

# Reconciliation, Protection, Accountability

The Safe Environment Policies  
of the Diocese of Honolulu

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of the Diocese of Honolulu

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**June 1, 2015**

**MESSAGE FROM THE BISHOP**

Dear Brothers and Sisters in Christ,

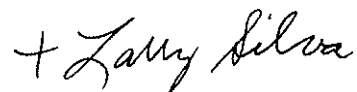
In 2002, the United States Conference of Catholic Bishops developed the Charter for the Protection of Children and Youth. This document guides our efforts to promote healing and reconciliation with victims/survivors of sexual abuse of minors by clergy, religious or lay employees/volunteers. It outlines an effective response to allegations of sexual abuse, calls for more effective screening of those entering service in the Church, and provides for education for clergy and others who have contact with minors or who are in a position of trust in the Church. Safe Environment programs have been implemented in parishes and schools throughout the country as a response to the Charter.

Although the media's intense reporting of the tragedy of sexual abuse of children by clergy and other trusted Church ministers has diminished, we are committed to continuing implementation of the Charter and do all we humanly can to prevent such a tragedy from happening again.

- Our Victim Assistance Program reaches out to those who may have been sexually abused as minors.
- Our Safe Environment training and educational programs continue to be conducted for children, youth and all who are in a position of trust over them. Training is required for all clergy, religious and lay staff, as well as volunteers who may have regular contact with youth in any aspect of Church life. Records are maintained regarding who has been trained, renewal training is required periodically. A listing of the approved safe environment curricula, all of which are in good moral standing with the Catholic Church, is available on the Diocese website.
- The Code of Pastoral Conduct is based on the *Model Code of Pastoral Conduct* developed by the VIRTUS "best practices" program designed for religious organizations; it was first promulgated on January 8, 2004.
- All clergy, religious and lay staff, and all volunteers who have regular contact with youth in any aspect of Church life are required to submit to criminal background checks, as permitted by law. Pastors, principals and administrators are responsible for ensuring that these checks are carried out and for maintaining records of compliance with this directive.

We affirm our commitment to work diligently to prevent the sexual abuse of minors. We pray forgiveness from those persons who were abused as minors by clergy, religious or Church employees and we pray that the healing power of Christ may touch them. We thank God for our children and youth and commit ourselves to care for them as gifts of God's love.

Sincerely yours in Christ,



Most Reverend Larry Silva  
Bishop of Honolulu



## TABLE OF CONTENTS

	Page
I. U.S. Conference of Catholic Bishops <b><i>Charter for the Protection of Children and Young People</i></b>	1
II. Creating and Maintaining Safe Environments: <b><i>A Training and Education Program for the Church in Hawaii</i></b>	17
III. Code of Pastoral Conduct: <b><i>Code of Conduct for Employees, Volunteers, Contractors Religious and Clergy</i></b>	19
Code of Conduct Agreement	23
IV. Policy on Allegations and Incidents of Sexual Misconduct: <b><i>Personnel Policy Regarding Allegations</i></b>	24
V. Guidelines Regarding Allegations: <b><i>What Volunteers, Contractors, and Religious Sisters and Brothers Need to Know</i></b>	30
VI. Instruction Regarding Allegations of Sexual Harassment and Sexual Misconduct Against Clerics	35
VII. Requirements for Reporting Child Sex Abuse: <b><i>Reporting Actual or Threatened Child Abuse</i></b>	59
VIII. The Victim Assistance Coordinator	61

## I. CHARTER FOR THE PROTECTION OF CHILDREN AND YOUNG PEOPLE

### PREAMBLE

Since 2002, the Church in the United States has experienced a crisis without precedent in our times. The sexual abuse of children and young people by some deacons, priests, and bishops, and the ways in which these crimes and sins were addressed, have caused enormous pain, anger, and confusion. As bishops, we have acknowledged our mistakes and our roles in that suffering, and we apologize and take responsibility again for too often failing victims and the Catholic people in the past. From the depths of our hearts, we bishops express great sorrow and profound regret for what the Catholic people have endured.

Again, with this 2011 revision of the Charter for the Protection of Children and Young People, we re-affirm our deep commitment to creating a safe environment within the Church for children and youth. We have listened to the profound pain and suffering of those victimized by sexual abuse and will continue to respond to their cries. We have agonized over the sinfulness, the criminality, and the breach of trust perpetrated by some members of the clergy. We have determined as best we can the extent of the problem of this abuse of minors by clergy in our country, as well as commissioned a study of the causes and context of this problem.

We continue to have a special care for and a commitment to reaching out to the victims of sexual abuse and their families. The damage caused by sexual abuse of minors is devastating and long-lasting. We apologize to them for the grave harm that has been inflicted on them, and we offer our help for the future. The loss of trust that is often the consequence of such abuse becomes even more tragic when it leads to a loss of the faith that we have a sacred duty to foster. We make our own the words of His Holiness, Pope John Paul II: that the sexual abuse of young people is “by every standard wrong and rightly considered a crime by society; it is also an appalling sin in the eyes of God” (Address to the Cardinals of the United States and Conference Officers, April 23, 2002).

Along with the victims and their families, the entire Catholic community in this country has suffered because of this scandal and its consequences. In the last nine years, the intense public scrutiny of the minority of the ordained who have betrayed their calling has caused the vast majority of faithful priests and deacons to experience enormous vulnerability to being misunderstood in their ministry and even to the possibility of false accusations. We share with them a firm commitment to renewing the image of the vocation to Holy Orders so that it will continue to be perceived as a life of service to others after the example of Christ our Lord.

We, who have been given the responsibility of shepherding God’s people, will, with his help and in full collaboration with all the faithful, continue to work to restore the bonds of trust that unite us. Words alone cannot accomplish this goal. It will begin with the actions we take in our General Assembly and at home in our dioceses and eparchies.

We feel a particular responsibility for “the ministry of reconciliation” (2 Cor. 5:18) which God, who reconciled us to himself through Christ, has given us. The love of Christ impels us to ask forgiveness for our own faults but also to appeal to all—to those who have been victimized, to those who have offended, and to all who have felt the wound of this scandal—to be reconciled to God and one another.

Perhaps in a way never before experienced, we have felt the power of sin touch our entire Church family in this country; but as St. Paul boldly says, God made Christ “to be sin who did not know sin, so that we might become the righteousness of God in him” (2 Cor 5:21). May we who have known sin experience as well, through a spirit of reconciliation, God’s own righteousness.

We know that after such profound hurt, healing and reconciliation are beyond human capacity alone. It is God's grace and mercy that will lead us forward, trusting Christ's promise: "for God all things are possible" (Mt 19:26).

In working toward fulfilling this responsibility, we have relied first of all on Almighty God to sustain us in faith and in the discernment of the right course to take.

We have received fraternal guidance and support from the Holy See that has sustained us in this time of trial.

We have relied on the Catholic faithful of the United States. Nationally and in each diocese, the wisdom and expertise of clergy, religious, and laity have contributed immensely to confronting the effects of the crisis and have taken steps to resolve it. We are filled with gratitude for their great faith, for their generosity, and for the spiritual and moral support that we have received from them.

We acknowledge and affirm the faithful service of the vast majority of our priests and deacons and the love that their people have for them. They deservedly have our esteem and that of the Catholic people for their good work. It is regrettable that their committed ministerial witness has been overshadowed by this crisis.

In a special way, we acknowledge those victims of clergy sexual abuse and their families who have trusted us enough to share their stories and to help us appreciate more fully the consequences of this reprehensible violation of sacred trust.

Let there now be no doubt or confusion on anyone's part: For us, your bishops, our obligation to protect children and young people and to prevent sexual abuse flows from the mission and example given to us by Jesus Christ himself, in whose name we serve.

As we work to restore trust, we are reminded how Jesus showed constant care for the vulnerable. He inaugurated his ministry with these words of the Prophet Isaiah:

The Spirit of the Lord is upon me,  
because he has anointed me  
to bring glad tidings to the poor.  
He has sent me to proclaim liberty to captives  
and recovery of sight to the blind,  
to let the oppressed go free,  
and to proclaim a year acceptable to the Lord. (*Lk. 4:18-19*)

In Matthew 25, the Lord, in his commission to his apostles and disciples, told them that whenever they show mercy and compassion to the least ones, they show it to him.

Jesus extended this care in a tender and urgent way to children, rebuking his disciples for keeping them away from him: "Let the children come to me" (*Mt 19:14*). And he uttered a grave warning that for anyone who would lead the little ones astray, it would be better for such a person "to have a great millstone hung around his neck and to be drowned in the depths of the sea" (*Mt 18:6*).

We hear these words of the Lord as prophetic for this moment. With a firm determination to restore the bonds of trust, we bishops recommit ourselves to a continual pastoral outreach to repair the breach with those who have suffered sexual abuse and with all the people of the Church.

In this spirit, over the last nine years, the principles and procedures of the Charter have been integrated into Church life.

1. The Secretariat of Child and Youth Protection provides the focus for a consistent, ongoing, and comprehensive approach to creating a secure environment for young people throughout the Church in the United States.
2. The Secretariat also provides the means for us to be accountable for achieving the goals of the Charter, as demonstrated by its annual reports on the implementation of the Charter based on independent compliance audits.
3. The National Review Board is carrying on its responsibility to assist in the assessment of diocesan compliance with the *Charter for the Protection of Children and Young People*.
4. The descriptive study of the nature and scope of sexual abuse of minors by Catholic clergy in the United States, commissioned by the National Review Board, has been completed. The resulting study, examining the historical period 1950-2002, by the John Jay College of Criminal Justice provides us with a powerful tool not only to examine our past but also to secure our future against such misconduct.
5. The U.S. bishops charged the National Review Board to oversee the completion of the Causes and Context study.
6. Victims' assistance coordinators are in place throughout our nation to assist dioceses in responding to the pastoral needs of those who have been injured by abuse.
7. Diocesan/eparchial bishops in every diocese are advised and greatly assisted by diocesan review boards as the bishops make the decisions needed to fulfill the Charter.
8. Safe environment programs are in place to assist parents and children—and those who work with children—in preventing harm to young people. These programs continually seek to incorporate the most useful developments in the field of child protection.

