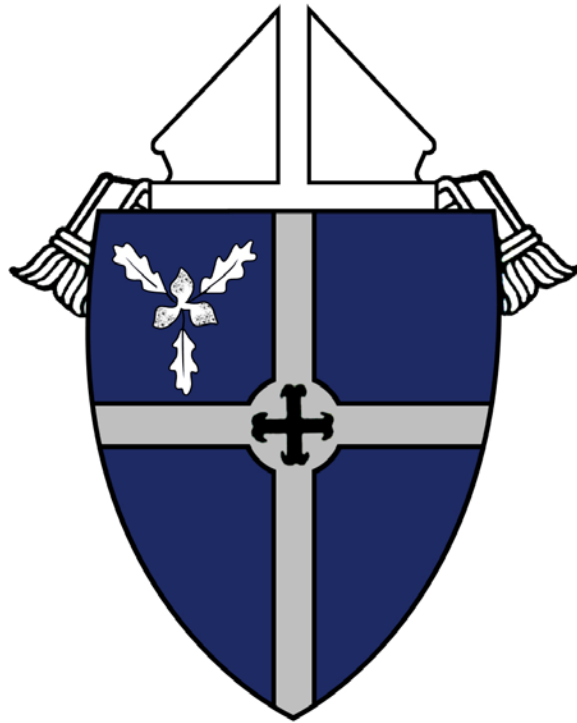


# Diocese of Bismarck

## *ESTABLISHING BONDS OF TRUST*



## **Sexual Misconduct Policy**

## **Code of Conduct**

Revised November 2018

# Diocese of Bismarck

# Sexual Misconduct Policy

Revised November 2018

Current USCCB documents available at [usccb.org](http://usccb.org):

- *Charter for the Protection of Children and Young People*
- *Essential Norms for Diocesan/Eparchial Policies Dealing With Allegations of Sexual Abuse of Minors by Priests or Deacons*
- *A Statement of Episcopal Commitment*

## *Introduction*



From the beginning humankind was created in the image and likeness of God and God saw all creation as very good.<sup>1</sup> Our sexual identity as male or female persons is an intimate part of the original and divine plan of creation. The mystery of what it means to be human, incarnate, embodied and therefore sexual is bound up in the mystery and purpose of God, who is the author of all life and love itself.<sup>2</sup>

Human sexuality is a gift and so we approach the topic with a deep and abiding sense of appreciation, wonder and respect. When human sexuality is integrated with the other gifts possessed by an individual, each man or woman's personality is enriched and enhanced. Sexual integration fosters human communication and encourages human relationships and love. When this is happening there is sexual health in persons and society. The sexual health, morality and well-being of God's people also advances the work of building God's kingdom here and now.

Consistent with the teaching and example of Jesus, the church is concerned with the well-being of all people. She has a special concern for those who are most vulnerable and cannot care for themselves. The diocesan bishop is to show his concern for all the Christian faithful who are committed to his care.<sup>3</sup>

Therefore, in fulfillment of this pastoral responsibility, I am committed to dealing with any issue of sexual misconduct within this diocese in a straightforward manner and I promulgate this policy for the Diocese of Bismarck to address issues of sexual abuse and misconduct.

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<sup>1</sup> Genesis 1:26-27

<sup>2</sup> *Human Sexuality: A Catholic Perspective for Education and Lifelong Learning*, USCC, 1990, p.7

<sup>3</sup> Canon 383 §1

# Policy



Sexual misconduct by church personnel and clergy of the Diocese of Bismarck is contrary to moral instructions, doctrines and Canon Law of the Catholic Church and is obviously outside the scope of duties and responsibilities of church ministry and employment for all personnel. The Church expects those whom it employs and those who volunteer service, to live chaste and moral lives with regard to the gift of sexuality. Inappropriate sexual activity abuses the power and authority of the pastoral role of all who work for and serve the church. All personnel of the diocese must comply with applicable church, state and local laws regarding incidents of actual, alleged or even suspected sexual misconduct and with procedures outlined in this policy.

In the administration of this policy, the Diocese of Bismarck intends to comply with the *Charter for the Protection of Children & Young People* and the *Essential Norms for Diocesan/Eparchial Policies Dealing with Allegations of Sexual Abuse of Minors by Priests and Deacons*<sup>4</sup>. The norms in these documents are complementary to the *Code of Canon Law* in the Catholic Church, which has traditionally considered the sexual abuse of minors or vulnerable adults a grave delict (offense against the law) with requisite due process and penalties for the offender. These norms define clearly that no one that we know of who has ever abused a minor or who has an established history of abuse of vulnerable adults may actively work in Church ministry here or elsewhere. When even a single act of sexual abuse by a priest or deacon against a minor is admitted or is established through an appropriate process in accord with canon law, the offender will be removed permanently from Church ministry. This action may include dismissal from the clerical state.

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<sup>4</sup> USCCB documents printed in *Promise to Protect Pledge to Heal*, 2003.

# Definitions



For the purpose of this policy, **Sexual Misconduct** means any of three related forms of misconduct:

**Sexual abuse:** is the subjection of a child or vulnerable adult, by any church minister or employee, to any sexual act which is in violation of the *North Dakota Century Code*. Sexual abuse has been defined by civil authorities in various ways, so we cite the legal definition in North Dakota. Such definitions are found in the Appendix of this statement.

Church norms do not adopt any particular definition provided in civil law. Rather, the transgressions in question relate to obligations arising from divine commands, regarding human sexual interaction as conveyed to us by the sixth commandment of the Decalogue. Thus, the norm to be considered in assessing an allegation of sexual abuse is whether conduct or interaction with a minor or vulnerable adult qualifies as an external, objectively grave violation of the sixth commandment.<sup>5</sup>

**Sexual Exploitation:** is any kind of sexual interaction between counselor and client whether initiated by one or the other.

**Sexual Harassment:** is unwanted sexual advances, conduct or language between co-workers in the church work environment: diocesan, parish or church sponsored institution.<sup>6</sup>

The diocesan policy regarding sexual misconduct is intended to address violations of civil and criminal law. A violation of the criminal law can subject a perpetrator to a prison sentence and/or a monetary fine. It can also be the basis for a civil suit for monetary damages.

Civil law is modified from time to time by enactment of amendments to statutes and judicial interpretations. Because of this, it is incumbent upon all personnel to maintain familiarity with changes as they occur. It is not possible to set out all of the laws in this document, but assistance will be given to all personnel having questions or seeking knowledge concerning civil law.

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<sup>5</sup> *Essential Norms for Diocesan/Eparchial Policies Dealing with Allegations of Sexual Abuse of Minors by Priests and Deacons* printed in *Promise to Protect Pledge to Heal*, 2003.

<sup>6</sup> See Appendix for complete definition of Sexual Harassment, V. p. 12

# Church Personnel



Church personnel include the following:

1. priests incardinated in the Diocese of Bismarck.
2. priests who are incardinated in their institute of consecrated life.
3. all deacons incardinated in this diocese.
4. priests and deacons of other jurisdictions who seek assignment for ministry in this diocese or who seek incardination in this diocese.
5. all women religious and brothers employed by the Diocese of Bismarck.
6. all non-ordained persons to whom a participation in the exercise of the pastoral care of a parish is entrusted according to the *Code of Canon Law*.
7. all seminarians who seek ordination as clerics of the Diocese of Bismarck.
8. all personnel of diocesan campus ministry and youth ministry programs.
9. all paid personnel, employees and those who contract for services in the offices of the diocese and local parishes.
10. all who volunteer for work in diocesan offices, in campus and youth ministry programs and who work with children.

The Diocese of Bismarck defines standards of ministerial behavior and appropriate boundaries for clergy and Church personnel in an inclusive way in its document, *Code of Pastoral Conduct*<sup>7</sup>. A companion document, *Guidelines for a Safe Environment for Minors*, is specific to conduct expected and required for a safe environment for children and young people. All clergy, staff, whether diocese or parish, and volunteers as defined above are required to be knowledgeable of these codes of conduct. Appropriate Church leadership hold personnel accountable for their behavior.

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<sup>7</sup> Promulgated by Most Reverend Paul A. Zipfel on March 25, 2003, for all clergy, staff, whether diocese or parish, and volunteers. Updated 2014.

# *Review Board*



A Review Board is established by the bishop to assist in handling matters pertaining to sexual misconduct. The Board consists of at least seven persons of outstanding integrity and good judgment, the majority of whom are in full communion with the Church. The vicar general and the chancellor serve *ex officio*. The lay members are not in the employ of the diocese and they represent professional expertise in psychology, psychiatry, social work, nursing and law enforcement. The Promoter of Justice attends meetings of the Review Board. The civil law and canon law counsels for the diocese may also attend meetings.

