

**Policy and Procedure
in Cases of
Sexual Misconduct and Sexual Harassment**



Diocese of Providence
One Cathedral Square
Providence, Rhode Island

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POLICY AND PROCEDURE IN CASES OF SEXUAL MISCONDUCT INTRODUCTION

Consistent with the teaching and example of Jesus Christ, the Church is concerned with the well being of all people. Motivated by the Gospel message and in a spirit of compassion, charity and justice, we have a special concern for those who are most vulnerable. As Catholics we have a responsibility to do all that we can to insure the dignity and safety of our brothers and sisters and to help to bring about healing where there is pain.

Only in recent years has our society grown acutely aware of the tragedy of sexual misconduct. The trauma and damage such abuse causes its victims, their families and the community are compounded when the abuser is a cleric, or other representative of the Church. Given the role of trust and responsibility associated with ministry, when a person representing the Church is responsible for such conduct, sadly the problem affects the diocesan family and the whole People of God suffers.

Therefore, the Bishop of Providence continues to be committed, as a matter of highest priority, to make every effort to prevent the occurrence of any such activity and to deal promptly and effectively with any allegations that may arise. In all cases where a complaint is received or there is evidence of sexual misconduct, diocesan officials will move quickly and with compassion to offer an appropriate response to those who are reported to be victims and to their families. At the same time, every reasonable effort will be made to assure that the accused individual has the opportunity to defend him/herself, since any allegation of such misconduct, founded or unfounded, can and, more often than not, does have catastrophic consequences.

The allegation of any sexual misconduct involving minors or occurring in the context of ministry with children or adults will continue to be treated with utmost seriousness and investigated thoroughly. Concern for victims and prevention of any further harm will be the priorities of such an investigation. Additionally, the following policy statement will also address the matter of sexual harassment, which is likewise not to be tolerated in any circumstances.

Since the allegation of sexual misconduct is a matter of grave concern and responsibility both to the Church and to the civil authorities, all canonical and legal requirements regarding reporting of such charges will be carefully observed.

The following procedures are intended as a guide to assist those who serve with the Bishop in dealing with accusations of sexual misconduct. All the procedures may not apply to a given situation; likewise, they may require modification or supplementation to meet the needs of a particular case. However, in all cases the Bishop and those who assist him are committed to the resolution of these matters in a manner that is just, sensitive to all concerned and directed toward preventing any further harm.

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PROCEDURE OF RESPONSE TO ALLEGATIONS OF SEXUAL MISCONDUCT

Anyone who knows of an incident of sexual misconduct by a diocesan priest or deacon, by a member of a religious institute serving in the Diocese of Providence, by a volunteer or by an individual employed by a parish, school, agency or office of the Diocese should report the information immediately to diocesan authorities. Following are the procedures to be followed in responding to such complaints.

I. ALLEGATIONS AGAINST A DIOCESAN PRIEST OR DEACON

A. Reporting

Any person who has actual knowledge of or who has reasonable cause to suspect an incident of sexual misconduct by a priest or deacon of the diocese should report it immediately to the appropriate officials of the diocese. It is understood that this would preclude situations where to do so would violate the priest-penitent relationship, the internal forum or another legal obligation to protect secrecy.

In order to assure immediate attention, this report should be made to either the Vicar General, the Moderator of the Curia or the Chancellor, all of whom have been designated by the Bishop as his immediate representatives in accepting such reports and obtaining preliminary information regarding the nature and circumstances of the alleged misconduct. Of course, the report may also be submitted in writing directly to the Bishop.

To the extent possible, the person making the report should provide his/her own name, the name of the individual who is the subject of the allegation, the name(s) of the alleged victim(s), and an accurate description of the misconduct, the relevant dates, times and circumstances in which the misconduct is believed to have occurred.

B. Investigation

When an incident is reported, an investigation will be initiated immediately. The investigation will be done with the highest level of Christian care, concern and confidentiality for the reported victim, his/her family, the person reporting the incident and the accused.

Unless the Bishop should indicate otherwise, an investigation team comprised of the Coordinator of the Office of Education and Compliance and at least one other person approved by the Bishop for this purpose will conduct the investigation. Those involved in the investigation will abide by the prescriptions of canons 1717 & 1719 (cf. appendix) with regard to process and confidentiality. The diocesan attorney will be notified of the investigation and will be kept apprised throughout the process.

After adequate and appropriate inquiry, the investigation team shall make a determination about the validity of the allegation and shall make a written report with recommendations to the Bishop. The report will also be submitted to a Diocesan Review Board established by the Bishop for examination. The Review Board will consider the report to assure that the process has been just and thorough and will make its own recommendations to the Bishop based upon the information provided.