Through these steps and many others, we remain committed to the safety of our children and young people.

While it seems that the scope of this disturbing problem of sexual abuse of minors by clergy has been reduced over the last decade, the harmful effects of this abuse continue to be experienced both by victims and dioceses.

Thus it is with a vivid sense of the effort which is still needed to confront the effects of this crisis fully and with the wisdom gained by the experience of the last six years that we have reviewed and revised the *Charter for the Protection of Children and Young People*. We now reaffirm that we will assist in the healing of those who have been injured, will do all in our power to protect children and young people, and will work with our clergy, religious, and laity to restore trust and harmony in our faith communities, as we pray for God's kingdom to come, here on earth, as it is in heaven.

To make effective our goals of a safe environment within the Church for children and young people and of preventing sexual abuse of minors by clergy in the future, we, the members of the United States Conference of Catholic Bishops, have outlined in this Charter a series of practical and pastoral steps, and we commit ourselves to taking them in our dioceses and eparchies.



## **TO PROMOTE HEALING AND RECONCILIATION WITH VICTIMS/SURVIVORS OF SEXUAL ABUSE OF MINORS**

### **ARTICLE 1.**

Dioceses/eparchies are to reach out to victims/survivors and their families and demonstrate a sincere commitment to their spiritual and emotional well-being. The first obligation of the Church with regard to the victims is for healing and reconciliation. Each diocese/eparchy is to continue its outreach to every person who has been the victim of sexual abuse\* as a minor by anyone in church service, whether the abuse was recent or occurred many years in the past. This outreach may include provision of counseling, spiritual assistance, support groups, and other social services agreed upon by the victim and the diocese/eparchy.

Through pastoral outreach to victims and their families, the diocesan/eparchial bishop or his representative is to 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 His Holiness, Pope John Paul II, in his Address to the Cardinals of the United States and Conference Officers (April 23, 2002). Pope Benedict XVI, too, in his address to the U.S. bishops in 2008 said of the clergy sexual abuse crisis, “It is your God-given responsibility as pastors to bind up the wounds caused by every breach of trust, to foster healing, to promote reconciliation and to reach out with loving concern to those so seriously wronged.”

We bishops and eparchs commit ourselves to work as one with our brother priests and deacons to foster reconciliation among all people in our dioceses/eparchies. We especially commit ourselves to work with those individuals who were themselves abused and the communities that have suffered because of the sexual abuse of minors that occurred in their midst.

### **ARTICLE 2.**

Dioceses/eparchies are to have policies and procedures in place to respond promptly to any allegation where there is reason to believe that sexual abuse of a minor has occurred.

Dioceses/eparchies are to have a competent person or persons to coordinate assistance for the immediate pastoral care of persons who report having been sexually abused as minors by clergy or other Church personnel. The procedures for those making a complaint are to be readily available in printed form in the principal languages in which the liturgy is celebrated in the diocese/eparchy and be the subject of public announcements at least annually.

Dioceses/eparchies are also to have a review board that functions as a confidential consultative body to the bishop/eparch. The majority of its members are to be lay persons not in the employ of the diocese/eparchy (see Norm 5 in Essential Norms for Diocesan/Eparchial Policies Dealing with Allegations of Sexual Abuse of Minors by Priests or Deacons, 2006). This board is to advise the diocesan/eparchial bishop in his assessment of allegations of sexual abuse of minors and in his determination of a cleric’s suitability for ministry. It is regularly to review diocesan/eparchial policies and procedures for dealing with sexual abuse of minors. Also, the board can review these matters both retrospectively and prospectively and give advice on all aspects of responses in connection with these cases.

### **ARTICLE 3.**

Dioceses/eparchies are not to enter into settlements which bind the parties to confidentiality unless the victim/survivor requests confidentiality and this request is noted in the text of the agreement.

## **TO GUARANTEE AN EFFECTIVE RESPONSE TO ALLEGATIONS OF SEXUAL ABUSE OF MINORS**

### **ARTICLE 4.**

Dioceses/eparchies are to report an allegation of sexual abuse of a person who is a minor to the public authorities. Dioceses/eparchies are to comply with all applicable civil laws with respect to the reporting of allegations of sexual abuse of minors to civil authorities and cooperate in their investigation in accord with the law of the jurisdiction in question.

Dioceses/eparchies are to cooperate with public authorities about reporting cases even when the person is no longer a minor. In every instance, dioceses/eparchies are to advise victims of their right to make a report to public authorities and support this right.

### **ARTICLE 5.**

We affirm the words of His Holiness, Pope John Paul II, in his Address to the Cardinals of the United States and Conference Officers: “There is no place in the priesthood or religious life for those who would harm the young.”

Sexual abuse of a minor by a cleric is a crime in the universal law of the Church (CIC, c.1395 §2; CCEO, c.1453 §1). Because of the seriousness of this matter, jurisdiction has been reserved to the Congregation for the Doctrine of the Faith (*Motu proprio Sacramentorum sanctitatis tutela*, AAS 93, 2001). Sexual abuse of a minor is also a crime in all civil jurisdictions in the United States.

Diocesan/eparchial policy is to provide that for even a single act of sexual abuse of a minor\*—whenever it occurred—which is admitted or established after an appropriate process in accord with Canon Law, the offending priest or deacon is to be permanently removed from ministry and, if warranted, dismissed from the clerical state. In keeping with the stated purpose of this Charter, an offending priest or deacon is to be offered therapeutic professional assistance both for the purpose of prevention and also for his own healing and well-being.

The diocesan/eparchial bishop is to exercise his power of governance, within the parameters of the universal law of the Church, to ensure that any priest or deacon subject to his governance who has committed even one act of sexual abuse of a minor as described below (see note) shall not continue in ministry.

A priest or deacon who is accused of sexual abuse of a minor is to be accorded the presumption of innocence during the investigation of the allegation and all appropriate steps are to be taken to protect his reputation. He is to be encouraged to retain the assistance of civil and canonical counsel. If the allegation is deemed not substantiated, every step possible is to be taken to restore his good name, should it have been harmed.

In fulfilling this article, dioceses/eparchies are to follow the requirements of the universal law of the Church and of the Essential Norms approved for the United States.

### **ARTICLE 6.**

There are to be clear and well publicized diocesan/eparchial standards of ministerial behavior and appropriate boundaries for clergy and for any other paid personnel and volunteers of the Church in positions of trust who have regular contact with children and young people.

## **ARTICLE 7.**

Dioceses/eparchies are to be open and transparent in communicating with the public about sexual abuse of minors by clergy within the confines of respect for the privacy and the reputation of the individuals involved. This is especially so with regard to informing parish and other church communities directly affected by the sexual abuse of a minor.

## **TO ENSURE THE ACCOUNTABILITY OF OUR PROCEDURES**

## **ARTICLE 8.**

By the authority of the United States Conference of Catholic Bishops, the mandate of the Ad Hoc Committee on Sexual Abuse is renewed, and it is now constituted the Committee on the Protection of Children and Young People. It becomes a standing committee of the Conference. Its membership is to include representation from all the episcopal regions of the country, with new appointments staggered to maintain continuity in the effort to protect children and youth. The Committee is to advise the USCCB on all matters related to child and youth

protection and is to oversee the development of the plans, programs, and budget of the Secretariat of Child and Youth Protection. It is to provide the USCCB with comprehensive planning and recommendations concerning child and youth protection by coordinating the efforts of the Secretariat and the National Review Board.

## **ARTICLE 9.**

The Secretariat of Child and Youth Protection, established by the Conference of Catholic Bishops, is to staff the Committee on the Protection of Children and Young People and be a resource for dioceses/eparchies for the implementation of “safe environment” programs and for suggested training and development of diocesan personnel responsible for child and youth protection programs, taking into account the financial and other resources, as well as the population, area, and demographics of the diocese/eparchy.

The Secretariat is to produce an annual public report on the progress made in implementing and maintaining the standards in this *Charter*. The report is to be based on an annual audit process whose method, scope, and cost are to be approved by the Administrative Committee on the recommendation of the Committee on the Protection of Children and Young People. This public report is to include the names of those dioceses/eparchies which the audit shows are not in compliance with the provisions and expectations of the *Charter*.

As a member of the Conference staff, the Executive Director of the Secretariat is appointed by and reports to the General Secretary. The Executive Director is to provide the Committee on the Protection of Children and Young People and the National Review Board with regular reports of the Secretariat's activities.

## **ARTICLE 10.**

The whole Church, especially the laity, at both the diocesan and national levels, needs to be engaged in maintaining safe environments in the Church for children and young people.

The Committee on the Protection of Children and Young People is to be assisted by the National Review Board, a consultative body established in 2002 by the USCCB. The Board will review the annual report of the Secretariat of Child and Youth Protection on the implementation of this Charter in each diocese/eparchy and any recommendations that emerge from it, and offer its own assessment regarding its approval and publication to the Conference President.

The Board will also advise the Conference President on future members. The Board members are appointed by the Conference President in consultation with the Administrative Committee and are accountable to him and to the USCCB Executive Committee. Before a candidate is contacted, the Conference President is to seek and obtain, in writing, the endorsement of the candidate's diocesan bishop. The Board is to operate in accord with the statutes and bylaws of the USCCB and within procedural guidelines developed by the Board in consultation with the Committee on the Protection of Children and Young People and approved by the USCCB Administrative Committee. These guidelines set forth such matters as the Board's purpose and responsibility, officers, terms of office, and frequency of reports to the Conference President on its activities.

The Board will offer its advice as it collaborates with the Committee on the Protection of Children and Young People on matters of child and youth protection, specifically on policies and best practices. The Board and Committee on the Protection of Children and Young People will meet jointly several times a year.

The Board will review the work of the Secretariat of Child and Youth Protection and make recommendations to the Director. It will assist the Director in the development of resources for dioceses.

