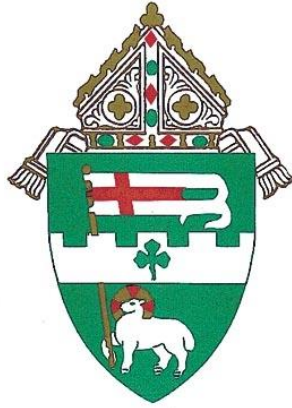


RESPONSE TO COMPLAINTS OF SEXUAL ABUSE POLICY



RC Diocese of Paterson

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This document contains the Policy of the Diocese of Paterson concerning allegations of sexual abuse, including allegations involving minors as required by *Norm 2 of the Essential Norms for Diocesan/Eparchial Policies Dealing with Allegations of Sexual Abuse of Minors by Priests or Deacons*. (hereafter, *Norms*).

The only purpose of this *Policy* is to set forth a particular, but crucial, element of the salvific mission which Christ entrusted to the Church. In accordance with New Jersey law, it does not establish any legal right or entitlement in any person or entity and does not constitute an employee handbook or contract.

1. Definitions

For the purposes of this policy the following are defined:

“Victim Assistance Coordinator” means the person who has been designated to coordinate assistance for the immediate care of persons who claim to have been sexually abused.

“Diocesan Response Officer” means that person designated by each diocese to: 1) receive the complaint, 2) notify the designated liaison and ecclesiastical authorities, and 3) notify the Victim Assistance Coordinator who provides for the immediate care of persons who claim to have been sexually abused. These three functions can be undertaken by such individuals as the Bishop shall designate.

“Employee” means someone who is employed by a diocese or a subdivision thereof.

“Liaison” means the person who has been designated in accordance with the *Memorandum of Understanding* to serve as the primary contact between the diocese and prosecuting authorities. (See *Memorandum of Understanding*, Article 4.).

“*The Memorandum of Understanding among Certain Organizations and the County Prosecutors Regarding the Reporting of Certain Offenses*” (hereinafter *Memorandum of Understanding*) (see RCDOP.org) was signed on behalf of the Dioceses and by the Attorney General and respective County Prosecutors in December 2002 and broadly requires the diocese to report allegations of sexual abuse to the appropriate county prosecutor.

“Other Church Personnel” means primarily *non-ordained* religious and lay men and women who are employees of the Church. The term “other church personnel” shall include volunteers, at the discretion of the Bishop.

“Priests” and “Deacons” mean men ordained Catholic priests and deacons.

“Promoter of Justice” means the individual responsible for the prosecution of any penal trial before a canonical tribunal.

“Sexual Abuse” means any of the following offenses under New Jersey law, or an attempt or conspiracy to commit any of the following offenses:

- Sexual assault and aggravated sexual assault, as defined in N.J.S.A. 2C:14-2;
- Criminal sexual contact and aggravated criminal sexual contact, as defined in N.J.S.A. 2C:14-3;
- Child abuse, as defined in N.J.S.A. 9:6-1, 9:6-3 and 9:6-8.21. The term child abuse includes any act constituting the offense of endangering the welfare of a child, as defined in N.J.S.A. 2C:24-4, including, but not limited to, sexual conduct which would impair or debauch the morals of the child, the offense of photographing or filming a child engaged in a prohibited sexual act as defined in N.J.S.A. 2C:24-4b(3), the offense of distribution of child pornography as defined in N.J.S.A. 2C:24-4b4(a), the offense of knowing possession or viewing of child pornography as defined in N.J.S.A. 2C:24-4b4(b), the offense of luring or enticing a child as defined in N.J.S.A. 2C:13-6, and the offense of lewdness as defined in N.J.S.A. 2C:14-4b where the offense involves a victim who at the time of the offense was less than 18 years of age. (See *Memorandum of Understanding*)

“Sexual abuse” is described within the Church as “sexual molestation or sexual exploitation of a minor and other behavior by which an adult uses a minor as an object of sexual gratification.” (*Norms*, Preamble.) The norm to be considered in assessing an allegation of sexual abuse of a minor is whether conduct or interaction with a minor qualifies as an external, objectively grave violation of the sixth commandment. (*Norms*, Preamble).

