



**CALIFORNIA-NEVADA-HAWAII DISTRICT**  
THE LUTHERAN CHURCH-MISSOURI SYNOD  
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June 9, 2016

Dearest brothers and sisters in Christ,

Greetings again in the Name of our Lord Jesus Christ.

A letter from President Harrison and Synod's Praesidium was sent on Monday to all of the pastors of the LCMS. I've posted the letter on the "Crow's Nest" corner of our CNH website for both our pastors and laity to read. It is essential reading for the conversation ongoing in the Synod regarding ecclesiastical supervision. The letter explains President Harrison's rationale for forming the "Task Force on Dispute Resolution" to address what he believes are problems in the adjudication process. The letter cites a specific case that according to the president "exonerated a pastor who was publicly and aggressively teaching" false doctrine.

The letter's lead question "What precipitated the need for taking a look at the dispute resolution process as it currently exists in our bylaws?" and the Praesidium's answer unfortunately muddled the matter more than it clarified it. The subsequent questions raised and answered by the Praesidium further confuse and potentially mislead the reader. I share the following with you as a matter of concern:

- 1) The Praesidium's letter focuses concern primarily on the adjudication process administered by the District President. What might not be clear to the reader is that the Praesidium actually referenced two different LCMS processes involved in the case. The first process governs "brotherly dissent" from doctrinal resolutions and statements of the LCMS. That process focuses primarily on doctrinal matters and involves Synod's CTCR and possibly others including the Synod President and seminary faculties. The second process governs ecclesiastical supervision carried out by a district president. The five year time frame mentioned by the Praesidium included both processes. The Praesidium's response to the question above very possibly leaves us with the impression that the troubling "context" of the case, particularly the extraordinary time and energy devoted to this case, was due primarily to the process carried out by the district president. That impression would be false.
- 2) This entire matter—President's Harrison's concern, his appointment of a task force and its subsequent report to the Synod, and the resulting Synod Resolution 12-01—rests on the underlying assumption that the District President in question "declined to act" on charges filed against a pastor accusing him of publicly teaching false doctrine. The problem with this underlying assumption is that it's wrong. Truth be told, the District President in question did not decline or fail to act. He neither ignored the doctrinal concerns of the case, nor did he sit on the case for years doing nothing. I can share with you in all sincerity and personal knowledge of the case that the District President adjudicated this case properly, carefully and pastorally following the procedures outlined in the Synod's Handbook and the Council of Presidents Manual.

The current COP Standard Operating Procedures for adjudicating the expulsion of LCMS members (Bylaw 2.14ff) note that the process is not intended to "expel a member from the Synod but to foster repentance and reconciliation, to win and restore the brother or sister or sister congregation. . . It (along with other bylaws) provides opportunities for teaching

moments, and opportunities for the practice of Christian love.” The District President in question faithfully balanced the doctrinal concerns raised by the accuser in each case and the evangelical and pastoral spirit of the expulsion process.