The Board will offer its assessment of the Causes and Context study to the Conference, along with any recommendations suggested by the study.

#### **ARTICLE 11.**

The President of the Conference is to inform the Holy See of this revised Charter to indicate the manner in which we, the Catholic bishops, together with the entire Church in the United States, intend to continue our commitment to the protection of children and young people. The President is also to share with the Holy See the annual reports on the implementation of the Charter.

### **TO PROTECT THE FAITHFUL IN THE FUTURE**

#### **ARTICLE 12.**

Dioceses/eparchies are to maintain "safe environment" programs which the diocesan/eparchial bishop deems to be in accord with Catholic moral principles. They are to be conducted cooperatively with parents, civil authorities, educators, and community organizations to provide education and training for children, youth, parents, ministers, educators, volunteers, and others about ways to make and maintain a safe environment for children and young people. Dioceses/eparchies are to 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 children.

#### **ARTICLE 13.**

Dioceses/eparchies are to evaluate the background of all incardinated and nonincardinated priests and deacons who are engaged in ecclesiastical ministry in the diocese/eparchy and of all diocesan/eparchial and parish/school or other paid personnel and volunteers whose duties include ongoing, unsupervised contact with minors. Specifically, they are to utilize the resources of law enforcement and other community agencies. In addition, they are to employ adequate screening and evaluative techniques in deciding the fitness of candidates for ordination (cf. United States Conference of Catholic Bishops, *Program of Priestly Formation* [Fifth Edition], 2006, no. 39)

#### **ARTICLE 14.**

Transfers of clergy who have committed an act of sexual abuse against a minor for residence, including retirement, shall be as in accord with Norm 12 of the Essential Norms. (*cf. Proposed Guidelines on the Transfer or Assignment of Clergy and Religious*, adopted by the USCCB, the Conference of Major Superiors of Men [CMSM], the Leadership Conference of Women Religious [LCWR], and the Council of Major Superiors of Women Religious [CMSWR] in 1993.)

#### **ARTICLE 15.**

To ensure continuing collaboration and mutuality of effort in the protection of children and young people on the part of the bishops and religious ordinaries, two representatives of the Conference of Major Superiors of Men are to serve as consultants to the Committee on the Protection of Children and Young People. At the invitation of the Major Superiors, the Committee will designate two of its members to consult with its counterpart at CMSM. Diocesan/eparchial bishops and major superiors of clerical institutes or their delegates are to meet periodically to coordinate their roles concerning the issue of allegations made against a cleric member of a religious institute ministering in a diocese/eparchy.

#### **ARTICLE 16.**

Given the extent of the problem of the sexual abuse of minors in our society, we are willing to cooperate with other churches and ecclesial communities, other religious bodies, institutions of learning, and other interested organizations in conducting research in this area.

#### **ARTICLE 17.**

We commit ourselves to work individually in our dioceses/eparchies and together as a Conference, through the appropriate committees, to strengthen our programs both for initial priestly formation and for the ongoing formation of priests. With renewed urgency, we will promote programs of human formation for chastity and celibacy for both seminarians and priests based upon the criteria found in *Pastores Dabo Vobis*, the *Program of Priestly Formation*, the *Basic Plan for the Ongoing Formation of Priests*, and the results of the Apostolic Visitation. We will continue to assist priests, deacons, and seminarians in living out their vocation in faithful and integral ways.

### **CONCLUSION**

As we wrote in 2002, "It is within this context of the essential soundness of the priesthood and of the deep faith of our brothers and sisters in the Church that we know that we can meet and resolve this crisis for now and the future."

We wish to reaffirm once again that the vast majority of priests and deacons serve their people faithfully and that they have the esteem and affection of their people. They also have our love and esteem and our commitment to their good names and well-being.

An essential means of dealing with the crisis is prayer for healing and reconciliation, and acts of reparation for the grave offense to God and the deep wound inflicted upon his holy people. Closely connected to prayer and acts of reparation is the call to holiness of life and the care of the diocesan/eparchial bishop to ensure that he and his priests avail themselves of the proven ways of avoiding sin and growing in holiness of life.

It is with reliance on prayer and penance that we renew the pledges which we made in the original *Charter*.

**We pledge most solemnly to one another and to you, God's people that we will work to our utmost for the protection of children and youth.**

**We pledge that we will devote to this goal the resources and personnel necessary to accomplish it.**

**We pledge that we will do our best to ordain to the priesthood and put into positions of trust only those who share this commitment to protecting children and youth.**

**We pledge that we will work toward healing and reconciliation for those sexually abused by clerics.**

Much has been done to honor these pledges. We devoutly pray that God who has begun this good work in us will bring it to fulfillment.

This *Charter* is published for the dioceses/eparchies of the United States. It is to be reviewed again after two years by the Committee on the Protection of Children and Young People with the advice of the National Review Board. The results of this review are to be presented to the full Conference of Bishops for confirmation.

#### NOTATION

For purposes of this Charter, the offense of sexual abuse of a minor will be understood in accord with the provisions of *Sacramentorum sanctitatis tutela* (SST), article 6, which reads:

§1. The more grave delicts against morals which are reserved to the Congregation for the Doctrine of the Faith are:

1o the delict against the sixth commandment of the Decalogue committed by a cleric with a minor below the age of eighteen years; in this case, a person who habitually lacks the use of reason is to be considered equivalent to a minor.

2o the acquisition, possession, or distribution by a cleric of pornographic images of minors under the age of fourteen, for purposes of sexual gratification, by whatever means or using whatever technology;

§2. A cleric who commits the delicts mentioned above in §1 is to be punished according to the gravity of his crime, not excluding dismissal or deposition.

In view of the Circular Letter from the Congregation for the Doctrine of the Faith, dated May 3, 2011, which calls for "making allowance for the legislation of the country where the Conference is located," Section III (g), we will apply the federal legal age for defining child pornography, which includes pornographic images of minors under the age of eighteen, for assessing a cleric's suitability for ministry and for complying with civil reporting statutes.

If there is any doubt whether a specific act qualifies as an external, objectively grave violation, the writings of recognized moral theologians should be consulted, and the opinions of recognized experts should be appropriately obtained (Canonical Delicts Involving Sexual Misconduct and Dismissal from the Clerical State, 1995, p. 6). Ultimately, it is the responsibility of the diocesan bishop/eparch, with the advice of a qualified review board, to determine the gravity of the alleged act.

**Essential Norms for Diocesan/ Eparchial Policies Dealing with Allegations of Sexual Abuse of Minors by Priests or Deacons**

***Office of the President***

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Most Reverend William S. Skylstad, DD  
Bishop of Spokane

May 5, 2006

THE UNITED STATES CONFERENCE OF CATHOLIC BISHOPS

**DECREE OF PROMULGATION**

On November 13, 2002, the members of the United States Conference of Catholic Bishops approved as particular law the *Essential Norms for Diocesan/Eparchial Policies Dealing with Allegations of Sexual Abuse of Minors by Priests or Deacons*. Following the grant of the required *recognitio* by the Congregation for Bishops on December 8, 2002, the *Essential Norms* were promulgated by the President of the same Conference on December 12, 2002.

Thereafter, on June 17, 2005, the members of the United States Conference of Catholic Bishops approved a revised text of the *Essential Norms*. By a decree dated January 1, 2006, and signed by His Eminence, Giovanni Battista Cardinal Re, Prefect of the Congregation for Bishops, and His Excellency, the Most Reverend Francesco Monterisi, Secretary of the same Congregation, the *recognitio* originally granted to the *Essential Norms* of 2002 was extended to the revised version *donec aliter provideatur*.

As President of the United States Conference of Catholic Bishops, I therefore decree the promulgation of the *Essential Norms* of June 17, 2005. These *Norms* shall obtain force on May 15, 2006, and so shall from that day bind as particular law all Dioceses and Eparchies of the United States Conference of Catholic Bishops.

Most Reverend William S. Skylstad  
Bishop of Spokane  
President, USCCB

Reverend Monsignor David J. Malloy  
General Secretary

## Preamble

On June 14, 2002, the United States Conference of Catholic Bishops approved a *Charter for the Protection of Children and Young People*. The charter addresses the Church's commitment to deal appropriately and effectively with cases of sexual abuse of minors by priests, deacons, and other church personnel (i.e., employees and volunteers). The bishops of the United States have promised to reach out to those who have been sexually abused as minors by anyone serving the Church in ministry, employment, or a volunteer position, whether the sexual abuse was recent or occurred many years ago. They stated that they would be as open as possible with the people in parishes and communities about instances of sexual abuse of minors, with respect always for the privacy and the reputation of the individuals involved. They have committed themselves to the pastoral and spiritual care and emotional well-being of those who have been sexually abused and of their families.

In addition, the bishops will work with parents, civil authorities, educators, and various organizations in the community to make and maintain the safest environment for minors. In the same way, the bishops have pledged to evaluate the background of seminary applicants as well as all church personnel who have responsibility for the care and supervision of children and young people.

Therefore, to ensure that each diocese/eparchy in the United States of America will have procedures in place to respond promptly to all allegations of sexual abuse of minors, the United States Conference of Catholic Bishops decrees these norms for diocesan/eparchial policies dealing with allegations of sexual abuse of minors by diocesan and religious priests or deacons.<sup>1</sup> These norms are complementary to the universal law of the Church and are to be interpreted in accordance with that law. The Church has traditionally considered the sexual abuse of minors a grave delict and punishes the offender with penalties, not excluding dismissal from the clerical state if the case so warrants.

