



For Constitution Review Committees in Synods: 2003 edition

GUIDE FOR USE OF THE MODEL CONSTITUTION FOR CONGREGATIONS OF THE EVANGELICAL LUTHERAN CHURCH IN AMERICA

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

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

Whenever the *Model Constitution for Congregations* is amended by the Churchwide Assembly, this constitution may be amended to incorporate any such amendment by a simple majority vote of those voting members present and voting at any subsequent meeting of the congregation without presentation at a prior meeting of the congregation, provided that the Congregation Council has submitted by mail notice to the congregation of such an amendment or amendments, together with the council's recommendations, at least 30 days prior to the meeting. 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, declares:

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...;**
 - 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. 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. [that defines the prescribed process for termination of a congregation's relationship with this church], and 7.46. [that specifies 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 in whose territory the congregation is located."
3. At the same time, ELCA churchwide constitutional provision 9.53. declares: "Each congregation shall have governing documents, no terms of which shall conflict with provision 9.21."
4. Required provisions are designated in the *Model Constitution for Congregations* by an asterisk [*].¹ 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. and *C3.02.**

Chapter 4. STATEMENT OF PURPOSE

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

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., and *C6.06.**

¹ 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.

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., and *C9.13.**

Chapter 15. DISCIPLINE OF MEMBERS AND ADJUDICATION

***C15.01., *C15.02., *C15.03., *C15.04., *C15.05., *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*) *C20.10., *C20.02., and *C20.03.**

5. Churchwide constitutional provision 9.52.,² 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 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."

² The citations are from the 2003 edition of the *Constitutions, Bylaws, and Continuing Resolutions of the Evangelical Lutheran Church in America*, current as of August 17, 2003.

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 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 item 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 item 5.c. (above).

- (1) What may constitute "good cause" for retention of a pre-1988 section depends on the judgment of the synod review process.
 - (2) For example, if in the judgment of the congregation's pastor and the synodical bishop, the concord of a congregation would be severely disrupted by use of a required provision, the synodical constitution review committee may permit the congregation to retain *in unamended form* a specific provision, chapter, or chapters in the congregation's constitution in force on December 31, 1987.
 - (3) 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.
 - (4) 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 foundations.
 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. declares: "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 to be followed throughout this church, such as, for example:
 - 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 amendment shall become effective within 120 days from the date of the receipt of the notice by the synod unless the synod informs this congregation that the amendment is in conflict with the constitution and bylaws of the Evangelical Lutheran Church in America or the constitution of the (name of synod) of the ELCA.

2. According to churchwide bylaw 9.53.03., "All proposed changes in the constitution or incorporation documents of a congregation shall be referred to the synod with which

the congregation is affiliated."⁴

- a. "The synod shall approve or disapprove the proposed changes within 120 days of receipt thereof, and shall notify the congregation of its decision...."
 - b. "[I]n the absence of a decision, the changes shall go into effect."
3. What is subject to review, under ELCA churchwide bylaw 9.53.03.? The answer is "all proposed changes" must be submitted by a congregation.
- a. When a congregation has chosen to amend its previous constitution by adoption of a new one, the entire document is to be reviewed.
 - b. When is the degree of change in the whole constitution so great that new amendments have created, in essence, a new constitution requiring review of the entire document? That judgment rests with the synodical review process.
 - c. If a congregation, however, amends certain portions of its previous constitution, that which must be reviewed is not only the particular provisions that are proposed to be amended, but also all of the required list of provisions in the *Model Constitution for Congregations* to ascertain whether the congregation has brought its constitution into conformity with this requirement for the relevant chapters.
 - d. A decision may need to be made whether there is good cause for permitting a congregation, which existed prior to the formation of the Evangelical Lutheran Church in America, to retain a provision in force on December 31, 1987. This may require consultation with the bishop, the congregation's pastor(s), and the congregation's elected leadership.
4. It is recognized, under ELCA churchwide bylaw 9.53.03., that "congregations may organize themselves in a manner which they deem most appropriate."
- a. In view of constitutional provisions related to required sections of the *Model Constitution for Congregations*, it appears that this bylaw points to *matters of internal governance for a congregation*, such as the composition of the Congregation Council, frequency of meetings of the congregation (annual, semi-annual, quarterly), and types, size, and duties of committees.
 - b. At crucial points of intersection of responsibilities that reflect the interdependent polity of this church, the provisions of the *Model Constitution for Congregations*

⁴ The full text of churchwide bylaw 9.53.03. in the 2003 edition of the *Constitution, Bylaws, and Continuing Resolutions of the Evangelical Lutheran Church in America* reads:

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 approve or disapprove the proposed changes within 120 days of receipt thereof, and shall notify the congregation of its decision; in the absence of a decision, the changes shall go into effect.

