

**TRINITY LUTHERAN CHURCH
PINCKNEY, MICHIGAN
CONSTITUTION
MAY 6, 1999 (Revised Aug, 2014)
PREAMBLE**

Whereas Christians should practice fellowship with those who profess the faith (Acts 2:42: Heb. 10:24-25) and whereas they should endeavor to keep the unity of faith (Eph. 4:3-6 I Cor.1: 10) and whereas as a body they should administer the Office of the Keys (John 20:21-23 Matt. 18: 17-20) decently and in order (I Cor. 14:40); Therefore we adopt the following constitution and its Bylaws according to which all affairs of this Congregation both spiritual and material shall be conducted.

The mission of this congregation shall be to give honor and glory to God, to carry out His will, to assist in preaching the Gospel of Jesus Christ to all the world, to manifest the unity of our faith in Jesus Christ as God and Savior, to foster Christian fellowship and love, to extend a helping hand in human need, and to achieve our objectives by the preaching of the Word of God, by the administration of the sacraments, and by the religious instruction of all its members according to the confessional standard of the Evangelical Lutheran Church.

ARTICLE I – NAME

The name of this congregation shall be “Trinity Lutheran of Pinckney Michigan” here after referred to as Trinity Lutheran Church, a member of the Lutheran Church - Missouri Synod.

ARTICLE II - PURPOSE (UNALTERABLE)

The purpose of this congregation shall be to:

- A. Serve its members ‘by preaching God’s Word and administering the Sacraments and by the religious instruction of youth and adults according to the Word of God and the confessional standards of the Lutheran Church.
- B. Equip and support its members in spreading the Gospel and the Kingdom of God at home and throughout the world.
- C. Promote Christian fellowship love concern and service.

ARTICLE III -DOCTRINAL STANDARD (UNALTERABLE)

This congregation is a body and all its members as individuals declare unreserved acceptance of and adherence to all canonical books of the Old and New

Testaments as the inspired and revealed Word of God and the only rule of Faith and Life.

This congregation further acknowledges and accepts all the confessional writings of the Evangelical Lutheran Church contained in the Book of Concord of the year 1580 to be a true and genuine exposition of the doctrines of the Bible. These confessional writings are the three Ecumenical Creeds (Apostles', Nicene, and Athanasian) the Unaltered Augsburg Confession the Apology of the Augsburg Confession, the Smalcald Articles Luther's Large and Small Catechism, and the Formula of Concord.

ARTICLE IV - MEMBERSHIP

The membership of this congregation includes the following:

A. **Baptized Membership** The baptized membership includes all those who have been baptized in the name of the Triune God and are under the spiritual care of the congregation, including the children who have not yet confirmed their baptismal vow.

B. **Communicant Membership** The communicant membership includes those baptized members who have been confirmed in the Lutheran faith, accept the confessional standards of Article III, are familiar with the basic Christian doctrines and who are not members of organizations whose principles and conduct conflict with the Word of God.

C. **Reception Baptized members** are received through the Sacrament of Holy Baptism, through transfer, or with the consent of one or both parents in the case of children who have been baptized in another Christian congregation. Communicant members are received by the rite of Confirmation, by transfer from a sister congregation, upon profession of faith or by re-affirmation of faith. All membership shall be approved by the Voters' Assembly.

D. **Termination Membership** shall be terminated by transfer to a sister congregation, by death, by joining another congregation outside of our fellowship, by excommunication or by self-exclusion (completely inactive for 24 months).

Communicant members who conduct themselves in an unchristian manner shall be admonished according to Matthew 18:15-20. If they still remain impenitent after proper admonishment, they shall be excommunicated. Each case shall be presented individually to the Voters' Assembly for a decision. If such members deliberately absent themselves from the meeting(s) at which their case is to be discussed, they shall be regarded as having excluded themselves from membership.

E. **Voting Membership** Communicant members who have reached the age of eighteen years shall have the privilege of voting at the Voters' Assembly.

F. Men's and Women's Participation Both men and women may serve as voters, officers and members of boards and committees. However, because God holds men accountable as the spiritual leaders of a congregation, it shall be required that men fill those positions which are directly involved in the specific functions of the pastoral office i.e., pastor, elder, president, and vice-president. In all matters the congregation shall work to involve men and women in mission and ministry in ways that further God's kingdom and that do not violate his order of creation.

