

**REPORT ON THE
DIVERSITY, EQUITY, INCLUSION, AND ACCESSIBILITY AUDIT
OF THE GOVERNING DOCUMENTS OF THE ELCA**

The 2022 Churchwide Assembly directed the Church Council to engage an external auditor to conduct a comprehensive audit of the ELCA's governing documents for diversity, equity, inclusion, and accessibility (DEIA), with the findings to be released to this church. The Church Council approved the engagement of the law firm of Fox, Swibel, Levin & Carroll, LLP to perform this audit; the engagement was completed by and under the supervision of Mr. Neville Reid, a partner in the firm.

The Church Council received Mr. Reid's findings and recommendations with gratitude at its fall 2023 meeting and now releases them to this church for consideration and reflection, including by the Legal and Constitutional Review Committee and the Commission for a Renewed Lutheran Church.

PLEASE NOTE: This report represents the findings and recommendations of the external auditor, not those of the Church Council, the Commission for a Renewed Lutheran Church, or the churchwide organization. Its contents are solely the auditor's recommendations, and none of the proposed amendments to governing documents have been considered or put forward by the Church Council at this time.

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FOX SWIBEL LEVIN & CARROLL LLP
200 W. MADISON STREET, SUITE 3000
CHICAGO, ILLINOIS 60606

N. NEVILLE REID
DIRECT DIAL: (312) 224-1245

Email: nreid@foxswibel.com

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Fox, Swibel, Levin & Carroll LLP's Audit Report: Findings and Proposed Changes to the Governance Documents of the Evangelical Lutheran Church in America, its Synods and Congregations, Related to Diversity, Equity, Inclusion and Accessibility

Fox, Swibel, Levin & Carroll LLP ("FSLC") was retained by the Evangelical Lutheran Church in America ("ELCA") to conduct a legal audit of the churchwide ELCA Constitution, Bylaws and Continuing Resolutions and certain related policy documents, as well as the parallel governance documents for the synods and congregations (collectively, the "Governance Documents"), for purposes of determining what changes, if any, should be made to those documents in order to effectuate the ELCA diversity, equity, inclusion and accessibility goals (the "DEIA Audit" or the "Audit")¹. FSLC's proposal letter dated October 31, 2022 (attached) set forth the scope of work that FSLC intended to perform in order to complete the Audit.

This report consists of (i) a summary of (a) the work FSLC completed in connection with the Audit, and (b) FSLC's findings and recommendations, and (ii) an outline of the contents of a diversity, equity, inclusion and accessibility ("DEIA") handbook that FSLC proposes to work on with a committee from ELCA over the next year that will provide further guidance to the ELCA churchwide organization, synods and congregations on how best to advance DEIA at those respective levels.

Work Completed

Initial Document Review: FSLC initially reviewed in detail the Constitution, Bylaws and Continuing Resolutions for the churchwide ELCA, as well as the Model Constitution for Synods and the Model Constitution for Congregations (the "Initial Document Review"). In that review,

¹ The resolution language in CC22.11.31 reads: "To approve the engagement of Fox Swibel Levin & Carroll LLP to perform a diversity, equity, inclusion, and accessibility audit of the Constitution, Bylaws, and Continuing Resolutions of the ELCA, the Roster Manual, the ELCA Church Council Governance Policy Manual, and the Definitions and Guidelines for Discipline, with the total cost not to exceed \$100,000."

FSLC made initial observations of amendments that might be made to those documents that would enhance DEIA within the comprehensive churchwide organization, the synods and the congregations (collectively, the “ELCA Institutions”).