For purposes of these Norms, 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 6 §1).<sup>2</sup>

## Norms

1. These Essential Norms have been granted *recognitio* by the Holy See. Having been legitimately promulgated in accordance with the practice of the United States Conference of Catholic Bishops on May 5, 2006, they constitute particular law for all the dioceses/eparchies of the United States of America.<sup>3</sup>

2. Each diocese/eparchy will have a written policy on the sexual abuse of minors by priests and deacons, as well as by other church personnel. This policy is to comply fully with, and is to specify in more detail, the steps to be taken in implementing the requirements of canon law, particularly CIC, canons 1717-1719, and CCEO, canons 1468-1470. A copy of this policy will be filed with the United States Conference of Catholic Bishops within three months of the effective date of these norms. Copies of any eventual revisions of the written diocesan/eparchial policy are also to be filed with the United States Conference of Catholic Bishops within three months of such modifications.



3. Each diocese/eparchy will designate a competent person to coordinate assistance for the immediate pastoral care of persons who claim to have been sexually abused when they were minors by priests or deacons.

4. To assist diocesan/eparchial bishops, each diocese/eparchy will also have a review board which will function as a confidential consultative body to the bishop/eparch in discharging his responsibilities. The functions of this board may include

- a. advising the diocesan bishop/eparch in his assessment of allegations of sexual abuse of minors and in his determination of suitability for ministry;
- b. reviewing diocesan/eparchial policies for dealing with sexual abuse of minors; and
- c. offering advice on all aspects of these cases, whether retrospectively or prospectively.

5. The review board, established by the diocesan/eparchial bishop, will be composed 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/eparchy; but at least one member should be a priest who is an experienced and respected pastor of the diocese/eparchy in question, and at least one member should have particular expertise in the treatment of the sexual abuse of minors. The members will be appointed for a term of five years, which can be renewed. It is desirable that the Promoter of Justice participate in the meetings of the review board.

6. When an allegation of sexual abuse of a minor by a priest or deacon is received, a preliminary investigation in accordance with canon law will be initiated and conducted promptly and objectively (CIC, c. 1717; CCEO, c. 1468). 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. When there is sufficient evidence that sexual abuse of a minor has occurred, the Congregation of the Doctrine of the Faith shall be notified. The bishop/eparch shall then apply the precautionary measures mentioned in CIC, canon 1722, or CCEO, canon 1473—i.e., 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.<sup>4</sup>

7. 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/eparchy and to the accused.

8. When even a single act of sexual abuse 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 (SST, Art. 6; CIC, c. 1395 §2; CCEO, c. 1453 §1).<sup>5</sup>

- a. In every case involving canonical penalties, the processes provided for in canon law must be observed, and the various provisions of canon law must be considered (cf. *Canonical Delicts Involving Sexual Misconduct and Dismissal from the Clerical State*, 1995; Letter from the Congregation for the Doctrine of the Faith, May 18, 2001). Unless the Congregation for the Doctrine of the Faith, having been notified, calls the case to itself because of special circumstances, it will direct the diocesan bishop/eparch to proceed (Article 13, “Procedural Norms” for *Motu proprio Sacramentorum sanctitatis tutela*, AAS, 93, 2001, p. 787). If the case would otherwise be barred by prescription, because sexual abuse of a minor is a grave offense, the bishop/eparch may apply to the Congregation for the Doctrine of the Faith for a derogation from the prescription, while indicating relevant grave reasons. For the sake of canonical due process, the accused is to be encouraged to retain the assistance of civil and canonical counsel. When necessary, the diocese/eparchy will supply canonical counsel to a priest. The provisions of CIC, canon 1722, or CCEO, canon 1473, shall be implemented during the pendency of the penal process.
- b. 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.

9. At all times, the diocesan bishop/eparch 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.<sup>6</sup> Because sexual abuse of a minor by a cleric is a crime in the universal law of the Church (CIC, c. 1395 §2; CCEO, c. 1453 §1) and is a crime in all civil jurisdictions in the United States, for the sake of the common good and observing the provisions of canon law, the diocesan bishop/eparch shall exercise this power of governance to ensure that any priest or deacon who has committed even one act of sexual abuse of a minor as described above shall not continue in active ministry.<sup>7</sup>

10. The priest or deacon may at any time request a dispensation from the obligations of the clerical state. In exceptional cases, the bishop/eparch 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.

11. The diocese/eparchy 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/eparchy will advise and support a person’s right to make a report to public authorities.<sup>8</sup>

12. 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/eparchy. Every bishop/eparch 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.

Before such a diocesan/eparchial priest or deacon can be transferred for residence to another diocese/eparchy, his diocesan/eparchial 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.

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/eparchy, the major superior shall inform the diocesan/eparchial 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/eparch can make an informed judgment that suitable safeguards are in place for the protection of children and young people. This will be done with due recognition of the legitimate authority of the bishop/eparch; 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, c. 586).

13. 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 been shown to be unfounded, every step possible will be taken to restore the good name of the person falsely accused.

#### Notes

- 1 These Norms constitute particular law for the dioceses, eparchies, clerical religious institutes, and societies of apostolic life of the United States with respect to all priests and deacons in the ecclesiastical ministry of the Church in the United States. When a major superior of a clerical religious institute or society of apostolic life applies and interprets them for the internal life and governance of the institute or society, he has the obligation to do so according to the universal law of the Church and the proper law of the institute or society.
- 2 If there is any doubt whether a specific act qualifies as an external, objectively grave violation, the writings of recognized moral theologians should be consulted, and the opinions of recognized experts should be appropriately obtained (*Canonical Delicts*, p. 6). Ultimately, it is the responsibility of the diocesan bishop/eparch, with the advice of a qualified review board, to determine the gravity of the alleged act.
- 3 Due regard must be given to the proper legislative authority of each Eastern Catholic Church.
- 4 Article 19 *Sacramentorum sanctitatis tutela* states, "With due regard for the right of the Ordinary to impose from the outset of the preliminary investigation those measures which are established in can. 1722 of the Code of Canon Law, or in can. 1473 of the Code of Canons of the Eastern Churches, the respective presiding judge may, at the request of the Promoter of Justice, exercise the same power under the same conditions determined in the canons themselves."
- 5 For purposes of these Norms, the offense of sexual abuse of a minor will be understood in accord with the provisions of *Sacramentorum sanctitatis tutela* (SST), article 6, which reads:  
§1. The more grave delicts against morals which are reserved to the Congregation for the Doctrine of the Faith are:

1<sup>o</sup> the delict against the sixth commandment of the Decalogue committed by a cleric with a minor below the age of eighteen years; in this case, a person who habitually lacks the use of reason is to be considered equivalent to a minor.

2<sup>o</sup> the acquisition, possession, or distribution by a cleric of pornographic images of minors under the age of fourteen, for purposes of sexual gratification, by whatever means or using whatever technology;

§2. A cleric who commits the delicts mentioned above in §1 is to be punished according to the gravity of his crime, not excluding dismissal or deposition.

If there is any doubt whether a specific act qualifies as an external, objectively grave violation, the writings of recognized moral theologians should be consulted, and the opinions of recognized experts should be appropriately obtained (*Canonical Delicts Involving Sexual Misconduct and Dismissal from the Clerical State*, 1995, p. 6). Ultimately, it is the responsibility of the diocesan bishop/eparch, with the advice of a qualified review board, to determine the gravity of the alleged act. Removal from ministry is required whether or not the cleric is diagnosed by qualified experts as a pedophile or as suffering from a related sexual disorder that requires professional treatment. With regard to the use of the phrase “ecclesiastical ministry,” by clerical members of institutes of consecrated life and societies of apostolic life, the provisions of canons 678 and 738 also apply, with due regard for canons 586 and 732.

6 Cf. CIC, cc. 35-58, 149, 157, 187-189, 192-195, 277 §3, 381 §1, 383, 391, 1348, and 1740-1747. Cf. also CCEO, cc. 1510 §1 and 2, 1<sup>o</sup>-2<sup>o</sup>, 1511, 1512 §§1-2, 1513 §§2-3 and 5, 1514-1516, 1517 §1, 1518, 1519 §2, 1520 §§1-3, 1521, 1522 §1, 1523-1526, 940, 946, 967-971, 974-977, 374, 178, 192 §§1-3, 193 §2, 191, and 1389-1396.

7 The diocesan bishop/eparch may exercise his executive power of governance to take one or more of the following administrative actions (CIC, cc. 381, 129ff.; CCEO, cc. 178, 979ff.):

- a. He may request that the accused freely resign from any currently held ecclesiastical office (CIC, cc. 187-189; CCEO, cc. 967-971).
- b. Should the accused decline to resign and should the diocesan bishop/eparch judge the accused to be truly not suitable (CIC, c. 149 §1; CCEO, c. 940) at this time for holding an office previously freely conferred (CIC, c. 157), then he may remove that person from office observing the required canonical procedures (CIC, cc. 192-195, 1740-1747; CCEO, cc. 974-977, 1389-1396).
- c. For a cleric who holds no office in the diocese/eparchy, any previously delegated faculties may be administratively removed (CIC, cc. 391 §1 and 142 §1; CCEO, cc. 191 §1 and 992 §1), while any *de iure* faculties may be removed or restricted by the competent authority as provided in law (e.g., CIC, c. 764; CCEO, c. 610 §§2-3).
- d. The diocesan bishop/eparch may also determine that circumstances surrounding a particular case constitute the just and reasonable cause for a priest to celebrate the Eucharist with no member of the faithful present (CIC, c. 906). The bishop may forbid the priest to celebrate the Eucharist publicly and to administer the sacraments, for the good of the Church and for his own good.
- e. Depending on the gravity of the case, the diocesan bishop/eparch may also dispense (CIC, cc. 85-88; CCEO, cc. 1536 §1–1538) the cleric from the obligation of wearing clerical attire (CIC, c. 284; CCEO, c. 387) and may urge that he not do so, for the good of the Church and for his own good.

These administrative actions shall be taken in writing and by means of decrees (CIC, cc. 47-58; CCEO, cc. 1510 §2, 1<sup>o</sup>-2<sup>o</sup>, 1511, 1513 §§2-3 and 5, 1514, 1517 §1, 1518, 1519 §2, 1520) so that the cleric affected is afforded the opportunity of recourse against them in accord with canon law (CIC, cc. 1734ff.; CCEO, cc. 999ff.).

