of CALC and these rules, including specifically the due process requirements set forth below. [43]

Private Proceeding: The hearing shall not be open to the public unless both the Complainant and the Respondent agree to a public hearing. [44]

Procedures During the Hearing:

The Respondent and the Complainant may each be represented by not more than two representatives who may present or assist in the presentation of the evidence. [45]

The Board of Elders may permit attendance by a limited number of other persons, with the consent of both the Respondent and the Complainant, or as may be otherwise determined by the Elders. [46]

While testifying, a witness may be accompanied by a spouse or by a friend or advocate. [47]

Witnesses (other than the Respondent and Complainant) are permitted in the hearing only when testifying. [48]

Persons permitted to attend the hearing under this rule shall not have any role in the proceedings, unless specifically authorized by an additional rule adopted by the Board of Elders in a particular case. [49]

A verbatim record of the hearing shall be made by an audio or video tape recording or by a stenographer or a court reporter. [50]

The Complainant and the Respondent may, but need not, make opening statements. Such opening statements shall be limited to no more than one hour per side. The Complainant shall be entitled to make the first such opening statement. [51]

The Complainant may first call witnesses, including the Complainant if appropriate, to present evidence in support of the Complainant. They may also present documentary evidence in support of the Complainant. After the Complainant has had the opportunity to call witnesses and to offer any documentary evidence, the Respondent may call witnesses and offer documentary evidence. [52]

After the Respondent has called witnesses and offered documentary evidence, first the Complainant and then the Respondent may call witnesses and offer documentary evidence for the purpose of rebuttal. [53]

The Respondent has the right to testify or to remain silent. [54]

Whenever a witness (including the Respondent or the Complainant) testifies, the party who has called the witness shall first question the witness, following which the other party may question the witness on any matter relevant to the Complaint. [55]

Then the party calling the witness may again question the witness, but only with respect to new matters which arose during the other party's questioning of the witness. A representative of a party, in lieu of the party, may question any witness. Members of the Board of Elders may also question the witness for the purpose of clarification. [56]

The Complainant and the Respondent or their representatives may, but need not, present closing statements. Closing statements shall be limited to no more than one hour per side. The Respondent shall make the first closing statement. The Complainant shall be entitled to make the final closing statement. [57]

The rules of evidence and other rules used in formal judicial proceedings shall not necessarily apply to the hearing. Testimony or documentary evidence shall not be excluded merely because it would be excluded under such formal rules. For example, evidence shall not be excluded merely because it is hearsay, although individual members of the Board of Elders may choose to give hearsay evidence little or no weight or importance. A witness gives hearsay evidence if the witness's testimony concerning an event is based on out of court statements made to the witness by another person about said event, and not on the witness's personal knowledge and/or observation. [58]

The Complainant shall have the burden of proof, that is, the burden of proving each allegation of the Complaint is true. The Board of Elders shall not find that any allegation contained in the Complaint is true unless the Complainant has proven that it is true by a preponderance of the evidence. An allegation has been proven true by a preponderance of the evidence if the Board of Elders, after weighing all of the evidence presented at the hearing, believes that more likely than not the allegation is true. [59]

At any time during the hearing the Board of Elders may decide to meet in-camera session for deliberations, either with the participation of the parties to the Complaint and their respective representatives, or without the participation of such parties. [60]

[60]

Failure to Appear.

If the Respondent and the Respondent's representative should fail to appear at the scheduled hearing before the Board of Elders, the Board, after making a record that the Respondent was given notice of the date, time and place of the hearing, and other information relevant to the Respondent's absence of which the Committee has knowledge, may either: (a) proceed to hear the testimony and evidence offered by the Complainant and render its written decision; or (b) adjourn the hearing to a rescheduled date, if the Committee concludes that the absence is justified. [61]

Due Process in Discipline Proceedings:

1. The Board of Elders shall afford the Respondent due process in discharging its responsibilities.
2. "Due process" means:
 - a. the right to be given specific written notice of Complaint;
 - b. in the case of the Respondent, the right to testify in person or to remain silent;
 - c. the right to call witnesses;
 - d. the right to introduce documentary evidence concerning the Complaint;

