



Evangelical Lutheran Church in America

God's work. Our hands.

GUIDE FOR USE OF THE MODEL CONSTITUTION FOR CONGREGATIONS

Prepared by the Office of the Secretary
of the Evangelical Lutheran Church in America
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A. REVISING A CONSTITUTION

When a Churchwide Assembly amends provisions in the *Model Constitution for Congregations of the Evangelical Lutheran Church in America*, *C17.04. specifies the way in which a congregation may incorporate those amendments into the congregation's constitution:¹

This constitution may be amended to bring any section into conformity with a section or sections, either required or not required, of the *Model Constitution for Congregations of the Evangelical Lutheran Church in America* as most recently amended by the Churchwide Assembly. Such amendments may be approved by a simple majority vote of those voting members present and voting at any legally called meeting of the congregation without presentation at a prior meeting of the congregation, provided that the Congregation Council has submitted by mail or electronic means, as permitted by state law, notice to the congregation of such an amendment or amendments, together with the council's recommendations, at least 30 days prior to the meeting. Upon the request of _____ voting members of the congregation, the Congregation Council shall submit such notice. Following the adoption of an amendment, the secretary of the congregation shall submit a copy thereof to the synod. Such provisions shall become effective immediately following a vote of approval.

B. REQUIRED PROVISIONS

1. Churchwide constitutional provision 9.21. of the Evangelical Lutheran Church in America, which specifies the "Criteria for Recognition and Reception" of congregations, states:

¹ Citations of the churchwide, synodical, and congregational constitutions are from the 2013 edition of the *Constitutions, Bylaws, and Continuing Resolutions of the Evangelical Lutheran Church in America*, current as of September 2013.

This church shall recognize, receive, and maintain on the roster those congregations which by their practice as well as their governing documents (*emphasis added*):

- a. preach the Word, administer the sacraments, and carry out God's mission;
- b. accept this church's Confession of Faith;
- c. agree to the Statement of Purpose of this church;
- d. agree to call pastoral leadership from the clergy roster of this church in accordance with the call procedures of this church, except in special circumstances as defined in the bylaws accompanying this provision, and with the approval of the synodical bishop;
- e. agree to be responsible for their life as a Christian community; and
- f. agree to support the life and work of this church.

2. Required provisions are designated in the *Model Constitution for Congregations* by an asterisk [*].² These required provisions—in keeping with provision 9.52. and 9.25.b. in the *Constitution, Bylaws, and Continuing Resolutions of the Evangelical Lutheran Church in America*—are:

***PREAMBLE**

Chapter 2. CONFESSION OF FAITH

***C2.01., *C2.02., *C2.03., *C2.04., *C2.05., *C2.06., and *C2.07.**

Chapter 3. NATURE OF THE CHURCH

***C3.01., *C3.02., and *C3.03.**

Chapter 4. STATEMENT OF PURPOSE

***C4.01., *C4.02., *C4.03., *C4.04., *C4.05., and *C4.06.**

Chapter 5. POWERS OF THE CONGREGATION

***C5.01., *C5.02., *C5.03., and *C5.04.**

Chapter 6. CHURCH AFFILIATION

***C6.01., *C6.02., *C6.03., *C6.04., *C6.05., *C6.06., and *C6.07.**

Chapter 7. PROPERTY OWNERSHIP

***C7.01., *C7.02., *C7.03., and *C7.04.**

Chapter 8. MEMBERSHIP

***C8.01., *C8.02., *C8.03., *C8.04., and *C8.05.**

Chapter 9. THE PASTOR

***C9.01., *C9.02., *C9.03., *C9.04., *C9.05., *C9.06., *C9.07.,
*C9.08., *C9.09., *C9.11., *C9.12., *C9.13., and *C9.14.**

Chapter 15. DISCIPLINE OF MEMBERS AND ADJUDICATION

***C15.01., *C15.02., *C15.03., *C15.04., *C15.05., *C15.06.,
*C15.07., *C15.10., and *C15.11.**

Chapter 16. BYLAWS

***C16.01., *C16.02., *C16.03., and *C16.04.**

Chapter 17. AMENDMENTS

***C17.01., *C17.02., *C17.03., and *C17.04.**

Chapter 18. CONTINUING RESOLUTIONS

***C18.01. and *C18.02.**

Chapter 19. INDEMNIFICATION

***C19.01.**

Chapter 20. PARISH AUTHORIZATION (*Required only for a congregation that is part of a parish) *C20.01., *C20.02., *C20.03., and *C20.04.

