

Procedure for Taking a Congregational Vote to Disaffiliate from the Evangelical Lutheran Church in America

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Question: Our congregation has decided we want to consider disaffiliating from the Evangelical Lutheran Church in America. What are the steps that we need to take?

Response: See below...

Introduction¹

The congregations of the Evangelical Lutheran Church in America (ELCA) are bound to one another in a continuing covenant relationship. The promises of this covenant are historically grounded in the fact that every congregation of this Church comes into being through the prayers, support and generous benevolence of other congregations of this Church. The covenant is framed by the constitutions of this Church and established by an array of interconnected public promises made by pastors and congregations.

Under certain conditions, a congregation may choose to terminate its participation in that covenant. For this reason, the covenant itself provides an honorable and respectful process for the termination of that relationship, outlined in pertinent sections of the governing documents of the Evangelical Lutheran Church in America. Covenants may be renegotiated, but they may not be redesigned by only one party to the covenant.

Governing Documents Must be Observed Carefully and Completely

Considering a motion to disaffiliate from the ELCA is one of the most serious actions that can be taken by voting members of an ELCA congregation. The constitutional provisions are designed to ensure that voting members of the congregation have an opportunity to evaluate thoroughly the issues involved with terminating the relationship between the congregation and the ELCA.

It is critical, therefore, that the governing documents of the ELCA, the synod and the congregation be strictly observed and followed. The pertinent governing documents are section 9.62 in the *Constitution, Bylaws and Continuing Resolutions of the Evangelical Lutheran Church in America*; and chapters 6 & 7 in the *Model Constitution for Congregations*. These provisions apply to all ELCA congregations, regardless of whether the congregation's own governing documents have been updated to align with the latest revision of pertinent ELCA governing documents. Moreover, it is not within the purview of a congregation's council or a congregational meeting to alter or set aside any provisions of these governing documents.

A Special Meeting

¹ The Introduction includes some language from a letter from Bishop Wayne Miller to the Metro Chicago Synod ELCA.

A vote to disaffiliate can take place only at a special meeting of the congregation, called in accordance with the congregation's governing documents. This means that a vote to disaffiliate may not be included on the agenda of a regular (e.g. annual or semi-annual) meeting of the congregation's voting members. ELCA constitutional provision 9.62 provides that both the first meeting and the second meeting must take place at a "legally called and conducted special meeting" Special meetings are distinguished from annual meetings in Chapter 10 of the Model Constitution for Congregations, and they are distinct under non-profit corporation law.

Proper Notice to Voting Members

Note also that C10.02 specifies: "The call for each special meeting shall specify the purpose for which it is to be held and no other business shall be transacted." C10.03 specifies notice requirements, including announcement on the preceding two consecutive Sundays and mail notice to members at least 10 days in advance of the date of the meeting. The requirement of a special meeting cannot be waived or modified by action of a Congregation Council.

Two-thirds of Voting Members Present

It also is important to note the vote requirement in 9.62.a. There must be a quorum present to transact business at a special meeting, and 2/3 of those present must vote in favor of the resolution for disaffiliation for the action to be adopted. **Note: This is not the same as "present and voting;" 2/3 of all the voting members present must vote in the affirmative to pass a motion to disaffiliate.**

Some congregations have inquired about the appropriateness of absentee ballots or voting by proxy. Both *Robert's Rules of Order* and the *Model Constitution for Congregations* (C10.05) prohibit such options unless the congregation's governing documents specifically allow the use of absentee ballots or voting by proxy.

Determine Eligibility of Voting Members

Only voting members may participate in the discussions and deliberation at congregational meetings. In determining who is eligible to vote at a congregational meeting, please note what is said in chapter 8 of the Model Constitution:

Voting members are confirmed members. Such confirmed members, during the current or preceding calendar year, shall have communed in this congregation and shall have made a contribution of record to this congregation. Members of this congregation who have satisfied these basic standards shall have the privilege of voice and vote at every regular and special meeting of the congregation.

Congregations are advised to have voting members "sign in" at the start of the meeting. As is the case in any special congregational meeting, proper minutes must also be recorded.

Proper Notice to the Synod Bishop and to Voting Members of Adoption of the Resolution

If the resolution to disaffiliate is adopted by the 2/3 majority vote of those present, the secretary of the congregation shall submit a copy of the resolution to the synodical bishop and shall mail a copy of the resolution to voting members of the congregation. This notice shall be submitted within 10 days after the resolution has been adopted. (9.62.b.)