ARTICLE V - THE OFFICES OF PASTORS AND TEACHERS (UNALTERABLE)

Pastors and teachers of this congregation can be such only who subscribe to the confessional standard set forth in Article II of this constitution. The right to call and dismiss ministers and teachers shall be vested in the Voters' Assembly and shall never be delegated to an individual or any group within the congregation. For the election of Pastors and teachers, a three-fourths vote is required of the voting membership present at the Voters' Assembly before the call is issued.

ARTICLE VI - POWERS OF THE CONGREGATION

A. The supreme power in all affairs is vested in the Voters' Assembly. No orders nor enactment's be they general or specific shall be binding on the congregation or any member unless rendered by the authority of the Voters' Assembly. Orders and enactment's contrary to the Word of God and the Lutheran Confessions (Article II of this constitution) shall be null and void.

B. The election of officers of the congregation shall be performed by the Voters' Assembly and this authority shall never be delegated to any individual or any group within the congregation.

C. Any pastor, teacher or officer of the congregation may be dismissed from office by the Voters' Assembly by a three-fourths majority ballot vote in Christian and lawful order for one of the following reasons: persistent adherence to false doctrine, scandalous life or willful neglect of duties.

D. The congregation as a body owns and controls all church property.

E. If at any time a separation should take place on account of doctrine the property of the congregation and all benefits there with connected shall remain with those voting members who continue to adhere in confession and practice to Article III of this constitution. In the event the congregation should totally disband the property and all rights connected therewith shall be transferred to the Michigan District of the Lutheran Church - Missouri Synod.

ARTICLE VII - OFFICERS

The officers of this congregation shall consist of the President, vice-president, Recording Secretary, Financial Secretary, Treasurer, Board of Elders, Board of Trustees, Board of Christian Education, Board of Stewardship and Board of Evangelism.

ARTICLE VIII - DOCTRINAL LITERATURE (UNALTERABLE)

Only such hymns, prayers and liturgies shall be used in the public services of the congregation and in all ministerial acts as conform to the confessional standards of Article III of this constitution. Likewise, for instructional Christian doctrine only such books be used as conform to this standard.

ARTICLE IX - SYNODICAL MEMBERSHIP

A. This congregation shall hold membership in the Lutheran Church Missouri Synod so long as the latter adheres to the confessional standard designated in Article III of this constitution.

B. The congregation shall send its pastor and lay delegate to the District convention of Synod.

C. It shall be the duty of the congregation and its individual members to support the work of Synod since they thereby support their own Christ-appointed work.

ARTICLE X - BYLAWS

This congregation may adopt such Bylaws as may be required for the accomplishment of its purpose as stated in Article II and IX of this constitution.

ARTICLE XI - CHANGING THE CONSTITUTION

A. UNALTERABLE Articles The following articles of this constitution or sections thereof shall be unalterable and irrevocable: II, III, V, and VIII, plus Section A of Article XI.

B. Amendments: Amendments to this constitution and the Bylaws may be adopted at a regular Voters' Assembly. The affirmative vote of a three-fourths majority of the voting membership present at the Voters' Assembly shall be required for the adoption of an amendment.

ARTICLE XII – SOCIETIES

Societies may be organized with the congregation only with the expressed approval of the Voters' Assembly and all such societies shall be under the supervision

of the Pastor(s) and the Church Council under whose jurisdiction they function. Only communicant members of this congregation shall be officers of such societies or groups. Any decisions enactment or performance of or by societies or groups shall be invalid if they conflict with the Constitution and its associated Bylaws. The Pastor(s) by virtue of his office shall be the advisor for such societies or groups within the congregation.

ARTICLE XIII - ADJUSTMENTS OF DISSENSION'S

If within the congregation dissension's arise either between the Pastor and the congregation or among members of the congregation and these cannot be satisfactorily adjusted then the District and or Synod shall be petitioned to render an opinion and to aid in the adjustment. Until the District and or Synod has rendered its decision the factions are to avoid everything which may lead to greater disruption.

BYLAWS

ARTICLE I VOTERS' ASSEMBLY

A. Meetings

Voters' Assembly shall be held in May and November. Special meetings may be called as needed by the Church Council or Pastor(s). All Voters' Assembly and its agenda will be announced in church services and church bulletin on the two previous Sundays.

