

DIOCESE OF SUPERIOR MORALS AND ETHICS POLICY

This policy pertains to five areas of concern: Fair employment, child abuse, sexual misconduct, harassment, and drug or alcohol presence in schools. This policy also addresses three sets of procedures to be followed; namely, special procedures relating to allegations of child abuse and sexual misconduct, harassment reporting procedures, and grievance procedures. Unfair employment practices, child abuse, sexual misconduct, harassment, and drug or alcohol abuse are clearly contrary to Christian principles of morality. It is, however, the purpose of this policy to assure compliance with the Bishops' *Charter for the Protection of Children and Young People* and applicable provisions of civil law.

1. PRAENOTANDA

I. DEFINITIONS: For the purposes of this policy only:

A. "CHILD" means a person who has not yet attained the age of 18 years.

B. "CHILD ABUSE"

1. Child abuse is currently defined by Wisconsin State Law as including:

- a. Physical injury inflicted on a child by other than accidental means. Physical injury includes but is not limited to lacerations, fractured bones, burns, internal injuries, severe or frequent bruising or great bodily harm.
- b. Sexual intercourse or sexual contact involving children.
- c. Sexual exploitation of a child.
- d. Permitting, allowing or encouraging a child to engage in prostitution.
- e. Emotional damage, which means harm to a child's psychological or intellectual functioning which is exhibited by severe anxiety, depression, withdrawal or outward aggressive behavior, or a combination of those behaviors, which is caused by the child's parent, guardian, legal custodian or other person exercising temporary or permanent control over the child and for which the child's parent, guardian or legal custodian has failed to obtain the treatment necessary to remedy the harm. Emotional damage may be demonstrated by a substantial and

observable change in behavior, emotional response or cognition that is not within the normal range for the child's age and stage of development.

- f. Forcing children to view sexually explicit material.
 - g. Neglect, which means failure, refusal or inability on the part of a parent, guardian, legal custodian or other person exercising temporary or permanent control over a child, for reasons other than poverty, to provide necessary care, food, clothing, medical or dental care or shelter so as to seriously endanger the physical health of the child.
2. The United States Conference of Catholic Bishops Charter and Norms refers to child abuse as sexual abuse of minors.
- a. *Sexual abuse shall include any offense by a cleric against the Sixth Commandment of the Decalogue with a minor as understood in CIC, canon 1395 §2, and CCEO, canon 1453 §1 (Sacramentorum sanctitatis tutela, article 4 §1).*
 - b. If there is any doubt whether a specific act qualifies as such, the writings of recognized moral theologians should be consulted and the opinions of recognized experts should be appropriately obtained (*Canonical Delicts, p. 6*).
 - c. Ultimately, it is the responsibility of the Diocesan Bishop with the advice of a qualified Review Board to determine the gravity of the alleged act.
- C. "CLERGY" or "CLERIC" means all priests and deacons who are officially assigned to a position or office by the Diocesan Bishop.
- D. "COORDINATOR OF ASSISTANCE" *This person coordinates assistance for the immediate pastoral care of persons who claim to have been sexually abused when they were minors by priests or deacons.*
- E. "DIOCESAN BISHOP" means the Bishop of the Diocese of Superior.
- F. "DIOCESE" or "DIOCESAN" includes the Diocese of Superior as a corporate entity, all its parishes, and all entities of which the Diocesan Bishop is the corporate president, including the Catholic Charities Bureau, Inc., along with all of its subsidiary corporations.