2. **Whether the victim is an adult or a minor, all complaints of sexual abuse by priests, deacons and other church personnel will be forwarded to a diocesan response officer.**
 - a. Every allegation of sexual abuse will be presumed deserving of investigation when the Diocesan Response Officer receives it.
 - b. To aid in assessing the allegation, the diocesan response officer will maintain a written record of each allegation.
3. **The diocesan response officer’s name and contact information will be readily accessible to the general public.**

4. The diocesan response officer will forward all complaints to the designated liaison, who will forward the complaints to the County Prosecutor in accordance with the Memorandum of Understanding..

- a. “The diocese will comply with all applicable civil laws with respect to the reporting of allegations of sexual abuse of minors to civil authorities and will cooperate in their investigation. In every instance, the diocese will advise and support a person’s right to make a report to public authorities.” (Norm 11).

5. The diocesan response officer will forward all complaints to the victim assistance coordinator who will ensure that appropriate assistance is offered for the immediate care of persons who claim to have been sexually abused.

- a. “The Diocese will reach out to victims/survivors and their families and demonstrate a sincere commitment to their spiritual and emotional well-being.” (Charter, Article 1) This outreach will include an offer of counseling, spiritual assistance, support groups, and other social services agreed upon by the victim and the diocese. (cf. Charter, Article 1).
- b. At the appropriate time, “through pastoral outreach to victims and their families, the Bishop or his representative will offer to meet with them, to listen with patience and compassion to their experiences and concerns, and to share the ‘profound sense of solidarity and concern’ expressed by our Holy Father in his Address to the Cardinals of the United States and Conference Officers. This pastoral outreach by the Bishop or his delegate will also be directed to faith communities in which the sexual abuse occurred.” (Charter, Article 1).

6. The diocesan response officer will forward all complaints to the Bishop and the Diocesan Review Board.

- a. Diocesan Review Board (hereinafter “Review Board” (Norm 5)
 - (1) To assist the Bishop, the diocese will have a review board which will function as a confidential consultative body to the Bishop in discharging his responsibilities. The functions of the review board may include:
 - A. advising the Bishop in his assessment of allegations of sexual abuse of minors and in his determination of suitability for ministry;
 - B. reviewing diocesan policies for dealing with sexual abuse of minors;
 - C. offering advice on all aspects of these cases, whether retrospectively or prospectively; and

- D. at the discretion of the Bishop, advising him in his assessment of allegations of sexual abuse of adults.
- (2) The review board will be composed of at least five persons of outstanding integrity and good judgment in full communion with the Church.
 - (3) The majority of the review board members will be lay persons who are not in the employ of the diocese.
 - (4) At least one member will be a pastor.
 - (5) At least one member will have particular expertise in the treatment of sex abuse of minors.
 - (6) The Bishop, the Bishop's delegate, and other persons designated by the Bishop, may attend those portions of meetings during which information is presented to the review board and the review board makes its recommendations. They may attend other portions of the meetings subject to the discretion of the review board. Other persons may attend meetings only upon the invitation or with the consent of the review board and subject to such limitations as the review board might require. It is desirable that the Promoter of Justice participate in the meetings of the review board (cf. *Norm 5*). The Promoter of Justice may attend the review board meetings with a voice in the discussions, but with no vote in the review board's determinations and recommendations.
 - (7) Appointments will be for staggered terms of five years, which can be renewed, and will continue until a successor is appointed. (*Norm 5*).

