

DIOCESE OF GRAND ISLAND

SEXUAL MISCONDUCT PROTOCOL

WITH REGARD TO MINORS

2003

Sexual misconduct by personnel of the Diocese is contrary to Christian principles and is outside the scope of the duties and employment of all personnel of the Diocese. All personnel of the Diocese must comply with applicable state and local laws regarding incidents of actual or suspected sexual misconduct, and with the following policies.

This document does not address sexual misconduct in general, but only in the special circumstances described herein. It is intended to establish procedures in an effort to prevent sexual misconduct by personnel of the Diocese and the resulting harm to others, and to provide guidance to the personnel of the Diocese on how to respond to allegations of sexual misconduct if any do occur.

1. DEFINITIONS

For purposes of this policy only:

- 1.1 “Sexual Misconduct” means any sexual conduct of diocesan personnel which is:
 - 1.1.1 unlawful as described by the laws of the State of Nebraska and in Section 3 of these policies, or
 - 1.1.2 contrary to the moral instructions, doctrines and canon law of the Catholic Church and causes injury to another.
- 1.2 “Vulnerable persons” means all children and all vulnerable adults. Any person 18 years of age or older is considered “vulnerable” when that person, because of impairment of mental or physical function or emotional status, is unable or unlikely to report abuse or neglect.
- 1.3 “Diocese” or “diocesan” includes the Diocese of Grand Island as a corporate entity, all the parish corporations, all diocesan schools.
- 1.4 “Committee” stands for the Diocesan Review Board.
- 1.5 The Diocesan Review Board includes the Vicar General, the Moderator of the Curia, the Chancellor, the Promoter of Justice, and eight other persons of whom a minimum of four are practicing Catholics.

2. PERSONNEL

Personnel includes but is not limited to the following categories:

- 2.1 all incardinated clerics (including all incardinated transitional deacons of the Diocese).
- 2.2 all religious priests, deacons, brothers and seminarians working for the Diocese, its institutions or offices.

- 2.3 all those non-ordained persons to whom a participation in the exercise of the pastoral care of a parish is entrusted according to Canon 517, Section 2 of the 1983 Code of Canon Law.
- 2.4 all clerics of other jurisdictions who are working for the Diocese.
- 2.5 all women religious working for the Diocese, its parishes, schools, institutions or offices.
- 2.6 all personnel of Catholic schools of the Diocese (administration, faculty and support staff).
- 2.7 all religious education directors or coordinators and teachers in the parishes and schools of the Diocese.
- 2.8 all youth ministers in the parishes, schools and institutions of the Diocese.
- 2.9 all personnel of diocesan campus ministries.
- 2.10 all paid personnel in the offices of the Diocese, in the parishes of the Diocese, in the schools of the Diocese.
- 2.11 all volunteers in the offices and institutions mentioned in 2.10 who work on any scale with vulnerable persons (Sec. 1.2).
- 2.12 such other personnel as designated by the Bishop of the Diocese.

3. APPLICABLE LAW

- 3.1 This policy is intended to address violations of law. A violation of the criminal law can subject the perpetrator to a prison sentence and/or a monetary fine. It can also be the basis for a civil suit for monetary damages.
- 3.2 The law changes from time to time by enactment of amendments to statutes and judicial interpretations. Because of this it is incumbent upon all personnel to familiarize themselves with such changes that may occur.
- 3.3 The Nebraska Criminal Code defines the various types of conduct that violate this law. Three of the primary areas of concern are:
 - 3.3.1 Sexual abuse (as it applies to adult/child or vulnerable person interactions) is the subjection of a child or vulnerable adult, by any person to any sexual act which is a violation of the Nebraska Criminal Code.
 - 3.3.2 Sexual exploitation (as it applies to any formal helper/helpee relationship) is any kind of sexual interaction between counselor and client whether initiated by either counselor or client.
 - 3.3.3 Sexual harassment – is any unwelcome sexual advance, requests for sexual favors, sexually motivated physical contact or other verbal or physical conduct or communication of a sexual nature when:
 - (1) submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining employment or education;
 - (2) submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's employment or education; or
 - (3) that conduct or communication has the purpose or effect of substantially interfering with an individual's employment or education, or creating an intimidating, hostile, or offensive employment or

educational environment; or in the case of employment, the employer knows of the existence of the harassment and fails to take timely and appropriate action.”