8 The necessary observance of the canonical norms internal to the Church is not intended in any way to hinder the course of any civil action that may be operative. At the same time, the Church reaffirms her right to enact legislation binding on all her members concerning the ecclesiastical dimensions of the delict of sexual abuse of minors.

## **A Statement of Episcopal Commitment**

We bishops pledge again to respond to the demands of the *Charter* in a way that manifests our accountability to God, to God's people, and to one another. Individually and together, we acknowledge mistakes in the past when some bishops transferred, from one assignment to another, priests who abused minors. We recognize our roles in the suffering this has caused, and we continue to ask forgiveness for it.

Without at all diminishing the importance of broader accountability, this statement focuses on the accountability which flows from our episcopal communion and fraternal solidarity, a moral responsibility we have with and for each other.

While bishops are ordained primarily for their diocese or eparchy, we are called as well to protect the unity and to promote the common discipline of the whole Church (CIC, c. 392; CCEO, c. 201). Participating in the college of bishops, each bishop is responsible to act in a manner that reflects both effective and affective collegiality.

Respecting the legitimate rights of bishops who are directly accountable to the Holy See, in a spirit of collegiality and fraternity we renew our commitment to the following:

1. Within each province, we will assist each other to interpret correctly and implement the *Charter for the Protection of Children and Young People*, always respecting Church law and striving to reflect the Gospel.
  
2. We will apply the requirements of the *Charter* also to ourselves, respecting always Church law as it applies to bishops. Therefore, if a bishop is accused of the sexual abuse of a minor, the accused bishop is obliged to inform the Apostolic Nuncio. If another bishop becomes aware of the sexual abuse of a minor by another bishop or of an allegation of the sexual abuse of a minor by a bishop, he too is obliged to inform the Apostolic Nuncio and comply with applicable civil laws.
  
3. In cases of financial demands for settlements involving allegations of any sexual misconduct by a bishop, he, or any of us who become aware of it, is obliged to inform the Apostolic Nuncio.
  
4. Within each of our provinces, as an expression of collegiality, including fraternal support, fraternal challenge and fraternal correction, we will engage in ongoing mutual reflection upon our commitment to holiness of life and upon the exercise of our episcopal ministry.

In making this statement, we firmly uphold the dignity of every human being and renew our commitment to live and promote the chastity required of all followers of Christ and especially of deacons, priests and bishops.

This Statement of Episcopal Commitment will be reviewed by the Committee on Clergy, Consecrated Life and Vocations upon the next review of the *Charter*.

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## **II. CREATING AND MAINTAINING SAFE ENVIRONMENTS**

### **A training and education program for the Church in Hawaii**

#### **A training and education program for the Church in Hawaii**

In partnership with the United States Conference of Catholic Bishops and the parishes, schools and faithful of the Catholic Church in Hawaii, the Diocese of Honolulu has developed the Creating and Maintaining Safe Environments training and educational program. This educational and training program is the result of collaboration between the Victim Assistance Coordinator, the Child Sex Abuse Treatment Program of Catholic Charities Hawaii Family Services, Vicar for Clergy, Diocesan Department of Religious Education and a national network of victim assistance coordinators.

The curriculum which follows adheres to the directives of the “Charter for the Protection of Children and Youth” and is intended to be an outline of the educational and training materials that will be presented to ordained, salaried and volunteer representatives of the Roman Catholic Church in the State of Hawaii. While there are explicit materials for specific positions, the complete packet of materials is available for review by all. We believe that the more information we all have, the safer our environments will be.

#### **The Curriculum**

1. **What is the context of this training?**

The training will review what has been happening in the U.S. Church regarding child sexual abuse and how the U.S. bishops have responded in their document, “Promise to Protect, Pledge to Heal.”

2. **What is a safe environment?**

The training and education program will address the following topics:

- a. The definition of safety for children, youth and the faithful.
- b. The Code of Conduct for adults/volunteers
- c. What is abuse, and sexual abuse?
- d. How to best prevent all child abuse
- e. Identifying a victim of abuse
  - i. Signs to look for
  - ii. Behaviors of possible perpetrators
  - iii. Background checks
- f. How should we respond to abuse or suspicion of abuse?
- g. What does the law say? Church policy?
- h. How do we train our children to be safe?
- i. Code of conduct for children

3. **Who will receive training?**

Members of the clergy, religious and lay adult (eighteen [18] years and older) employees and volunteers of the Roman Catholic Church in the State of Hawaii who are expected to have regular or continuing contact (contact beyond a single-day event) with youth (i.e. “child” or “minor,” under eighteen [18] years of age).

4. **What areas will the training cover?**

- a. Prevention
- b. Identification
- c. Response
- d. Reporting
- e. Support

5. **What are the conditions for certification?**

All pastors, principals and/or administrators will be responsible for ensuring that all personnel, paid or volunteer, are certified. They shall also be responsible for maintaining current records of certification. All participants will declare in writing that

- a. they have read and understand the Code of Conduct material;
- b. they have read and understand the Diocesan Guidelines for Sexual Misconduct;
- c. they agree to abide by all guidelines, principles and laws presented in the training;
- d. they satisfactorily completed the required “Recognizing and Reporting Abuse” (or “Protecting Children”) training via Shield the Vulnerable.
- e. those who will have ongoing and unsupervised contact with minors must complete a background screening through the **Shield the Vulnerable** website. Background screening should be completed within thirty (30) days from the start of service. During this period and while awaiting the results of the background screening, individuals should be supervised; and,
- f. new employees and independent contractors who will have ongoing and unsupervised contact with minors are to be screened using the “pre-engagement background screening process” through the Diocesan Human Resources Department.

6. **Who will provide the training?**

An online module is available through Shield the Vulnerable ([www.shieldthevulnerable.org](http://www.shieldthevulnerable.org)).

7. **How will the training be provided?**

- a. Shield the Vulnerable’s online module is the primary method of training.
- b. Other delivery methods such as class/group, independent reading material, videos, posters, etc., are available upon request; contact the Office of Safe Environment at (808) 203-6719 for more information.

8. **How long will this last?**

- a. Parish life is dynamic; training and education are continuous and ongoing.
- b. Completion of the training module is required every five (5) years.
- c. Annual reports will be made to the diocese and parishes.

### III. CODE OF PASTORAL CONDUCT

#### Code of Conduct for Employees, Volunteers, Contractors, Religious and Clergy

1. Be aware of your own and others' vulnerability when working alone with minors. Avoid being alone with children or youth at church activities and instead use a team approach to managing activities and emergency situations involving minors.
2. Physical contact with minors can be misconstrued and should occur
  - a. only when completely nonsexual and otherwise appropriate; and,
  - b. never in private.
3. Refrain from
  - a. the illegal possession or use of drugs or alcohol at all times; and,
  - b. the use of alcohol when working with minors.
4. Clergy should not allow individual children or youth to stay overnight in the cleric's private accommodations or residence.
5. Employees and volunteers should not provide shared, private, overnight accommodation for individual children or youth including, but not limited to, accommodations in any church-owned facility, private residence, hotel room, or any other place where there is no other adult supervision present.
6. In rare, emergency situations, when accommodation is necessary for the health and well-being of a child or youth, one should take extraordinary care to protect all parties from the appearance of impropriety and from all risk of harm.
7. Personnel and other administrative decisions shall meet civil and Canon Law obligations and also reflect Catholic social teachings and diocesan policies.
8. One shall not use their position to exercise unreasonable or inappropriate power and authority.
9. Be aware of warning signs that indicate potential problems with one's own spiritual, physical, mental, and/or emotional health and seek help immediately whenever you notice the warning signs.
10. Adults, ages eighteen [18] and over who are expected to have regular or continuing contact with minors must complete the diocesan *Creating and Maintaining Safe Environments* training and educational program.
11. All prospective and current employees, volunteers, and contractors whose service gives them direct contact with minors shall be subject to a background and reference check, including a criminal history record check as permitted by law, for any history of sexual misconduct involving minors.
12. Each volunteer providing service to minors must read and sign the Volunteer Code of Conduct before providing services. In addition to the Code of Conduct requirements, the Volunteer Code of Conduct mandates that volunteers
  - a. treat everyone with respect, loyalty, patience, integrity, courtesy, dignity, and consideration. Volunteers may not use profanity in the presence of children or youth, nor may they humiliate, ridicule, threaten, or degrade children or youth;



- b. use positive reinforcement rather than criticism, competition, or comparison when working with children or youth. Volunteers shall not use any discipline that frightens or humiliates children or youth, including spanking, shaking, or slapping;
- c. refuse to accept expensive gifts from children or youth or their parents without prior written approval from the pastor or administrator;
- d. refrain from giving expensive gifts to children or youth without prior written approval from their parent or guardian and the pastor or administrator;
- e. cooperate fully in any investigation of abuse of children or youth;
- f. refrain from smoking or using tobacco products in the presence of children or youth;
- g. refrain from using, possessing, or being under the influence of alcohol at any time while volunteering;
- h. refrain from posing any health risk to children or youth (i.e., no fevers or other contagious situations); and,
- i. refrain from touching a child or youth in a sexual or other inappropriate manner.

### **Guidelines for Pastoral Counseling**

- 13. Be aware of your own vulnerability and that of others when working with minors. Employees, volunteers, contractors, religious and clergy should avoid being alone with children or youth at Church activities and instead, use a team approach when managing activities and emergency situations involving minors.
- 14. Physical contact with minors can be misconstrued and should occur
  - a. only when completely nonsexual and otherwise appropriate; and,
  - b. never in private.
- 15. Refrain from
  - a. the illegal possession or use of drugs or alcohol at all times; and,
  - b. the use of alcohol when working with minors.
- 16. Clergy should not allow individual children or youth to stay overnight in the cleric's private accommodations or residence.
- 17. Employees, volunteers, contractors and religious should not provide shared, private, overnight accommodation for individual children or youth including, but not limited to, accommodations in any Church-owned facility, private residence, hotel room, or any other place where no other adult supervision is present.
- 18. In rare, emergency situations, when accommodation is necessary for the health and well-being of a child or youth, should take extraordinary care to protect all parties from the appearance of impropriety and from all risk of harm.
- 19. Employees, volunteers, contractors, religious and clergy shall comply with all applicable civil and Canon Law obligations and shall also reflect Catholic social teachings and diocesan policies.