- e. the right to confront and cross-examine all witnesses;
 - f. the right to a hearing closed to the public unless both the Complainant and the Respondent agree to a public hearing;
 - g. the right to a written decision of the Board of Elders; and
 - h. the right to be treated with fundamental procedural fairness. [62]
3. “Fundamental procedural fairness” means:
- a. the members of the Board of Elders shall avoid sending written communications to or receiving written communications from either Respondent or Complainant unless a copy of the communication is also sent to the other;
 - b. avoidance by members of the Board of Elders of oral communications with either the Respondent or the Complainant outside of the presence of the other;
 - c. maintaining decorum during the hearing;
 - d. allowing both the Complainant and the Respondent to present their cases without unnecessary interruptions;
 - e. keeping a verbatim record of the hearing, either made by audio or video tape recording or a stenographer or court reporter;
 - f. allowing both the Complainant and the Respondent to be accompanied at the hearing by a representative (who may, but need not, be an lawyer) who may also participate in the proceedings;
 - g. impartiality of the members of the Board of Elders which consider the Complaint; and
 - h. the right to be treated in conformity with the governing documents of CALC.
4. “Due process” and “fundamental procedural fairness” shall be defined without regard to how these concepts may be defined in secular civil or criminal proceedings. “Due process” and “fundamental procedural fairness” shall mean nothing more and nothing less than what is provided in these Paragraphs [62] and [63], respectively. Once a complaint against a person has been considered by the Board of Elders, that person shall not be required to answer that complaint again except if a different but related complaint is laid. [63]

Determination, Report, and Post-Hearing Matters.

For the purpose of reaching its findings of fact and recommendations, the Board of Elders shall meet without the presence of the Respondent, the Complainant, their representatives or any other person who is not a member of the Board of Elders, other than any attorney/lawyer of the Board of Elders. [64]

When the Board of Elders has determined by the preponderance of the evidence (as defined above) that the Respondent should be subject to discipline, it shall recommend the appropriate disciplinary action. Otherwise the Board of Elders shall recommend the dismissal of the Complaint. [65]

At least a majority of the members of the Board of Elders who were present during the hearing when all evidence was presented to the Board must concur with the determination that the Respondent should be subject to discipline. [66]

Within fifteen days of the completion of the disciplinary hearing, the Board of Elders shall report its findings and recommendations in writing and deliver them to the President. The report shall be in two parts: (a) Findings of Fact: In this part, the Board of Elders shall set forth what it has found to be the relevant facts—that is, what it believes to be the truth of the matter. (b) Recommendation: In this part, the Board of Elders shall state whether, based upon the evidence, it believes the Respondent should be subject to discipline and, if so, what discipline the Board of Elders recommends be imposed on the Respondent. [67]

When making a determination of the discipline to be imposed, the Board of Elders should ensure that the recommendations are: (a) measurable (that it will be clear when the discipline is complete), that there is a time line attached to the discipline (with a clear process for extensions), (b) that it is clear who will supervise compliance with the discipline, and (c) that there are specific consequences made for noncompliance by the Respondent with the discipline. [68]

The disciplinary actions which the Board of Elders; may recommend are: (a) suspension from the office and functions of the rostered Pastoral ministry by the Board of Elders for a designated period or until there is satisfactory evidence of repentance and amendment; or (b) suspension from the office and functions of the rostered Pastoral ministry by the Board of Elders and removal from the roster of Diaconal Ministers by the Board of Elders. [69]

The President of CALC shall provide Complainant and the Respondent with a copy of the Board of Elders’ written report described in Paragraph [67] above, within 15 days from the time the president receives the report. The President shall report the findings and recommendations of the Board of Elders to the next meeting of the National Council and shall advise the National Council of any action taken by the President as a result of such recommendations. The National Council shall take any necessary action

to suspend the Respondent from the office and functions of the rostered Pastoral ministry or to remove the Respondent from said roster in accordance with the recommendations of the Board of Elders. [70]

