

EXTRACT
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.

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, co-workers, 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 in employment is defined under state law to include any unwelcome sexual conduct or advances or requests for sexual favors or any other verbal or physical conduct of a sexual nature when:

Submission to any unwelcome sexual conduct or advances or requests is made either explicitly or implicitly a term or condition or any individual's employment, or

Submission to or rejection of any unwelcome sexual conduct or advances or requests by an individual is used as the basis for employment decisions affecting such individual, or

Any unwelcome sexual conduct or advances or requests has the purpose or effect of unreasonably interfering with the individual's work performance or creating an intimidating, hostile, or offensive working environment.

The definition of sexual harassment by the federal Equal Employment Opportunity Commission is very similar.

Under these definitions, direct or implied requests by a Director, Manager or Supervisor for sexual favors in exchange for actual or promised job benefits or based on a threat to adversely affect the employee's job may also constitute sexual harassment.

The legal definition of sexual harassment is broad and other sexually oriented conduct, whether it is intended or not, that is unwelcome and has the effect of creating an environment that is hostile, offensive, intimidating or humiliating may also constitute sexual harassment.

While it is not possible to list all those circumstances that may constitute sexual harassment, the following are some examples of conduct, which, if unwelcome, may constitute sexual harassment depending upon the totality of the circumstances including the severity of the conduct and its pervasiveness:

- Unwelcome sexual advances – whether they involve physical touching or not;
- Sexual epithets, jokes, written or oral references to sexual conduct, gossip regarding one's sex life, comment on an individual's body, comment about an individual's sexual activity, deficiencies, or prowess;
- Displaying sexually suggestive objects, pictures, cartoons;
- Unwelcome leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments;
- Inquiries into one's sexual experiences; and,
- Discussion of one's sexual activities.

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.

Your Supervisor is _____ Phone # (401) _____
His/her business address is: _____

Your Supervisor's Superior is _____ Phone # (401) _____
His/her business address is: _____

A Director, Supervisor or designated person who receives a sexual harassment complaint will carefully and promptly investigate the matter in a fair and expeditious manner. The investigation should include private interviews with the person filing the complaint and with witnesses or others who may have knowledge of either the incident in question or similar problems. The investigation will be conducted in such a way as to maintain confidentiality to the extent practical under the circumstances. If it is determined that inappropriate conduct has occurred, the offending conduct will be promptly eliminated, and, where appropriate, other remedial action will be taken. 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 who brings a complaint in good faith will be listened to and treated with genuine respect. Retaliation against an individual who has complained about sexual harassment or retaliation against individuals cooperating with an investigation of a sexual harassment complaint will not be tolerated.

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

In addition to the above, if an employee believes he or she have been subjected to sexual harassment, he or she may file a formal complaint with either or both of the government agencies set forth below. Using our complaint process does not prohibit an employee from filing a complaint with these agencies.

United States Equal Employment Opportunity Commission
1 Congress Street, 10th Floor
Boston, MA 02114
(617) 565-3200

Rhode Island Commission for Human Rights
180 Westminster Street, 3rd Floor
Providence, RI 02903

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 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	Rev. Msgr. Albert A. Kenney (401-278-4500)
Chancellor	Rev. Timothy D. Reilly (401-278-4500)

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.

(This is an excerpt from the policy, numbers 1 and 2 available upon request.)

After reading the Policy and Procedures, please **sign** and return one copy to:

(PLEASE FILL IN NAME AND ADDRESS OF PARISH OR AGENCY ON SPACES BELOW)

"Acknowledgment of Receipt"

I, _____ hereby acknowledge that I have received on _____ a copy of the
Print Name **Date**

policy on SEXUAL MISCONDUCT AND HARASSMENT, I understand its meaning, and agree to conduct myself in accordance with the policy.

Signature

Address

City/Zip

Phone Number