20. Employees, volunteers, contractors, religious and clergy shall not use their position to exercise unreasonable or inappropriate power and authority.
21. Be aware of warning signs that indicate potential problems with their own spiritual, physical, mental, and/or emotional health and seek help immediately whenever they notice the warning signs.

## **Harassment**

22. All employees, volunteers, contractors, religious and clergy shall provide a professional work environment that is free from physical, psychological, written, or verbal intimidation or harassment. Harassment encompasses a broad range of physical, written, or verbal behavior, including without limitation the following:
  - a. Physical or mental abuse.
  - b. Racial insults.
  - c. Derogatory ethnic slurs.
  - d. Unwelcome sexual advances or touching.
  - e. Sexual comments or sexual jokes.
  - f. Requests for sexual favors used as a condition of employment or to affect other personnel decisions, such as promotion or compensation.
  - g. Display of offensive materials.
23. Sexual harassment by, or of anyone while performing work for the Church, whether paid or volunteer, is strictly prohibited. Sexual harassment is unacceptable in the workplace itself and in other work-related settings such as business trips, court appearances and business-related social events.
24. Individuals who believe they are being harassed are encouraged to firmly and promptly notify the offender that their behavior is unwelcome and inappropriate.
25. If such informal, direct communication is either ineffective or impossible, the individual should report the harassment to:
  - a. Any member of the Diocesan Review Board.
  - b. Their supervisor.

## **Ethical or Professional Misconduct**

All employees, volunteers, contractors, religious and clergy must hold each other accountable for maintaining the highest ethical and professional standards. When there is an indication of illegal actions by anyone within this category, immediately notify the proper civil authorities and the person in charge of the facility or a designated delegate.

26. When it appears that employees, volunteers, contractors and clergy have violated diocesan policies or other religious, moral, or ethical principles,
  - a. report such issue(s) to a supervisor or next higher authority; or,
  - b. refer the matter directly to the Office of the Bishop, or the person in charge of the facility, or a designated delegate.

27. When an uncertainty exists about whether a situation or course of conduct violates diocesan policies or other religious, moral, or ethical principles consult with
  - a. peers;
  - b. others knowledgeable about ethical issues; or,
  - c. the Office of the Bishop or person in charge of the facility, or a designated delegate.

### **Sexual Misconduct**

28. Religious and clergy who are committed to a celibate lifestyle are called to be an example of celibate chastity in all relationships at all times.
29. Employees, volunteers, contractors, religious and clergy who provide pastoral counseling or spiritual direction services must avoid developing inappropriately intimate relationships with minors, other staff, or parishioners.
30. Sexual misconduct by employees, volunteers, contractors, religious and clergy is strictly prohibited.
31. Sexual misconduct means any sexual conduct that is contrary to the doctrine and moral instructions of the Catholic Church and Canon Law and any sexual conduct prohibited by the laws of the State of Hawaii, including sexual harassment, sexual abuse, and sexual exploitation.
32. Sexual misconduct by employees, volunteers, contractors, religious and clergy should be taken seriously and reported to the person in charge of the facility or a designated delegate and to the civil authorities if the situation involves a minor.
33. In cases involving the sexual abuse of a minor or incompetent adult, the person in charge of the facility or designated delegate who receives the complaint shall immediately notify the appropriate public agency and the Bishop, or, in the event of his temporary absence, the Vicar General. In all other cases, the person receiving the complaint shall immediately refer the complaint to an investigation team appointed by the Bishop, or, in the event of his temporary absence, the Vicar General.
34. Employees, volunteers, contractors, religious and clergy should review and know the contents of the child abuse regulations and reporting requirements for the State of Hawaii and should follow those mandates.

## CODE OF CONDUCT AGREEMENT

Our children are the most important gifts God has entrusted to us. I promise to strictly follow the rules and guidelines in this Code of Conduct as a condition of my providing services to the children and youth of our diocese.

### I WILL:

1. Treat everyone with respect, loyalty, patience, integrity, courtesy, dignity, and consideration.
2. Avoid situations where I am alone with children and/or youth at church activities.
3. Use positive reinforcement rather than criticism, competition, or comparison when working with children and/or youth.
4. Refuse to accept expensive gifts from children and/or youth or their parents or guardians without prior written approval from the pastor or administrator.
5. Refrain from giving expensive gifts to children and/or youth without prior approval from the parents or guardians, pastor, or administrator.
6. Report suspected abuse to the pastor, administrator, or appropriate supervisor, and the local Child Protection Services Agency. I understand that failure to report suspected abuse to civil authorities is, according to the law, a petty misdemeanor.
7. Cooperate fully in any investigation of abuse of children and/or youth.

### I WILL NOT:

1. Smoke or use tobacco products in the presence of children and/or youth while volunteering.
2. Use, possess, or be under the influence of alcohol at any time while volunteering.
3. Use, possess, or be under the influence of illegal drugs at any time.
4. Pose any health risk to children and/or youth (i.e., no fever or other contagious situations).
5. Strike, spank, shake, or slap children and/or youth.
6. Humiliate, ridicule, threaten, or degrade children and/or youth.
7. Touch a child and/or youth in a sexual or other inappropriate manner.
8. Use any discipline that frightens or humiliates children and/or youth.
9. Use profanity in the presence of children and/or youth.

I understand that in working with children and/or youth, I am subject to a thorough background check including criminal history as permitted by law. I understand that any action inconsistent with this Code of Conduct or failure to take action mandated by this Code of Conduct may result in my removal from working with children and/or youth.

I have read this Code of Conduct Agreement and understand all stated rules and guidelines. By signing below, I agree to abide by all terms of this Code of Conduct Agreement.

\_\_\_\_\_  
**PRINT NAME**

\_\_\_\_\_  
**SIGNATURE**

**DATE:** \_\_\_\_\_

## IV. POLICY ON ALLEGATIONS AND INCIDENTS OF SEXUAL MISCONDUCT

### *Personnel Policy Regarding Allegations: What Employees Need to Know*

#### INTRODUCTION

1. **Purpose and Scope:** The problem of unethical sexual conduct is a long-standing problem in society. Within the Church, this issue has caused serious damage to the whole Body of Christ. It has harmed the innocent and undermined trust. Therefore, a pressing need has arisen to acknowledge and address the problem of unethical sexual conduct by clergy, religious, church employees and volunteers. At the same time, the Church must protect the rights of both the accuser and the accused. The Church must protect the rights of both the accuser and the accused. The Church forbids all sexual misconduct toward or by its lay employees. The entire Church must create an atmosphere where silence, ignorance and minimization are overcome by truth, Christian love and respect.
2. These personnel policies set forth procedures to be followed whenever allegations or incidents of sexual harassment in the workplace or sexual misconduct have occurred involving lay employees.<sup>1</sup> These policies apply to all diocesan organizations and institutions, all parishes and their activities including Catholic schools, and any other Catholic institutions affiliated with the Diocese of Honolulu or any parish in its territory.
3. Norms for clerics<sup>2</sup> and those preparing for ordination<sup>3</sup> are treated in **VI. Instructions Regarding Allegations Against Clerics For Sexual Harassment And Sexual Misconduct.**
4. **Publication of these Policies:** All lay employees of the Church are to be informed of these policies before the commencement of their service. Acknowledgment of these policies shall be made in writing. Such written acknowledgements shall be maintained by the Diocesan Safe Environment Office and in the employee's file at each employment location.
5. **Education:** The Diocese of Honolulu from time to time shall arrange programs and seminars for training and education on issues of interpersonal boundaries, sexual harassment and sexual misconduct. Participation in such programs and seminars is mandatory for lay employees while in the course of employment.
6. **Background Check:** Lay employees, especially those in ministry with minors per the Safe Environment Program shall be subject to a pre-employment background and reference check. This will include a criminal history record check as permitted by federal and state law for any history of sexual misconduct involving minors.
7. **Diocesan Review Board:** To the extent referenced in this policy, the Diocesan Review Board is the council appointed by the bishop that may from time to time assist the human resources director in the review of allegations of sexual harassment or sexual misconduct. Further information is found at <http://www.catholicahawaii.org>

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<sup>1</sup> *Ministry means any activity carried out in the name of the Church on behalf of any person by any clergy, religious, lay employee, volunteer or contractor. Such activity includes but is not limited to counseling, spiritual direction, confession, teaching, worship, service, coaching and social activities.*

<sup>2</sup> *Clerics refers to all priests and deacons, both diocesan and religious.*

<sup>3</sup> *Those in formation include both seminarians and men in formation for the permanent diaconate.*

## SEXUAL HARASSMENT

8. Sexual harassment is a term applicable to the workplace under U.S. and Hawaii employment law. It is commonly defined as unwanted sexual advances or other unwanted or offensive visual, verbal or physical conduct of a sexual nature by one adult toward another adult. Any act of sexual harassment toward a minor is also an act of sexual misconduct. Sexual harassment includes but is not limited to:
  - a. Unwanted sexual advances or propositions.
  - b. Offering jobs, promotions or benefits in exchange for sexual favors.
  - c. Threatening to demote, fire or withhold benefits if an employee protests, refuses or ignores sexual advances.
  - d. Visual conduct such as leering, making sexual gestures or displaying sexually suggestive objects, pictures, cartoons or posters.
  - e. Verbal conduct such as making or using derogatory comments, epithets, slurs or jokes.
  - f. Verbal abuse of a sexual nature such as graphic commentaries about an individual's body.
  - g. Sexually degrading words used to describe an individual.
  - h. Suggestive or obscene letters, notes or invitations.
  - i. Unwanted physical conduct such as touching, assault, impeding or blocking movements.<sup>4</sup>
9. Sexual harassment is completely prohibited by or toward all employees, clerics, religious, volunteers, contractors and any other individual or group while performing service for the Church. Sexual harassment is unacceptable on ecclesiastical property, at ecclesiastical events held at other locations and on church-related trips. All complaints of sexual harassment are to be investigated and acted upon promptly according to the following process.
10. **Step 1 - Confrontation of the Offender:** Any individual who believes that he or she is being harassed has a right to firmly and promptly notify the offender that his or her behavior is unwelcome and inappropriate. The offender is to stop the offensive behavior immediately.
11. **Step 2 - Reporting:** Power and status disparities between an alleged harasser and the subject of harassment may make such confrontation ineffective or undesirable. If, in the judgment of the person being harassed, such informal, direct communication between individuals is ineffective or undesirable, the subject of harassment is urged to report the alleged harassment. Individuals who believe they have been or currently are being harassed are encouraged required to report such harassment immediately pursuant to **Step 3 or Step 4**. Individuals may wish to document the allegations in writing. A report may also be made by a third party who has certain knowledge of the situation. Reports are to be made as follows:
  - a. For lay employees working for the Diocese of Honolulu, the report of sexual harassment is to be made to the Diocesan Director of Human Resources.<sup>5</sup>
  - b. For lay employees working in parishes, the report of sexual harassment is to be made to the pastor or the Diocesan Director of Human Services.

