**Guidelines** **for developing a Severance Compensation Policy**

For Ordained Ministers and Lay Rostered Leaders

At Termination of Call

**[02.10.2016]**

Rocky Mountain Synod

Evangelical Lutheran Church in America

**Introduction**

The call of a congregation or ministry agency, when accepted by an ordained minister or rostered lay leader, constitutes "a continuing mutual relationship and commitment." The ordained minister or lay rostered leader enters into a covenantal relationship with the congregation or ministry. The “Definition of Compensation, Benefits and Responsibilities” and the congregational constitution sets forth the nature of that relationship and the expectations, roles and responsibilities of the parties. It is not an employment relationship, but a relationship of mutual service and ministry. Sometimes, however, the mutual relationship and commitment comes to an end because of changes in congregational mission or changes in the financial situation of the congregation or ministry agency.

**Purpose**

This document serves as a guideline for congregations and ministry agencies of the Rocky Mountain Synod to consider in developing a policy for severance compensation for rostered leaders at termination of call. These guidelines were developed by the Congregational Ministry Board after examining a variety of best practices in other employment environments. A congregation or ministry agency is not required to provide severance compensation to ordained ministers or lay rostered leaders. The Board offers these guidelines and suggestions to congregations and ministry agencies as an opportunity to prepare for such a situation. The Board recommends that a congregation or ministry agency ensure the policy it develops is consistent with local law.

**Context**

* The call process often requires an extended time for reflection and discernment. In the event the congregation or ministry agency terminates the call, the rostered leader could face an extended period of financial stress.
* In most states churches are exempt from requirements to provide unemployment insurance or compensation to employees. Further, ordained ministers are considered independent contractors for compensation purposes and are thus responsible for paying their own social security and other payroll tax withholding amounts.
* Providing severance compensation can create financial stress for a congregation or ministry agency, especially if there are not adequate financial reserves. The Rocky Mountain Synod recognizes that a congregation or ministry agency may not be able to fulfill all the recommendations of these guidelines, but provides them to create awareness and give congregations and ministry agencies an opportunity to prepare for such a situation.

**Goals of these guidelines**

* To foster a climate in which the call of a rostered leader can be ended with a minimum of damage or disruption to the congregation/ministry agency and rostered leader;
* To provide congregations and rostered leaders of the Rocky Mountain Synod with a framework and mechanisms for arriving at mutual agreement on important termination of call compensation matters; and
* To provide some measure of financial stability which will allow a rostered leader to begin a search for a new call.

**References**

ELCA Model Constitution for Congregations \*C5.03; \*C9.05; \*C9.08; \*C15.01-C15.07; \*C15.10-C15.11. Rocky Mountain Synod Constitution, Bylaws and Continuing Resolutions S14.31.c; S17.02. ELCA Constitution, Bylaws and Continuing Resolutions 7.52.23.

**Application**

These guidelines are recommended for consideration by congregations and ministries of the Rocky Mountain Synod ELCA.

**Format**

These guidelines consist of suggested provisions regarding severance compensation at the termination of a call for both ordained ministers and lay rostered leaders, together with notes and options for the suggested provision.

 Where there are differences in the way ordained ministers and lay rostered leaders are treated these guidelines provide suggested options for both groups

**Suggested Provision**

**Definitions**

1. Congregation: a local congregation of the Rocky Mountain Synod ELCA.

2. Ministry: a campus ministry, prison ministry or other synodically approved worshipping community of the Rocky Mountain Synod ELCA.

3. Rostered Leader: an ordained minister or lay rostered leader under call by a congregation or ministry of the Rocky Mountain Synod ELCA.

4. Severance Compensation: any remuneration of pay and/or benefits to a rostered leader whose call with a congregation or ministry has been terminated.

**Notes: Definitions**

1. Definitions clarify who is subject to or affected by the policy.

2. A local congregation could be the "ministry" specified in the definitions.

3. ELCA includes ordained ministers as well as lay individuals as "rostered leaders." Because called, ordained ministers are legally considered "self employed" different provisions may apply.