B. Privileges and Duties of Voting Members It shall be the privilege and duty of a Voting Member of this congregation to:

1. Conscientiously and prayerfully exercise their rights of suffrage in all measures that will advance the work of Christ's Kingdom both locally and in the church-at-large.
2. Willingly serve in any office or capacity for which their talents and abilities equip them.
3. Faithfully attend the Voters' Assembly.
4. Assist with wholehearted diligence in administering the temporal and spiritual affairs of the congregation.

ARTICLE II - CHURCH COUNCIL

A. The Church Council shall consist of the President, vice-president, Board of Elders, Trustees, Christian Education, Stewardship Evangelism, Financial Secretary,

Recording Secretary, and Treasurer. Only such members of the Church Council shall have voting privileges at the council meetings.

B. The Church Council shall hold an open meeting once a month.

C. The Trustees, Treasurer, and the Stewardship chairman shall prepare and a yearly budget to the Church Council for their approval, after which the Church Council shall submit said budget to the Voters' Assembly. After adoption the annual Budget by the Voters' Assembly said budget is unalterable and will remain in effect for One full year, except for a dire emergency. In this case the Budget Committee must be Advised at least one full month in advance of the next official Voters' Assembly.

ARTICLE III - ELECTION OF OFFICERS

A. Officers shall be elected at the May Voters' Assembly.

B. **Nominating Procedure** At the February Council meeting the President shall present to the Council for their approval his recommendations for the Nominating Committee. The recommendations shall consist of the Pastor, Vice-president and two voting members.

The nominating committee, as soon as possible after the February meeting, shall prepare a list of candidates drawn from among voting members of the congregation. This list shall then be made available to voting members of the congregation at least three weeks prior to the May meeting.

Following the publication of the Nominating Committee's list, voting members of the congregation may submit to the Committee additional names for inclusion on the list and such names shall be placed in nomination by the Committee along with the candidates already chosen.

On the day of the election the list of candidates for each office shall be available. At least one candidate must be nominated for each office. Additional candidates for each office may be nominated by the Voters' Assembly just before the ballot for that office is cast. If on the first ballot none of the candidates receive a simple majority (fifty percent plus one vote) the one having the least number of votes shall be eliminated from the list of candidates and another ballot cast until the person has simple majority.

C. Elected officers and appointed board members shall take office on the first day of September.

D. If a vacancy occurs the President of the congregation shall appoint a replacement and present it for approval at the next Voters' Assembly.

ARTICLE IV - DUTIES AND RESPONSIBILITIES OF CHURCH OFFICERS

A. The President - Elected for two years.

1. The President of the congregation is the "Executive Director" of the programs of the congregation. As such he is responsible for the functioning and carrying out of individual responsibilities of all elected or selected officers, boards and committees of the congregation.

2. He shall be an ex-officio member of all standing committees and boards and shall attend personally or designate the vice-president of the congregation to attend meetings of committees whenever necessary or advisable.

3. The President shall preside at the business meeting of the Voters' Assembly and Council Meetings.

4. He shall have an orderly agenda prepared for each meeting.

5. He will be a director of the church corporation.

B. The vice-president - Elected for two years.

1. In the absence of the President or in the event he shall be incapacitated, the vice-president shall assume the duties of the President. He shall do such duties as required by the President, and serve as chairman of the Nominating Committee.

C. The Recording Secretary Elected for two years.

1. Shall keep an exact record of all transactions and resolutions of the Voters, Assembly at both regular and special meetings, submit these minutes for approval at the next regular meeting of the Voters' Assembly, enter such approved minutes in a book provided for such a purpose and to conduct such writing as is given authority by the congregation to do so and keep an exact list of all voting members.

2. Shall be responsible for the reproduction of the minutes of the Voters' Assembly. Sufficient copies shall be made for distribution to the boards and/or committees as required.

3. Shall conduct such correspondence as is necessary and/or requested.

4. Shall serve as Secretary of the Church Council meetings and provide minutes of these meetings for the Church Council members.

D. The Treasurer - Elected for two years.

1. Shall keep an accurate account of all monies received and expended and shall make payments of expenses in harmony with the plans of the Church Council or in special cases as directed by the congregation through the Voters by resolution. The Treasurer shall furthermore render written reports of transactions including special funds to the Church Council and the Voters' Assembly.