7. The Diocesan Review Board will assess the allegations and offer its advice to the Bishop.

- a. Unless the prosecuting authority requests otherwise, the review board will meet in a timely manner to assess the allegations.
- b. In making its assessment, the review board may consider any information and evidence collected during any review of the allegation.
- c. The accused is not required to meet with the review board and any refusal to meet will not be interpreted as an admission of guilt.
- d. For the sake of due process, from the moment he is officially informed of the allegation against him, the accused is to be encouraged to retain the assistance of civil and canonical counsel. (cf. *Norm 6* and *Norm 8a*.) The accused also has the right, if he so chooses, to appoint for himself in writing a procurator who may be

the same person as his counsel or another person. (cf. CIC, canons 1481, 1482 and CCEO, canons 1139, 1140).

- e. In assisting the Bishop in his assessment of an allegation, the review board will offer advice as to whether there is “sufficient evidence” to warrant a process to impose a penalty with respect to the accused. (cf. CIC canon 1718 and CCEO c. 1469). It is not the role of the review board to make a determination that an allegation is substantiated. Any final decision regarding the guilt and responsibility of the accused cleric and whether or not a penalty can be imposed falls to the Bishop, or to an ecclesiastical tribunal that ultimately must determine whether or not the guilt of the accused has been demonstrated with *moral certitude*.
- 8. The Bishop will determine whether it is necessary to conduct his own investigation of the complaint in addition to the Review Board’s assessment. Whoever the Bishop assigns to conduct this preliminary investigation will conduct it in accordance with canon law, CIC canons 1717 – 1719. (Cf. also CCEO canons 1468 – 1470).**
- 9. Before closing the preliminary investigation, (CIC. canon 1719 and CCEO, canon 1470), the Bishop is to hear the Promoter of Justice (CCEO, canon 1469.3), the accused, personally or through a delegate, if he has not yet had the opportunity to be heard (CCEO, canon 1469.3), and two or more judges or others expert in the law, if he prudently sees fit to do so. (CIC, canon 1718.3 and CCEO, canon 1469.3).**
- 10. In the case of sexual abuse of a minor, when the Bishop finds that there is sufficient evidence to warrant a process to impose a penalty on the accused, he will notify the Congregation for the Doctrine of the Faith and apply precautionary measures. (cf. Norm 6).**
 - a. The precautionary measures include: removal of the accused from the sacred ministry or from any ecclesiastical office or function, imposition or prohibition of residence in a given place or territory and prohibition against public participation in the Most Holy Eucharist pending the outcome of the process. (cf. Norm 6). Additionally, the Bishop may remove any previously delegated faculties and restrict or remove those *de jure* faculties for which he is the competent authority, and he may instruct the cleric not to wear clerical attire, for the good of the Church and his own good, pending the outcome of the process. (cf. Norms 8b and 9).
 - b. If the case would otherwise be barred by prescription, because sexual abuse of a minor is a grave offense, the Bishop will apply to the Congregation for the Doctrine of the Faith for a dispensation from the prescription, while indicating appropriate pastoral reasons. (Norm 8a.).
 - c. Each of the aforementioned procedures will be taken in writing and by means of decrees so that the cleric affected is afforded the opportunity of recourse in accord with canon law. (CIC, canons 1734ff; CCEO, canons 999ff).