4. EDUCATION

Since education alone cannot shape mature attitudes and behavior or change inappropriate sexual behavior. Each adult must be responsible for his or her own sexual growth and maturity. To support this responsibility the Diocese shall, from time to time, arrange programs which include knowledge or training applicable to these areas.

All personnel of the Diocese are required to attend such educational programs.

5. POLICY DISTRIBUTION

- 5.1 This policy is to be distributed to all personnel listed in Section 2 above, and to the following:
 - 5.1.1 all those who seek ordination as clerics of the Diocese before being admitted to candidacy;
 - 5.1.2 all clerics of other jurisdictions who seek incardination in the Diocese, or who seek assignment for work in the Diocese;
 - 5.1.3 all non-clerical personnel who present themselves for employment or volunteer service with offices and institutions mentioned in 2.10. All such personnel shall sign an acknowledgement of receipt, understanding and acceptance of the policy. A copy of the required receipt accompanies this policy.
- 5.2 Personnel listed in 2.1 – 2.5 and those additional persons noted in 5.1.1. and 5.1.2. are to forward this receipt directly to the Diocesan Bishop or his designate.
- 5.3 All other personnel are to give this receipt to their immediate supervisor, or to the head of their office/institution, or to the person hiring them who will forward the receipt to the Diocesan Bishop or his designate.

6. BACKGROUND AND REFERENCE CHECKS

- 6.1 A background questionnaire, a copy of which accompanies this policy, is to be completed by all personnel listed in Section 2. This includes anyone who will seek future employment for positions listed in Section 2.
 - 6.1.1 Completed questionnaires by personnel listed in Sections 2.1 through 2.5 and Sections 5.1.1 and 5.1.2 are to be forwarded directly to the Diocesan Bishop or his designate.
 - 6.1.2 Completed questionnaires by all other personnel listed in Section 2 and Section 5.1.3 shall be received by the appropriate supervisor/head of the office or institution of the Diocese and then forwarded to the Diocesan Bishop or his designate.
 - 6.1.3 If any person under Section 2 or any applicant answers any question affirmatively in reference to Section 3.3, the appropriate supervisor shall ascertain the person’s suitability for employment and make a recommendation accordingly to Diocesan Bishop or his designate.

- 6.2 Religious or ecclesiastical superiors will submit to the Diocesan Bishop a statement for all religious and/or clerics of other jurisdictions who work for the Diocese indicating whether or not allegations of sexual misconduct have ever been made against them. If any allegations have been made, the Investigator will determine whether or not a particular allegation is credible and provide Diocesan Bishop with a report and recommendation.
- 6.3 All religious who are already employed with the Diocese or its institutions or who seek employment with the Diocese or its institutions, and all clerics of other jurisdictions who seek incardination in the Diocese or who are already employed with the Diocese, must furnish documentation to the Diocesan Bishop from the diocesan bishop or religious superior indicating whether or not any allegations of sexual misconduct have ever been made.
- 6.4 All those who seek ordination as clerics of the Diocese will undergo psychological testing as required by the Diocese. The institutions preparing candidates for ordained ministry in the Diocese of Grand Island will submit reports to the Diocesan Bishop outlining the candidates' suitability for ministry.
- 6.5 Any further background investigations of diocesan personnel must be approved by the Diocesan Bishop or his designate as warranted.

7. SEXUAL ABUSE AND EXPLOITATION

- 7.1 **Obligation to Report.** Any personnel of the Diocese who knows or has reason to believe of an incident of sexual abuse or exploitation of a vulnerable person (see Section 1.2) by any personnel of the Diocese shall comply with any applicable reporting or other requirements or state and local laws (unless to do so would violate priest/penitent relationship of the Sacrament of Reconciliation or other communication deemed privileged under Nebraska law), and shall report as follows:

After adhering to the pertinent state and local laws:

- 7.1.1 A verbal report of the incident shall be made immediately to the appropriate staff person as determined by each diocesan or parish entity and shall be followed as soon as reasonably possible by a written report with a copy to the Diocesan Bishop or his designate. Unless otherwise determined, the appropriate staff person for Catholic schools is the principal; for parishes, the pastor; and for diocesan entities, the Moderator of the Curia.