2. Shall be responsible for the record keeping of all funds including special funds with the help of the financial secretary.

3. Shall maintain a set of permanent records and be responsible to explain to his successor the details and functions of the job of Treasurer.

4. Shall have the books and records audited annually by an Auditing Committee appointed by the Church Council.

5. Shall be a director of the church corporation.

E. Financial Secretary- Elected for two years.

1. Shall keep individual accounts of the offerings of members and shall send out individual reports on a quarterly basis.

2. Shall distribute the contribution envelopes recruiting the help needed from the congregation.

H. Board of Elders

1. The Voters' Assembly shall elect a Board of Elders as needed to serve the congregation. The normal term of office is two years but incumbents may run for elder again at the end of their two year term if they so desire. This Board shall consist of no less than four members. Also, the Church Council shall appoint any additional numbers as deemed necessary to serve the church's needs. The appointment shall take effect immediately and all duties and responsibilities will be enforced and carried out. They shall be officially approved at the next Voters' Assembly. This term will run through the end of the existing year plus one.

2. The Elders shall aid the Pastor in all matters pertaining to the spiritual welfare and upbuilding of the congregation. They shall give special attention that the Word of God is purely preached in accordance with the confessions of the Lutheran Church, that the sacraments are rightly administered and the Scriptural discipline is applied in the congregation. They shall counsel and assist the Pastor in the spiritual care of individual members of the Church visiting the sick, admonishing the erring and promoting peace. In case of a vacancy in the Pastoral Office, they shall see that the spiritual duties of this office be carried on.

3. They shall see that good order is maintained in the public, services that an adequate and proper system of ushering is kept functioning in all services and that guests are greeted and made welcome. They shall also render such assistance as may be necessary for the various acts of Divine service.

4. They shall also with great care seek information as to whether there are members in need of sustenance or other aid help to relieve the needy and distribute the alms (monies, clothing, food ect.) collected by the congregation.

5. They shall review and maintain church and communion records on a quarterly basis as an instrument to administer requirements of a communicant member.

6. The Board of Elders shall hold a regular meeting once a month. The Pastor being ex-officio member. Special meetings may be called by the Pastor at the request of one of the Elders.

1. Board of Trustees.

1. The Voter's Assembly shall elect a Board of Trustees as needed to serve the congregation. The normal term of office is two years but incumbents may run for Trustee again at the end of their two year term if they so desire. This Board shall consist of no less than four members. Also, the Church Council shall appoint any additional numbers as deemed necessary to serve the church's needs. The appointment shall take effect immediately and all duties and responsibilities will be enforced and carried out. They shall be officially approved at the next Voters' Assembly. This term will run through the end of the existing year plus one.

2. The Trustees shall be the legal representatives of the congregation. They shall have charge of the property and the manner and condition under which it will be acquired held and disposed of and shall keep it in good condition and repair according to the members of the congregation.

3 For repairs and other necessary expenditures the Board of Trustees shall have the power to draw on the treasury to the amount of one thousand dollars in an emergency requiring immediate attention.

4. They shall elect one of their members as chairman, keep accurate records of the Board's actions and proceedings and shall report them to the Church Council.

5. They shall make and bring up to date each year an inventory list of all church properties and equipment with the approximate value and date of purchase.

6. They shall negotiate all insurance contracts and policies. This shall be presented to the Voters' Assembly as part of the annual budget.

7. They shall make and issue all keys for church property. They shall keep and review annually a list of all keys issued.

8. They shall check all property once a month and the parish twice a year for fire and physical hazards and take appropriate action.

9. They shall determine and set up regulations governing the use of church property and equipment and submit said regulations to the members of the congregation for approval.

10. They shall negotiate all service contracts.

11. All none budgeted items over ten dollars must be approved by the Trustees prior to purchase.

J. Board of Stewardship.

1. The Voters Assembly shall elect a Board of Stewardship to serve the congregation, The normal term of office is two years but incumbents may run for this position again at the end of their term.

2. They shall keep accurate records of the Board's actions and proceedings and shall report them to the Church Council.

3. Discover the talents of the membership and enlist them in the congregational programs.

4. Promote a total stewardship program in the congregation emphasizing the giving of every member's time, talent and treasures to further the work of the Lord.

