

UPDATING YOUR CONGREGATION'S CONSTITUTION

by the Montana Synod Review Team
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INTRODUCTION

By now most congregations are aware of the fact that one of the pieces of business conducted at the 2016 Churchwide Assembly was adopting the changes proposed for the Constitution of the ELCA, the Constitution for the Synods of the ELCA, and the Model Constitution for Congregations of the ELCA. A majority of those changes had to do with the establishment of two rosters for our church, namely the roster of those serving in the Ministry of Word and Sacrament and the roster of those serving in the Ministry of Word and Service. However, there were other changes made as well --- some minor and some significant. These changes affect the constitutions of all congregations that are part of the Montana Synod of the ELCA. In effect, these changes make all current constitutions out of date. Hence the need to update your congregation's constitution.

Pending approval by the Montana Synod Council, the following persons serve on the SYNOD REVIEW TEAM for the Montana Synod of the ELCA.

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They are tasked with the responsibility of reviewing and approving congregational constitutions. In consultation with Bishop Crist, preliminary plans have been made for a workshop preceding the 2017 Synod Assembly for those congregations needing assistance in revising their existing constitutions. However, some congregations might want to begin the process sooner than that. This document will provide directions for doing so.

TOPIC 1. THE RATIONALE BEHIND RECEIVING PRELIMINARY APPROVAL OF YOUR CONSTITUTION

Chapter 16 of the 2016 Model Constitution states that amendments to an existing constitution "shall be sent by the secretary of this congregation to the synod. The synod shall notify the congregation of its decision to approve or disapprove the proposed changes; the changes shall go into effect upon notification that the synod has approved them" (*C16.03). This assumes that, once the amendments have been developed by the CONGREGATIONAL CONSTITUTION REVISION COMMITTEE (CCRC), they are subsequently approved by the Congregation Council, then the Congregation Meeting (and, if required, a second Congregation Meeting). Finally, the amendments are sent to the SYNOD REVIEW TEAM for its approval followed by approval by the Synod Bishop.

This process takes time --- somewhere between 6-8 months, or more if 2 Congregation Meetings are involved. Unfortunately about 90% of the constitutions cannot be approved by the SYNOD REVIEW TEAM, and so the congregation has to repeat the process again. This can be very dispiriting to the congregation and its CCRC which might have assumed that approval was more or less automatic. To remedy that situation, the SYNOD REVIEW TEAM recommends that congregations submit their revised constitution for preliminary approval by a member of the SYNOD REVIEW TEAM. This should be done as soon as the local CCRC has completed their work.

Most congregations will have to go through this process 2 or more times before preliminary approval can be granted, but once that preliminary approval has been achieved, then the revised constitution can be approved by the Congregation Council and the Congregation Meeting (s), and finally approved by the SYNOD REVIEW TEAM and the Synod Bishop. This constitutes the final approval and, while we cannot guarantee that this final approval is automatic, yet the chances for approval are greatly enhanced.

The actions taken at the 2016 Churchwide Assembly mean that approximately 100 changes have to be made to existing congregational constitutions. The prospect of having to make and approve approximately 100 individual amendments might be viewed as an overwhelming task by the congregation. However, the Office of the Secretary of the ELCA has ruled that the entire revised constitution can be considered as one amendment. This greatly simplifies the task of incorporating the 9 pages of changes issued by the Secretary of the ELCA. It should be noted that almost all of the changes are mandated changes (changes to the provisions marked with an asterisk).

TOPIC 2. INCORPORATING THE 2016 MANDATED CHANGES INTO YOUR CONSTITUTION

The question now becomes: how do we deal with all of these changes? How do we incorporate them into our current constitution?

First of all, the CCRC should have in their possession the following documents. The first 3 documents are available from "elca.org/Resources/Office of the Secretary". Click on the download button for the following 3 icons:

1. Guide to Use of the Model Constitution for Congregations 2014
2. Model Constitution Congregations 2016
3. Amendments to Model Constitution for Congregations 2016.
4. SYNOD REVIEW 2016. This 24 page document (specific for congregations of the Montana Synod) is used by the Synod Reviewers to evaluate the constitutions submitted by congregations. In addition to the evaluation portions of this review, there are numerous EDITORIAL NOTES on provisions in the 2016 Model Constitution that congregations might have difficulty understanding. By having this document in its possession, the CCRC will know precisely how the congregation's constitution will be evaluated. To request an electronic copy of SYNOD REVIEW 2016, please call Rev. Lowell C. Anderson at 406-442-6884 or Email him at andersonld@bresnan.net

Secondly, the SYNOD REVIEW TEAM offers the following suggestions for congregations seeking to update their constitutions so as to bring them in line with the 2016 Model Constitution. The first two suggestions have to do with the so-called "starting document" whereas the subsequent suggestions have to do with other matters pertinent to revising your constitution.

1. The Synod Reviewers strongly recommend that the 2016 Model Constitution serve as the "starting document" or the base document for your revised constitution. Note that the mandated portions of the Model Constitution are preceded with an asterisk and cannot be changed in any manner. The non-mandated portions of the Model Constitution are not preceded with an asterisk and can be changed by the congregation provided that such changes do not conflict with the mandated portions of Model Constitution.