The synod shall recognize that congregations may organize themselves in a manner which they deem most appropriate.

marked as required are used when a congregation amends its previously existing constitution.⁵

5. The authority for handling congregational constitutional matters rests with the Synod Council, which may assign the actual review task to a constitution review committee to act on behalf of the council and to report regularly to the council.
 - a. Prior to presentation of proposed amendments to the congregation for a vote, the Congregation Council or committee preparing such amendments may wish to consult with the synodical constitutional review committee on the amendments.
 - b. Upon final adoption, all amendments must be submitted to the synod for review in accord with churchwide bylaw 9.53.03. Such amendments only become effective subsequent to the review, as stipulated in that bylaw, if approved by the synod's constitutional review committee.

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 (August 2003) of the *Model Constitution for Congregations* contains all changes that were adopted by the 1989, 1991, 1993, 1995, 1997, 1999, 2001, and 2003 Churchwide Assemblies of the Evangelical Lutheran Church in America. Many of these changes were intended to clarify the meaning of particular provisions.

E. COPIES OF MODEL CONSTITUTION AVAILABLE

1. Booklets containing the 2003 revised *Model Constitution for Congregations of the Evangelical Lutheran Church in America* are available from Augsburg Fortress, Publishers (ISBN 0-8066-4900-3; price \$1.75 each).
2. The *Model Constitution for Congregations* also is available from Augsburg Fortress, Publishers, in both IBM compatible and Macintosh versions on one 3.5" disk (ISBN 0-8066-4901-1; \$14.95).
3. The text of the *Model Constitution for Congregations* is available on the Web site of

⁵ If a congregation, in revising its constitution, were to refuse to adopt the "C Confession of Faith" and the "Statement of Purpose," for example, in the *Model Constitution for Congregations*, continued use, without any amendment by the congregation, of the provisions covering those matters in the congregation's constitution that existed prior to January 1, 1988, could be permitted under ELC A churchwide constitutional provision 9.52. Congregations formed by the Evangelical Lutheran Church in America must use the required provisions, which are marked by an asterisk [*] in an unamended and unaltered form.

the Evangelical Lutheran Church in America (www.elca.org/os). The Spanish language text of the *Model Constitution for Congregation* also is available on this Web site.

4. The binder to hold the complete text of the *Constitutions, Bylaws, and Continuing Resolutions of the Evangelical Lutheran Church in America* also is available from Augsburg Fortress, Publishers: *binder only* (ISBN 0-8066-3596-7; \$10.99).
5. To place an order through Augsburg Fortress, Publishers, call 1-800-328-4648.

F. USE OF MODEL CONSTITUTION FOR CONGREGATIONS

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

1. For example, in relation to protection provided to congregations on property and the guarding of property for Lutheran ministry,
 - a. *C7.01. is based on ELCA churchwide constitutional provisions 9.71.a. and b.
 - b. Likewise, *C7.02. is related to ELCA churchwide constitutional provision 9.71.c.
 - c. *C7.03. is related to ELCA churchwide provisions 9.71.d. and 9.62.c.
 - d. *C7.04. is related to ELCA churchwide provision 9.71.e.
2. Chapter 9 on the calling of a pastor is consistent with Chapter 14 in the *Constitution for Synods*, which each synod is required to follow in the oversight of the roster of ordained ministers.
 - a. Pastors are ordained ministers of the whole church.
 - b. Therefore, common criteria, standards, policies, and procedures apply to all ordained ministers of this church.
 - c. Churchwide constitutional provision 9.22. requires that congregations "shall abide by" the provisions of †S14.13. (*C9.05.). This requirement applies even though a congregation may not have adopted *C9.05.

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 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, one 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 A02. in the codification C13.07.A02. to indicate by the "A" that it is the first continuing resolution regarding that subject and by the "02" that it was adopted in 2002. For a continuing resolution adopted in A.D. 2003 under C14.01., for instance, the citation would be C14.01.A03.
 4. **Numbering of provisions and bylaws:** 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. **Parts of provisions:** Use of letters or numbers in provisions follows this pattern:
 - 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. **No model bylaws or continuing resolutions** are provided. This is because bylaws and continuing resolutions normally are so specifically related to details of each congregation's organization, operation, and life. Therefore, no model set of bylaws or continuing resolutions is available.
 - 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 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. FOR PARTICULAR CONGREGATIONS

As indicated in the footnote, *C6.05.g. must be included in the constitutions of all congregations that formerly were a part of the Lutheran Church in America. Likewise, *C6.05.h. must be included in the constitutions of all congregations that have been formed by the Evangelical Lutheran Church in America. These provisions are specified by churchwide constitutional provisions 9.62.g. and 9.62.h. (A congregation formed by the ELCA using the required text of *C6.05.h. could re-letter the provision as *C6.05.g. for proper sequence since such a congregation would not need to have *C6.05.g. related to the Lutheran Church in America in its constitution.)

J. 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. That provision stipulates that:

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 ELCA 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.

K. 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.

L 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.

M. 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.⁶
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.⁷ You may obtain a copy of this memorandum, if needed, from your synod office.

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⁶ The process for adoption of constitutional amendments is specified in Chapter 17 of the *Model Constitution for Congregations*. If a congregation that existed prior to January 1, 1988, has not adopted as yet the provisions of Chapter 17, then the process for constitutional amendments in the congregation's existing constitution would apply.

⁷ 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 memorandum, contact your synod office.

- 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.