² In response to requests from congregations and synods throughout this church, the 1991 Churchwide Assembly of the Evangelical Lutheran Church in America directed that the Church Council review the *Model Constitution for Congregations* and present to a subsequent assembly proposals to clarify required provisions for congregations (CA91.07.79). The 1993 Churchwide Assembly received and approved recommendations to mark certain sections as required (CA93.04.07). Provisions marked as required relate to (1) matters of unity within the life of this church, (2) specific requirements in the synodical or churchwide constitutions in regard to the responsibilities of congregations of this church, and (3) the interdependent relationship of congregations, synods, and the churchwide organization.

3. According to ELCA churchwide constitutional provision 9.22., “All congregations of this church shall abide by the provisions of 9.21. [‘Criteria for Recognition and Reception’], 9.62. [prescribing the process for termination of a congregation’s relationship with this church], and 7.46. [specifying that the process for the calling of a pastor and the termination of such a call]” (*detail and emphasis added*). That same provision says, “The judgment on whether a congregation meets the criteria listed in 9.21. shall be made by this church through the synod of this church to which the congregation relates.”
4. At the same time, ELCA churchwide constitutional provision 9.53. states: “Each congregation shall have governing documents, no terms of which shall conflict with provision 9.21.”
5. Churchwide constitutional provision 9.52., regarding congregations of the Evangelical Lutheran Church in America, contains three key aspects:
 - a. A *grandparenting* step: “The governing documents of congregations recognized at the establishment of this church [that is, January 1, 1988] shall continue to govern such congregations” until amended by such congregations.³
 - b. The following *pattern* is to be observed when a congregation amends previously existing provisions: “When such a congregation wishes to amend any provision of its governing documents, the governing documents of that congregation shall be so amended to conform to 9.25.b.” (i.e., to the list of required provisions provided above).
 - c. A *possibility* for an exemption exists: “The synod responsible for the review of such amendments may permit, for good cause, a congregation to retain particular unamended provisions in the congregation’s governing documents that were in force at the establishment of this church.”
 - (1) In relation to required provisions for congregations that existed prior to January 1, 1988, the *two options* are:
 - (a) use of the text of the required provision without alteration or amendment of the text in any manner (neither additions nor deletions); or
 - (b) retention of the text of a particular provision, in an unamended manner, as that provision existed in the congregation’s constitution on December 31, 1987.
 - (2) Obviously, for the sake of consistency and common understanding, use of the required provisions in the text of the *Model Constitution for Congregations* is highly recommended, rather than retention of various previously existing provisions.
6. Although Chapter 2 in the churchwide constitution of the Evangelical Lutheran Church in America, Chapter 4 in the *Constitution for Synods*, and Chapter 2 in the *Model Constitution for Congregations* are entitled, “Confession of Faith,” these chapters actually do not represent a new confession of faith for this church. Rather, those chapters employ the traditional title for such chapters or articles in Lutheran constitutions. Those chapters are really a statement or summary of our doctrinal foundation.

³ A congregation’s constitution that was amended between January 1, 1988, and September 1, 1993—either with the approval of the synod or without exception being taken by the synod within the then applicable 120-day review period—does not have to be further amended because of the 1993 amendment of churchwide constitutional provision 9.52. Congregations are encouraged to maintain a current constitution.

- a. As set forth in sub-paragraph 5.b. (above), when a congregation undertakes any amendment to its current constitution, the congregation must use the language of required provisions, in conformity with 9.25.b., for those chapters or sections being proposed for amendment.
- b. The synod may grant the continued exemption for a provision or provisions in the congregation’s constitution so that the congregation would retain the text of a chapter or section (“particular unamended provisions”) that existed prior to January 1, 1988, and that has remained unamended since then. This point is noted in sub-paragraph 5.c. (above).