Interviews: In conjunction with or shortly after that Initial Document Review, FSLC interviewed representatives of key ELCA committees whose work touches on DEIA issues, for purposes of discerning their understanding of (i) what DEIA is and should accomplish, (ii) what obstacles may impede achieving greater DEIA within the ELCA Institutions, and (iii) whether and/or how those obstacles can be overcome (collectively, the “Interviews”). The committees interviewed were the following:

1. Conference of Bishops Executive Committee
2. Executive Committee of the Church Council
3. DEI & Racial Justice Group
4. Ethnic Desks Group
5. Ethnic Ministry Association Presidents Group
6. Directors of Evangelical Mission Constitution Team

FSLC also had further discussions with Thomas Cunniff, Sue Rothmeyer, Paul Irwin, Rev. Chris Boerger, David Swartling and Rev. Lowell Almen on ELCA structure, the intent of the Audit, and DEIA issues generally.

Draft Inserts: After completing the Interviews, FSLC revisited its initial observations regarding the Governance Documents (together with the Initial Document Review, the “Document Review”) and drafted an initial set of proposed amendments to only the ELCA churchwide Constitution, Bylaws and Continuing Resolutions (the “ELCA Base Document” and such draft amendments the “Initial Amendments”). These Initial Amendments were based on the interview results, certain materials provided by the interviewees related to DEIA, and DEIA literature and analysis generally. The rationale of editing only the ELCA Base Document at that time was to avoid making edits to the other Governance Documents that the ELCA might reject in the ELCA Base Document, thereby limiting the costs of further legal editing.

Meeting with Liaison Bishops to the Church Council, and ELCA Officers: FSLC presented its preliminary findings, and summary of Initial Amendments, to the Liaison Bishops to the Church Council and various ELCA Officers, and its General Counsel and Deputy General Counsel, on Friday, September 29, 2023. As a result of feedback received from that meeting, FSLC then revised its Initial Amendments, and proposed additional amendments to substantially all of the remaining Governance Documents (collectively, the “Proposed Amendments”).² The Proposed

² Per ELCA’s request, FSLC did not review the Roster Manual. FSLC has proposed edits (summarized herein) to all Governance Documents except for the Definitions and Guidelines for Discipline which FSLC concluded did not require edits from a DEIA perspective.

Amendments are summarized below but are reflected *verbatim* in a redlined version of the affected Governance Documents appended hereto.

Summary of Preliminary Findings

Based on the Interviews and the Document Review, and without attributing any specific comment or concern to any particular interviewee (to preserve candor and confidentiality), FSLC made the following preliminary findings:

1. ELCA, and its Governing Documents, need a definition of DEIA. There is no universal agreement on what the term means, making policymaking on DEIA more difficult.
2. ELCA's leadership needs to be more vocal, consistent and strong on expressing commitment to, and visibly advancing, DEIA, from the top down. Greater funding and personnel need to be allocated to the pursuit of DEIA goals within the ELCA Institutions.
3. The ELCA national, churchwide leadership seems more committed to DEIA than do the congregations. At much of the congregational level, DEIA "falls apart" as an overriding goal or primary objective. Many congregations need instruction and leadership on how to implement DEIA at the congregational level.
4. The autonomous structure of ELCA Institutions, in which synods and congregations have minimal mandatory requirements for membership in the ELCA, precludes the material advancement of DEIA within ELCA Institutions as a whole. By the time a DEIA mandate or policy, no matter how coherent and necessary, makes it to congregations and synods, they can always choose to ignore it and yet still retain their ELCA membership. DEIA policy throughout ELCA Institutions should be more coordinated and organized, and should include accountability measures to deter non-compliance. At the same time, interviewees acknowledged, and FSLC assumes, that mandating ELCA congregations to do anything, let alone comply with any DEIA obligations, would be a fundamental, significant departure from ELCA procedures, culture, polity and history.
5. Existing ELCA membership in congregations is largely of older European and Caucasian descent, while most potential new church members and church plant congregations are non-Caucasian. Yet, power remains rigidly concentrated in the largely Caucasian leadership of the ELCA nationally.
6. New starts and other Synod Authorizing Worshiping Communities ("SAWCs ") should be able to adopt governance documents that are more tailored to their unique cultural, language, and economic circumstances, and they should be allowed a