- G. “HARASSMENT” means persistent and unwelcome conduct, either verbal or non-verbal, between or among personnel in the workplace based on race, color, creed, ancestry, national origin, age, disability, sex, arrest or conviction record, marital status, sexual orientation or membership in the military reserve.
- Harassment applies to all employees and many non-employees as well: agents, consultants, guests, parishioners, students, suppliers and vendors at the workplace or at a social function.
- H. “INCARDINATED” means the canonical attachment of a cleric to the jurisdiction and support of the Diocesan Bishop.
- I. “PASTOR” includes pastors, temporary administrators, pastoral administrators, parish directors, or any person appointed by the Bishop to oversee a parish or church institution.
- J. “PERSONNEL” includes all priests, deacons, seminarians, religious, lay employees, and volunteers (such as TEC volunteers, catechists, school aides, sacristans, etc.) who assist in the work of the parish or diocese on an ongoing or more than incidental basis.
- K. *“REVIEW BOARD” consists of at least five persons of outstanding integrity and good judgment in full communion with the Church. The majority of the Review Board members will be lay persons who are not in the employ of the Diocese; but at least one member should be a priest who is an experienced and respected pastor of the diocese, and at least one member should have particular expertise in the treatment of the sexual abuse of minors. The Moderator of the Curia, diocesan attorney and judicial vicar serve as staff support to the Review Board. Norms governing the Review Board are included under PROCEDURES I.D.*
- L. “SEXUAL CONTACT” means any intentional touching of intimate parts for the purpose of sexually degrading or sexually humiliating any person or sexually arousing or gratifying the perpetrator, or any other such action.
- M. “SEXUAL MISCONDUCT” means any unwelcome sexual advances, unwelcome physical contact of a sexual nature, or unwelcome verbal or physical conduct of a sexual nature by personnel, while engaged in the work of the Diocese of Superior or its associated parishes, perpetrated against other adults served by the church.
- N. “SUBSTANTIATED ACCUSATIONS” are those which civil authorities or the Review Board members have determined to be supported by sufficient evidence, or have been admitted to, or are not contested by the perpetrator.

- O. “VOLUNTEERS” are non-paid personnel who assist in the work of the parish or diocese on an ongoing or more than incidental basis and who work with children, the very elderly or those who are mentally or physically infirm.

II. EDUCATION

- A. Adults are responsible for their sexual growth and maturity. Although education alone cannot shape mature attitudes and behavior, nor can it change inappropriate behavior, the diocese will from time to time provide educational opportunities concerning morals and ethics issues.
- B. All personnel are encouraged to participate in any scheduled diocesan presentations on morals and ethics issues; however, the following personnel must make every reasonable effort to attend these programs when they are offered:
 - 1. All priests and deacons working in the diocese.
 - 2. Parish directors, pastoral administrators and pastoral associates.
 - 3. Youth ministers working in the diocese.
 - 4. All school principals and directors/coordinators of religious education.
 - 5. All administrators of institutions under the aegis of the Catholic Charities Bureau of the diocese.

III. REFERENCE AND BACKGROUND CHECKS

- A. All references given by applicants should be contacted before an applicant is hired.
- B. At the beginning of their initial service to a parish or the diocese all clergy, employees and volunteers are to complete and sign the “Morals and Ethics Assurance Statement.”
- C. Background checks will be administered to all employees and volunteers who have regular contact with minors in their work with the church.

2. POLICIES

I. FAIR EMPLOYMENT POLICY

- A. Because the Diocese of Superior is an equal opportunity employer, it is the policy of the Diocese of Superior and its associated parishes to base employment on the qualifications and competence of the applicant. There shall be no discrimination in employment on any basis prohibited by law such as race, color, sex, national origin, citizenship or disability.
- B. Preference may be given to an applicant who is a Catholic if, in the judgment of the pastor or the Moderator of the Curia, the position is clearly related to Catholic religious teachings and beliefs.
- C. Religious restrictions may be applicable in hiring of certain positions such as teachers, administrators, etc. Where religious preferences are applicable, some or all of the personnel for these positions may be required to be practicing Catholics, i.e., having admission to full sacramental life in the Church.
- D. Grievance Procedures (cf. p.14) are provided for personnel who have grievances with their supervisors.

II. CHILD ABUSE POLICY

- A. Child abuse by personnel of the diocese or its associated parishes, while performing the work of the diocese or parish, is outside the scope of the duties and employment of all personnel and will not be tolerated.
- B. The diocese expects those personnel mandated by Wisconsin statute 48.981 to report suspected cases of child abuse to fully comply with the state requirements (cf. p.7,I,A.1.). Any person who reports in good faith is immune from either civil or criminal liability.
 - 1. Whoever willfully violates Section 48.981 Statutes of the Wisconsin Children's Code by failure to report as required may be fined or imprisoned.
 - 2. The primary purpose of the statute is the protection of children. Accordingly, when any mandated reporter has reasonable cause to believe in good faith that child abuse has occurred or will occur, and is made aware of this not through the child but through the abuser, the professional may make a report to the authorities. Although reporting in this instance is permissive, rather than mandatory, the statute's immunity provisions apply.