C. Status of the Priest or Deacon who is Accused

As the circumstances warrant, the Bishop may immediately remove the individual from active ministry, or he may limit or revoke ministerial faculties pending the outcome of the internal investigation and any outside investigation. **Such action does not imply guilt on the part of the accused priest or deacon.**

If the priest or deacon denies the allegations, but the allegations are serious and the evidence warrants, the priest or deacon is asked to participate in a professional, independent psychological evaluation at a time and place to be designated by the Bishop or his delegate. Such an evaluation is strongly urged and decisions concerning further active ministry can only be made after receiving the results of this evaluation and pending further investigation of the allegations.

D. Pastoral Response to the Reported Victim

When a claim of sexual misconduct is made, the Bishop will make a suitable person available to offer a pastoral response to the reported victim. The person designated will offer to meet with the individual and, in the case of a minor, his/her family to provide the opportunity for pastoral care and to facilitate communication with diocesan officials. If requested, the Bishop will meet personally with the reported victim.

Assistance may be provided for psychological evaluation and/or counseling.

E. Pastoral Response to the Accused

In keeping with the *Code of Canon Law*, the Minister to Priests or the Director of the Diaconate will attend to the needs and well being of the accused cleric during the investigation. He will provide for appropriate assistance to ensure that legal and canonical rights are safeguarded and that proper pastoral attention is paid to his spiritual, emotional and physical needs.

If disciplinary action is indicated, the proper canonical process shall be followed strictly, and fraternal charity is to be shown to the accused by all involved in the diocesan response.

F. Pastoral Response to the Church and Community

Depending upon the circumstances, the Bishop or his delegate will see to it that there is appropriate communication and pastoral response to the people of the parish or community where the cleric is assigned and/or where the reported misconduct occurred. It shall be diocesan policy to deal as openly as possible with the parish or community, consistent with respect for the privacy of the individuals involved and any ongoing legal processes.

2. ALLEGATIONS AGAINST MEMBERS OF RELIGIOUS INSTITUTES SERVING IN THE DIOCESE OF PROVIDENCE

A. Reporting

Any person who has actual knowledge of or who has reasonable cause to suspect an incident of sexual misconduct by a member of a religious institute serving or who has served in the diocese should report it immediately to the appropriate officials of the diocese. It is understood that this would preclude situations where to do so would violate the priest-penitent relationship, the internal forum or another legal obligation to protect secrecy.

In order to assure immediate attention, this report should be made to either the Vicar General, the Moderator of the Curia or the Chancellor, all of whom have been designated by the Bishop as his immediate representatives in accepting such reports and obtaining preliminary information regarding the nature and circumstances of the alleged misconduct. Of course, the report may also be submitted in writing directly to the Bishop.

To the extent possible, the person making the report should provide his/her own name, the name of the individual who is the subject of the allegation, the name(s) of the alleged victim(s), and an accurate description of the misconduct, the relevant dates, times and circumstances in which the misconduct is believed to have occurred.

B. Notification of the Religious Institute

As soon as an allegation against a member of a religious institute is received, either the Bishop or his representative will notify the appropriate Major Superior in writing and seek the cooperation of the religious institute in the investigation.

C. Investigation

When an incident is reported, an investigation will be initiated immediately. The investigation will be done with the highest level of Christian care, concern and confidentiality for the reported victim, his/her family, the person reporting the incident and the alleged perpetrator.

The Bishop or his representative in consultation with the Major Superior shall determine the manner of conducting the investigation as well as the individuals involved. Depending upon the circumstances, the religious institute may be the lead agent in the investigation or a representative of the religious institute may be directly involved in the diocesan process. In either case, the diocesan attorney will be notified of the investigation and will be kept apprised throughout the process.

A copy of the report resulting from the investigation shall be forwarded to the bishop as soon as it is completed. Any recommendations concerning further ministry or service in the diocese will be considered by the Bishop in consultation with the Major Superior.

D. Status of the Member of the Religious Institute

As the circumstances warrant, after consultation with the Major Superior, the Bishop may immediately remove the individual from active ministry or service in the diocese, or he may limit or revoke permission to serve in the diocese, pending the outcome of the internal investigation and any outside investigation. **Such action does not imply guilt on the part of the accused religious.**

If the member of the religious institute denies the allegations, but the allegations are serious and the evidence warrants, he/she is asked to participate in a professional, independent psychological evaluation at a time and place to be designated by the Major Superior and acceptable to the Bishop. Such an evaluation is strongly urged and decisions concerning his/her active service in the diocese can only be made after receiving the results of this evaluation and pending further investigation of the allegations.