In the case when an accusation is made against "the appropriate staff person", if not a priest, the verbal and written reports shall be made, on the parish level, to the pastor, and on the diocesan level, to the Diocesan Bishop or his designate.

In the case when an accusation is made against a cleric (priest or deacon), the report shall be made to the diocesan bishop who will enact the "Essential Norms for Diocesan/Eparchial Policies Dealing with Allegations of Sexual Abuse of Minors by Priests or Deacons".

- 7.1.2 The Diocesan Bishop shall notify the Diocesan Review Board.

7.2 Investigation of Report Incidents.

- 7.2.1 When accusations of sexual abuse or exploitation are made against personnel of the Diocese, contact by an officially designated diocesan representative and/or advocate with the alleged victim and family should be promptly initiated.

If the alleged victim is a vulnerable person (See Section 1.2), the representative and/or advocate will offer to meet with the parents legal representative on behalf of the diocese. If the alleged victim is an adult, the representative and/or advocate would initiate contact with the person in question and with his/her parents and/or legal representative.

- 7.2.2 The diocese will appoint a Victim Assistant Coordinator to assist the alleged victim and/or victim's family for the purpose of offering whatever concern or solace may be needed, with no comment as to the truth of any accusation.

Medical, psychological and spiritual assistance may be offered in the spirit of Christian justice and charity.

- 7.2.3 Each reported incident will be investigated as soon as reasonably possible with care taken not to interfere with any criminal investigation, and with a high level of Christian care, concern and confidentiality. The investigation shall be conducted by the Investigator (Diocesan Review Board)

(See Section 1.5).

- 7.2.4 It is recommended that the alleged perpetrator be represented by counsel of his/her own choosing.

- 7.2.5 For accusations against all personnel, the alleged perpetrator should be interviewed in the presence of his/her counsel. The alleged perpetrator shall be advised of the provisions of 7.2.3 and 7.2.4 and shall be informed that anything said may be used against the alleged perpetrator in a criminal proceeding or in a civil lawsuit. The alleged perpetrator should be presented with a specific listing of allegations. The alleged perpetrator should be given an opportunity to ask any clarifying questions and should then be asked to respond to the allegations. The Investigator (Diocesan Review Board) shall also review the alleged perpetrator's personnel file.

- 7.2.6 The investigation will be conducted according to the policies and procedures of the Committee.

- 7.2.7 When the alleged claim of current sexual abuse or exploitation is credible or it appears that it can be substantiated, the alleged perpetrator, in accordance with canonical and other considerations, shall be relieved of all responsibilities in the Diocese, parish, office or

institution, and be placed on administrative leave pending the outcome of the internal and any outside investigation. Such leave will be with or without pay or benefits as the Diocesan Bishop or his designate may decide.

7.2.8 Any media contact or inquiries regarding an incident of sexual abuse or exploitation should be directed to the Diocesan Chancellor.

7.3 Action Where Guilt Determined – Non Cleric:

Any non-cleric personnel of the Diocese who admits to, does not contest, or is found guilty of an incident of sexual abuse or exploitation following an investigation under this policy, shall be immediately terminated from employment and any position of responsibility with the Diocese in accordance with diocesan policy.

8. SEXUAL HARASSMENT

8.1 Obligation to Report. Any personnel of the Diocese who knows or has reason to know of an incident of sexual harassment by any personnel of the Diocese shall comply with any applicable reporting or other requirements of state and local laws (unless to do so would violate priest/penitent relationship of the Sacrament of Reconciliation or other communication deemed privileged under Nebraska law), and shall report as follows:

8.1.1 A verbal report of the incident shall be made immediately to the appropriate staff person as determined by each diocesan or parish entity and shall be followed as soon as reasonably possible by a written report with a copy to the Diocesan Bishop or his designate. Unless otherwise determined, the appropriate staff person for Catholic schools is the principal; for parishes, the pastor; and for diocesan entities, the Moderator of the Curia. In the case when an accusation is made against "the appropriate staff person", if not a priest, the verbal and written reports shall be made, on the parish level, to the pastor, and on the diocesan level, to the Diocesan Bishop or his designate. In the case when an accusation is made against a cleric or an ecclesiastical office holder, the report shall be made to the Diocesan Bishop or his designate.