7. In the churchwide constitution, provision 5.01.d. expresses the following requirement:
Each congregation and synod in its governing documents shall include the Confession of Faith and Statement of Purpose and such structural components as are required in this constitution (*emphasis added*).
8. In addition, churchwide constitutional provision 5.01. states: “The Evangelical Lutheran Church in America shall be one church.” This principle of unity, then, is underscored: “The congregations, synods, and churchwide organization shall act in accordance with the Confession of Faith set forth in Chapter 2 of this constitution and with the Statement of Purpose set forth in Chapter 4” (5.01.a.).
9. Prevailing sections of the ELCA churchwide and synodical constitutions specify certain procedures and patterns that are followed throughout this church, such as the following:
 - a. “Criteria for Recognition and Reception” (ELCA churchwide constitutional provisions 9.21., cited above, and 9.22.);
 - b. Consistency with ELCA churchwide constitution (ELCA churchwide constitutional provision 9.53.);
 - c. Process for calling a pastor and for the termination of such a call (†S8.12.e., †S14.01., †S14.11., and †S14.13. in the synodical constitution; *C9.01., *C9.02., *C9.04., and *C9.05. in the *Model Constitution for Congregations*);
 - d. Process for calling an associate in ministry, diaconal minister, or deaconess and for the termination of such a call (*C5.03. in the *Model Constitution for Congregations* and †S14.31. in the synodical constitution);
 - e. The process for withdrawal of a congregation from this church (ELCA churchwide constitutional provisions 9.61. and 9.62.; *C6.04. and *C6.05.);
 - f. Provisions for congregational ownership of property and disposition of such property (ELCA churchwide constitutional provision 9.71. and †S13.23.; *C7.01. through *C7.04.);
 - g. Pattern for discipline, due process, and adjudication followed by this church (*C15.01. through *C15.11., applicable provisions of ELCA churchwide constitutional Chapter 20, and †S11.02., †S11.03., and †S17.11. in the *Constitution for Synods*); and
 - h. Requirement for synodical review of all proposed changes in the constitution or incorporation documents of a congregation (ELCA churchwide bylaw 9.53.03. and *C17.03.).

Following the Model Constitution for Congregations helps underscore the congregation’s recognition of its unity and interrelationship with the synod and the whole Evangelical Lutheran Church in America.

C. REVIEW BY SYNOD

1. As provided by *C17.03. in the *Model Constitution for Congregations*:
Any amendments to this constitution that result from the processes provided in *C17.01. and *C17.02. 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.
2. ELCA churchwide bylaw 9.53.03. provides:
Each congregation shall provide a copy of its governing documents to the synod. All proposed changes in the constitution or incorporation documents of a congregation shall be referred to the synod with which the congregation is affiliated. 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. The synod shall recognize that congregations may organize themselves in a manner which they deem most appropriate.

Thus, congregations should provide up-to-date copies of their governing documents to the synod; all proposed amendments to congregational constitutions are effective only when approved by the synod, in accordance with amendments adopted by the 2013 Churchwide Assembly.⁴

3. In order to avoid potential problems, it is recommended that congregations provide proposed amendments to their governing documents and consult with synods *before* action at a congregational meeting.

D. FOLLOW THE MOST CURRENT EDITION

1. The *Model Constitution for Congregations of the Evangelical Lutheran Church in America* originally was adopted by the Constituting Convention of this church in Columbus, Ohio, on April 30, 1987. This was done as required by the *Constitution, Bylaws, and Continuing Resolutions of the Evangelical Lutheran Church in America*.
2. The current edition (September 2013) of the *Model Constitution for Congregations* contains all changes that were adopted by the 1989, 1991, 1993, 1995, 1997, 1999, 2001, 2003, 2005, 2007, 2009, 2011, and 2013 Churchwide Assemblies of the Evangelical Lutheran Church in America. Many of these changes were intended to clarify the meaning and application of particular provisions.

E. COPIES OF MODEL CONSTITUTION AVAILABLE

1. The updated *Model Constitution for Congregations*, as well as the churchwide *Constitution, Bylaws, and Continuing Resolutions* and the *Constitution for Synods*, are available on the website of the Evangelical Lutheran Church in America (www.ELCA.org/constitution). The Spanish language text of the *Model Constitution for Congregation (Constitución Modelo para Congregaciones)* also is available on this site.
2. Booklets containing the 2013 revised *Model Constitution for Congregations of the Evangelical Lutheran Church in America* are available through the Resource Catalog at <http://resources.ELCA.org/> [keyword: ELCAOS1006] for the costs described at that site.

F. USE OF THE MODEL CONSTITUTION FOR CONGREGATIONS

As indicated above, the *Model Constitution for Congregations of the Evangelical Lutheran Church in America* is consistent with the requirements of the governing documents of the ELCA's churchwide organization and synods.

Sections that are not required are recommended but optional. Many of these recognize that each congregation may organize itself as it deems appropriate based upon local conditions, so long as none of the provisions conflict with required provisions marked with an asterisk [*]. Thus, for example, provisions relating to the Congregation Council (Chapter 12), Congregation Committees (Chapter 13), and Organizations within the Congregation (Chapter 14) provide organizational flexibility for congregations.⁵

⁴ Although ELCA bylaw 9.53.03. only addresses congregational constitutional provisions, it is strongly recommended that all congregational governing documents amendments be reviewed by the synod. This ensures that there is no provision that conflicts with the governing documents of this church and the required provisions in the *Model Constitution for Congregations*.

⁵ While organizational flexibility exists, most congregations are not-for-profit corporations under state law and most comply with state requirements for meetings, boards of directors, etc.