E. Pastoral Response to the Reported Victim

The Bishop, in consultation and cooperation with the religious institute, will assure that appropriate pastoral response is offered to the reported victim. Assistance may be provided for psychological evaluation and/or counseling.

F. Pastoral Response to the Accused

Generally, the religious institute will attend to the spiritual, emotional and physical wellbeing of the accused member during the period of investigation.

G. Pastoral Response to the Church and Community

If the alleged misconduct occurs in a parish or diocesan agency, the Bishop or his delegate will see to it that there is appropriate communication and pastoral response to the people of the parish or community affected by the alleged misconduct.

3. ALLEGATIONS AGAINST OTHER PERSONNEL AND VOLUNTEERS

A. Reporting

It is diocesan policy that sexual misconduct or the failure to report an observation or a complaint of sexual misconduct is a violation of an employee's obligations of employment as well as a volunteer's obligations to the people whom they serve.

If an employee or volunteer observes or receives a complaint about a subject's sexual misconduct, he/she shall record the date and time of the observation or of the making of the complaint and the name, address and telephone number of the person making the complaint. A report of the complaint or observation shall be made immediately to the appropriate local authority (Agency Director, Pastor, Principal) or to the supervisor of the employee or volunteer. This individual shall then immediately inform the Area of Mission Vicar, in the case of diocesan offices or agencies, or the Moderator of the Curia who shall in turn notify the Coordinator of the Office of Education and Compliance.

This procedure shall not be construed to prevent the supervisor from immediately suspending the subject of the complaint or observation in cases where there is immediate independent corroboration of the complaint or observation or where the complaint or observation is made with sufficient particularity to indicate its reliability. However, in any case, the facts and circumstances of the complaint or observation must be communicated to the Coordinator of the Office of Education and Compliance as rapidly as possible.

B. Investigation

Upon receiving the complaint, the Coordinator of the Office of Education and Compliance, in coordination with the Area of Mission Vicar and the Agency Directory, pastor or principal will begin an immediate investigation. The results of the investigation will be communicated to the Vicar General or the Moderator of the Curia, who will keep the Bishop apprised of the situation.

C. Status of an Accused Employee or Volunteer

As noted above, if it is certain that the complaint is immediately corroborated or clearly reliable, the appropriate supervisor may immediately suspend the subject of the complaint.

Otherwise, in the case of an employee, upon determining that there are reasonable grounds to believe that there has been sexual misconduct, the Bishop, his Vicar or the appropriate pastor will direct that the subject be suspended with pay during a full investigation of the facts and circumstances of the alleged sexual misconduct. The employer may require the subject to submit to psychological examination by designated

health care professionals as a condition precedent to the termination of suspension or the continuation of employment. At the conclusion of the investigation, discipline may be applied in accord with Personnel Policies 5.0 *et seq.*

In the case of a volunteer, if there are reasonable grounds to believe that there has been sexual misconduct, the individual will be suspended from any volunteer activities in the diocese pending the outcome of the investigation.

D. Pastoral Response

According to the circumstances, the Director of the Agency, the principal of the school or the pastor of the parish is responsible for making certain that pastoral care and solace are offered to all concerned. No financial assistance for counseling or other therapeutic care may be offered without the approval of the Moderator of the Curia.

4. SEXUAL HARASSMENT POLICY

It is the policy of the Bishop of Providence to hold every person associated with the Diocese in an official capacity accountable for maintaining the integrity of all ministerial and professional relationships. Any time church employees or volunteers while exercising their duties engage in the sexual harassment of parishioners, clients, employees, coworkers, or volunteers, they involve themselves in irresponsible and unethical acts.

Incidents of sexual harassment may also constitute a violation of federal and state law. Sexual harassment in any form will not be tolerated and such conduct may result in disciplinary action up to and including discharge.

Sexual harassment may take various forms and may be verbal, physical or visual. It may include repeated offensive sexual flirtations, advances or propositions, continual or repeated verbal abuse of a sexual nature, graphic verbal commentaries about an individual's or individuals' bodies, degrading words or names, sexually suggestive displays, pictures or objects in the work place. A director's, manager's supervisor's or coworker's threat or insinuation, either explicitly or implicitly, than an employee's refusal to submit to sexual advances will adversely affect the employee's work environment or any conditions of employment, may also be sexual harassment.

If an individual believes that he/she has been sexually harassed, he/she should immediately notify his/her supervisor. If the employee's immediate supervisor is the source of the alleged harassment, then the employee should report the problem to the supervisor's superior, the Vicar General, the Moderator of the Curia or the Chancellor of the Diocese.