- 3) The adjudication process of the case in question was discussed at length in the February 2015 meeting of the Council of Presidents (COP). With the Synod-wide publicity that President Harrison gave the case with his January 2015 blog post, the COP decided to hold its discussion in an open rather than closed or executive session. A number of significant factors regarding the adjudication process of the case were brought to light. Though taking place in open session, few if any of the council have shared details of that discussion. That, I believe, has been done in large measure to respect the integrity and reputation of all of the members of the COP and all those involved in this case. Unfortunately, with the publishing of the Praesidium’s letter to all pastors certain factors critical to the case need to be shared with them as well:
  - 1) An unintentional procedural misstep occurred prior to the process moving to the jurisdiction of the District President in question. That misstep needed to be corrected in order for the process to continue.
  - 2) The District President in question informed the COP that he wrote to President Harrison in 2013 regarding the case, requesting advice and asking specific questions pertinent to adjudicating the case. The District President read portions of his letter to us. He also shared that President Harrison declined to respond to his letter for 14 months even though he appealed more than once to the President to do so. When President Harrison finally responded to the letter, he declined to answer the District President’s questions. President Harrison confirmed to the COP that he had indeed declined to answer the District President’s questions and was still of a mind not to do so.
  - 3) A significant majority of 35 District Presidents expressed dismay to President Harrison over his blog post of January 2015, expressing their concern that by his public statement he had disrespected the bylaws governing the adjudication process. They expressed further concern that the President’s blog post incited other pastors, congregations, and districts to involve themselves with the case when our doctrine strictly forbids such participation (LC The Eighth Commandment, 265 ff.) The case was now being tried in the public arena of the Synod.
- 4) The dispute resolution process when properly followed works well. The Praesidium notes in its opening paragraph that two cases against the pastor in question were filed. The first case concluded with an “exoneration by a panel”; the second case concluded with “the individual in question [being] removed from the Synod.” Why the difference? What was not made clear in the Praesidium’s letter is that charges in the first case were not sustained because the panel of circuit visitors (selected by blind draw) after carefully reviewing all of the materials concluded that there was insufficient “clear and convincing evidence” to commence formal expulsion proceedings. In the second case “clear and convincing evidence” was presented that substantiated the charges. The District President met fraternally with the pastor in question, reviewed the charges and evidence, and by mutual agreement with the brother removed him from the roster of Synod.
- 5) The Praesidium states in its letter that President Harrison made but “a modest request for change” which was “to restore the right of an appeal by an accuser.” There is nothing modest about that change. It turns the current adjudication process on its head. In compliance with President Harrison’s request, Floor Committee 12 drafted the following,

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2.14.4.2 If the determination of the district president is not to initiate formal proceedings, he shall in writing so inform the accuser, any other district president involved, and the involved member, which shall terminate the matter, unless the accuser presents the written complaint or accusation to the Praesidium of the Synod as provided below (Bylaw 2.14.4.3).

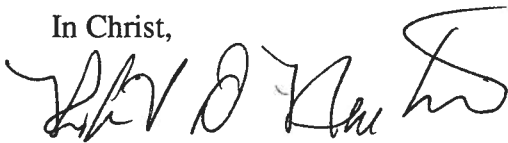
2.14.4.3 If the district president fails or declines to suspend the member within 90 days after receipt of the written complaint or accusation, the accuser may present the written complaint or accusation to the Praesidium of the Synod. If after investigation the Praesidium of the Synod determines that the facts are such that it could lead to expulsion of the member under Article XIII of the Constitution, the Praesidium of the Synod shall designate one of the vice presidents of the Synod to proceed in the same fashion as is hereafter required of the district president. (2016 Today's Business—Proposed Resolutions, p. 154)

I noted above the evangelical and pastoral intention of the expulsion process Bylaw 2.14. It's purpose is to win the erring brother or sister back to the Truth, not expel them from the Synod. If bylaws are amended to reflect Resolution 12-01, the ability for the District President to care for our rostered workers who are accused of false doctrine is limited to 90 days. If the process does not result in a suspension of the member, it will be taken out of the District President's hands and given to the Praesidium. That suggests to me that we have now tipped the process to favor the concerns of the accuser at the expense of the soul care of the accused. Furthermore, handing this pastoral process to the Praesidium, which according to our LCMS Constitution has absolutely no responsibility for ecclesiastical supervision of our workers, greatly cripples the ability of the Synod to care evangelically for its workers. It is my contention that no one is better equipped to carry out the intention of the bylaw than the District President with aid where appropriate from the district's Circuit Visitors. These are the pastors who personally know the "accused" and can administrate the process pastorally.

Dearest brothers and sisters once again I appeal to you to do the following:

- Prayerfully consider the relationship you believe your Synod should foster in order to strengthen and encourage our congregations and rostered workers in their faithful participation in our Lord's mission.
- Pray to our Lord that His Spirit guides the electors in choosing a president who will faithfully shepherd our Synod according to His Word.
- Continue to pray for the Synod as we prepare for our national convention and as we convene in Milwaukee, WI, July 9-14.

In Christ,



Robert D. Newton  
CNH District President