The members are appointed for a term of five years, which can be renewed. The Review Board chooses its chairperson and vice-chairperson and establishes frequency of meetings.

The Review Board functions as a confidential consultative body to the bishop in discharging his responsibilities. The functions of this board include:

- reviewing diocesan policies for dealing with sexual abuse of minors and vulnerable adults and other sexual misconduct matters;
- advising the diocesan bishop in his assessment of allegations of sexual abuse of minors and vulnerable adults and his determination of suitability for ministry;
- offering advice on all aspects of these cases, whether retrospectively or prospectively; and
- assisting with review and evaluation of procedures.

Members of the Review Board observe confidentiality pertaining to all information given to them, as well as their deliberations and recommendations and all other matters brought before them. They serve an extremely significant function in this diocesan program.

# ***Care of One Who Alleges Sexual Misconduct***



With the ultimate goal of giving pastoral care that results in healing for all directly involved, one who alleges sexual misconduct, or that person's parent or legal guardian, can be assured that the Diocese of Bismarck will respond immediately and effectively to deal with the accused church minister.

The Diocese of Bismarck deplores the harm and injury to an individual and/or a family through sexual misconduct by anyone named previously in this policy statement. Justice calls the diocese to respond with compassion and fairness to the person(s) involved and to uphold the integrity of the church's witness and ministry. Such conduct towards another violates the integrity that is that person's right and a betrayal of trust and the pastoral minister's call to serve others.

At all times it is the diocese's expectation that an allegation be brought by the one directly involved or that person's parent or legal guardian. The initiation of a complaint requires the diocese to make a diligent inquiry and to suspend judgement about the complaint until all relevant information has been gathered and studied. Any complaint brought must be based on fact and be an honest representation of the truth.

Sexual misconduct is a tragedy in itself. When anyone is falsely accused of such a transgression, the tragedy is greatly heightened and irremediable damage is done to the accused and to society. No one should bring a false accusation against another person.

For the one whose allegation of sexual abuse is substantiated, the Diocese of Bismarck is committed to pursuing healing and reconciliation in accord with their particular situation. Special care and concern will be directed to a minor and vulnerable adult who experienced abuse by anyone acting in the name of the Church, whether the abuse occurred recently or many years ago. In the case of a more recent situation, parents and/or a guardian will also participate.

The pursuit of healing and reconciliation will include the offer of psychological evaluation and counseling, pastoral counseling and/or spiritual assistance. Cooperation and the consent of the one abused and if a minor, that person's parent(s) or guardian, will foster such assistance.

When appropriate, the bishop and his representative(s) will offer to meet with victims and faith communities in which sexual abuse occurred. If parties involved do not want this to occur, the bishop may meet privately with the parties.

The chancellor is the designated person to coordinate assistance for pastoral care of persons who have been victims of sexual abuse.

# ***How to Bring a Complaint***



An individual who has a complaint regarding sexual misconduct by a person subject to this policy is urged to report the allegations immediately. Written forms are available from the Chancery in Bismarck, any parish within the Diocese of Bismarck or [www.bismarckdiocese.com](http://www.bismarckdiocese.com). Complaints may be made to the chancellor or vicar general at the Chancery in Bismarck, North Dakota, at 701-223-1347 or to any of the civil authorities listed below.

1. If the victim is a minor at the time the complaint is received, the Diocese shall report the matter to the Child Protective Services Division of the Social Services Department in the county where the minor is located.
2. If the victim was a minor at the time of the alleged sexual misconduct but has reached the age of majority by the time the complaint is received, the Diocese shall report the matter to the North Dakota Child Protection Program, North Dakota Department of Human Services, Judicial Wing, 3rd Floor, 600 East Boulevard Avenue, Bismarck, ND 58505-0250, Phone: (701) 328-2310; Toll Free: (800) 472-2622.
3. If the victim is a vulnerable adult, the Diocese shall report the matter to the local Regional Human Service Center of the North Dakota Department of Human Services or an appropriate law enforcement agency.
4. If the victim is not a minor and is not a vulnerable adult, the Diocese may report the matter to an appropriate law enforcement agency.

In each instance, the Diocese shall conduct its own investigation or, if deemed appropriate, rely on the results provided by the investigating agency.

The chancellor or vicar general will notify the person against whom the allegation has been made and advise the accused of his/her rights under civil law and / or canon law.



# ***Initial Response: Investigation***



Provided that no pending investigation of any civil agency has barred diocesan action, the diocese will conduct its own investigation in the manner provided by canon law and diocesan policy. The Diocese's investigator will seek as much specific detail as possible in the initial meeting with the accuser(s). Details may include the specific behavior being alleged, names, dates, times, circumstances, and identification of other individuals who can offer relevant information.

If the person being accused of sexual misconduct is a member of an institute of consecrated life, that person's major superior will be notified and expected to provide relevant information to the investigation. The superior will be expected to participate in the diocesan procedures as appropriate and to collaborate effectively in a timely manner to bring the complaint to an acceptable conclusion.

If there is a semblance of truth to an allegation involving a minor, the person against whom the allegation has been made will be placed on administrative leave until the completion of the investigation.

If there is a semblance of truth to an allegation involving a vulnerable adult, the person against whom the allegation has been made will be placed on administrative leave until the completion of the investigation, if any prior allegation involving a vulnerable adult has been substantiated.

As soon as the investigation yields sufficient information, the Review Board shall be convened to review the allegation and the investigator's report.

All appropriate steps shall be taken to protect the reputation of the accused during the investigation. The accused will be encouraged to retain the assistance of civil and canonical counsel.

# Assessment



The Review Board will advise the bishop in his assessment of allegations of sexual abuse and in his determination of ministry for the alleged abuser. This mainly takes the form of reviewing the allegation and the report of the investigator and subsequently providing recommendations to the bishop.

The Review Board may make recommendations for actions to be taken by the bishop even if sufficient evidence is not found but concerns are raised about the prudence of the accused person's conduct. If sufficient evidence is not found and the conduct of the accused has not been imprudent, the matter is dropped and both complainant and the accused person are notified. In the event the accusation has been made public, appropriate steps will be taken to repair damage done to the reputation of the accused.

When the person being accused admits or does not contest an allegation involving a vulnerable adult, or if the investigation provides sufficient evidence, the Board can recommend the following: asking the person to withdraw from his/her diocesan appointment; being placed on administrative leave of absence; assigning the person to treatment and aftercare programs; and refraining from any further contact with the complainant.

When the person being accused admits or does not contest an allegation involving a minor, or if the investigation provides sufficient evidence, and if the accused is NOT a cleric, the Board can recommend similar actions as above.

When the person being accused admits or does not contest an allegation involving a minor, or if the investigation provides sufficient evidence, and if the accused is a cleric, by Church law the Board must recommend that the Bishop prepare and forward the case to the Congregation for the Doctrine of the Faith in Rome, which has sole competency to further adjudicate the case. In addition, the Board will recommend that the accused cleric remain on administrative leave until the case is resolved by the Holy See.

Board recommendations will be made based on additional considerations such as the nature and extent of the misconduct, whether a minor or vulnerable adult is involved, whether the misconduct is past or present, whether single or multiple acts are involved, whether present danger exists for other possible injuries.

# ***Fundamental Rights***



Care will always be taken to protect the rights of all parties involved, particularly those of the person claiming to have been sexually abused and of the person against whom the charge has been made. The United States legal system and the *Code of Canon Law* of the Catholic Church affirm as a fundamental right that an individual is presumed innocent until proven guilty, that no one can be forced to incriminate oneself, and that each person has a right to due process. Finally, but within lawful limits, everyone has a right to a good reputation and name. These fundamental rights are a protection for all of us. Given the seriousness of sexual misconduct and the extensive inquiry following an allegation of misconduct, along with the potential for great harm as a consequence, it is expected that any allegation be based on fact and that it be an honest representation of the truth. When an accusation has proved to be unfounded, every step possible will be taken to restore the good name of the person falsely accused.

# *The Church's Care of Clerics*



The long-standing tradition of the Catholic Church is enunciated quite clearly in the *Code of Canon Law*.<sup>8</sup> Because of the nature of the cleric's role in the Church and within a parish community, there is a sacred trust established between the cleric and parishioners. This trust is essential for his effectiveness as priest, pastor or deacon.