Alternative 1a. If the CCRC makes absolutely no changes to the mandated and non-mandated portions of the 2016 Model Constitution, then after preliminary approval by the SYNOD REVIEW TEAM, the resulting constitution can be adopted at 1 Congregation Meeting. Note: filling in a blank or selecting one of the bracketed alternatives is not considered to be a change to the Model Constitution.

Alternative 1b. If the CCRC makes even a slight change to the non-mandated portions of the Model Constitution (Note: no changes can be made the mandated portions of the Model Constitution), then the entire document can only become official after 2 Congregation Meetings (the 1st meeting is for adoption, and the 2nd meeting is for ratification --- no changes permitted between meetings). It should also be noted that if your congregation revises any of the non-mandated portions of the Model Constitution, those revisions cannot conflict with the mandated portions of the Model Constitution.

2. Some congregations might desire to have their current constitution serve as the “starting document” and revise it by incorporating the changes adopted by the Churchwide Assemblies of 2016 and the preceding years: 2013, 2011, 2009, etc. This can be a cumbersome and time consuming process especially if a constitution is based on a Model Constitution older than 2013.

Alternative 2a. NOTE: this alternative will only apply to a constitution which has as its base document the 2013 Model Constitution. If this is the case, then the afore-mentioned 9 pages of changes will need to be incorporated into your constitution. If no other changes are made, then your updated constitution will only require 1 Congregation Meeting. However, if other changes are made, then your updated constitution will require 2 Congregation Meetings.

Alternative 2b. NOTE: this alternative applies to a constitution which is based on the 2011 or older Model Constitution. If your constitution is based on the 2011 Model Constitution, there will be 14 pages of changes that will need to be incorporated into your constitution. The number of change-pages increases the older your constitution is. For instance, if your constitution dates back to the time of the merger on January 1, 1988, there will 43 pages of changes that will need to be incorporated into your constitution. Making all of those changes will be a monumental task, and will most likely result in a constitution which cannot be approved by the Synod Reviewer. Although Alternative 2b is a theoretical option, the Synod Reviewers suggest that a congregation not consider this to be a viable alternative.

3. One of the perennial questions faced by your CCRC is: where do we place the bylaws? Many congregations have their Bylaws as a separate document. The ELCA, the Montana Synod, and some congregations incorporate their bylaws into the constitution via a distinctive marker (a third set of numerals), and your congregation is urged to do the same. However, if a congregation elects to have their bylaws as a separate document, each bylaw should be referenced to the appropriate constitutional provision. Example: a bylaw pertaining to constitutional provision C10.01 could be identified as C10.01.01.

4. The Constitution of the ELCA does not permit partial revisions of your constitution. This means that if one provision is modified in your congregation's constitution, it cannot be approved by the Synod Reviewers until the entire document conforms to the 2016 Model Constitution.

5. A final note regarding timelines: given the fact that the Synod Reviewers cannot begin to evaluate constitutions until after October 1, 2016, it is unrealistic to think that constitutions can be approved at January 2017 annual meetings. It is more realistic if congregations would think of their first Congregation Meeting being during the summer of 2017 with a second Congregation Meeting in January 2018. It should be kept in mind that your Synod Reviewers are volunteers and have to work in their reviews amongst their other duties. Normally a review is completed within 3 weeks, but it all depends upon how many reviews are in the queue and the complexity of the review. Obviously if two or three preliminary reviews are required, the process will require more time.

TOPIC 3. STEPS TO BE TAKEN IN UPDATING YOUR CONSTITUTION

The following material can serve as a guideline to the process that can be followed by your congregation in revising its constitution.

STEP 1. ENACTMENT OF AN ENABLING RESOLUTION. This resolution, either adopted at a Congregation Meeting or Congregation Council Meeting, authorizes the formation of the Congregational Constitution Revision Committee (CCRC). A committee of 3 to 4 persons is recommended in addition to a recording secretary who has computer skills and will make all of the required changes.

STEP 2. ACQUIRING THE APPLICABLE RESOURCES FROM THE ELCA OFFICE OF THE SECRETARY. The primary document is *Model Constitution for Congregations of the Evangelical Lutheran Church in America*, 2016 Edition. The Word format of this document permits congregations to edit this document. Another document that might prove to be helpful is *Guide for Use of the Model Constitution for Congregations*. The Office of the Secretary website also has documents pertaining to the changes made at each Churchwide Assembly in 1989, 1991, 1993, 1995, 1997, 1999, 2001, 2003, 2005, 2007, 2009, 2011, 2013, and 2016. The chair of the CCRC might want to have a copy of these changes, but it is not necessary for the other committee members to have them since all of these changes have been incorporated into the 2016 Model Constitution. The chair of the CCRC will also want to obtain a copy of SYNOD REVIEW 2016 (available from Rev. Lowell C. Anderson --- see Topic 2).

STEP 3. MAKING PREPARATIONS FOR THE FIRST MEETING OF THE CCRC. Each committee member should have a copy of their current constitution as well a copy of *Model Constitution for Congregations of the Evangelical Lutheran Church in America*, 2016 Edition, and perhaps *Guide for Use of the Model Constitution for Congregations*. The chair of the CCRC might also want to provide a copy of SYNOD REVIEW 2016 to each member of the CCRC.