- d. The alleged offender may be requested to seek, and may be urged to voluntarily comply with, an appropriate medical and psychological evaluation at a facility mutually acceptable to the diocese and to the accused, so long as this does not interfere with the investigation by civil authorities. (cf. *Norm 7* and *Charter*, Article 5).
 - 11. In the case of sexual abuse of a minor, the Congregation for the Doctrine of the Faith will either call the case to itself, or in the alternative, will direct the Bishop how to proceed.**
 - a. The Congregation for the Doctrine of the Faith will determine whether there is sufficient evidence for the Bishop to proceed either with a trial or by decree to impose a penalty. (See Appendix B for a general description of the procedures provided by canon law).
 - 12. When even a single act of sexual abuse of a minor by a priest or deacon is admitted or is established after an appropriate process in accord with canon law, the offending priest or deacon will be removed permanently from ecclesiastical ministry, not excluding dismissal from the clerical state, if the case so warrants. (CIC, canon 1395 §2; and CCEO, canon 1453 §1) (cf. *Norm 8*)**
 - a. “An offending priest or deacon will be offered professional assistance for his own healing and well-being, as well as for the purpose of prevention.” (*Charter*, Article 5).
 - 13. At all times, the Bishop has the executive power of governance, through an administrative act, to remove an offending cleric from office, to remove or restrict his faculties, and to limit his exercise of priestly ministry. (cf. *Norm 9*).**
 - 14. The priest or deacon may at any time request a dispensation from the obligations of the clerical state. “In exceptional cases, the Bishop may request of the Holy Father the dismissal of the priest or deacon from the clerical state *ex officio*, even without the consent of the priest or deacon.” (*Norm 10*).**
 - 15. Complaints of sexual abuse of adults will be handled in accordance with canon law, civil law, and *The Memorandum of Understanding*. The diocese may respond to such complaints in accord with Sections 1 through 7 of this policy.**
 - 16. Each diocese will develop a communications policy that reflects a commitment to transparency and openness. Within the confines of respect for the privacy and the reputation of the individuals involved, dioceses will deal as openly as possible with members of the community. This is especially so with regard to assisting and supporting parish communities directly affected by ministerial misconduct involving minors. (*Charter*, Article 7).**
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17. **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. When an accusation has proved to be unfounded, every step possible will be taken to restore the good name of the person falsely accused. (*Norm 13*).**
18. **There will be clear and well-publicized diocesan standards of ministerial behavior and appropriate boundaries for clergy and for any other church personnel in positions of trust who have regular contact with children and young people. (cf. *Charter, Article 6*).**
19. **The Dioceses has an established “safe environment” programs. Dioceses will make clear to clergy and all members of the community the standards of conduct for clergy and other persons in positions of trust with regard to sexual abuse. (cf. *Charter, Article 12*).**
20. **“Dioceses will evaluate the background of all diocesan and parish personnel who have regular contact with minors. Specifically, they will utilize the resources of law enforcement and other community agencies. In addition, they will employ adequate screening and evaluative techniques in deciding the fitness of candidates for ordination (cf. National Conference of Catholic Bishops, *Program of Priestly Formation, 1993, no. 513*).” (*Charter, Article 13*).**
21. **It is forbidden to transfer for ministerial assignment any priest or deacon who has committed an act of sexual abuse against any person. Transfer of such a priest or deacon for residence, temporary or otherwise, is subject to condition.**
 - a. In accordance with *Norm 12*, no priest or deacon who has committed an act of sexual abuse of a minor may be transferred for ministerial assignment to another diocese or religious province. Before a priest or deacon can be transferred even temporarily for residence to another diocese or religious province, his Bishop or religious ordinary shall forward, in a confidential manner, to the local Bishop and religious ordinary (if applicable) of the proposed place of residence any and all information concerning any act of sexual abuse of a minor and any other information indicating that he has been or may be a danger to children or young people. This will apply even if the priest or deacon will reside in the local community of an institute of consecrated life or society of apostolic life (or, in the Eastern Churches, as a monk or other religious, in a society of common life according to the manner of religious, in a secular institute, or in another form of consecrated life or society of apostolic life). Every Bishop or religious ordinary who receives a priest or deacon from outside his jurisdiction will obtain the necessary information regarding any past act of sexual abuse of a minor by the priest or deacon in question. (cf. *Norm 12*).

- 22. “The Bishop and major superiors of clerical institutes who have members serving within the particular diocese or their delegates will meet periodically to coordinate their roles concerning the issue of allegations made against a cleric member of a religious institute ministering in the diocese.” (*Charter, Article 15*).**
- 23. This policy will be subject to periodic re-evaluation by the Bishop.**
- a. To assist the Bishop in preparing for the evaluation proposed in Norm 1, this policy will be evaluated one year from its effective date.
 - b. The policies and procedures specified in this document can be revised at any time in whole or in part by the proper Bishop with such revisions being filed with the United States Conference of Catholic Bishops within three months of such modifications. (*cf. Norm 2*).
- 24. This policy will be published and made available to the general public.**
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