Yet, experience tells us that sexual misconduct by clerics has occurred in our church. We have come to understand that some forms of it comprise a variety of illnesses. These diseases and disorders are treatable today although, at the present stage of medical science, not all are curable. It is the policy of this diocese that each cleric be afforded the necessary education, formation, and growth opportunities (including counseling skills) to maintain a healthy, holistic lifestyle. Should an allegation of sexual misconduct arise, compassion and support will be exercised toward the cleric as well as toward the person making the allegation.

When even a single act of sexual abuse against a minor by a cleric is admitted or is established after an appropriate process in accord with the *Code of Canon Law*<sup>9</sup> or the diocesan sexual misconduct policy, the offending person will be removed permanently from Church ministry, not excluding dismissal from the clerical state, if the case so warrants.

No person who has committed an act of sexual abuse of a minor or vulnerable adult may be transferred for ministerial assignment in another diocese or religious province without full disclosure of this situation to the appropriate bishop or religious superior.

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<sup>8</sup> Canon 277

<sup>9</sup> *Essential Norms*, Numbers 5, 6, 8, 9, 10.

# ***The Church's Care of Church Ministers & Employees***



The Diocese of Bismarck has similar concern for any sexual misconduct by a non-ordained person who is employed by the church or who serves in a recognized pastoral ministry. The process concerning investigation and response as defined herein will be followed should any allegation be made.

Trust is fundamental in all ministerial relationships. Any abuse of the power and authority surrounding the pastoral role by sexual misconduct on the part of church personnel is cause for employer-initiated termination, should an allegation be judged to be valid. In addition, full cooperation with civil authorities and adherence to reporting requirements, as determined by civil law, must always be rendered.

## ***Clergy Incardinated in an Institute of Consecrated Life or Another Diocese***



All clerics incardinated in other than the Diocese of Bismarck, who intend to exercise pastoral ministry in this diocese, must receive faculties from the diocesan bishop. No faculties will be given without full disclosure to the bishop of the current status of a cleric, including the establishment of his freedom from a history of sexual misconduct, as provided and certified by the immediate superior of his proper jurisdiction.

The cleric and his superior are to be fully informed that he will be expected to abide by these policies and procedures concerning sexual misconduct. Should a substantiated allegation arise against the cleric incardinated elsewhere, he will be immediately removed from his official ministry in the Diocese of Bismarck.

# ***Seminarian & Deacon Formation***



Students sponsored by the diocese who are studying for ordination to the priesthood to serve the Diocese of Bismarck and candidates for the order of permanent diaconate, are to receive appropriate screening, academic courses and components in their human formation. Such screening and training will be designed to assist the seminarians and deacon candidates on making moral choices in accord with church teaching appropriate to the order to which they will be ordained.

## ***Policy to Clear Name of Priest or Deacon Falsely Accused***



These steps will be taken in the event a Priest or Deacon is found to have been falsely accused of sexual abuse against a minor or vulnerable adult. This policy presumes that the name of the alleged abuser has been publicly identified. A Religious is subject to the process and procedures established by their religious institute.

- The bishop will make a formal announcement declaring the results of the investigation which will be done by civil authorities. The announcement will include any statement(s) from the investigating agency it chooses to make.
- News releases will be sent to the media and wire service(s) and included in the diocesan newspaper.
- The bishop will meet with the media as appropriate.
- The bishop will meet with the parish community and have an open discussion and take all other steps to support the cleric.

If the accused is a priest:

- The bishop will accompany the priest to his parish when he is reinstated.
- The priest will concelebrate with the bishop.
- The priest will be reinstated to all committee positions previously held, if he so desires.
- The bishop and accused priest will meet with the Presbyterate for an open discussion.

# ***Appendix***

## **Applicable Laws of the State of North Dakota**



### **I. Committee on Protection and Advocacy *North Dakota Century Code Chapter 25-01.3***

This law establishes a reporting duty for mental health professionals, caretakers, facilities and others with reasonable cause to suspect that developmentally disabled individuals have been abused. These persons must report the circumstances of the abuse to the Committee on Protection and Advocacy. This committee has statutory authority to protect the rights of the disabled.

Any willful use of offensive, abusive or demeaning language by a caretaker that causes mental anguish for any person who is developmentally disabled is abuse.

Any knowing, reckless or intentional acts or failures to act which cause injury or death to a developmentally disabled or mentally ill person or which places that person at risk of injury or death are also abusive.

Rape or sexual assault of a developmentally disabled or mentally ill person, corporal punishment or striking of a developmentally disabled or mentally ill person; the use of excessive force and the placement of bodily restraints on developmentally disabled or mentally ill persons, or use of bodily or chemical restraints on a developmentally disabled or mentally ill person which are not in compliance with federal or state laws and administrative regulations are abusive.

By law a facility means any school, residence center, group home, nursing home, foster home, boarding home, or other facility operated by any public or private agency, organization or institution, which provides services to a person with developmental disabilities or mental illness comes under this act. The law applies to those operations in the diocese, which come under the definition of a facility.

All employees of the diocese who allow or permit the unauthorized disclosure of reports or complaints under this law are held accountable for an infraction under North Dakota law. Employees who willfully fail to report the abuse of developmentally disabled or mentally ill persons are also guilty of an infraction.

**II. Vulnerable Adult Protection Service Act**  
*North Dakota Century Code Chapter 50-25.2*

This law also provides a mechanism to report abusive behavior and take legal action to protect victims. Reports of abusive behavior are made to the North Dakota Department of Human Services or law enforcement officials.

The law here defines abuse as any willful act or omission of a caregiver or any other person, which results in physical injury, mental anguish, unreasonable confinement, sexual abuse or exploitation, or financial exploitation to or of a vulnerable adult.

Under the definition of abuse, physical injury means damage to bodily tissue caused by non-therapeutic conduct, which includes fractures, bruises, lacerations, internal injuries, dislocations, physical pain, illness, or impairment of physical function. Mental anguish is defined as psychological or emotional damage that requires medical treatment or care, or is characterized by behavioral change or physical symptoms. An adult, for the purpose of this act, includes any minor who is emancipated by marriage.

The caregiver is defined as any person who has assumed the legal responsibility, or a contractual obligation for the care of a vulnerable adult, or has voluntarily assumed responsibility for the care of a vulnerable adult. The term includes a facility operated by any public or private agency, organization, or institution which provides services to, and has assumed responsibility for the care of a vulnerable adult. Vulnerable adult means an adult who has a substantial mental or functional impairment.

**III. Child Abuse and Neglect Law**  
*North Dakota Century Code 50-25.1*

This law requires that reports be made for child abuse or neglect to the North Dakota Department of Human Services.

A person responsible for a child's welfare means that child's parent(s), guardian, foster parent(s), an employee of a public or private school or non-residential child care facility, an employee of a public or private or residential home, institution or agency, or other person responsible for the child's health and welfare in a residential setting.

The law further states quite clearly that an abused child means an individual under the age of 18 years who is suffering from or was subjected to any act in violation of Sections 12.1-08-01 through 12.1-20-08 (a sex offense).

In accord with this law, harm means negative changes in a child's health which occur when a person responsible for the child's health and welfare either inflicts, or allows to be inflicted, upon the child, physical or mental injury, including injuries sustained as a result of excessive



corporal punishment; or commits, allows to be committed or conspires to commit, against the child, a sex offense. The duty to report is uppermost for the protection of the child.

A listing is given of persons required and permitted to report such as, any physician, nurse, dentist, optometrist, medical examiner, or coroner, or any other medical or mental health professional, religious practitioner of the healing arts, school teacher, administrator, school counselor, addiction counselor, social worker, day care center, or any other child care worker, police or law enforcement officer, or a member of the clergy having knowledge of or reasonable cause to suspect a child is abused, or neglected shall report the circumstances to the North Dakota Department of Social Services if the knowledge or suspicion is derived from information received by that person in that person's official or professional capacity. **A member of the clergy, however, is not required to report such circumstances if the knowledge or suspicion is derived from information received in the capacity of spiritual advisor.**

Further, the law provides that any person having reasonable cause to suspect that a child is abused or neglected may report such circumstances to the North Dakota Department of Social Services.

It is imperative that the clergy report these matters to the Department and it may be a fine line between getting the information generally by seeing and observing versus obtaining the information in the capacity of spiritual advisor. If there is any question in the mind of a priest or deacon as to how the information was obtained, contact the chancery who will consult diocesan legal counsel for guidance regarding the legality of the matter.

#### **IV. Sexual Abuse**

The area of sexual abuse overlaps all three of the above-mentioned sections of North Dakota law. This is not only important from the definitional aspect, but we now enter the area of criminal law. This comes from the criminal code, Section 12.1-20.