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<sup>4</sup> Definition of sexual harassment from the Hawai'i Civil Rights Commission.

<sup>5</sup> If the diocesan human resources director is absent or recuses him or herself, then the employer (bishop or pastor or principal) is to appoint another person to handle those responsibilities.

- c. For lay employees working for Catholic schools and other Catholic organizations or institutions subject to this policy, the report of sexual harassment is to be made to the principal of the school or the person's supervisor who has authority to hire and terminate employees or to the Diocesan Director of Human Resources.
12. The subject of the alleged harassment also has the right to report the harassment to the Bishop. The Bishop will then refer the situation to the appropriate persons.
13. **Protection from Retaliation:** No lay employee is in any way to retaliate against an individual who makes a report of sexual harassment. Any acts of retaliation are to be reported immediately, as above. Any person found to have retaliated against someone for reporting sexual harassment will be subject to disciplinary action, including the possibility of termination from employment or contract.
14. **Step 3 - Informal Resolution:** With the consent of the person making the complaint, the authority receiving the complaint may attempt to resolve the matter in an informal manner. If this can be accomplished then the authority is to write a summary of the complaint and the resolution and send it to the Diocesan Director of Human Resources, who is to maintain copies of the reports. This documentation will result in diocesan authorities being aware of any pattern of harassment by particular individuals.
15. **Step 4 - Formal Complaint:** The complainant may make a formal complaint either verbally or in writing. It is helpful to the process for the complainant to be as detailed as possible regarding the identity of the accused, the nature of the acts, the time and place of the acts and special circumstances surrounding the acts (e.g., use of drugs or alcohol, force or threats, gifts or promises). If the complainant makes the complaint verbally, the authority receiving the complaint is to document the details of the complaint, which the authority is to sign and date. The complainant is encouraged, but not required, to review the written report for accuracy and sign it. Even if the person making the complaint does not sign the document, the claim will still to be investigated.
16. **Step 5 - The Investigation:** Any allegation of sexual harassment is to be promptly investigated in a manner that protects the privacy and reputation of the persons involved. Privacy will be maintained for the complainant and the accused throughout the investigation to the extent appropriate under the circumstances and subject to the requirements of applicable federal, state and Canon Law.
17. The complaint will be investigated by the appropriate leadership person, such as pastor, supervisor or Diocesan Director of Human Resources as appropriate. The pastor or supervisor may refer situations that in their discretion to the Diocesan Director of Human Resources. In more difficult situations, the services of an outside investigator may be used.
18. In pursuing the investigation, the wishes of the complainant are to be considered. Nevertheless, the person conducting the investigation should thoroughly probe the matter as he or she sees fit.
19. The accused has the right to a right of defense, which means that he or she must be fully informed of the allegation and evidence against him or her.
20. **Step 6 - Making the Determination:** In making a determination about whether a violation of these policies has occurred, the person conducting the investigation may consult the Diocesan Review Board. He or she is also free to seek the advice and counsel of the Diocesan Director of Human Services, a civil attorney, or other resources.

21. If the person conducting the investigation finds that a violation of these policies has occurred, the harasser will be subject to appropriate disciplinary action, depending on the severity of the case, and reasonably calculated to prevent further inappropriate conduct. The following are possible disciplinary sanctions:
  - a. Rebuke of the offender and warning that a further infraction could result in termination.
  - b. Withholding of future raise or promotion.
  - c. Reassignment or demotion in his/her employment position.
  - d. Suspension of employment, including possible suspension without pay.
  - e. Termination from employment or contract.
  - f. Exclusion from future service.
22. In situations where a violation of these policies has occurred, it is recommended that the harasser be referred for voluntary therapeutic counseling or other professional training, as dictated by the situation.
23. In all situations, a written summary of the findings of the investigation and the sanctions imposed will be placed in the person's employment file or volunteer record. A copy of the written complaint and the summary of the findings and sanction imposed are to be sent to the Diocesan Department of Human Resources. The Director of Human Resources will also maintain records of his or her own findings and sanctions imposed. In situations where it was determined that no sexual harassment occurred, the reasons for this finding will be included in the report.
24. The complainant will be notified of the conclusions and any sanctions imposed.
25. **Knowingly False Allegations:** If an investigation results in a conclusion that the complainant falsely and knowingly accused another of sexual harassment, the complainant will be subject to possible sanctions, including the possibility of termination of employment or contract. Efforts will then need to be made to restore the good name of the accused, as needed.

### **Sexual Misconduct**

26. **Sexual Misconduct:** Sexual misconduct is defined as any sexual conduct which is contrary to the doctrine or moral teaching of the Catholic Church and any sexual conduct proscribed by the laws of the State of Hawaii. Sexual misconduct includes the following:
  - a. **Sexual misconduct involving an adult:** This form of misconduct between adults may involve activities which are sexual in nature to include sexual touching, lewd talk or jokes, displaying sexual images, indecent exposure, rape or prostitution.
  - b. **Sexual exploitation of an adult:** This form of sexual misconduct involves any kind of sexual interaction between adults involving a power, knowledge or gratification disparity. A power disparity can derive from an unequal role relationship (such as counseling) from advanced age, from the size of the offender or from the manipulative skills of the offender. A knowledge disparity can derive from situations where the offender is older, more intelligent or more developmentally advanced mentally, emotionally or psychologically. A gratification disparity is due to the fact that the primary purpose of the sexual activity is to obtain gratification for the perpetrator and not primarily mutual gratification.
  - c. **Sexual abuse of a minor** is any sexual activity with a child or adolescent under the age of eighteen (18) by an adult. Of their nature, they include power, knowledge and



gratification disparities. Sexual abuse of a minor can involve sexual touching, lewd sexualized talk, exposure to genitals or indecent images, rape, incest, prostitution, pornography or possession of pornography involving minors. It may occur over short or long periods of time and may be accompanied by varying levels of coercion or even physical violence.<sup>6</sup> In Canon Law, a person who habitually lacks the use of reason is considered equivalent to a minor (canon 99).

27. Sexual misconduct by any lay employee in any capacity for the Church is completely prohibited.
28. **Step 1 - Contacting Public Authorities:** If the complaint involves a violation of Hawaii criminal law such as abuse in any form of a minor, the police or Hawaii Department of Human Services/Child Welfare Services are to be contacted immediately in accord with the law of the State of Hawaii.<sup>7</sup> If the person making the complaint fails to contact the public authorities, then the pastor, principal or supervisor who first knows of the complaint is to do so. If that person fails to contact public authorities, then the Office of the Bishop will do so. All involved are to cooperate fully with all public authorities investigating a complaint.
29. The Bishop, or his delegate, may designate a representative to assist the public authorities and to be present at meetings between the public authorities and the accused, if permitted.
30. At the earliest opportunity, the Bishop, or his delegate, will see that the accused is informed of the following:
  - a. That diocesan legal counsel does not represent the accused.
  - b. That the accused has the right to retain his or her own civil or canonical legal counsel.
  - c. Whether such counsel will be provided at diocesan expense.
31. **Step 2 - Reporting to the Bishop:** All allegations of sexual misconduct situations must be reported to the Bishop or Diocesan Director of Human Resources. If pastors, principals or other supervisors first receive the allegation, they will forward the complaint to the Bishop or Diocesan Director of Human Resources, who will then guide the process of evaluation and investigation.
32. **Protection from Retaliation:** No lay employee is in any way to retaliate against an individual who makes a report of sexual misconduct. Any acts of retaliation are to be reported immediately to the Bishop or Diocesan Director of Human Resources. Any person found to have retaliated against another individual for reporting sexual misconduct will be subject to disciplinary action, including the possibility of termination from employment.
33. **Step 3 - Precautionary Measures:** In conjunction with the initial evaluation or at any stage of the process, to prevent scandalous activity, to protect the freedom of witnesses and to guard the course of justice, the supervisor may impose precautionary measures such as temporary removal from service while the complaint is evaluated.