The action to suspend the Respondent or to remove the Respondent from the roster may be appealed to the Board of Appeals and Adjudication by the Respondent within 45 days of the Respondent receiving written notice of the action of the Board of Elders. [71]

In event of an appeal, the President shall furnish the Board of Appeals and Adjudication with the written findings and decisions of the Board of Elders together with any other information requested by the members of the Board of Appeal and Adjudication in the custody of the Board of Elders relating to the subject case and certify the completeness and accuracy of such record. [72]

In the event there is no appeal, 75 days after giving the notice referred to in Paragraph 67, above, the President shall make the following disposition of the material which would have constituted the record of appeal: (a) documentary and physical evidence and the transcript of the proceedings of the Committee on Discipline shall be delivered to the Secretary for safe keeping; and (b) the President of CALC shall keep the findings and determination of the Board of Elders in a confidential file. [73]

Notice to Complainant or Respondent: Any written notice hereunder which may be given by the Board of Elders to the Complainant or the Respondent, or their respective representatives, shall be considered given to him/her on the date the written notice is handed to him/her by any member of the Board of Elders, any officer of CALC, and/or any other Member of the National Council of CALC or any employee of CALC. If the notice is delivered by Canada Post or a courier, it shall be deemed delivered to the Complainant or the Respondent, and/or their representatives, five (5) days after it is dropped in the mail or delivered to the courier. The address for delivery of notice by mail or courier shall be to the address for the party and/or representative filed with the Complaint or otherwise communicated in writing to the Board of Elders. [74]

Notice to the Board of Elders: Any written notice which may be given by the Complainant or the Respondent, or their respective representatives, to the Board of Elders hereunder shall be considered given to the Board of Elders on the date the written notice is handed by him/her to any member of the Board of Elders, any officer of CALC, any other member of CALC's National Council or any employee of CALC. If the notice is delivered by Canada Post or a courier, it shall be deemed delivered to the Board of Elders five (5) days after it is dropped in the mail or delivered to the courier. [75]

Appendix 1

To the Guidelines and Procedures for the Discipline of CALC's Diaconal Ministers

COMPLAINT FORM 1

MISCONDUCT BY A ROSTERED DIACONAL MINISTER OF CALC

Deviation from Doctrine – Conduct Unbecoming – Wilful Disregard of Procedures

Canadian Association of Lutheran Congregations

Request For A Hearing Before The Board of Elders

Deviation from Doctrine – Conduct Unbecoming – Wilful Disregard of Procedures

Grounds for Discipline: Subject to the provisions of the Constitution and Bylaws of any Member congregation of CALC, a Diaconal Minister serving a congregation of CALC may be suspended from his/her duties or dismissed and his/her call to the congregation terminated for the following causes: (a) teaching of doctrine in conflict with the Confession of Faith of this Church as expressed in our constitution; (b) conduct unbecoming an Diaconal Minister; (c) wilful disregard of the constitution, administrative bylaws and enactments of this Association.

Definitions:

“Complainant” is the person or persons who lodge a Complaint against a rostered Diaconal Minister which, if proven, could result in discipline of the Diaconal Minister.

“Complaint” is the written description of the accusations made against a rostered Diaconal Minister which, if proven, could result in discipline.

“Respondent” is the rostered Diaconal Minister who is the subject of a Complaint which, if proven, could result in discipline of the pastor.

“Conduct unbecoming a Diaconal Minister” shall include, without limitation the following:

1. **Conviction of a Criminal Offence.** Canadian society has placed a high premium upon the role of law in regulating the rights and duties of individuals. Canadian laws define certain conduct as a criminal offence. The commission of an indictable offence, in the absence of some reasonable explanation for such conduct, is conduct unbecoming a rostered Diaconal Minister and grounds for discipline.
2. **Membership in Certain Organizations:** No rostered Diaconal Minister shall belong to any organization that, in its documents, rites or practices, contradicts the Gospel of salvation through faith in Jesus Christ. (Section 2 of Part 3 of CALC’s Bylaws).[4]
3. **Relationship to Family:** Rostered Diaconal Ministers, whether married or single, are expected to uphold Christian ideals of marriage in their public ministry as well as in private life. A rostered Diaconal Minister’s spouse and children are to be regarded by the minister with love, respect, and commitment. Any departure from this normative behavior shall be considered conduct unbecoming a rostered Diaconal Minister. Such departure might include any of the following: (i) Separation or divorce that occurs without consultation with the congregation’s church council and without the rostered Diaconal Minister taking appropriate action on any agreement reached in such consultation. Each case of separation or divorce must be considered pastorally. (ii) Desertion or abandonment of spouse or children. (iii) Abuse of spouse or children. (iv) Repeated failure to meet legally determined family support obligations.[5]
4. **Substance Abuse:** The misuse of alcohol or mind-altering substances impairs the ability of a rostered Diaconal Minister to perform the duties of the office with full effectiveness. The failure to embark on an effective treatment program or to follow through on treatment and abide by the terms of such treatment and the consequent impairment of performance is conduct unbecoming a rostered minister and grounds for discipline.
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A separate complaint form, COMPLAINT FORM 2, must be filed for alleged conduct on the Respondent's part which is of a sexual nature.

Date of this Complaint	
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Name of the Complainant	
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Name of the Respondent	
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Name and address of the congregation or agency employing Respondent:
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Section 1: Allegations:

Fully describe the incident(s) by which the Respondent allegedly: (a) taught doctrine in conflict with the Confession of Faith of this Church as expressed in CALC's constitution; (b) engaged in conduct unbecoming an Diaconal Minister; (c) wilfully disregarded the constitution, administrative bylaws and enactments of this Association. Please include dates, times and places as accurately as possible. Attach as many additional pages to this Complaint as are necessary to complete this Section.

Section 2: Witnesses:

Name any witness(s) who know about or has witnessed the incident(s) described in Section 1 above, including contact information for the witnesses (mailing address, telephone and fax numbers and email addresses, if known.

Attach as many additional pages to this Complaint as are necessary to complete this Section.

Section 3: Reports to Police:

If the incident(s) is (are) criminal in nature, has it (have they) been reported to the police? Name the police department and date reported. Attach as many additional pages to this Complaint as are necessary to complete this Section.

Section 4: Other Incidents Involving the Respondent:

Are you aware of any other incident(s) involving other persons in relation to the Respondent? Identify them. Attach as many additional pages to this Complaint as are necessary to complete this Section.

Section 5: Other Information:

Is there any other relevant information regarding this complaint you wish to disclose that might prove helpful? Attach as many additional pages to this Complaint as are necessary to complete this Section.

Other Questions:

Have you received a copy of CALC's manual entitled: Guidelines for Diaconal Ministry in CALC? Yes ___ No ___.

Do you understand the disciplinary procedure which will follow from your complaint? Yes ___ No ___

Do you understand that a pastoral care support person will be assigned to you if you so desire? Yes ___ No ___

Contact Information for the Complainant:

Full Legal Name:		
Street Address		
Mailing Address (if different):		
City:	Province	Postal Code
Home Phone:	Cell Phone	Fax:
Email Address:		

Complainant's Signature
(Implies your consent to proceed with the complaint)

The original of this Complaint should be sent to the President of CALC and marked "Highly Confidential Material Enclosed – For the President's Eyes Only." Complainant is encouraged to send the Complaint by Registered Mail – Signature Required.

President's Mailing Address:
Reverend Edward P. Skutshek
Canadian Association of Lutheran Congregations
C/O: Grace Lutheran Church
1162 Hudson Road, West Kelowna, British Columbia V1Z 1J3
Telephone: (250) 769-5685
Cell Phone: (250) 801-3860
Email: president@calc.ca

Appendix 2

To the Guidelines and Procedures for the Discipline of CALC's Diaconal Ministers

COMPLAINT FORM 2

MISCONDUCT BY A ROSTERED DIACONAL MINISTER OF CALC

Conduct Unbecoming Involving Sexual Matters

Canadian Association of Lutheran Congregations

Request For A Hearing Before The Board of Elders

Conduct Unbecoming Involving Sexual or Family Matters

Grounds for Discipline: Subject to the provisions of the Constitution and Bylaws of any Member congregation of CALC, a Diaconal Minister serving a congregation of CALC may be suspended from his/her duties or dismissed and his/her call to the congregation terminated for conduct unbecoming an Diaconal Minister involving sexual harassment.