The law provides serious punishments ranging from misdemeanors to felonies. The definitions that we will now be discussing overlap into the three civil areas above, and therefore, must be looked upon as the definitional underpinnings not only for criminal liability but that of civil liability under the Chapters previously mentioned. There are several main areas that need to be looked at.

The reader should familiarize her/himself with the *North Dakota Century Code* 12.1-20-02 for definitions of sexual act and sexual contact.

The *North Dakota Century Code* uses the term gross sexual imposition and that may not convey a meaningful description of what is being discussed. Gross sexual imposition in North Dakota is what, in years past, was known as rape.

Gross sexual imposition occurs when a person engages in a sexual act with:

1. another by force, threat or kidnapping.
2. another whose ability to control their conduct has been impaired by intoxicants or drugs without their knowledge.
3. another who is under the age of fifteen years.
4. another who is unaware that a sexual act is being committed.
5. another who has a mental defect or disability.

This is a most serious crime punishable as a Class A felony, or in some instances, as a Class B. A Class A felony is punishable by twenty years imprisonment, a \$20,000 fine or both; a Class B felony is punishable by ten years imprisonment and a \$10,000 fine or both.

The *North Dakota Century Code* also speaks of sexual imposition. This is defined as engaging in a sexual act or contact with another, or causing another to engage in such act or contact if the actor compels the other person to submit by any threat that would render a person of reasonable firmness incapable of resisting. This is classified as a Class C felony, which is punishable by five years imprisonment or a \$5,000 fine, or both. If the victim is fifteen years or older it is a Class B felony.

There is also the crime of corruption or solicitation of minors. An adult who engages in a sexual act with a minor or who causes a minor to engage in a sexual act, is guilty of a Class A misdemeanor. If the adult is at least 22 years of age and the minor is 15 years of age or older, the crime is a Class C felony. A Class A misdemeanor is punishable by a maximum fine of \$1,000 or one year imprisonment or both. If an adult solicits a person under the age of 15 to engage in sexual conduct that is a Class A misdemeanor as well.

It is also a crime to cause another to engage in a sexual act if the other person is in the official custody or detained in a hospital, prison, or other institution, and the actor has supervisory or disciplinary authority over the person. This, by North Dakota law, is a Class A misdemeanor.

Additionally, North Dakota outlaws sexual assault and defines it as sexual contact with another if the actor knows or has a reasonable cause to believe that the contact is offensive to the other person or if the actor knows or has reasonable cause to believe that the other person suffers from a mental disease or defect which renders her/him incapable of understanding the nature of her/his conduct.

Intermixed in this legislation are the crimes of fornication, adultery, unlawful cohabitation, incest, indecent exposure, bigamy and deviate sex acts. These are all important for purposes of definitions, not only in the criminal law, but also in the civil law as previously pointed out.

## V. Sexual Harassment in the Work Place

This conduct is unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature. Sexual harassment occurs when submission to such conduct by an individual is made explicitly or implicitly as a term or condition of employment; submission to, or rejection of such conduct by an individual is used as a basis for an employment decision; and lastly, such conduct has the purpose or effect to interfere with an individual's work performance, or creates a hostile or intimidating environment.

The key word in the above definition is unwelcome. When unwanted, unwelcome or unsolicited sexual conduct is imposed on a person who regards it as offensive or undesirable, it is sexual harassment. When a person communicates that the conduct is unwelcome, it becomes illegal. Even if the conduct is illicit in nature, hidden in subtlety or innuendo, as long as it is unwelcome, it is unlawful.

The *North Dakota Century Code* Chapter 14-02.4 specifically prohibits sexual harassment.

Original Policy Promulgated January 25, 1993

Revised January 25, 2000

Revised April 21, 2003

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December 12, 2002

# **Diocese of Bismarck Code of Conduct**

## **Guidelines for:**

*Ministerial Behavior*

*Appropriate Boundaries for Clergy and Church Personnel*

*The Use of Technology and Social Media*

*A Safe Environment for Minors*

*Chaperones & Supervisors of Minors at Group Activities*

*Safe Environment Training for the Prevention of Child Abuse*

## **Including:**

*How to Bring a Complaint*

*Acknowledgement Form*

Most Reverend David D. Kagan, D.D., P.A., J.C.L.  
Bishop of Bismarck

July 1, 2014

**The Diocese of Bismarck defines these standards of ministerial behavior and appropriate boundaries for clergy and church personnel for these reasons. First and foremost, the *Charter for the Protection of Children and Young People*<sup>1</sup> asks for clear mandates and well-publicized standards of ministerial behavior and appropriate boundaries for anyone who has regular contact with children and young people. Beyond this, most professions have defined ethical standards. We also know that an awareness of our boundaries is useful in our relationships and, in fact, helps us sustain a healthy relationship with anyone. The Catholic Church must be exemplary. Clergy, staff, whether diocese or parish, and volunteers are held accountable for their behavior. To enable the highest level of accountability, there must be a clear and unambiguous definition of appropriate behavior. To this end, this *Code of Conduct* is defined for the Diocese of Bismarck and it provides a foundation for implementing effective and enforceable standards for all personnel.**

**1. Conduct for Pastoral Counselors and Spiritual Directors:** Pastoral counselors and spiritual directors who conduct counseling for individuals, families or groups must respect the rights and advance the welfare of each person. Counselors or spiritual directors:

- 1.1. shall not step beyond their competence in counseling situations and shall refer clients to other professionals when appropriate. Parameters for Church leaders<sup>2</sup> are dictated by their education or certification from a recognized professional association of peers.
- 1.2. ordinarily do not enter into a counseling relationship with someone with whom they have a pre-existing relationship (i.e. employee, professional colleague, friend).
- 1.3. make it clear what they can provide to a counselee when that person is already in a counseling relationship with another professional. Generally, this is confined to spiritual assistance.
- 1.4. do not engage in any type of sexual intimacy with those whom they counsel.
- 1.5. avoid physical contact of any kind (i.e. touching, hugging, holding) with persons they counsel.
- 1.6. conduct sessions in appropriate settings at appropriate times. No session is to be conducted in private living quarters or at places or times that would be ambiguous or misleading to the client.
- 1.7. should be cognizant at all times of the significance of boundaries in counseling relationships and ordinarily do not socialize with a client.
- 1.8. assume the full responsibility for establishing and maintaining clear, appropriate boundaries in all counseling relationships.

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<sup>1</sup> *Charter for the Protection of Children and Young People*. United States Conference of Catholic Bishops, Washington, D.C. July 2002, Article Six, p. 9.

<sup>2</sup> The term "Church leader" is used in order to indicate all those who represent the Church by virtue of office or designated position, i.e. priests, deacons, pastoral associates/ministers, parish and diocesan staffs and volunteers.

- 1.9. hold themselves accountable in conducting counseling activities. They should keep a calendar of times and places of contacts, especially in the case of frequent meetings with the same person. No information is to be disclosed from counseling sessions unless there is clear and imminent danger to the client or to others. In such a case, authorities or other professionals are to be contacted.
2. **Confidentiality**: Information disclosed to anyone during the course of pastoral counseling, advising, spiritual direction and any other professional contact shall be held in the strictest confidence possible. Anyone to whom such disclosures are entrusted:
  - 2.1 is bound to safeguard the confidentiality of any information, including notes, files or computer records pertaining to professional contact with individuals.
  - 2.2 discusses the nature of confidentiality and its limitations with each person within such a relationship.
  - 2.3 consults another professional with utmost care, limiting information shared with the assurance the other professional is bound to the same degree of confidentiality. If the other professional is not so bound, the disclosure should not be made.
  - 2.4 uses knowledge that arises from professional contact in teaching, writing, preaching, or other public presentations or discussions only when effective measures are taken to absolutely safeguard both the individual's identity and the confidentiality of the disclosures.
  - 2.5 obtains the written, informed consent of the individual prior to making the disclosure.
  - 2.6 instructs a minor from the outset of the pastoral relationship regarding these exceptions to the ordinary rights of confidentiality: threats of self-inflicted harm to the minor and threats against others because of the minor's emotional status or behavior. Great care and judgment must be exercised in determining the appropriateness of this kind of disclosure and in balancing the ultimate welfare of the minor being counseled with the duty to warn.
  - 2.7 knows these obligations are independent of and supplementary to the confidentiality of the sacrament of penance. **Under no circumstances whatsoever can there be any disclosure, even indirect, of information received through the confessional.**
  - 2.8 knows that obligations of confidentiality regarding other areas are defined in the *Personnel Policies and Procedures* for the Diocese of Bismarck and these are to be observed at all times.
3. **Conduct with a Minor**: Definition of a Minor: A minor is defined as a person below the age of 18 years. Any vulnerable adult or one who habitually lacks the use of reason is to be considered equivalent to a minor. All persons working with minors should use appropriate judgment to insure trusting relationships marked by personal and professional integrity. Keen awareness of their own and others' vulnerability assures they:

- 3.1 establish a counseling relationship with a minor that respects the role of the family in subsequent relationships and avoid any exclusive relationship with a minor.
  - 3.2 use a team approach to managing youth activities and emergency situations.
  - 3.3 avoid physical contact with youth, for this can be misconstrued by both minors and other adults. Completely non-sexual and otherwise appropriate physical contact may occur under public circumstances but never in private.
  - 3.4 refrain from using or supplying alcohol and/or illegal drugs at all times when working with minors/youth.
  - 3.5 do not allow individual young people to stay overnight in a cleric's rectory or private accommodations, hotel room or any personal residence.
  - 3.6 do not provide any sexually explicit, inappropriate or offensive material to minors/youth. Pornographic material is prohibited. This includes the acquisition, possession, or distribution of child pornography by a cleric and all persons working with minors, vulnerable adults or those who habitually lack the use of reason.
4. **Sexual Conduct:** Church leaders must not, for sexual gain or intimacy, exploit the trust placed in them by the parish community and others to and with whom they minister. So they:
- 4.1 do not exploit another person for sexual purposes.
  - 4.2 provide an example of celibate chastity in all relationships at all times if they have the commitment of a celibate lifestyle. Likewise, those who have a marital commitment are called to witness to this fidelity in all relationships.
  - 4.3 fulfill a personal and professional obligation to be knowledgeable about what constitutes sexual exploitation of another and to be familiar with the laws of the State of North Dakota regarding sexual exploitation, abuse and assault.
  - 4.4 take seriously any allegation of sexual misconduct and report it to the chancellor or to the vicar general as defined in the *Policy on Sexual Misconduct* for the Diocese of Bismarck.
  - 4.5 comply with all mandatory reporting requirements of the State of North Dakota in collaboration with Church officials and defined policy.
5. **Reporting Misconduct:** Clergy, staff and volunteers have a duty and responsibility to report ethical or professional misconduct on the part of any church leader. So they shall:
- 5.1 must hold each other accountable for maintaining the highest ethical or professional standards as defined within this *Code of Conduct*. When they observe any clear indication of illegal actions by a Church leader, they make immediate notification to proper church and civil authorities.

5.2 notify proper Church authorities only, when there are clear indicators of unethical but not illegal actions on the part of a Church leader.

5.3 attempt to resolve the issue when uncertainty exists about whether a situation violates this *Code of Conduct* or other religious, moral or ethical principles, by consulting with the next higher authority or by referral to the chancellor or vicar general through the Chancery for the Diocese of Bismarck.

6. **Administration:** Those in Church leadership shall exercise just treatment of those with whom they minister in the day-to-day administrative operation of their ministries. So they shall:

6.1 seek to relate to all people with respect, sensitivity and reverence. Meetings are to be conducted with patience and courtesy toward the views of others, in an environment where it is safe for constructive criticism to be offered.

6.2 empower others, supporting each person to live the life to which God calls her/him. They are to seek to work in ways that respect the different talents people bring to the Church.

6.3 exercise responsible stewardship of all parish and diocesan resources. They must also ensure that whatever their area of ministry, there is a clear accounting of all parish, diocesan or other Church funds.

6.4 ensure that systems are in place to protect both the Church and the individual from financial mismanagement.

6.5 develop personnel and other administrative decisions that not only meet civil and Canon Law obligations, but also reflect Catholic social teachings and this *Code of Conduct*.

7. **Professional Behavior and Harassment:** Those in Church leadership do not engage in physical, psychological or verbal harassment of employees, volunteers or parishioners and they will not tolerate such harassment by other Church employees or volunteers. Thus, they:

7.1 are committed to providing a professional work environment for employees which is totally free from physical, psychological, written or verbal intimidation or harassment.

7.2 understand harassment encompasses a broad range of physical or verbal behavior which includes, but not limited to: a) uninvited letters, telephone calls or materials of a sexual nature; b) uninvited sexual aggressive looks, touching or gestures; c) uninvited pressure for sexual favors; d) uninvited pressure for dates; e) uninvited sexual teasing, jokes, remarks, or questions; suggestions that indicate that men or women should not hold certain positions because they are not capable of carrying out certain functions; f) racial or ethnic insults; g) attempted or actual rape or sexual assault.



7.3 realize that harassment can occur as a result of a single severe incident or a pattern of conduct which results in the creation of a hostile, offensive or intimidating work environment.

7.4 follow the established procedure for reporting harassment and they are to ensure that no retaliation for bringing forward a claim of harassment will be tolerated.

7.5 take allegations of harassment seriously and insure timely reporting for both employees and volunteers.

**8. Records and Information:** Appropriate confidentiality shall be maintained in creating, storing, accessing, transferring and disposing of parish and diocesan records as defined in related policies.

8.1 Sacramental records shall be regarded as confidential. When, for valid Church reporting or parish statistical purposes, information from these records is made public, great care must be taken to preserve the anonymity of individuals.

8.2 Sacramental records older than seventy years may be accessible to public inquiries. Regardless of age, information regarding adoption and legitimacy remains confidential. Only a staff member so authorized to access records may supervise and handle requests regarding records.

8.3 Parish and diocesan financial records are held as confidential, unless an appropriate review is required by a governmental agency or office. The Fiscal Office of the Diocese of Bismarck is to be contacted regarding the release of financial records.

8.4 Records of individual contributions to a parish or the Diocese of Bismarck shall be regarded as private and shall be maintained in strict confidence and used only as necessary.

**9. Conflicts of Interest:** Church leaders avoid putting themselves in a position that might present a conflict of interest, since the existence, or even the appearance of a conflict of interest can call into question one's integrity and professional conduct. They understand that:

9.1 potential for a conflict of interest exists in many circumstances. Some examples include: conducting private business or other dealings with the Church or any of its members; accepting substantial gifts for services or favors; employing or engaging in transactions with her/his friends or relatives; acting with partiality toward employees or Church members; or violating a confidence for personal gain.

9.2 they should disclose all relevant factors that potentially could create a conflict of interest.

9.3 they should inform all parties when a real or potential conflict of interest arises. Resolution of the issues must protect the person receiving ministry services.

# Guidelines for the Use of Technology and Social Media

This diocesan code provides guidance to personnel on the use of technology and social media. They are guidelines and are not meant to be policy. The goal of this code is to empower personnel in the use of technology and social media and to give clarity, guidance, and best practices in the use of technology and social media.

Parts of this Code are adapted from documents of the United States Conference of Catholic Bishops, the Diocese of San Jose, the Diocese of Toledo, the Diocese of Rockford, the Archdiocese of Cincinnati and Holy Trinity Catholic Church in Washington, D.C. We are grateful to these entities for their permission to use their documents.

## **Introduction**

These Guidelines for the Use of Technology and Social Media is designed to aid all employees and volunteers of the Diocese of Bismarck, and all diocesan parishes, schools, institutions and other diocesan entities (hereinafter referred to as *personnel*) in understanding appropriate usage, boundaries and best practices in technology and social media.

Personnel are required to act as reasonably prudent persons when using technology and social media, meaning, he or she acts in moderation, follows community ethics, and exercises due care.

The Church can use social media to encourage respectful dialogue and honest relationships. To do so requires us to approach social media as means of evangelization and to consider the Church's role in providing a Christian perspective on social media literacy.

## **Guiding Principles**

Advances in technology have increased the opportunities for the church to communicate her message. For us in the Church, technology and social media can be considered tools for communication, catechesis and evangelization. Technology and social media however, should not be the only tools. They should not become an expedient and convenient means to evade the complicated and integrated work of building human relationships, which usually calls for in-person contact. Technology and social media at times fall short in truly enhancing the connectedness of human-to-human, face-to-face social interaction.

The key question that faces our church personnel when deciding to engage technology and social media is- *how will we engage?* Careful consideration should be used in determining the particular strengths of each form of media (blogs, social networks, text messaging, etc.) and the needs of a parish, school, and Diocesan institution or entity. The strengths should match the needs. Simply establishing a web presence is not enough. The parish, school, or Diocesan institution or entity should set expectations regarding how often content is updated/posted and what content is updated/posted. For instance, a blog post may not be the most effective way to remind the parish faithful of the annual picnic. However, a mass text message to athletes and their parents reminding them that practice begins at 9 a.m. may be very effective.