- longer period of time to attain status as congregations given those circumstances.
7. A more aggressive DEIA policy may cause some non-diverse congregations to leave the denomination, and a less aggressive DEIA policy may cause other congregations to exit the denomination as well.
 8. Lutheran seminary graduates are generally ill-equipped to engage with diverse communities and grow existing or new churches there. Other Christian denominations, and Catholic churches, appear more effective in connecting to and serving racially and economically diverse communities.
 9. Political ideology often dominates the world view of many congregants, causing them to be skeptical of or hostile to DEIA policy as itself being “political”.
 10. Improperly managed, a DEIA policy can risk splitting the church into atomized groups along the lines of race, sexual orientation, class, immigrant status or other group categories, jeopardizing the cohesiveness of the ELCA Institutions.
 11. DEIA must make all diverse groups, including those historically underrepresented in membership and leadership, “feel like they belong.” There is a palpable lack of commitment to including and nurturing LGBTQIA+ persons seeking to connect to the ELCA.
 12. Leadership positions within the ELCA Institutions generally lack diversity. This causes marginalized groups to question whether the ELCA is for them.
 13. Some congregations in particular are hostile and insensitive to immigrants of color. There is a fear in some congregations that Christian outreach to immigrants seeking care, asylum or legal status may violate state criminal laws and result in arrests of leaders or congregants in an ELCA church.
 14. The churchwide organization must model DEIA in its personnel policies as an inspiration and example for synods and congregations. Such modeling need not always be formal or legalistic, but should include greater sensitivity and understanding for diverse personnel who may have unique challenges or issues related to their race, gender, or sexual orientation.
 15. DEIA, as a definition and a policy, must be grounded in Scripture, Biblical principles and Christian values. Divorced from a Biblical foundation, a congregation may feel more free to ignore DEIA as cultural or political indoctrination that has nothing to do with Christianity. Certain terms, such as “social justice” or “systemic racism”, can

- trigger such an adverse reaction to DEIA, which might be avoided if the goals of such terms were more clearly connected to Scriptural mandates and the teachings of Jesus.
16. DEIA should not deter free, open and candid discussion among racially diverse congregants or leaders. There is some fear that some Caucasian leaders or congregants in ELCA may be erroneously perceived as racist for expressing a viewpoint on an issue when no racist motive was present.
 17. DEIA must not be static as a definition or a policy. It must adapt and change as new groups with different characteristics but who may have been historically ignored by the Church, step forward in their pursuit of a relationship with Jesus.
 18. DEIA should encourage cross-racial, cross-cultural relationships as a path to diversifying leadership. The more the dominant racial and gender groups get to know members of non-dominant groups in social and other settings, over time, the more likely it is that such non-dominant members will advance to leadership. Such relational progress is likely more effective than goals or mandates in creating greater diversity within leadership of ELCA Institutions.
 19. Congregations that lack racial and demographic diversity in their surrounding communities largely view DEIA as an academic issue and not an immediate, practical concern. DEIA policy must be made relevant to them, such as by tying it to a broader societal problem that they have a role in addressing.
 20. The existing requirement that 10% of the members of assemblies, councils, committees, boards and other organizational units be persons of color or whose primary language is not English, as set forth in Section 5.01(e) of the ELCA churchwide Constitution, is a laudable goal yet still a work in progress. Some believe further progress has been limited by a lack of (i) funding, (ii) institutional commitment from the top down, and/or (iii) bilingual personnel. The failure to fully achieve this goal to date suggests it may be difficult to achieve more ambitious DEIA goals in the future. One interviewee noted, however, that while the 10% goal has not been achieved with respect to persons of color among members in congregations, it has been achieved with respect to persons of color at the level of boards and assemblies.