**Suggested Provision**

**1.0. Termination of Call**

1.1. In all cases involving the potential termination of a call, the Bishop of the Rocky Mountain Synod should be notified as early in the process as possible. Termination should be by mutual consent if at all possible. If agreement cannot be reached, the rostered leader and/or Congregation Council or governing agency should request assistance from the Office of the Bishop as described in the Model Constitution for Congregations \*C.9.05 and the Constitution and Bylaws of the Evangelical Lutheran Church in America, sections 7.46 and 7.52.23.

1.2. In all cases involving termination, the congregation or ministry will follow all procedures of the Rocky Mountain Synod Constitution and appropriate civil law.

**Notes: Termination of a Call**

1. The ELCA and Rocky Mountain Synod constitution and bylaws include provisions regarding termination of a call. Most local congregations have such provisions in their constitution and bylaws.

2. In some cases federal and/or state law can affect the employment rights and obligations of a church and its employees.

**Suggested Provision**

**Note:** There are two suggested provisions because ordained ministers are considered "self employed" under federal employment and tax law, while lay rostered leaders are considered "employees" under the law. The suggested provisions are consistent with these distinctions.

**2.0. Severance Compensation for ordained ministers**

2.1. Severance compensation may be considered for ordained ministers in cases where the congregation or ministry initiates the termination process for reasons other than discipline or misconduct. An ordained minister who initiates a voluntary resignation to seek another call or other employment will not be considered for severance compensation.

2.2. Severance compensation may include salary at the ordained minister's then-current rate or level and health benefits. "Salary" includes housing allowance and Social Security allowance, if any,

**2.0. Severance Compensation for lay rostered leaders**

2.1. Severance compensation may be considered for rostered leaders in cases where the congregation or ministry initiates the termination process for reasons other than discipline or misconduct. A rostered leader who initiates a voluntary resignation to seek another call or other employment will not be considered for severance compensation.

2.2. Severance compensation may include salary at the rostered leader's then-current rate or level and health benefits.

**Notes: Severance Compensation**

1. Some congregations or ministries may not be able to provide severance compensation as described in these guidelines . However, when possible, and in consultation with the Bishop, severance compensation should be considered as part of the termination process.

2. Normally severance compensation is not provided for a person who is terminated for discipline or misconduct.

3. Normally severance compensation is not provided for a person who initiates the termination of employment to seek another call or other employment.

4. Health insurance premiums for at least the lay rostered leader are often included in severance compensation.

5. The local congregation policy should define what is included as part of severance compensation. Because of an ordained minister's tax and employment status under federal law, it usually is appropriate to include any housing allowance and social security allowance that was included in the individual's "salary."

6. Normally lay rostered leaders are not paid a housing allowance, and the employing church or ministry agency pays social security as required by federal law.

**Suggested Provision**

**2.0. Severance Compensation**

2.3. Calculation. Salary may be paid as part of severance compensation at the rate of *two weeks compensation for each completed year of service to the congregation or ministry, with a minimum of four weeks severance compensation and a maximum of 26 weeks severance compensation*. Congregations or ministries may also offer percentages of salary and allowances for months of service less than a full year at the rate of *1/6th week for each completed month of service*. For example, a rostered leader who has completed seven years of service may be paid full compensation for fourteen weeks. A rostered leader who has completed seven years and four months of service may be paid full compensation for 14⅔ weeks. Severance compensation normally would be calculated without regard to possible future employment of the rostered leader.

**Notes: Severance Calculation**

1. The policy should specify how the amount of severance compensation will be calculated. Normally the amount is related to the length of the rostered leader's service with the ministry. The italicized portion above suggests a formula *of two week's compensation per year of service,* which is fairly common in other employment situations. However, a local congregation could adopt a different formula. The policy should also specify how a partial year of service will be calculated (*1/6th week for each completed month of service, above*).

 **OPTION:** The policy could provide a specific amount of severance compensation, for example, a fixed dollar amount, or a specified number of week's or month's compensation.

2. The most common practice is to calculate severance compensation without regard to possible future employment; however, some policies do provide that severance compensation would cease if and when the rostered leader begins new employment.