## **Boundaries**

It is inappropriate for personnel to include minors and vulnerable adults within their own social circle, on-line or otherwise. Church personnel should not be accessible on a constant or on-call or social basis to the minors and vulnerable adults they serve. Personnel are duty-bound to set the boundary.

***Be selective*** – a variety of digital media is available. Use the right medium for your message.

***Be responsible*** –members of individual Diocesan churches and/or other entities are personally responsible for their posted content, and will be held personally accountable for such. Official statements of parish or Diocesan policies may only be made by the Pastor/Administrator.

***Be smart*** – a blog or community post in a forum is visible to the entire world—it is public and permanent. Be respectful of your Catholic community.

***Identify yourself*** – Use real identities rather than anonymous or fictitious-names, identities, posts and comments.

***Respect the privacy of others*** – do not publish the personal information of others in the community without their permission or, in the case of minors and vulnerable adults, without the permission of their parents.

***Be respectful*** –respect your audience, express your views with appropriate language, civility, and be respectful of the Church and her teachings. Your communications must not offend the teachings of the Catholic Church.

***Do not tell secrets*** – respect the confidentiality of matters that are shared with you in confidence, or that are meant to be kept confidential by the nature of your work, ministry or volunteer mission. Be mindful, however, of your charge as a mandated reporter and that confidentiality cannot apply in situations that require you to report under the mandated reporter law.

## **Primacy of Parents/Guardians**

Parents/Guardians are the primary educators of their children in faith and the first heralds of the faith. Personnel must recognize the importance of the role of parents and guardians when personnel use technological forms of communication with minors and vulnerable adults. As a Church, we seek a partnership with parents/guardians in the faith formation of their children. Be aware that many young people utilize technology, socially or otherwise, with and without the permission of their parents/guardian. Personnel are to receive permission from the parents/guardians of each minor and vulnerable adult with whom personnel wish to communicate through social media and technology and shall respect their authority. Personnel may provide them with information regarding safe use of technology and social media for their children.

## **Discretion**

As a representative of the Church, those who work with the Church faithful should be diligent in avoiding situations which might be the source of scandal for themselves, others, or the Church.

## **Ownership**

Any technological tools that we use as part of our work or volunteering in the Diocese of Bismarck, such as websites, blogs, social network sites, and the like, are the property of the Diocese of Bismarck.

**1. *Use of Official Name and Logo.*** Any use of the logo of the Diocese of Bismarck and its entities for branding or titling pages, blogs, or other similar elements of social media must be approved in writing by the Diocese of Bismarck prior to use. Requests for consent to use such names or logos are to be made to the Communications Director (in the case of the Diocese, its institutions or entities, and its or their Administration) the pastor (in the case of the parish and its ministries or administration) and the Principal (in the case of the school). Any uses in existence at the time of adoption of this Code are not grandfathered and should be authorized. Permission to use the name or logo of the Diocese, parish, school, Diocesan institution or entity may be revoked at any time in the sole discretion of the Diocese, parish, school, Diocesan institution or entity.

**2. *Interpretation.*** Questions on interpretation of this Code may be sent to the Director of Communications for the Diocese of Bismarck.

**3. *Duties of Moderators.*** Each parish, school, Diocesan institution or entity that has a social media vehicle must have two adult moderators. Moderators of parish, school, institution or entity social media are responsible for ensuring compliance with this and all Diocesan policies and codes of conduct. All comment and blog response areas must be moderated.

**4. *Individual Judgment.*** Personnel should use prudent and reasonable judgment when engaging in social media activities and should be on guard against actions and discussions that could harm the interests of themselves, the community, or the Church.

**5. *Copyright Laws.*** Personnel must comply fully with copyright law when using social media and technology

**6. *Privacy.*** Personnel are to safeguard the privacy interests of others. In particular, personally identifiable information (that is, name, phone number, address or email address), should not be disclosed without the prior consent of the person identified. .

**7. *Additional Guidelines.*** Pastors and Administrators of parishes, schools, Diocesan institutions or entities may implement more restrictive rules for the use of social media and technology if they deem it appropriate.

**8. *Abuses.*** Any use of social media that violates this Code or any other Diocesan policy should be brought to the attention of the Pastor/Administrator or the Diocesan Communications Director immediately.

**9. *Questions and Updates.*** Questions concerning interpretation of this document should be directed to the Communications Director at [info@bismarckdiocese.com](mailto:info@bismarckdiocese.com). This document may be updated and modified at any time. This document and any future modifications will be made available at [www.bismarckdiocese.com](http://www.bismarckdiocese.com) where it will be available in its entirety.

## **10 Guidelines for the Use of Technology and Social Media**

1. All personnel representing the Diocese of Bismarck must take great care to be reasonable and prudent in the use of social media and technology, and must adhere to Diocesan codes of conduct.
2. All usage of social media is public and permanent and thus requires discretion and prudence.
3. Distinct lines are to be drawn between professional relationships and personal relationships including as they relate to one's use of technology and social media.
4. Social networking must avoid inappropriate personal interaction.
5. Information of a confidential nature is not to be communicated via technology or social media.
6. Pictures, videos and all personal information are not to be shared or posted without prior consent of the individual and, in the case of a minor or vulnerable adult, consent of the parent of the minor or vulnerable adult.
7. Views expressed through technology and social media should always be made in a respectful manner with civility and Christian charity.
8. Be selective and cautious about visiting and participating in online sites, forums and groups.
9. Be aware that posted words, comments, images and videos can be easily misinterpreted.
10. Prior to administering an online presence on behalf of a diocesan parish/school/institution/entity, personnel must have the approval of the pastor and/or supervisor.

# Guidelines for a Safe Environment for Minors

## A. General Guidelines

1. Minors may never be offered alcoholic beverage, tobacco, drugs or anything else that is prohibited by law.
2. Avoid inappropriate conversation, vocabulary, recordings, films, or games with minors. Sexually explicit or pornographic material is never appropriate.
3. Do not take photographs of minors while they are unclothed or dressing.
4. Minors may not reside in the church rectory or other living quarters of the priest.
5. Only priests, seminarians, their immediate family members, or adults and staff of church or affiliated organizations may be overnight guests in rectories or cleric residences.
6. Adults should not be alone with a minor in a residence, sleeping facility, locker room, rest room, dressing facility, or other closed room or isolated area that is inappropriate to a ministry relationship.
7. If a person must go into a sleeping room with minors, a second adult must be present with them.
8. If a supervisor stays in a hotel or other sleeping room with minors, the supervisor should sleep in his or her own bed using a rollaway or cot if necessary.
9. Adults should not take an overnight trip alone with a minor who is not a member of their immediate family.
10. Touching another person should be age appropriate. Physical contact when alone with a minor should be avoided. If a minor initiates physical contact, an appropriate, limited response is proper. In all cases it must be respectful.
11. Hugging can be an expression of love and respect. However, hugging should always be done in the presence of others and never while alone in a room behind closed doors.
12. It is inappropriate to sit on one another's lap or to lay one's head on another's lap.
13. If you observe inappropriate personal or physical attraction between an adult and a minor or become aware of anyone (adult or minor) abusing a minor, take appropriate steps to immediately intervene and to provide a safe environment for the minor. Report the misconduct as soon as possible (see Reporting Procedure).
14. If you become aware of an inappropriate personal or physical attraction between yourself and a minor, maintain clear professional boundaries between yourself and the minor and consult with a supervisor.

15. If one-on-one pastoral care of a minor should be necessary, avoid meeting in isolated environments. Schedule meetings at times and use locations that create accountability. Limit both the length and number of sessions, and make appropriate referrals.
16. Discipline problems should be handled in coordination with supervisor and/or the parents of the minor. Be aware of the difference between physical restraint and physical abuse.
17. Church or school vehicles may not be driven without appropriate license and/or certification and unless prior authorization has been received.
18. Normally minors should not have keys to church facilities. If they need keys because of employment they should be carefully screened.

### **B. Guidelines for Chaperones & Supervisors of Minors at Group Activities**

1. Chaperones/supervisors are responsible for reviewing the Diocese of Bismarck Code of Conduct and all related guidelines with the minors assigned to them.
2. Two or more adults must be present for events involving minors in high-risk settings. The recommended ratio for chaperones/supervisors to minors is 1:6. In the event a sufficient number of chaperones/supervisors are not available, the event must be cancelled.
3. Facilities must be monitored during all organization activities.
4. Children may be released only to a parent, guardian, or other person who has been authorized in writing to take custody of the minor(s).
5. Parental approval must be obtained before permitting children to participate in athletic events or any other activity that involves potential risk.
6. Dress must always be in keeping with modesty and Christian values.
7. An accountability system, similar to a “buddy system,” must be used whenever minors go on trips away from the original location of the activity.
8. Only qualified adult drivers may transport minors. Appropriate permission must be received and all proper insurance forms must be completed and approved by the authority of the organization. Forms and procedures are obtained from Catholic Mutual Group, the insurance provider for the Diocese of Bismarck.
9. Parental permission must be obtained, including a signed medical treatment form, before taking minors on trips. Do not administer medication of any kind without authorized written parental permission.
10. Adult participants are expected to refrain from drinking alcoholic beverages for the duration of the event, as well as during their travels to and from the event.