5. Meet annually with the Trustees to prepare a proposed budget for the coming Year.

6. Organize and supervise the annual membership pledging of financial Support. All pledges shall remain confidential to the Chairman of the Board of Stewardship and the Financial Secretary.

K. Board of Evangelism.

1. The Voters' Assembly shall elect a Board of Evangelism to serve the congregation. The normal term of office is two years but incumbents may run for this position again at the end of their term.

2. They shall keep accurate records of the Board's actions and proceedings and shall report them to the Church Council.

3. Plan, promote and carry out an evangelism program and evangelism training.

4. Call on and follow up on prospective new members who sign the church guest book or names that are received by other sources.

5. Endeavor to publicize the Gospel and the activities of the congregation by the various modern avenues available.

L. Board of Christian Education.

1. The Voters' Assembly shall elect a Board of Christian Education to serve the congregation. The normal term of office is two years but incumbents may run for this position again at the end of their term.
2. They shall keep accurate records of the Board's actions and proceedings and shall report them to the Church Council.
3. Appoint the Sunday School Superintendent and obtain qualified Sunday School and Bible Class teachers after consultation with the Pastor.
4. Foster spiritual growth in the life of the individual Christian and strengthen the Christian home by helping equip parents, children and young people for Christian family living.
5. Provide Christian learning opportunities and objectives for all age levels and educational organizations embracing training in Christian knowledge in prayers, family devotions and family living.
6. Appoint the Youth Director.
7. Promote new Christian education area and opportunities and appoint directors as required.

ARTICLE V - NEW MEMBER RECEPTION

- A. Persons desiring admission to the membership in the congregation whether by baptism, confirmation confession of faith or letter of transfer shall make application to the Pastor and upon approval of the Church Council shall be received.
- B. Applicants for communicant membership in this congregation shall consult the Pastor who shall determine whether such applicants are eligible for membership in accordance with Article IV of the Constitution. Applicants not familiar with the Doctrines and confessions of the Lutheran Church shall be required to attend a course of instruction and to make profession of their faith either before the congregation or at the Pastor's discretion before witnesses, who are members of the Church Council before being received as members.

Applicants from other Evangelical Lutheran churches shall submit a letter of transfer from their former congregation to establish their eligibility for membership. In the case of applicants whose previous membership in a Lutheran congregation has lapsed the Pastor may arrange for a period of re-instruction prior to reaffirmation of faith for such applicant.

After applicants have given satisfactory evidence of their eligibility in accordance with the two preceding paragraphs, their admission as communicant members shall be recommended by the Pastor to the Church Council. With Church Council approval, it shall go the Voters' Assembly. The roster of new members shall be publicized in the various news media of the congregation.

C. It shall be the privilege and duty of members of the congregation to:

1. Grow in Christian faith and life through faithful worship, use of the means of grace searching the Scriptures at home and in fellowship with other members of the congregation and its agencies and partaking of the Lords Supper frequently, which shall be defined as no less than four times a year.

2. Live a morally decent life before God and men abstaining from open works of the flesh (Galatians 5:18-21) and so conducting themselves at all times as to bring credit rather than blame upon the Church of Jesus Christ.

3. Provide for the proper Christian training of their children by instruction at home and through the agencies of the Congregation.

4. Contribute toward the maintenance of the congregation and abroad to the limit of their financial abilities.

5. Place their God-given talents and abilities at the disposal of the Pastor(s), the Officers and other agencies and Bylaws so that the purpose and functions of the congregation may be effectively implemented.

6. To pray diligently for the Church and help to fulfill its mission as stated in the Constitutional and Bylaws.

ARTICLE VI- DISCIPLINE IN THE CONGREGATION

All discipline in this congregation shall be administered in accordance with the order of discipline laid down in Matthew 18:15-20 1 Corinthians 5:1-5 and other related New Testament passages.

It shall be assumed that membership in this congregation is the product of the joy that individual Christians have first found in the Body of Christ by faith as a gift of God.

The Church discipline is the responsibility Of the Church Council and its officers. Administration of this function is the duty of the Board of Elders. The Board of Elders and Pastor will advise the Church Council on matters of discipline and membership.

A. Conclusion of Membership.

When membership is concluded the following procedures shall guide the Pastor(s), Elders and the Church Council.