**Suggested Provision**

**2.0. Severance Compensation**

2.4. Other Benefits. A congregation or ministry may also provide a health benefit allowance as part of severance compensation. Such health benefit allowance should equal the premium costs for continuation in the rostered leader's health insurance plan in effect at the time of termination of call for up to six weeks following the last date of employment. The congregation or ministry and rostered leader should jointly determine the dates for such continuation of coverage. Such payments will be made to the rostered leader, who is then responsible for paying premiums or other costs. Such payments are generally considered taxable income. If the congregation elects to pay a health benefit allowance, it should be paid as a lump sum at the time of termination of call.

**Notes: Other Benefits**

1. Normally severance compensation includes continuation of health and retirement benefits for the same amount of time as the salary.

2. The ELCA benefit program Portico begins billing the individual for health benefits after the last day of employment. The church normally would give the rostered leader a lump sum at the end of employment, which the rostered leader can then use to pay Portico premiums.

3. It is important that the church and the rostered leader have a clear agreement regarding the last day of employment, and the status of all severance compensation payments.

**Suggested Provision**

**2.0. Severance Compensation**

2.5. Earned Unused Vacation. In addition to the severance compensation calculated in §2.3 and §2.4 above, earned unused vacation may also be included as provided in the personnel policies of the congregation or ministry. If the congregation or ministry agency elects to pay for earned unused vacation time, it normally would be paid at the rostered leader's then current daily rate in a lump sum at the termination of call. If the congregation or ministry does not have a personnel policy which covers this, it is recommended that earned unused vacation be pro-rated according to the date of termination. For example, if a rostered leader receives four weeks of vacation annually, is ending a call June 30, and has used one week of vacation already, the rostered leader would be paid for one additional week of unused vacation. If a rostered leader receives four weeks of vacation, is ending the call March 31, and has already taken two weeks of vacation, one week of severance compensation would be subtracted from the calculations governed by §2.3 above.

**Notes: Earned Unused Vacation**

1. Often an employee is paid for earned unused vacation (and/or Paid Time Off) at the termination of employment.

2. Payment for any earned unused vacation should be consistent with the church's policy regarding vacation time.

3. Calculation of any earned unused vacation should be agreed to between the church and the rostered leader.

**Suggested Provision**

**2.0. Severance Compensation**

2.6. Unless otherwise agreed, salary and allowances will be paid according to the regular payroll schedule of the congregation or ministry. The congregation or ministry should report and transmit all required withholding amounts on salary and allowances paid, according to state and federal regulations.

**Notes: Payment schedule**

1. Often severance compensation is paid on the same schedule as regular compensation. Such a schedule may help the church manage its cash flow and may help the rostered leader manage his or her budget.

2. If the congregation or ministry has the funds available, a single lump sum payment of all severance compensation may provide the greatest clarity regarding the termination of employment.

**Suggested Provision**

**2.0. Severance Compensation**

2.7. Individual congregation or ministry circumstances may require additional funding resources outside the approved annual budget in order to cover the severance compensation plan in part or in whole. In no case, however, shall individual gifts given to the ordained minister by individual members of the congregation or ministry be considered as part of a severance compensation plan unless first agreed upon by both the giver and the governing body.

**Notes: Additional Funding**

1. Often churches have not set aside funds for employment issues. This provision acknowledges that the church may have to seek additional resources.

2. It is important to clarify that the church's obligation for severance compensation, if any, does not extend to individual gifts made to the rostered leader.

**Suggested Provision**

**3.0. Representation**

3.1. If a rostered leader or a congregation or ministry should choose to obtain professional advice, the cost of such advice will be borne solely by the party seeking the advice.

**Notes: Representation**

1. Both the rostered leader and the congregation or ministry agency have the right to seek outside advice or assistance. This provision clarifies that the church has no obligation to pay for services it did not seek.

**NOTE:** A local congregation or ministry that chooses to offer severance compensation to regular (non-rostered) employees could also use these policy provisions, with the understanding that neither the Office of the Bishop nor the Evangelical Lutheran Church in America has any jurisdiction or involvement with the employment of non-rostered individuals.