G. ARRANGEMENT OF CONGREGATION'S GOVERNING DOCUMENTS

1. All provisions in the *Model Constitution for Congregations* are prefaced with “C” to distinguish these provisions from comparable ones in the synodical and churchwide constitutions.
 - a. An asterisk (*) preceding the “C” indicates that the provision is a required one.
 - b. The asterisk should be retained in the duplication of the congregation’s constitution to indicate that the particular provision is a required one.
2. The provisions of the constitution, the bylaws, and the continuing resolutions of a congregation that pertain to the same matter should be placed together for clarity in use.
3. A numerical codification indicates (a) general subject, (b) constitutional provisions, (c) bylaws, and (d) continuing resolutions.
 - a. Major sections are designated as **chapters**. The chapter designation becomes the first number in the codification sequence and is followed by a period. Thus, in “Chapter 8. Membership,” the designation “*C8.” precedes each required provision.
 - b. **Constitutional provisions** are codified with two sets of numbers: the chapter number and a two-digit number preceding the second period in the codification. Thus, one constitutional provision related to the “Membership” is codified *C8.02.
 - c. **Bylaws** are codified with three sets of numbers: the chapter number, the related constitutional provision number, and a two-digit number. Thus, a bylaw related to “Membership” would be codified C8.02.01.
 - d. **Continuing resolutions** also are codified with three sets of numbers, except that the third set is preceded by a capital letter. Thus, a continuing resolution might be numbered C13. to designate the chapter; C13.07. to designate the subject matter within the chapter; and the third set might be numbered A06. in the codification C13.07.A06. to indicate by the “A” that it is the first continuing resolution regarding that subject and by the “06” that it was adopted in 2006. For a continuing resolution adopted in the year 2011 under C14.01., for instance, the citation would be C14.01.A11.
4. If chapter numbers are considered the major sequence number, constitution numbers as a fraction of the chapter number, and bylaw numbers as a fraction of the constitution number, then the codification can be said to provide a progressive sequence. Thus *C5.01. will precede C5.03.10., and C9.11.16. will precede *C9.13.
5. Use of letters or numbers in provisions:
 - a. When many related provisions are parts of a unit that are considered inseparable, they are normally lettered “a.,” “b.,” “c.,” etc.
 - b. When related provisions are part of a unit but considered separable, such as a list of duties, they are normally numbered in sequence.
 - c. If the related provisions cannot be clearly judged to be separable or inseparable, preference may be given to a numbered sequence.
6. Model bylaws and continuing resolutions have not been prepared by the Office of the Secretary, because bylaws and continuing resolutions normally are specifically related to details of each congregation’s organization, operation, and life.
 - a. Each congregation may develop its own bylaws and continuing resolutions in relation to the appropriate constitutional provisions.
 - b. Neither bylaws nor continuing resolutions may conflict with the congregation’s constitution, the constitution and bylaws of the Evangelical Lutheran Church in America, or the constitution of the synod, as indicated in *C6.03.e.

7. Missing numbers: You will find that some numbers are missing. This is intentional. In the style followed here, the number “.10.” and multiples thereof usually have been reserved for possible use as section headings in future editions. Therefore, in the sequence, for example, of Chapters 1, 9, and 12, these “.10.” numbers do not appear.
8. Subject heading: In Chapter 15, you will find a “10” number used for a section heading, “*C15.10. Adjudication.” The provision that addresses that subject is numbered *C15.11.

H. SELECTION OF OPTIONS

1. Alternatives are provided in certain places within the *Model Constitution for Congregations*. These are noted by square brackets. For example, *C9.01. offers the alternative of election of a call committee by the congregation or by the Congregation Council. One alternative should be chosen in each instance where square brackets appear in the text.
2. Optional texts are provided in separate paragraphs in Chapters 11 and 12 regarding the Congregation Council and its membership. Each congregation will need to select one of those options for council membership or a variation thereof, subject to approval through the synod’s constitutional review process.