Summary of Proposed Amendments to ELCA Base Document, Model Constitution for Synods and Model Constitution for Congregations

The Proposed Amendments are intended to address the findings above and the concerns raised in the Interviews. The principal Proposed Amendments, by Governance Document, are summarized below:

1. Principal Amendments to the ELCA Constitution:

a. Principal Sections implementing DEIA:

i. Biblical Basis for Diversity (New Sections 4.01A, 4.01B and 4.02(g)):

These new sections are intended to root DEIA, as a definition³ and a policy, in Biblical principles of grace, love, holiness, and community with the marginalized. One principal animating truth behind these sections is the Apostle Paul's description of the "body of Christ" in 1 Corinthians 12:12-26, in which each person in the church is to be made to feel "indispensable" (v. 22) and that all are to share in the sufferings of all (v. 26). The principal issue for many diverse persons, historically marginalized or not fully embraced by churches or excluded from the power structure of churches, is feeling invisible or merely tolerated.

Section 4.02(g) makes clear that ELCA Institutions shall welcome and show love and compassion to members of the LGTQIA+ community, irrespective of what position such institution has taken or will take on pending issues or proposals of concern to the LGBTQIA+ community. The basis for this is the likelihood that were an LGTQIA+ person to approach Jesus personally today, say on the street outside of a Lutheran congregation, seeking a relationship with Him but sensing that the congregation does not want him/her there, Jesus would undoubtedly love and nurture that person into a closer loving relationship with Him irrespective of all other issues: "All that the Father gives me will come to me, and whoever comes to me I will never drive away." (John 6:37). In the course of that relationship, by faith we would expect that the person would work out with Jesus how to deal with their sexual inclinations or understanding of their gender, consistent with that relationship and the holiness that comes from The Lord alone and not the world (Lev. 20:8; 1 Cor. 2:12). Section 4.02(g) commits the church to join with Jesus in mentoring all people -- including LGBTQIA+ persons who may have

³ DEIA is formally defined in an amendment to CR Section 5.01.C21, summarized below.

experienced alienation, hatred and marginalization from the Church historically -- into a more intimate and loving relationship with Him (John 14:23), irrespective of how the church's pending disputes regarding sexual ethics are ultimately resolved or codified.

These sections also make clear that in the event of a conflict between the Biblical basis for DEIA and other bases from secular sources, the Biblical basis shall control. This approach will guard against the erosion of support for DEIA that is already occurring in various business, political and legal arenas of the United States; by contrast, the Word of God is eternal, and religious policies are generally protected by the First Amendment, so a DEIA policy rooted in God's Word should be safer than if it were grounded on other foundations.

- ii. DEIA as policy, and certain specific DEIA measures and programs are encouraged but not required (New Section 4.02(h); amendments to Sections 5.01(d) and 9.22)): These sections make clear that promoting DEIA is the policy of ELCA Institutions as a whole, and that synods, congregations and the churchwide organization are encouraged (but not required) to adopt and diligently implement the "2019 DEIA Recommendations" and meet or exceed the "Recommended Minimum DEIA Standards" applicable to them (each as defined in CR Section 5.01.C21A and summarized in ¶12(a)(below).

Note that the Initial Amendments were originally drafted to make the 2019 DEIA Recommendations and Recommended Minimum DEIA Standards mandatory, but the Proposed Amendments have made these voluntary in order to conform to the reality of ELCA's strong historical non-hierarchical (yet theologically interconnected) structure. FSLC acknowledges that mandatory DEIA tasks and projects at the churchwide, synod and congregational levels would be contrary to that structure. It is also clear that without enforcement mechanisms, mandatory initiatives, even if enacted, would be potentially futile. However, in light of the strong theme among interviewees that ELCA action on DEIA is far behind the rhetoric, and the church's critical role in helping to rebuild the social fabric of the country amidst deepening toxic racial and ideological polarization, FSLC encourages an ongoing, serious discussion of whether ELCA institutional culture should be adjusted to accommodate mandates that make DEIA more of a visible reality throughout the ELCA Institutions. FSLC also notes that greater discussion and engagement with ELCA clergy and congregations on the spiritual virtue of DEIA might later create

consensus behind incentivizing synods and congregations to adopt stronger DEIA measures.⁴

Those incentives might include granting congregations with stellar DEIA achievements greater voting power at the Assemblies, as a form of enhanced membership, or conditioning any grants or other financial assistance to congregations on compliance with the Recommended Minimum DEIA Standards.