11. The possession or use of illegal drugs is strictly prohibited.
12. Weapons of all kinds are strictly prohibited.
13. No two minors should be alone in any area by themselves. One-on-one sharing or conversation must always be done within view of the large group.
14. If anyone is uncomfortable with actions or intentions of another during the trip, it should be reported to the chaperone/supervisor immediately.
15. Both adults and youth are expected to attend all activities with the entire group.
16. During all activities, especially a dance or other social event, chaperones should be available in the building where the activity takes place.
17. Groups of young people will be assigned a specific adult chaperone who will be responsible for their behavior throughout the event.
18. Chaperones/supervisors must make arrangements each day to check in with those entrusted to their care. This must be done in the morning, during the afternoon, and evening.
19. On any trip, information will be distributed to chaperones/supervisors for review with all participants to help familiarize them with the program schedule and layout of the facilities where event activities will take place. It is also a good time to be sure that the young people understand important safety information.
20. A specific location must be designated where minors will be able to locate their chaperone/supervisor or where the group will meet at an agreed upon time.
21. During overnight activities, chaperones/supervisors are responsible for establishing a curfew and for enforcing it.
22. Chaperones/supervisors must check rooms after curfew to make sure that young people are in their rooms and remain there.
23. Adults must not go anywhere during the event where the youth may not go with them. (e.g. cocktail lounges, bars, etc.)



# Safe Environment Training for the Prevention of Child Abuse

## Training Provides Answers to the Following Questions:

- A. What constitutes child abuse?
- B. What actions, procedures and policies are used to prevent child abuse in any form?
- C. What signs should an adult look for in a child who may be abused?
- D. What signs should an adult look for in a person who may be abusing a child in any way?
- E. What actions should an adult take when they believe that child abuse may be occurring?
- F. What are the laws and policies in North Dakota regarding the reporting of abuse?

## What Constitutes Child Abuse?

*Child abuse is an act by anyone that is not accidental and harms or threatens to harm a child's physical or mental health or welfare.*

Sexual abuse: At one end of the spectrum, sexual abuse includes sexual intercourse and/or its variations. These may only be the last step in a progressive pattern of sexual abuse. For that reason and because of their effects, exhibitionism, fondling and any other sexual contact with minors is also considered sexually abusive.

Other factors for sexual abuse could include personnel not providing for the protection from sexual abuse of a minor. Non-touching sexual abuse may include, but is not limited to:

- Indecent exposure/exhibitionism.
- Exposing children to pornographic material.
- Deliberately exposing a child to the act of sexual intercourse.
- Masturbation in the presence of a child.
- Making sexually provocative comments to a child.
- Child being harassed, encouraged, pressured or propositioned to perform sexually.
- Voyeurism.

Touching sexual abuse may include, but is not limited to:

- Fondling of private areas.
- Making a child touch another's sexual organs.
- Any penetration or attempt at penetration of a child's vagina, anus or mouth by a penis or any other object that doesn't have a valid medical purpose.

Sexual exploitation of a child may include, but is not limited to:

- Engaging a child or soliciting a child for the purposes of prostitution.
- Using a child in the recording, filming, photographing or as a model in the filming or photographing of pornographic material.
- Denying of age-appropriate privacy to a child.

Sexual activity between children should be considered a risk factor in most situations if coercion exists, or if one child is pre-pubescent and the other is post-pubescent. If the acts appear to be more sophisticated than age appropriate, consideration should be given to possible sexual victimization of at least one of these children by a third party.

Emotional abuse: Acts that impair a child's psychological growth and/or development. This often results in a negative self-concept and disturbed behavior. It is also defined as psychological consequences of patterns of behavior by a parent or guardian involving rejecting, isolating, threatening, ignoring, and/or exposing to negative influences, whether through acts of omission or commission. These acts are judged by a mixture of community values and professional expertise to be inappropriate or damaging.

*(The definition of "neglect" in NDCC 50-25.1 is used when a decision is made that "Services are Required" and the Maltreatment Type is Psychological).*

Emotional abuse includes, but is not limited to:

- Personnel consistently single out one child to use as a scapegoat, criticize or punish, or receive fewer rewards of praise.
- Personnel have consistent unrealistic expectations of achievement for the child that are shown by personnel criticizing, punishing, or condemning when the child does not achieve far above capabilities in school, sports, or social status.
- Personnel regularly denigrate and belittle the child, stating that the child is different and unacceptable, or that the child reminds everyone of a person who is unacceptable.
- Personnel don't allow the child physical contact, nurturing.
- Faults and shortcomings of a child are clearly overemphasized.
- Criticism/disapproval is disproportional to actual behavior or used in an unfair and inconsistent way.
- Personnel use excessive threats of punishment in an attempt to control the child.

Physical abuse: Acts that result in physical injury such as bruises, welts, scars, fractures, burns, lacerations, and abrasions. These acts often happen in the name of discipline.

Risk factors for physical abuse include, but are not limited to:

- Physically punishing an infant.
- Shaking an infant or preschooler.
- Striking children with an object or one's hand.
- Throwing children in such a manner that there is risk of injury.
- Kicking a child.
- Biting a child.
- Forcing a child to ingest a noxious substance, i.e. tobacco, alcohol, soap, pepper, tabasco sauce, etc.
- Force-feeding.

Personnel have the right to physically restrain or move a minor in a manner that does not subject the minor to injury. Personnel should only use force in self-defense or to prevent harm to the minor.

### **Child Sexual Abusers Manipulate Their Victims!**

Child sexual abusers can make the child extremely fearful of telling, and only when a special effort has helped the child to feel safe, can the child talk freely.

If a child says that he or she has been molested, parents should try to remain calm and reassure the child that what happened was not their fault. Parents should seek a medical examination and psychiatric consultation.

Parents can prevent or lessen the chance of sexual abuse by:

- Telling children that “If someone tries to touch your body and do things that make you feel funny, say no to that person and tell me right away.”
- Teaching children that respect does not mean blind obedience to adults and to authority, for example, don’t tell children to, “always do everything the teacher or baby-sitter tells you to do.”
- Encouraging professional prevention programs in the local school system.

Sexually abused children and their families need immediate professional evaluation and treatment. (American Academy of Child and Adolescent Psychiatry – 11/98)

### **Possible Indications of Sexual Abuse in Children**

- Unusual interest in or avoidance of all things of a sexual nature.
- Sleep problems or nightmares.
- Depression or withdrawal from friends or family.
- Seductiveness.
- Statements that their bodies are dirty or damaged, or fear that there is something wrong with them in the genital area.
- Refusal to go to school.
- Delinquency/conduct problems
- Secretiveness.
- Aspects of sexual molestation in drawings, games, fantasies.
- Unusual aggressiveness, or suicidal behavior. (American Academy of Child and Adolescent Psychiatry 11/98)

### **Warning Signs of a Sexual Predator**

The following list describes some signs that a person might be a sexual predator:

- Insists on hugging, touching, kissing, tickling, wrestling with, or holding a child even when the child does not want this affection.
- Is overly interested in the sexuality of a particular child or teen (e.g., talks repeatedly about a child’s developing body or interferes with normal teen dating).
- Manages to get time alone or insists on time alone with a child with no interruptions, such as weekend sleepovers, vacations, or camping trips.
- Spends most of his or her spare time with children or teens and has little interest in spending time with someone his or her own age.
- Regularly offers to baby-sit or takes children on outings alone.
- Buys children and teens expensive gifts or gives them money for no apparent reason.

- Frequently walks in on children or teens in the bathroom.
- Allows children or teens to consistently get away with inappropriate behaviors.

(Material taken from “Creating Safe and Sacred Places, Identifying, Preventing and Healing Sexual Abuse” St. Mary’s Press, Winona, MN)

### **What To Do If You Become Aware of or Suspect Child Abuse**

When a child tells someone about sexual abuse, a supportive, caring response is the first step in getting help for the child and reestablishing their trust in adults.