I. CONGREGATIONS FORMED OR RECEIVED BY THIS CHURCH

Congregations formed or received by the Evangelical Lutheran Church in America are specifically addressed by ELCA churchwide constitutional provision 9.25., which reads:

A congregation newly formed by this church and any congregation seeking recognition and reception by this church shall:

- a. **Accept the criteria for recognition and reception as a congregation of this church, fulfill the functions of the congregation, and accept the governance provisions as provided in Chapter 9 of the ELCA constitution and bylaws.**
- b. **Adopt governing documents that include fully and without alterations the Preamble, Chapter 1, where applicable, and all required provisions of Chapters 2, 3, 4, 5, 6, 7, 8, 9, 15, 16, 17, 18, and 19 in the *Model Constitution for Congregations* consistent with requirements of this constitution and the *Constitution for Synods* of this church. Bylaws and continuing resolutions, appropriate for inclusion in these chapters and not in conflict with these required provisions in the *Model Constitution for Congregations*, the constitution of the synod, or the *Constitution, Bylaws, and Continuing Resolutions of the Evangelical Lutheran Church in America*, may be adopted as described in Chapters 16 and 18 of the *Model Constitution for Congregations*.**
- c. **Accept the commitments expected of all congregations of the ELCA as stated in *C6.01., *C6.02., and *C6.03. of the *Model Constitution for Congregations*.**

If a congregation is a member of another church body, the leaders of the congregation first should consult with the appropriate authorities of that church body before taking action to leave its current church body. After such consultation, leaders of the congregation should make contact with the ELCA synod bishop or staff where the congregation is located.

Recognition and reception into this church of transferring or independent congregations by the Evangelical Lutheran Church in America is based on the judgment of the synod and action by the synod through the Synod Council and Synod Assembly. The synod bishop shall provide for prompt reporting of such additions to the secretary of this church for addition to the register of congregations.

J. PARISH AUTHORIZATION

In response to requests from congregations and particular synods, Chapter 20, which addresses particular issues related to parish arrangements, was adopted by the 1997 Churchwide Assembly.

- a. This chapter is required for a congregation that is part of a parish. A parish is defined as two or more congregations functioning in an established partnership for the calling and serving of a pastor and other matters. Chapter 20 provides a process for the creation and operation of a parish.
- b. A congregation that is not part of a parish does not need to include the provisions of Chapter 20 in its constitution.

K. MEANING OF ‘CHURCH’

1. In these governing documents, “Church” with a capital letter is used in references to the one, holy, catholic, and apostolic Church.
2. In references to the Evangelical Lutheran Church in America where the full name is not used, the words “church” and “this church” in lower case letters are employed.

L. ADOPTION BY A CONGREGATION OF A NEW CONSTITUTION

1. To adopt a new constitution, a congregation is to follow the process prescribed for adoption of a constitutional amendment as specified in Chapter 17 of the *Model Constitution for Congregations*. If a congregation that existed prior to January 1, 1988, has not yet adopted the provisions of Chapter 17, then the process for constitutional amendments in the congregation’s existing constitution would apply.
2. “Since a congregation’s constitution will usually be treated, alone or in conjunction with another document, as the congregation’s ‘bylaws’ for purposes of governing state law, it readily appears that the adoption of an entirely new constitution must be treated as an amendment of the congregation’s bylaws for corporate law purposes,” according to a legal memorandum, which addresses this matter.⁶ You may obtain a copy of this legal memorandum, if needed, from the Office of the Secretary.

⁶ Some congregations face the unusual situation of supposedly “unalterable” sections in their constitutions. A legal memorandum was sought regarding this matter. The memorandum, “Evangelical Lutheran Church in America) Amendment of Unalterable Governing Documents,” was dated July 18, 1988. If you need a copy of the complete text of this legal memorandum, contact the Office of the Secretary.

- a. The first suggestion in dealing with “unalterable articles” involves an examination of the “actual purpose and intention” of such provisions in a congregation’s constitution. Page 6 of the memorandum offers this conclusion:
. . . that under the neutral principles of law approach mandated by United States Supreme Court decisions and the provisions of the ELCA’s Constitution, Bylaws, and Continuing Resolutions regarding control of congregational property, an amendment to a congregation’s Articles [meaning, Articles of Incorporation] or constitution, duly adopted by a majority of the members of the congregation at a meeting and approved by the synod, is not subject to attack in a civil court proceeding solely on the ground that the amendment constitutes an impermissible change in the congregation’s confession of faith. (Of course, if the congregation’s governing documents specifically required a greater than majority vote to amend its Articles or constitution, then those requirements will be applicable.)
- b. The memorandum also contains this suggestion:
It seems likely that in most cases, neither applicable state law nor a congregation’s governing documents will require a unanimous vote to amend or repeal protected clauses in the congregation’s Articles or constitution (page 8).
- c. The matter of “unalterable” provisions must be handled with utmost care to avoid raising an unnecessarily divisive issue.
 - (1) The key point is that the confession of faith is not being changed.
 - (a) That is, the Lutheran congregation remains a Lutheran congregation.
 - (b) Only the way in which the confession of faith)that is, doctrinal foundation)is described is being amended.
 - (2) In other words, we have no change in substance, only in description.