- iii. Active mentoring as a tool to promote DEIA (New Section 4.02(i)): This section makes clear that participation in God’s mission, which includes building and preserving the body of Christ and strengthening each person in it, requires proactive mentoring of persons in “Historically Underrepresented Groups” (defined in CR Section 5.01.C21B, summarized below) and preparing them for leadership roles. This principle is reflected in revisions to the nomination process in proposed amendments to bylaw Sections 19.11.06 and 19.11.A21 summarized below. It is also patterned after the proactive mentoring that Jesus provided to His disciples during His ministry.
- iv. Increasing percentage goals for participation by Historically Underrepresented Groups (Amendments to Sections 5.01(e) and 5.01(f)): These amendments propose that the original 10% goal for participation by persons of color and non-primary English speaking persons, in the various organizational units of the ELCA Institutions (see, e.g., Sections 5.01(e), (f)), be replaced by a more ambitious and inclusive goal, as follows:
 1. 10% persons of color and/or persons whose primary language is other than English; and,
 2. An additional 10%, persons from other Historically Underrepresented Groups other than persons of color or non-primary English-speaking persons.

These amendments are intended to recognize that there are persons

⁴ Scripture reminds us that at critical junctures in history, when the Church is needed to correct or fight burgeoning evil in society (such as during the respective times of Martin Luther and Martin Luther King, Jr.), The Lord moves His Church to change old practices that limit its power to fight such evil. See, e.g., Luke 5:37-39 (“And no one puts new wine into old wineskins.”); Isaiah 43:19 (“See, I am doing a new thing! Now it springs up; do you not perceive it?”).

other than racial minorities and persons whose primary language is not English (see definition of “Historically Underrepresented Groups” summarized below) who need to be addressed and included as part of any DEIA initiative. It also avoids the perceived disrespect to disparate diverse groups that may result from lumping them all under a single percentage, such as the original 10%, which may send the message that the ELCA Institutions do not want to do the work of ensuring that each group is adequately nurtured, advanced and supported in membership and leadership within such institutions.

- v. Permission to allow SAWC Communities to use separate bylaws (Amendment to Section 9.25(b)): This amendment adopts the long-standing, thoughtful work of the Evangelical Mission Constitution Team, to allow proposed SAWC communities to utilize bylaws which have been developed by that team and are more specifically tailored to the unique needs and issues facing such communities.

2. Principal ELCA Continuing Resolution Amendments:

a. New Definitions:

- i. Definition of “Diversity, Equity, Inclusion and Accessibility” or “DEIA” (Amendment to Section 5.01.C21): This definition is necessary to provide the requisite uniformity across ELCA Institutions on what diversity, equity, inclusion and accessibility actually mean. It separately defines the constituent parts of DEIA.

“Diversity” includes persons who identify within the following categories: race, gender, gender non-conforming, LGBTQIA+, persons whose primary language is not English, geography (e.g., persons who tend to identify primarily with urban groups, or with rural groups), age, socioeconomic class and disability. The definition is expressly not static and is to be adjusted as new groups not previously identified, but whose members seek a relationship with Jesus Christ and the church, come forward over time.

“Equity” is separately defined to refer to the fair treatment of all people within the church, so that no characteristic about them impedes the development of their gifts or their faith. It also includes the church’s commitment to provide resources to persons or groups to develop those

gifts and nurture their faith, where such groups would otherwise lack such resources, even if such resources are not equally shared with all other groups.

“Inclusion” is defined as the proactive inclusion of diverse persons in the decision-making processes of the church, so that persons historically excluded from such processes can experience greater participation in charting the future course of the church.