1. Report any suspicion of child abuse. If you suspect or are aware of child abuse by a cleric, report it to the chancellor of the Diocese of Bismarck – phone: 701-223-1347 – and to the local county child protection agency or protective services division.
2. If you suspect or are aware of child abuse by any parish personnel or parish volunteers, report it to your local pastor and to the local county child protection agency or protective services division.
3. Any other suspected cases of child abuse should be reported to the local county child protection agency or protective services division and/or the local police department.
4. The agency receiving the report will conduct an evaluation and will take action to protect the child.
5. Parents should consult with their pediatrician or family physician who may refer them to a physician who specializes in evaluating and treating sexual abuse. The examining doctor will evaluate the child’s condition and treat any physical problem related to the abuse, gather evidence to help protect the child, and reassure the child that he or she is all right.
6. Children who have been sexually abused should have an evaluation by a child and adolescent psychiatrist or other qualified mental health professional. This process will help the experts to find out how the sexual abuse has affected them, and to determine whether ongoing professional help is necessary for the child to deal with the trauma of the abuse. The child and adolescent psychiatrist can also provide support to other family members who may be upset by the abuse.

(American Academy of Child and Adolescent Psychiatry. 11/99 Five Basic Principles in Dealing with Accusations of Sexual Abuse)

### **Responding to Child Sexual Abuse**

When a child tells an adult that he or she has been sexually abused, the adult may feel uncomfortable and many not know what to say or do. The following guidelines should be used when responding to children who say they have been sexually abused:

What to say if a child even hints in a vague way that sexual abuse has occurred:

- Encourage him or her to talk freely. Don’t make judgmental comments.
- Show that you understand and take seriously what the child is saying.
- Child and adolescent psychiatrists have found that children who are listened to and understood do much better than those who are not. The response to the disclosure of sexual abuse is critical to the child’s ability to resolve and heal the trauma of sexual abuse.
- Assure the child that they did the right thing in telling.

A child who is close to the abuser may feel guilty about revealing the secret. The child may feel frightened if the abuser has threatened to harm the child or other family members as punishment for telling the secret.

- Tell the child that he or she is not to blame for the sexual abuse:

Most children in attempting to make sense out of the abuse will believe that somehow they caused it or may even view it as a form of punishment for imagined or real wrong doings.

- Offer the child protection, and promise that you will promptly take steps to see that the abuse stops.

### **How Do I Determine the Right Kind of Relationships and What Are Signs of Abuse?**

(Chapters 5 and 7 of “Sexuality and Relationships in Teen to Teen: Responding to Peers in Crisis” by Bob McCarty and published by St. Mary’s Press)

One of the most important factors for preventing abusive experiences and relationships is educating young people on the signs and characteristics of “right” relationships and those that are “not right.” “Right” relationships foster the personal, spiritual, and emotional growth of both persons.

The qualities of healthy relationships include, but are not limited to the following:

- Ability to communicate. To be able to talk about anything; sharing feelings, dreams, hopes, and fears; to know that the other person is really listening.
- Ability to show affection. To be able to express one’s feelings and show that one cares about the other by the way one treats him or her.
- Forgiveness: To be able to forgive the mistakes of the other; to be able to trust in the forgiveness offered by the other and let the past go; to not hold a grudge.
- Honesty. To be able to be truthful about everything, including feelings.
- Vulnerability. To feel comfortable being one’s self; to let down one’s guard; to be able to risk being known personally and honestly; to feel safe.
- Dependability. To be there for each other when needed; to keep commitments.
- Humor. To be able to relax, laugh, and have fun together.
- Romance. To be able to be romantic without pressuring the other into an uncomfortable physical relationship.
- Patience. To realize that relationships go through rough times, but that doesn’t mean the relationship is poor; to be willing to work through rough times.
- Freedom. To not be possessive or jealous; to feel comfortable about the other having friends; to be able to spend time apart.

Relationships that are “not right” are obviously very different from “right” relationships. Often they may seem at the beginning like healthy relationships, but after the initial ‘honeymoon’ stage of the relationship is over, they become harmful and hurtful.

Abuse occurs when someone does not respect another's boundaries; uses power, tricks, threats, or violence to cross or change another's boundaries; or inflicts hurtful or unwanted behavior (physical, verbal, emotional or sexual) on another person. According to the Maryland Network Against Domestic Violence, abuse in relationships can take various forms:

- Emotional Abuse: Putting down the person, making the person feel bad about him/herself, excessive criticism.
- Coercion and Threats: Making or carrying out threats to do something physically hurtful, threatening to expose embarrassing secrets.
- Sexual Abuse: Coercing a person to engage in sexual acts against her or his will, physically attacking the sexual parts of one's body, treating a person like a sexual object.
- Economic Abuse: Destroying one's property, using money or gifts as leverage in return for sexual favors.
- Isolation: Maintaining surveillance, controlling what a person does or who a person sees or talks to.
- Blaming, Denying: Refusing to accept responsibility for abusive behavior, blaming the victim for causing the abuse.
- Intimidation: Acts designed to frighten a person such as frightening gestures, displaying weapons, smashing objects, driving crazily.

Although violence and abuse have numerous causes, underlying or accompanying many of these is the abuser's need for power and control. Often times, the victims of abuse appear as a threat to that need or serve as a scapegoat to fill that need.

To the abuser, violence may often appear to be acceptable behavior for maintaining power and control over others. Being in control may seem to increase self-esteem, reinforce an individual's beliefs about masculinity or femininity, or relieve the feelings of loss of control in other areas of the abuser's life.

Date rape is a prevalent form of dating violence to which many young people are exposed. The abuser is a product of deep-seated problems that do not make him or her an evil person, but do make him or her a person in need of professional help. In an abusive relationship, the immediate concern is the person being abused and how to enable that person to break the cycle of abuse in order to prevent it from occurring again.

There is also a secondary concern for the abuser and enabling that person to receive the help they need to change their pattern of behavior. It is not uncommon for a victim of abuse to experience some of the following: fear, guilt, shame, loneliness, anger, rage, denial, repression, self-punishment, alcohol and drug abuse, continued involvement in abusive relationships, an unhealthy view of sex, a loss of faith, or fear in seeking help. The reaction of other family members may not be much different and may demonstrate a lack of knowing how to respond appropriately to a victim of abuse.

# How to Bring a Complaint

An individual who has a complaint regarding sexual misconduct by a person subject to this policy is urged to report the allegations immediately. Written forms are available from the Chancery in Bismarck, any parish within the Diocese of Bismarck or [bismarckdiocese.com](http://bismarckdiocese.com). Complaints may be made to the chancellor or vicar general at the Chancery in Bismarck, North Dakota, at 701-223-1347 or to any of the civil authorities listed below.

1. If the victim is a minor at the time the complaint is received, the Diocese shall report the matter to the Child Protective Services Division of the Social Services Department in the county where the minor is located.
2. If the victim was a minor at the time of the alleged sexual misconduct but has reached the age of majority by the time the complaint is received, the Diocese shall report the matter to the North Dakota Child Protection Program, North Dakota Department of Human Services, Judicial Wing, 3rd Floor, 600 East Boulevard Avenue, Bismarck, ND 58505-0250, Phone: (701) 328-2310; Toll Free: (800) 472-2622.
3. If the victim is a vulnerable adult, the Diocese shall report the matter to the local Regional Human Service Center of the North Dakota Department of Human Services or an appropriate law enforcement agency.
4. If the victim is not a minor and is not a vulnerable adult, the Diocese may report the matter to an appropriate law enforcement agency.

In each instance, the Diocese shall conduct its own investigation or, if deemed appropriate, rely on the results provided by the investigating agency.

The chancellor or vicar general will notify the person against whom the allegation has been made and advise the accused of his/her rights under civil law and / or canon law.

# Diocese of Bismarck

## Code of Conduct

### Acknowledgement Form

I acknowledge that I have read and understand the Diocese of Bismarck Code of Conduct.

I agree to abide by all guidelines presented within the Code of Conduct and to assist where possible in the prevention of child abuse and maintain a safe environment for minors.

I agree that it is my responsibility to read, understand, and implement any future amendments to the Code of Conduct when communicated to me by the Diocese of Bismarck.

I understand that the Code of Conduct is available through the Diocese of Bismarck, a parish or school within the Diocese of Bismarck or online at [bismarckdiocese.com](http://bismarckdiocese.com).

I understand that this acknowledgment form will be kept on file in my personnel or volunteer file, and that it will be made available to the Diocese of Bismarck upon request.

Print Name (clearly): \_\_\_\_\_

Parish: \_\_\_\_\_

City: \_\_\_\_\_

Ministry Position: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Effective July 2014