STEP 4. INITIAL MEETING OF THE CCRC. The first part of this meeting will most likely be devoted to becoming acquainted with the documents identified in Steps 2 and 3. Then a decision should be made regarding the 4 possibilities mentioned in Topic 2 regarding the starting document. There are only a handful of congregations in the Montana Synod who have approved constitutions based on the 2013 Model Constitution. Now even those constitutions are outdated. This means that the rest of the congregations in the Montana Synod have constitutions that are seriously outdated. Once a decision has been made in regard to the "starting document", the CCRC can proceed with processing all of the mandated provisions in the 2016 Model Constitution (those items marked with an asterisk). The non-mandated provisions in the 2016 Model Constitution should be dealt with at a subsequent meeting.

STEP 5. SUBSEQUENT MEETINGS OF THE CCRC. The number of subsequent meetings can vary between 1 and 5 and should deal with the non-mandated provisions in the Model (those items **not** marked with an asterisk). Since the non-mandated portions of the Model Constitution permit congregations to make desired changes to the Model Constitution, there will most likely be a number of changes that the CCRC might choose to make, and this will take time. It should be emphasized that the CCRC should submit a finished product to the Synod for a review rather than a rough draft. Again it should also be emphasized that this review take place before your constitution is submitted to the Congregation Council for its approval, and especially before it is submitted to the Congregation Meeting for its approval. Failure to do this could possibly result in a delay of 1 to 2 years in getting your constitution approved by the synod.

STEP 6. SYNOD REVIEW NO. 1 (or NO. 2 or NO. 3 if subsequent reviews are needed). A given review can be either negative or positive.

- 6.1. A NEGATIVE REVIEW indicates that: 1) the mandatory provisions are not in compliance with the 2016 Model Constitution, or 2) the non-mandatory provisions are in conflict with the

mandatory provisions, or 3) there are other problems with the Constitution. In this case, the CCRC must revisit their Constitution and go back to Steps 4 and 5.

- 6.2. A POSITIVE REVIEW indicates that: 1) the mandatory provisions are in compliance with the 2016 Model Constitution, 2) the non-mandatory provisions are in agreement with the mandatory provisions, and there are no significant problems with the Constitution. In this case, PRELIMINARY APPROVAL is granted to the Constitution which enables the CCRC to proceed with Steps 7, 8, and 9.

STEP 7. SUBMISSION OF GOVERNING DOCUMENTS TO THE CONGREGATION COUNCIL FOR ITS APPROVAL

STEP 8. SUBMISSION OF GOVERNING DOCUMENTS TO THE CONGREGATION MEETING (S) FOR ITS APPROVAL. When approval is granted, the Secretary of the congregation must fill out the form entitled APPLICATION FOR FINAL SYNOD APPROVAL.

STEP 9. SUBMISSION OF GOVERNING DOCUMENTS TO THE SYNOD REVIEWER AND THE SYNOD BISHOP FOR FINAL APPROVAL.

STEP 10. FILING THE LETTER OF FINAL SYNOD APPROVAL WITH THE MINUTES OF THE CONGREGATION MEETING

TOPIC 4. WHY SHOULD YOUR CONGREGATION'S CONSTITUTION BE REVISED?

The short answer to this question is as follows: this is an obligation that we have as a congregation of the ELCA. A longer answer might be found in some recent actions taken by the National Football League. All NFL teams are obligated to follow the rule changes made in recent years to mitigate injuries to the quarterback and defenseless pass receivers. Teams are not free to opt out of the rule changes. They must comply. This is simply what it means to be a part of the National Football League.

Likewise, keeping your congregation's constitution current is simply what it means to be a part of the Evangelical Lutheran Church in America. Consequently, this means that, beginning in 2016, congregations need to revise their constitutions every 3 years. Previous to 2016, congregations were obligated to revise their constitutions every 2 years.

Why should your congregation's constitution be revised? To be sure, it is an obligation, but it can also provide legal protection to the majority component of a congregation as well as the minority component of a congregation. Finally, if the bishop of the synod is called upon to mediate an issue within the congregation, the bishop is obligated to follow the current Model Constitution if there is a discrepancy between the existing constitution of the congregation and the current Model Constitution. In other words, the current Model Constitution trumps the outdated constitution of the congregation.

At any rate, the revision of an existing constitution is an important process that needs to be undertaken by congregations of the ELCA and the Montana Synod. As Synod Reviewers we stand ready to assist congregations in that process. Congregations can choose to submit their constitutions to any of the Synod Reviewers; however, in the interest of spreading the work load, it is suggested that the following clusters relate to the named Synod Reviewers:

- Rev. Lowell C. Anderson: Fort Peck, Northeast, Southeast, Shepherd
- Rev. Tony Rhodes: Beartooth, Crazy Mountains, Great Divide
- Rev. Tanner Howard: Bearpaw, Russell Country, Golden Triangle
- Attorney David Rice: Five Valleys, Flathead