Membership Actions:

I. Transfer

A member seeking transfer to another Christian congregation shall apply to the Pastor. Upon approval by the Church Council a letter of transfer will be issued to congregations, in fellowship with Trinity Lutheran Church. A copy of the letter will be sent to the member and the transfer congregation.

2. Release

A member seeking membership in another Christian congregation not in fellowship with Trinity Lutheran Church will be issued a letter of release. This letter will be sent to the former member to notify them of the action.

3. Termination

In cases where members of this congregation: 1) Join a non-Christian fellowship, 2) Move so that their whereabouts becomes unknown or, 3) demonstrate that travel distance inhibits active membership, the council may declare the member to have terminated their membership. Terminated membership forfeits all rights and privileges of membership including property rights. A letter shall be sent by registered mail notifying the former member of this action.

4. Excommunication

When a member of this congregation is acknowledged responsible for gross scandalous and unrepentant unchristian behavior, the church council acting on the behalf of the congregation is empowered with the right to declare said member excommunicated. A letter shall be sent by registered mail notifying the former member of this action, according to the accepted discipline procedures as noted above.

5. Self-Exclusion

When a member of this congregation, show a lack of interest in the preaching of the Gospel, a lack of participation in the sacrament of the Altar, or fails to attend divine services for a prolonged period, it shall be assumed that the joy of belonging to the Body of Christ and the congregation is no longer paramount in the members' life. It shall be the obligation of the Elders in the behalf of the congregation to assist and counsel the weakening member in returning to the joy of communicant membership. The weakening Christian is expected to accept this loving Christian admonition and Concern in the spirit in which it is offered.

After loving efforts to assist and urge the member to return to active participation and divine worship and the Sacrament of the Altar have failed, the member may be removed from membership by the action of the Church Council. Removal from membership relinquishes voting and property rights in the congregation.

6. Friends of the Congregation

Strictly at the discretion of the Church Council, a member whose membership has been terminated for any reason other than ex-communication may be retained in Friends of the Congregation status. In this status a former member remains on the church mailing list and is welcome to commune but is not considered a communicant member and has no voting or property rights.

PERSONS WHOSE MEMBERSHIP HAS BEEN CONCLUDED FOR ANY REASON WILL AT ALL TIMES BE CORDIALLY WELCOME TO ATTEND ALL DIVINE SERVICES IN OUR CHURCH.

Persons who have been removed from membership for whatever reason shall be restored with all rights and privileges when they seek to repair the reason for removal through the Pastor and the Church Council. All acts of conclusion, discipline and restoration shall be made known to the congregation by whatever method the Pastor and Council seem most suitable.

MARRIAGE POLICY

The marriage policy of Trinity Lutheran Church, a member congregation of The Lutheran Church-Missouri Synod, is and always has been consistent with the Synod's beliefs on marriage. We believe that marriage is a sacred union of one man and one woman. (Gen. 2:24-25), and that God gave marriage as a picture of the relationship between Christ and His bride the Church (Eph. 5:32). The official position of The Lutheran Church-Missouri Synod, as set forth in 1998 Res. 3-21 ("To Affirm the Sanctity of Marriage and to Reject Same-Sex Unions"), is that homosexual unions come under categorical prohibition in the Old and New Testaments (Lev. 18:22, 24; 20:13; 1 Cor. 6:9-10; 1 Tim. 1:9-10) as contrary to the Creator's design (Rom. 1:26-27). These positions and beliefs can be found on the LCMS website, along with other statements, papers and reports on the subject of homosexuality and same-sex civil unions and "marriage". Our pastors will not officiate over any marriages inconsistent with these beliefs, and our church property may not be used for any marriage ceremony, reception or other activity that would be inconsistent with our beliefs and this policy.

INDEMNIFICATION

To the fullest extent permitted by law, the congregation shall indemnify any individual who was or is a party, or is threatened to be made a party to any proceeding other than a proceeding by or in the right of the congregation, or because of any action or inaction in such capacity, against liability and expenses incurred in the proceeding, if (a) he or she conducted himself or herself in good faith; (b) he or she reasonably believed (i) in the case of conduct in his or her official capacity, that his or her conduct was in the best interest of the congregation and, (ii) in all other cases, that his or her conduct was at least not opposed to the best interests of the congregation, and (c) in the case of any criminal proceeding, that he or she had no reasonable cause to believe that his or her conduct was unlawful.