“Accessibility” refers to the design of the church’s infrastructure to ensure the safe participation by persons with disabilities.

- ii. “2019 DEIA Recommendations” (New CR Section 5.01.C21A): This definition refers to the recommendations set forth in the “How Strategic and Authentic is Our Diversity; A Call for Confession, Reflection and Healing Action,” as adopted by the fifteenth triennial Churchwide Assembly on August 9, 2019 in Milwaukee, Wisconsin.
- iii. “Recommended Minimum DEIA Standards” (Section 5.01.C21A): This section refers to a list of specific tasks, projects and duties that the churchwide organization, synods and congregations are encouraged to engage in or complete, at a minimum, at their respective levels in order to promote DEIA within the overall ELCA Institutions. The recommendation to complete these tasks would be part of the Constitution. The list itself, still a work in progress and appended hereto, would be attached as Exhibit A to the Continuing Resolutions, but could be amended and updated over time as new ideas for DEIA engagement at the churchwide, synod and congregational levels emerge. The list is also the basis for a “DEIA Handbook” for congregations recommended and summarized below.

The list includes such tasks as the requirement that congregations create Bible or book studies to better understand the experience of diverse persons underrepresented in or absent from their congregation, and engage in scheduled periodic meetings, worship and discussions with other congregations having opposite demographic characteristics than their own on DEIA-related topics (e.g., an urban church worshipping with a rural church 2-3 times per year and then having fellowship and dialogue on how persons of color contend with racism inside and outside the church, or how distressed rural Caucasian congregants do not feel so “privileged” merely because they are white).

This amendment is intended to create greater continuity and cohesiveness across ELCA Institutions on DEIA issues, and counter the misperception that DEIA is an issue for only certain congregations and not the whole church. It also gives congregations specific guidance on how they can advance DEIA as part of their Christian character and congregational culture.

- iv. “Historically Underrepresented Groups” (Section 5.01.C21B) refers to groups historically underrepresented in the membership and leadership of ELCA Institutions, and includes persons of color, gender-nonconforming persons, LGBTQIA+ persons, persons with a disability, lower income persons and persons whose primary language is not English. The definition is also not static and is intended to be expanded over time as new overlooked groups come forward seeking a relationship with Jesus Christ and the church.

The definition excludes women and youth whose enhanced participation is already covered in previous amendments to the Constitution and Continuing Resolutions (e.g., Constitution §5.01(e), CR §5.01.F19).

b. Other provisions:

- i. Parallel provision to constitutional DEIA policy (Sections 5.01.A16; 5.01.B20; 5.01.E19;11.21.C1;14.41.C22): These amendments reiterate the commitment of the ELCA denomination to pursuing DEIA as a policy and the “10-10” participation goal for Historically Underrepresented Groups (see ¶¶1(a)(iv) and 2(a)(iv) above), on parallel with the commitment embedded in the Proposed Amendments to the Constitution. They also obligate the churchwide organization to work with the synods to assist congregations in developing firm but realistic timetables to implement the applicable 2019 DEIA Recommendations and satisfy or exceed the Recommended Minimum DEIA Standards to the extent such congregations elect to adopt such recommendations and standards. Finally, they require congregations to include in their regular reports to synods their progress, if any, on completing or satisfying the (i) Recommended Minimum DEIA Standards, and (ii) 2019 DEIA Recommendations.

- ii. Including DEIA in nomination forms (Amendment to Section 19.11.A21(c)): This amendment requires that the form used for nominations from the floor at the Churchwide Assembly include an option for the nominee to identify as a member of an Historically Underrepresented Group and a requirement that such nominee indicate (i) persons from an Historically Underrepresented Group that they have mentored within the past 2 years, and (ii) specific work they have done within the past 2 years to advance the 2019 DEIA Recommendations or help the churchwide organization, any synod or any congregation achieve their respective Recommended Minimum DEIA Standards.