A director or supervisor who receives a sexual harassment complaint will carefully investigate the matter, questioning all employees who may have knowledge of either the incident in question or similar problems. A copy of this investigation shall be forwarded

upon completion and as soon as possible to the Director, Office of Education and Compliance.

An employee or volunteer who brings a complaint in good faith will be listened to and treated with genuine respect. The complaint will be promptly and, to the extent possible, confidentially investigated and any remedial action that is necessary and appropriate will be taken.

Employees who are dissatisfied with the resolution of a sexual harassment complaint may seek resolution under Policy Section 5.0 *et seq.* Of the disciplinary policy, or Section 6.0 *et seq.* of the Grievance Procedures.

5. COOPERATION WITH CIVIL AUTHORITIES

In carrying out the above policies and procedures regarding sexual misconduct and sexual harassment, it is the intention of the Bishop of Providence and those assisting him in these matters, to cooperate with law enforcement or governmental authorities and to complete necessary reporting, as required by law, provided that the cooperation does not require violation of legal rights of other persons, including rights of privacy and confidentiality based upon the seal of the Sacrament of Reconciliation and pursuant to the notion of Internal Forum.

6. MEDIA CONTACT AND INQUIRIES

Any media contacts or inquiries regarding an incident of sexual misconduct by personnel of the Diocese of Providence must be directed to the Office of Communications. Within the confines of respect for the privacy of the individuals involved, diocesan officials will deal as openly as possible with the members of the Church and the local community.

APPENDIX

DEFINITIONS:

SEXUAL MISCONDUCT – in this document means a subject's touching of a private part of another person when:

- The touching occurs on the premises occupied by a parish, school, agency or office of the Diocese of Providence or is occasioned by the employment of a subject by an entity of the Diocese of Providence, and
- The person touched is under eighteen years of age or is over eighteen years of age and does not consent to the touching.

SUBJECT – In this section means the priest, deacon, religious, employee or volunteer whose touch or touching is the basis for an observation or complaint.

TOUCHING or TOUCH – in this section means either:

- A single incident in which an individual brings a part of his/her body or another object into physical contact with a private part of another person, or
- Repeated unintentional incidents in which an individual brings a part of his/her body or another object into physical contact with private parts of another person.

PRIVATE PARTS – in this section means the anal area or genital areas, the groin, inner thigh or the buttock of any person or the breast of a female.

CANON, CANON LAW, or CANONICAL – as used in this document, refer to the current legislation of the Roman Catholic Church primarily contained in the *Code of Canon Law* promulgated in 1983.

SACRAMENTAL SEAL or SEAL OF CONFESSION – refer to the absolutely inviolable obligation to maintain the secrecy of any information conveyed within the sacrament of reconciliation (penance) (cf. canons 983-984).

INTERNAL FORUM – refers to the forum of conscience wherein any action or communication is secret, e.g. spiritual direction.

VICAR GENERAL, MODERATOR OF THE CURIA and CHANCELLOR are diocesan administrative positions established by the *Code of Canon Law*. At the time of publication of this policy statement, the following individuals hold the positions:

Vicar General

- Most Reverend Robert J. McManus (401-278-4587)
- Rev. Msgr. William J. Varsanyi (401-278-4520)

Moderator of the Curia

- Rev. Msgr. Paul D. Theroux (401-278-4535)

Chancellor

- Rev. Msgr. Robert C. Evans (401-278-4517)
- Rev. Msgr. Jacques L. Plante (401-278-4515)

PERTINENT CANONS

The following canons from the *Code of Canon Law* are referred to in this document:

- 983** §1. The sacramental seal [of confession] is inviolable; therefore, it is a crime for a confessor in any way to betray a penitent by word or in any other manner for any reason.
- §2. An interpreter, if there is one present, is also obliged to preserve the secret, and also all others to whom knowledge of sins from confession shall come in any way.
- 984** §1. Even if every danger of revelation is excluded, a confessor is absolutely forbidden to use knowledge acquired from confession when it might harm the penitent.
- §2. One who is placed in authority can in no way use for external governance knowledge about sins which he has received in confession at any time.
- 1717** §1. Whenever the ordinary receives information which at least seems to be true of an offense, he shall cautiously inquire personally or through another suitable person about the facts and circumstances and about imputability unless this investigation appears to be entirely superfluous.
- §2. Care must be taken lest anyone's good name be endangered by this investigation.
- §3. The one who conducts the investigation has the same powers and obligations as an auditor in the process; this person cannot act as a judge in the matter, if a judicial process is set in motion later.
- 1719** The acts of the investigation, the decree of the ordinary by which the investigation was opened and closed, and all that preceded it are to be kept in the secret archive of the curia if they are not necessary for the penal process.