III. SEXUAL MISCONDUCT POLICY

Sexual misconduct by personnel while performing the work of the diocese or parish is outside the scope of the duties and employment of all personnel of the diocese and will not be tolerated.

Any adults served by personnel of the diocese or its associated parishes who believe they have been a victim of sexual misconduct shall report the incident to the pastor or the Moderator of the Curia (715 392-2937). The pastor upon receiving this report shall immediately make a verbal report of the incident to the Moderator of the Curia.

IV. HARASSMENT POLICY

It is the policy of the Diocese of Superior and its associated parishes to provide a working environment free of harassment. Allegations of such harassment shall be promptly and thoroughly investigated and, if warranted, appropriate corrective action, including discipline, shall be taken.

If the complainant alleges that the harassment included sexual contact, the complaint will be treated as an allegation of sexual misconduct. Such an allegation shall be immediately reported to the pastor or the Moderator of the Curia.

V. DRUG AND ALCOHOL POLICY FOR SCHOOLS

All parish schools shall provide a school environment free from the non-medical use of alcohol, drugs, and mood-altering substances. Accordingly, the following activities and conduct shall be strictly prohibited:

- A. The illegal manufacture, distribution, dispensing, possession or use of controlled substances or drug paraphernalia (as defined by state law) by personnel on parish school premises or while engaged in parish school-sponsored events.
- B. The possession, use or distribution of alcoholic beverages by personnel on school premises during normal school hours.
- C. The presence of personnel on school premises during the school day if, in the judgment of the principal or the principal's delegate, the individual is under the influence of alcohol, drugs or mood-altering substances.
- D. The use of all tobacco products on school premises.

All personnel are expected to abide by the provisions of this policy. Those who violate this policy shall be subject to disciplinary action up to and including termination of employment. In addition, they may be referred for prosecution in accordance with provisions of local, state, and federal law.

3. PROCEDURES

I. SPECIAL PROCEDURES RELATING TO ALLEGATIONS OF CHILD ABUSE OR SEXUAL MISCONDUCT

Pastoral responsibility and care for all parties concerned demands clear, practical procedures within the Church community itself. When any allegation of child abuse or sexual misconduct is made against any personnel of the diocese, the following procedures shall be taken:

A. INITIAL PROCEDURES

1. In regard to child abuse, Wisconsin State law (S48.981) includes any clergy, member of religious Order/Congregation, school administrator, teacher, counselor, nurse, child care worker, or related professional among those listed as mandated reporters. Any mandated reporter who has reasonable cause (that set of facts which would cause a reasonable prudent person to conclude that abuse will occur or has occurred) to suspect child abuse or who has reason to believe that a child has been threatened with abuse and that the abuse will occur, is obligated to report the case as soon as possible but within 24 hours, by telephone or personal visit to the local County Child Welfare Agency, the office of the County Sheriff or the City Police Department. The pastor upon learning about any such report shall immediately notify the Moderator of the Curia or his designate.
2. Upon receiving notification of allegations regarding child abuse or sexual misconduct the Moderator of the Curia, or his designate, shall immediately assure that this incident has been properly reported to the civil authorities, notify the Diocesan Bishop, the diocesan attorney (as determined by the Bishop or Moderator of the Curia), the Claims Risk Manager, the coordinator of assistance and the members of the Review Board as determined by the Review Board procedures, and, when appropriate, religious communities.
3. Each incident reported to the parish or diocese shall be immediately investigated with care taken not to interfere with any criminal investigation and with a high level of Christian care, concern, and confidentiality for the alleged victim, the family of the alleged victim, the person reporting the incident, the accused, the family of the accused and the community served. Any investigation of an allegation against priests or deacons shall be made in accord with canon law without prejudice to Wisconsin State Law (S48.981).