3. Principal ELCA Bylaw Provisions:

- a. Adding DEIA to responsibilities for ministers of the Word and Sacrament (Amendment to Sections 7.31.01 and 7.31.02): These amendments include in the duties and responsibilities of ministers of the Word and Sacrament, (i) a genuine commitment to DEIA as a policy of the ELCA denomination and (ii) a willingness to (a) encourage congregations to embrace, adopt and implement the 2019 DEIA Recommendations and the Recommended Minimum DEIA Standards and (b) help consenting congregations achieve the same.
- b. Enlisting seminaries in supporting DEIA (New Section 8.22.02A): This section commits seminaries of the church to review the 2019 DEIA Recommendations and encourages them to implement the same.
- c. Expanding synod participation for Historically Underrepresented Groups (Amendment to Section 12.41.11): This section commits each synod to selecting at least one additional voting member for the Churchwide Assembly who is a member of an Historically Underrepresented Group not already listed in the section.
- d. Modeling personnel policies at the churchwide level (Amendment to Section 16.11.01): This section requires the churchwide organization to model optimal DEIA personnel policies by enhancing their recruiting, hiring and promotion efforts to include additional members of Historically Underrepresented Groups.
- e. Including DEIA in criteria for selecting nominees (Amendment to Section 19.11.06): This Section requires that the Nominating Committee include a candidate's commitment to DEIA as part of its selection criteria.

4. Principal Amendments to Model Constitution for Synods:

- a. Parallel provisions espousing DEIA policy and Establishing Biblical Basis Therefor, and Adopting DEIA-related Definitions by Cross Reference (New required Sections S6.01A, S6.01B, S6.02(g), and S6.02(h)): These sections mirror the provisions in the ELCA Base Document summarized in ¶¶1-3 above, tying DEIA to the church’s mission and purpose, grounding it in Biblical principles, and adopting by cross reference the ELCA Base Document’s definitions of “DEIA” (and its constituent parts), “Historically Underrepresented Groups”, “2019 DEIA Recommendations” and “Recommended Minimum DEIA Standards”, for inter-document consistency.
- b. Parallel provisions on mentoring and encouraging congregations to adopt DEIA measures (New required Sections S6.02(i), S6.03.01(e) and S6.03.02(g)): These new required parallel provisions commit the synods to mentoring persons from Historically Underrepresented Groups and encouraging congregations to adopt and implement the 2019 DEIA Recommendations and the Recommended Minimum DEIA Standards. It also commits the synods to assisting consenting congregations to design and execute strategies and programs implementing and/or satisfying those recommendations and standards.
- c. Parallel provision on percentage goals for diversifying membership and leadership positions (Amendment to required Section S6.04): This amended Section 6.04 parallels the “10-10” percent formulation for diversifying membership and leadership in or on the synod assemblies, councils, committees, boards and other organizational units as summarized in ¶1(a)(iv) above for the ELCA Base Document, so that more members of Historically Underrepresented Groups have more meaningful participation and roles in the church’s polity and its future.
- d. Incorporating DEIA values in investment policies (Amendment to Section S8.42(b)): This section requires the synod treasurer to devise and submit to the Synod Council for approval, a plan to meaningfully increase the portion of the synod’s operating funds used to purchase goods and services from vendors owned or controlled by members of Historically Underrepresented Groups.
- e. Incorporating DEIA values in criteria for selection of synod officers (Amendment to Section S9.12): This Section includes a candidate’s demonstrated commitment to mentoring persons from Historically Underrepresented Groups, and to DEIA

values generally, as part of the criteria for selection of synod officers.