Definitions:

“Complainant” is the person or persons who lodge a Complaint against a rostered Diaconal Minister which, if proven, could result in discipline of the Diaconal Minister.

“Complaint” is the written description of the accusations made against a rostered Diaconal Minister which, if proven, could result in discipline.

“Respondent” is the rostered Diaconal Minister who is the subject of a Complaint which, if proven, could result in discipline of the Deacon.

“Sexual Harassment” shall be defined as any unwelcome, unwarranted, unsolicited or offensive sexual conduct that is directed at a person or persons by one in a position of authority, power or leadership and which demeans and undermines the inherent self-worth and dignity of that person or persons or denies individual human rights as guaranteed by Provincial or Canadian Human Rights Code(s). It includes any conduct that coerces, pressures, manipulates, or threatens persons, or curtails a person from participating in the life of the church, fulfilling the duties of their position in the church workplace, freely expressing their ideas, practicing in their chosen church vocation, or freely advancing in their church employment, whether it is a single incident or several incidents over a period of time. “Sexual harassment” may involve two or more persons of the opposite or of the same gender, male or female.

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

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

Inappropriate sexual acts, including, adultery, promiscuity, addiction to pornography, the sexual abuse of another, or the misuse of counselling relationships for sexual favours or other advantage.

Date of this Complaint	
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Name of the Complainant	
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Name of the Respondent	
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Name and address of the congregation or agency employing Respondent:

Section 1: Allegations:

Fully describe the incident(s) by which the Respondent allegedly engaged in conduct unbecoming a Diaconal Minister involving sexual harassment, inappropriate sexual acts or inappropriate family matters. Please include dates, times and places as accurately as possible. Attach as many additional pages to this Complaint as are necessary to complete this Section.

Section 2: Witnesses:

Name any witness(s) who know about or has witnessed the incident(s) described in Section 1 above, including contact information for the witnesses (mailing address, telephone and fax numbers and email addresses, if known.

Attach as many additional pages to this Complaint as are necessary to complete this Section.

Section 3: Corroborating Physical and Medical Evidence:

If sexual abuse or sexual assault is involved, identify what other independent corroborating physical or medical evidence is available. Attach as many additional pages to this Complaint as are necessary to complete this Section.

Section 4: Assault or Abuse of Minors - Reports to Civil Authorities:

If sexual abuse or sexual assault of a minor(s) is involved, has this been reported to the civil authorities as required by law? Name the agencies and date reported. Attach as many additional pages to this Complaint as are necessary to complete this Section.

Section 5: Reports to Police:

If the incident(s) is (are) criminal in nature, has it (have they) been reported to the police? Name the police department and date reported. Attach as many additional pages to this Complaint as are necessary to complete this Section.

Section 6: Other Incidents Involving the Respondent:

Are you aware of any other incident(s) involving other persons in relation to the Respondent? Identify them. Attach as many additional pages to this Complaint as are necessary to complete this Section.

Section 7: Other Information:

Is there any other relevant information regarding this complaint you wish to disclose that might prove helpful? Attach as many additional pages to this Complaint as are necessary to complete this Section.

Other Questions:

Have you received a copy of CALC's manual entitled: Guidelines for Diaconal Ministry in CALC? Yes ___ No ___.

Do you understand the disciplinary procedure which will follow from your complaint? Yes ___ No ___

Do you understand that a pastoral care support person will be assigned to you if you so desire? Yes ___ No ___

Contact Information for the Complainant:

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City:	Province	Postal Code
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Complainant's Signature
(Implies your consent to proceed with the complaint)

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