Care is to be taken to avoid defamation of the character of all parties involved during the investigation of the allegation.

4. The Moderator of the Curia must be notified of any media contact or inquiries regarding an incident of child abuse or sexual misconduct by personnel of the parish or diocese.

B. ALLEGATIONS OF CHILD ABUSE BY CLERGY

1. When an allegation of sexual abuse of a minor by a priest or deacon is received, it must be reported immediately to civil authorities (S48.981).

Thereafter, a preliminary investigation in accordance with canon law will be initiated and conducted promptly and objectively (CIC, canon 1717; CCEO, canon 1468).

- a. *During the investigation, the accused enjoys the presumption of innocence, and all appropriate steps shall be taken to protect his reputation. The accused will be encouraged to retain the assistance of civil and canonical counsel and will be promptly notified of the results of the investigation.*
- b. *When there is sufficient evidence that sexual abuse of a minor has occurred, the Congregation for the Doctrine of the Faith shall be notified. The Bishop shall then apply the precautionary measures mentioned in CIC canon 1722, or CCEO, canon 1473 and withdraw the accused from exercising the sacred ministry or any ecclesiastical office or function, impose or prohibit residence in a given place or territory, and prohibit public participation in the Most Holy Eucharist pending the outcome of the process.*
- c. The alleged offender may be requested to seek and may be urged voluntarily to comply with an appropriate medical and psychological evaluation at a facility mutually acceptable to the diocese and the accused.
- d. 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 accordance 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; CCEO, canon 1453, §1).

- e. If the penalty of dismissal from the clerical state has not been applied (e.g., for reasons of advanced age or infirmity), the offender ought to lead a life of prayer and penance. He will not be permitted to celebrate Mass publicly or to administer the sacraments. He is to be instructed not to wear clerical garb or to present himself publicly as a priest.
2. The Bishop shall convene the Review Board and refer the incident to them for their review.
3. The accused shall be temporarily suspended from employment with or without pay or benefits as determined by the person's supervisor. The suspension shall be issued in a written and dated memorandum and shall continue until further investigation is completed. Ordinarily, the accused individual shall, for the protection of all concerned, avoid parish or institutional property until the full investigation has been completed.
4. If the accused is incardinated for the Diocese of Superior but on leave to work in another diocese, the Diocesan Bishop shall immediately inform the Bishop of the other diocese in writing.
5. If the accused is a member of a religious Order/Congregation working in the Diocese of Superior the Diocesan Bishop shall immediately inform that individual's religious superior in writing.
6. If the accused is incardinated in a diocese other than the Diocese of Superior but working in the Diocese of Superior the Diocesan Bishop shall immediately inform that individual's Diocesan Bishop in writing.
7. If a pastor is removed, the Bishop and/or his delegate will meet with the leadership of the parish to explain the reason for removal of the pastor and to discuss interim operations of the parish.

C. FOLLOW-UP PROCEDURES FOR SUBSTANTIATED ACCUSATIONS

1. *At all times, the Bishop has the executive power of governance, within the parameters of the universal law of the Church, 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.*
2. *Sexual abuse of a minor by a cleric is a crime in the universal law of the Church (CIC, canon 1395 §2; CCEO, canon 1453 §1) and is a crime in all civil jurisdictions in the United States.*