5. Principal Amendments to Model Constitution for Congregations:

- a. Parallel DEIA provisions on mission, purpose and Biblical basis for DEIA (Required new Sections C4.01A, C4.01B and C4.02(g)): These sections mirror the provisions in the ELCA Base Document summarized in ¶¶1-3 above, tying DEIA to the church’s mission and purpose, and grounding it in Biblical principles. The Proposed Amendments here recommend adoption by cross reference of the ELCA Base Document’s definitions of “DEIA” (and its constituent parts), “Historically Underrepresented Groups”, “2019 DEIA Recommendations” and “Recommended Minimum DEIA Standards”, for inter-document consistency.
- b. Recommended adoption of other DEIA-related provisions (Sections C4.02(h),(i); C4.03(j), C12.04(k) and C12.05(g)): These parallel recommended provisions, if accepted by the congregation, would commit it to more actively incorporating DEIA into its culture and practices, including through proactive mentoring of members of Historically Underrepresented Groups into leadership positions (C4.02(i)), diligently implementing the 2019 DEIA Recommendations and Recommended Minimum DEIA Standards applicable to congregations (C4.03(i)), and purchasing more goods and services from vendors owned or controlled by members of Historically Underrepresented Groups, to the extent practicable (C12.05(g)).
- c. Required reporting on DEIA efforts (Amendment to required Section C9.13): This amendment requires congregations to include in their regular reports to synods the extent and nature of their progress on DEIA initiatives, even if they have not elected to adopt the DEIA recommendations herein. The reporting function, even for non-consenting congregations, is intended to help create and sustain a dialogue with them on the spiritual virtue of DEIA generally, and on possible alternative methods for realizing DEIA goals within the congregation that may be more palatable or feasible than those reflected in the Proposed Amendments.

Recommendations Regarding Church Council Governance Policy Manual (the “Policy Manual”)

In alignment with the edits to the ELCA Base Document and the model constitution for synods and congregations regarding diversity issues, FSLC recommends three edits to the Policy Manual:

First, the cross-reference to DEIA-related provisions of the ELCA Constitution, Bylaws and

Continuing Resolutions currently in the parenthetical in the fourth bullet point of Part I, Section 3(A) should be expanded to include new DEIA-related provisions and read in its entirety as follows: “(4.01A, 4.01B, 4.02.g., 4.02.h., 5.01.b., 5.01.d., 5.01.e., 5.01.f., 5.01.E19., 5.01.F19, 19.05.01)”.

Second, the fifth bullet point in Section 3(B) should be amended to add the following sentence immediately after the end thereof and the period therein: “The Church Council shall set goals at the end of each year to purchase, in the immediately ensuing year, goods and services from vendors owned or controlled by women and members of Historically Underrepresented Groups, as follows: (i) 10%, from entities owned or controlled by persons of color; (ii) an additional 10%, from entities owned or controlled by persons whose primary language is other than English; (iii) 10%, from entities owned or controlled by women; and (iv) 5% , from entities owned or controlled by persons from Historically Underrepresented Groups other than persons of color and persons whose primary language is other than English. For purposes hereof, the term ‘Historically Underrepresented Groups’ shall be defined in the same manner as it is in Section 5.01.C21B of the Constitution, Bylaws and Continuing Resolution of the Evangelical Lutheran Church in America.”

Third, the parenthetical at the end of the second bullet point of Part 1, Section 3C should be amended to read as follows in its entirety: “(5.01.d., 12.11, 14.11)”.

Remaining Work on DEIA Handbook

FSLC proposes that the Recommended Minimum DEIA Standards, currently attached hereto as proposed Exhibit A to the Continuing Resolutions of the ELCA Base Document, be used as a template over the course of the next 12 months to create an ELCA handbook mainly for congregations on how best to achieve DEIA within their respective churches. This effort will require more hands on engagement by leadership within ELCA and direct, comprehensive dialogue with a broad and diverse group of ELCA congregations throughout the country. FSLC would be happy to assist ELCA or any designated committee thereof in completing this handbook, as needed.

N. Neville Reid
Fox, Swibel, Levin & Carroll LLP

Attachments:

October 31, 2022 FSLC Scope of Work Proposal Letter

Exhibit A to ELCA Continuing Resolutions – Recommended Minimum DEIA Standards (also
template for proposed DEIA handbook)

Redline of Main Governance Documents Showing the Proposed Amendments