Consult with the Synod Bishop

The bishop of the synod shall consult with the congregation during a period of at least 90 days. Such consultation shall be arranged by the synod bishop and the president and/or pastor of the congregation, and it may include other representatives of the synod. (9.62.c)

During the period of time following the "first vote" to disaffiliate, the congregation shall (if it has not yet done so) consider options for affiliation with another church body, should the "second vote" result in

disaffiliation from the ELCA. Please note that section 9.70 of the *Constitution, Bylaws and Continuing Resolutions of the Evangelical Lutheran Church in America* deals with issues related to property ownership when a congregation votes to disaffiliate from the ELCA (see especially sections 9.71.d and 9.71.e and the comparable material in Chapter 7 of the *Model Constitution for Congregations of the Evangelical Lutheran Church in America*). It is crucial for a congregation to consider carefully the ramifications of becoming *independent* or affiliating with a *non-Lutheran church body*, because taking either of these actions means that consent must be obtained from the Synod Council for title to property to remain with the congregation.

A Second Special Meeting

If the congregation, after consultation with the synod bishop, still desires to terminate its relationship, such action may be taken at a legally called and conducted special meeting by a 2/3 majority of the voting members present, at which meeting the synod bishop or an authorized representative shall be present. Proper notice to all voting members must be provided, as noted above. (9.62.d.)

Proper Notice to the Synod Bishop

If the resolution to disaffiliate is adopted by the 2/3 majority of those present at the second special meeting, a certified copy of the resolution to terminate its relationship shall be sent to the synod bishop, at which time the relationship between the congregation and the Evangelical Lutheran Church in America shall be terminated. Notice of termination shall be forwarded by the synod bishop to the secretary of the Evangelical Lutheran Church in America and published in the periodical of the ELCA. (9.62.e)

The relationship officially terminates only upon transmission to the synod bishop of the certified copy of the resolution to terminate adopted at the second congregational meeting, unless Synod Council approval is necessary. In cases where Synod Council approval is necessary, termination occurs upon transmission to the synod bishop of the certified copy of the resolution or approval by the Synod Council, whichever is later.

Synodical Approval

Congregations which had been members of the Lutheran Church in America (LCA) or congregations that had been established by the Evangelical Lutheran Church in America (ELCA), shall be required, in addition to the foregoing provisions in 9.62., to receive synodical approval before terminating their membership in this church. This approval would come through action of the Southwestern Minnesota Synod Council.

Other Fiduciary Responsibilities

In addition to following the constitutional process for disaffiliation, synodical and congregational officers need to remember that almost all ELCA congregations are corporations in the state in which they are located. Because congregations and synods are corporations, members of the Congregation Council and the Synod Council also have fiduciary responsibilities; issues of state and federal law also are embedded in the termination decision. For example, many congregations have tax-exempt status through the ELCA's group ruling from the IRS, which will not apply if a congregation terminates its relationship.

Synod Staff Available for Consultation

Please consult with the synod bishop or any member of the synod pastoral staff if you have any other questions about the appropriate process to follow in voting on a resolution of disaffiliation.

A Checklist of the Requirements

As noted above, considering action to disaffiliate is a serious action, involving a multi-step process. For simplicity, here is a checklist of the requirements and some other key things to remember:

- ✓ First, make sure you have read through and followed the suggested process for discussion in the resource, *Reflections on Leaving the ELCA*, available in the *Post-2009 Churchwide Assembly Resources Page* on the Southwestern Minnesota Synod website, www.swmnelca.org.
- ✓ A special meeting of the congregation shall be properly called. The call for this special meeting shall specify the purpose for which it is to be held and no other business shall be transacted.
- ✓ Notice of this meeting of the congregation shall be given at the services of worship on the preceding two consecutive Sundays and by mail to all voting members at least 10 days in advance of the meeting.
- ✓ There can be **no** voting by proxy and/or absentee ballot.
- ✓ Adoption is required by a 2/3 vote of all those present at the legally called and conducted special congregational meeting of a resolution indicating intent to disaffiliate from the ELCA.
- ✓ Notify the synod bishop and all voting members of the congregation within 10 days of adoption of the resolution at the first vote.
- ✓ Consult with the synod bishop during a period of at least 90 days and prior to the second vote.
- ✓ Carefully consider options for affiliation with a different Lutheran church body, paying attention to section 9.70 of the *Constitution, Bylaws and Continuing Resolutions of the ELCA*.
- ✓ Notice of a second special congregational meeting must be mailed to all voting members at least 10 days in advance of the second meeting.
- ✓ Adoption is required by a 2/3 vote of all those present at a legally called and conducted special congregational meeting, at which the bishop or a representative is present, of a resolution to terminate the relationship.
- ✓ Synod Council approval is required if the congregation was established by the ELCA, if the congregation was a former member of the Lutheran Church in America (LCA), or if the congregation will become independent or relate to a non-Lutheran church body
- ✓ Transmission to the synod bishop of a certified copy of the resolution to terminate adopted at the second special congregational meeting.
- ✓ Notice is given to the Office of the Secretary of the Evangelical Lutheran Church in America.