3. *The Bishop shall exercise his power of governance to ensure that any priest or deacon who admits to, does not contest, or is found to have committed even one act of sexual abuse of a minor shall not continue in active ministry.*
4. *No priest or deacon who has committed an act of sexual abuse of a minor may be transferred for a ministerial assignment in another diocese. Every Bishop 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.*
5.
 - a. *Before such a diocesan priest or deacon can be transferred for residence to another diocese, the Bishop shall forward, in a confidential manner, to the Bishop 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.*
 - b. *In the case of the assignment for residence of such a clerical member of an institute or a society into a local community within a diocese, the major superior shall inform the Diocesan Bishop and share with him in a manner respecting the limitations of confidentiality found in canon and civil law 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 so that the Bishop can make an informed judgment that suitable safeguards are in place for the protection of children or young people. This will be done with due recognition of the legitimate authority of the Bishop; of the provisions of CIC, canon 678, (CCEO, canons 415 §1 and 554 §2), and of CIC, canon 679; and of the autonomy of the religious life (CIC, canon 586).*
6. *Any non-clergy personnel who admits to, does not contest, or is found to have committed even one act of sexual abuse of a minor shall be removed from employment and any position of responsibility within the diocese. Upon termination paid personnel shall receive any accrued salary and payment for unused vacation time.*
7. *Any personnel, whether clergy or non-clergy, who admits to, does not contest, or is found to have committed an incident of sexual misconduct, shall be subject to disciplinary action up to and including termination of employment.*
8. *The Moderator of the Curia shall keep appropriate records of each substantiated accusation. Such records shall be marked*

confidential and be kept at the chancery under lock, with access limited to only the Diocesan Bishop, Moderator of the Curia, Claims Risk Manager, and diocesan attorney (as determined by the Bishop or Moderator of the Curia) unless otherwise required by law.

D. NORMS GOVERNING THE DIOCESE OF SUPERIOR REVIEW BOARD

1. **Composition and Appointment:** *The Diocese of Superior Review Board, established by the Bishop, will be composed of at least five (5) persons of outstanding integrity and good judgment in full communion with the Church. In addition, the Moderator of the Curia, the Judicial Vicar, the Promoter of Justice and an attorney shall serve as staff support to the Board.*
2. **Qualifications:** *The majority of the Review Board members will be lay persons who are not in the employ of the diocese; but at least one member should be a priest who is an experienced and respected pastor of the diocese, and at least one member should have particular expertise in the treatment of the sexual abuse of minors.*
3. **Term.** *The members will be appointed for a term of five (5) years which can be renewed.*
4. **Functions.** The functions of the Review Board may include:
 - a. Advising the Diocesan 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.
5. **Confidentiality.** All matters submitted to and proceedings of the Diocese of Superior Review Board are confidential. The procedures constitute part of the process to assess the fitness for assignment and the assignment of clergy. The process is therefore privileged under the First Amendment. The procedures may require the examination of documents and records which are privileged. They may require seeking and hearing legal advice which is privileged, and may require the review of privileged communications between priests, doctors, psychologists, social workers, and lawyers. By its very nature, the Diocese of Superior Review Board's proceedings involve matters of a highly personal nature, protected by the Wisconsin Privacy Law. Therefore, all of

its communications, proceedings and records are confidential and may not be disclosed or made public.

6. **Norms Governing the Assessment of Allegations.**

- a. Issue: “Is the allegation substantiated?” This is to be determined by government authorities such as the county welfare, police or sheriff.
- b. Burden of proof: the accuser carries the burden of proof consistent with concepts of fundamental fairness.
- c. Standard of proof: moral certitude which excludes every prudent doubt or every doubt founded on positive reasons.
- d. Representation:
 - (1) The accuser may be represented by a civil and/or canon lawyer at his or her own expense.
 - (2) The accused may be represented by a civil and/or canon lawyer at his own expense. When necessary, the Diocese will supply canonical counsel to a priest or deacon.
 - (3) The Diocese of Superior Review Board shall be represented by an attorney.

7. **Record of Proceedings:** There shall be no record made of the proceedings of the Review Board.

8. **Rules of Evidence:** Adherence to the application of the strict rules of evidence shall not be required.

9. **Discovery:** There shall be no discovery by any party prior to the Review Board meeting.

10. **Nature of the Proceeding:** Initially, the Review Board shall review the records submitted to it by the Diocesan Bishop. If testimonial evidence is necessary, the Review Board shall secure sworn statements from witnesses. If the record review and written testimonial evidence is insufficient to make a recommendation to the Diocesan Bishop, live testimony may be obtained.

11. **Coordinator of Assistance:** If the allegation is found by the Review Board to be a substantiated accusation, regardless of the findings of the civil authorities, then the Moderator of the Curia or his delegate shall direct the Coordinator of Assistance to contact

the victim (and family, if appropriate) immediately so as to offer whatever help may be needed. The Coordinator of Assistance shall assure that economic, medical, psychological and spiritual assistance, if appropriate, is offered to the victim and the accused in a spirit of Christian justice and charity.

E. FALSE ALLEGATIONS AND UNSUBSTANTIATED ACCUSATIONS

1. Both civil law and canon law (cc.1390-91) provide penalties for the crime of falsehood in which individuals become victims of false denunciation and calumny.
2. In the event an accusation of child abuse or sexual misconduct is determined to be unsubstantiated either by the Review Board or by a court of law, the accused shall be returned to all rights and privileges. Furthermore, every step possible will be taken to restore the good name of the person falsely accused.

II. HARASSMENT REPORTING PROCEDURES

A. Harassment Reporting Procedures

1. The complainant is encouraged to first make it known to the respondent that the unacceptable behavior is unwelcome. If the behavior continues, the incident may be verbally reported to one of the Primary Contact People as in (2.) below.
2. Otherwise, the incident may be verbally reported to one of the Primary Contact People who is employed by the parish, at which time an attempt will be made by the Primary Contact Person to resolve the issue informally.

The Primary Contact People are: _____

3. If the issue is not informally resolved within ten (10) working days:
 - a. A formal, written complaint may be filed by the complainant with the Primary Contact Person. The written complaint shall contain a brief statement of the problem and a possible remedy.
 - b. The Primary Contact Person will present the respondent with a copy of the written complaint within ten (10) working days of first receipt of the written complaint.

- c. The respondent will submit to the Primary Contact Person a written response within ten (10) working days of receiving the complaint.
 - d. The Primary Contact Person will review the complaint and the response, if any, and may choose to hear testimony from the complainant, respondent and witnesses if additional information is required.
 - e. The Primary Contact Person will report findings and make recommendations for action to the respondent's immediate supervisor and to the pastor within thirty (30) working days of first receiving the written complaint. If the respondent is the pastor, the Primary Contact Person should forward these findings and recommendations to the Moderator of the Curia at the Chancery who will bring this process to completion.
 - f. The immediate supervisor and/or pastor will notify the complainant, the respondent and the Primary Contact Person of the action taken.
 - g. The respondent or complainant may appeal the actions taken by the immediate supervisor and/or the pastor by filing such an appeal to the pastor within ten (10) working days of notification of these actions.
 - h. The appeal will be processed in accordance with the grievance procedures of the parish as detailed in the Grievance Procedures (cf. Grievances Procedures, III).
4. Or, if you prefer, you may contact the Wisconsin Department of Workforce Development, Equal Rights Division, 201 East Washington Avenue, PO Box 8928, Madison, WI 53708, Phone: 608-266-6860.

III. GRIEVANCE PROCEDURES

The established grievance procedure contained herein shall represent the first formal action to be taken by personnel in the event of a grievance.

- A. A grievance is defined to be a controversy existing between any personnel and their supervisor concerning the following:
 - 1. Interpretation or application of the contents of the personnel policies;

2. Interpretations of job descriptions;
 3. Wages, hours, and other terms of employment;
 4. Ethical concerns.
- B. It is expected that the complainant and that person's supervisor will try to resolve a grievance through informal discussion before implementing the formal grievance procedure. Before initiating the formal procedure, the complainant must put the grievance in writing and present it to the above-referenced supervisor. The formal grievance procedure is as follows:
1. In the event the dispute is not resolved through informal means, the complainant and the supervisor shall meet with the pastor to discuss the written grievance. If the grievance is with the pastor, the complainant should contact the local Dean. The local Dean will then bring this to completion. An attempt will be made to reach a mutually satisfactory adjustment within ten (10) working days, if not on the day of the meeting. The supervisor shall provide the complainant, in writing, a summary of that meeting and the agreed upon grievance adjustment within (10) working days.
 2. In the event the grievance cannot be resolved through intervention, one or both of the aggrieved parties may refer the grievance to the Diocesan Bishop. The Bishop or his delegate will respond to the grievance in writing to both parties within ten (10) working days.

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