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<sup>6</sup> *The Federal Child Abuse Prevention and Treatment Act definition of sexual abuse states: "The employment, use, persuasion, inducement, enticement, or coercion of any child to engage in, or assist any other person to engage in, any sexually explicit conduct or simulation of such conduct for the purpose of producing a visual depiction of such conduct; or the rape, and in cases of caretaker or interfamilial relationships, statutory rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children" (42 United States Code Annotated § 5106g [4] [2003]).*

<sup>7</sup> *These reporting requirements are in addition to civil requirements that apply to mandated reporters (Chapter 350, Hawai'i Revised Statutes).*

34. **Step 4 - Initial Evaluation:** The supervisor, with the Diocesan Director of Human Resources and in certain situations, with the Diocesan Review Board, will make an initial evaluation of whether the complaint has the semblance of truth. The supervisor is to consider, among other things, the facts alleged in the complaint and the circumstances surrounding them, the credibility of the accuser and the internal consistency of the complaint itself in making this initial evaluation. This is not a determination for or against the guilt of the accused but to eliminate manifestly false or frivolous allegations. When an allegation has proven to be unfounded but is publicly known, every step possible will be undertaken to restore the good name of the person falsely accused.
35. **Manifestly False or Frivolous Allegations:** After consultation, if the supervisor determines that the complaint does not have at least the semblance of truth, after consultation with the diocesan human resources director, no action will be taken. The complainant is to be informed of the outcome and the accused, if he or she is aware of the allegation, is to be informed of the outcome. If an allegation is later found to be manifestly false or frivolous as a result of the preliminary investigation, this norm shall also apply.
36. **Step 5 - Investigation:** All credible complaints of sexual misconduct will be referred to a team for investigation. If possible, one member of the investigative team shall be an individual who has expertise in dealing with sexual misconduct. Another member of the team will ordinarily be the Diocesan Director of Human Resources.
37. The investigation will inquire about the facts, circumstances and imputability of the accused. The investigation may be deferred if criminal investigations or civil action are pending. Any investigation may also need to be suspended in accord with the law of the State of Hawaii in situations involving the sexual abuse of minors until after the police or the Hawaii Department of Human Services/Child Welfare Services completes its investigation.
38. Keeping in mind that the accused has the right to privacy and the right to a good reputation, at least until an act is proven the investigative team will contact the accused and tell him or her of the nature of the allegation and by whom it was made. The accused must be fully informed of the allegation so that he or she can exercise his or her right of defense. Remind the accused of the prohibition of retaliation for making a complaint of sexual misconduct. The team will take the statement of the accused.
39. The findings by the investigative team will be submitted to the supervisor and in certain situations the Diocesan Review Board. The report will include the opinion of the investigators regarding whether sexual misconduct has occurred and their reasons for their opinion.
40. **Step 6 - Conclusion:** The appropriate supervisor/director will review the results of the investigation and give the accused an opportunity for self-defense. If sexual misconduct is established or admitted, a penalty will be imposed including the following:
  - a. Withholding of future raise or promotion.
  - b. Reassignment or demotion in employment position.
  - c. Disqualification from future service including volunteer work.
  - d. Suspension of employment or contract, including possible suspension without pay.
  - e. Termination from employment or contract.
41. The complainant is also to be informed of the results as soon as possible.

## V. GUIDELINES REGARDING ALLEGATIONS

### What Volunteers, Contractors, and Religious Sisters and Brothers Need to Know

#### INTRODUCTION:

1. **Purpose and Scope:** The problem of unethical sexual conduct is a long-standing problem in society. Within the Church, this issue has caused serious damage to the whole Body of Christ. It has harmed the innocent and undermined trust. Therefore, a pressing need has arisen to acknowledge and address the problem of unethical sexual conduct by clergy, religious, church employees and volunteers. The Church must protect the rights of both the accuser and the accused. The entire Church must create an atmosphere where silence, ignorance and minimization are overcome by truth, Christian love and respect.
2. Unless already subject to diocesan policies through employment or by contract or agreement, these guidelines apply in the Diocese of Honolulu to religious sisters or brothers, volunteers or contractors when carrying out ministry that involves the regular and unsupervised access to children or vulnerable adults.<sup>8</sup> These guidelines apply to all diocesan organizations and institutions, all parishes and their activities including Catholic schools, and any other Catholic institutions affiliated with the Diocese of Honolulu or any parish in its territory.
3. These guidelines apply to both lay persons and religious sisters and brothers.<sup>9</sup> However, some special guidelines follow at the end of this section that apply in particular, to religious sisters and brothers. Norms for clerics<sup>10</sup> and those preparing for ordination<sup>11</sup> are treated in the *Instruction Regarding Allegations of Sexual Harassment and Sexual Misconduct against Clerics* available at [www.catholichawaii.org](http://www.catholichawaii.org).
4. **Publication of these Guidelines:** In addition to publication on the diocesan website (<http://www.catholichawaii.org>), all religious sisters and brothers, volunteers and contractors of the Church are to be informed of these guidelines before the commencement of their service. Acknowledgment of these guidelines shall be made in writing (to the extent practicable). Any written acknowledgements shall be maintained by the Diocesan Safe Environment Office.
5. **Education:** The Diocese of Honolulu from time to time shall arrange programs and seminars for training and education on issues of interpersonal boundaries, sexual harassment and sexual misconduct. Participation in such programs and seminars is mandatory for the religious, volunteers and contractors performing ministry involving ongoing, unsupervised contact with minors.
6. **Background Check:** All religious, volunteers and contractors performing ministry for the Church whose activities involve ongoing unsupervised contact with minors, shall be subject to a background and reference check. This will include a criminal history record check as permitted by federal and state law for any history of sexual misconduct involving minors.

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<sup>8</sup> *Ministry means any activity carried out in the name of the Church on behalf of any person by any clergy, religious, lay employee, volunteer or contractor. Such activity includes but is not limited to counseling, spiritual direction, confession, teaching, worship, service, coaching and social activities.*

<sup>9</sup> *Religious in this document refers not only to members of religious institutes but also to members of societies of apostolic life and to individuals in consecrated life.*

<sup>10</sup> *Clerics refers to all priests and deacons, both diocesan and religious.*

<sup>11</sup> *Those in formation include both seminarians and men in formation for the permanent diaconate.*

7. **Diocesan Review Board:** To the extent referenced in this policy, the Diocesan Review Board is the consultative body appointed by the bishop to assist in the review of allegations of sexual misconduct.

### **Sexual Harassment**

8. Any workplace misconduct of a volunteer or third (3<sup>rd</sup>) party contractor that constitutes sexual harassment under US or Hawaii law shall be subject to sanction under these policies. Volunteers and contractors, and religious brothers and sisters are advised to review the diocesan policy *What Lay Employees Need to Know* available at [www.catholichawaii.org](http://www.catholichawaii.org) for definitions and procedures. But especially volunteers and contractors are advised that any harassing behavior could subject the service by the volunteer or contractor to immediate termination, without recourse under the policies.

### **Sexual Misconduct**

9. **Sexual Misconduct:** Sexual misconduct is defined as any sexual conduct which is contrary to the doctrine or moral teaching of the Catholic Church and any sexual conduct proscribed by the laws of the State of Hawaii. Sexual misconduct includes the following:
  - a. **Sexual misconduct involving an adult:** This form of misconduct between adults may involve activities which are sexual in nature to include sexual touching, lewd talk or jokes, displaying sexual images, indecent exposure, rape or prostitution.
  - b. **Sexual exploitation of an adult:** Sexual misconduct involving adults may also take the form of sexual exploitation of an adult which is a more serious form of sexual misconduct and involves any kind of sexual interaction between adults involving a power, knowledge or gratification disparity. A power disparity can derive from an unequal role relationship (such as in counseling), from advanced age, from the size of the offender or from the manipulative skills of the offender. A knowledge disparity can derive from situations where the offender is older, more intelligent or more developmentally advanced mentally, emotionally or psychologically. A gratification disparity is due to the fact that the primary purpose of the sexual activity is to obtain gratification for the perpetrator and not primarily mutual gratification.
  - c. **Sexual abuse of a minor** is any sexual activity with a child or adolescent under the age of eighteen (18) by an adult. Of their nature, they include power, knowledge and gratification disparities. Sexual abuse of a minor can involve sexual touching, lewd sexualized talk, exposure to genitals or indecent images, rape, incest, prostitution, pornography or possession of pornography involving minors. It may occur over short or long periods of time and may be accompanied by varying levels of coercion or even physical violence.<sup>12</sup> In Canon Law, a person who habitually lacks the use of reason is considered equivalent to a minor (canon 99).
10. Sexual misconduct by any religious sister or brother, volunteer or contractor while ministering in any capacity for the Church is completely prohibited.
11. **Step 1 - Contacting Public Authorities:** If the complaint involves a violation of Hawaii criminal law as it relates to sexual abuse or misconduct with minors, the police or Hawaii Department of Human Services/Child Welfare Services are to be contacted immediately in

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<sup>12</sup> *The Federal Child Abuse Prevention and Treatment Act definition of sexual abuse states: "The employment, use, persuasion, inducement, enticement, or coercion of any child to engage in, or assist any other person to engage in, any sexually explicit conduct or simulation of such conduct for the purpose of producing a visual depiction of such conduct; or the rape, and in cases of caretaker or interfamilial relationships, statutory rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children" (42 United States Code Annotated § 5106g [4] [2003]).*

accord with the law of the State of Hawaii.<sup>13</sup> If the person making the complaint fails to contact the public authorities, then the pastor, principal or supervisor who first knows of the complaint is to do so. If that person fails to contact public authorities, then the Office of the Bishop will do so. All involved are to cooperate fully with all public authorities investigating a complaint.

12. The Bishop or his delegate may designate a diocesan representative to assist the public authorities and to be present at meetings between the public authorities and the accused, if permitted.
13. At the earliest opportunity, the Bishop or his delegate will see that the accused (or his or her employer if a contractor or institute if a religious) is informed of the following:
  - a. That diocesan legal counsel does not represent the accused.
  - b. That the accused has the right to retain his or her own civil or canonical legal counsel.
  - c. Whether such counsel will be provided at diocesan expense.
14. **Step 2 - Reporting to the Bishop:** All allegations of sexual misconduct must be reported to the Bishop. If pastors, principals or other supervisors first receive the allegation, they will forward the complaint to the Bishop. The complainant might be the subject of the alleged misconduct or a third party (e.g., a parent, teacher or coworker). If the person making the complaint is a third party, then what is said of the complainant below also applies to the object of the alleged misconduct.
15. **Protection from Retaliation:** No religious sister or brother, volunteer or contractor is in any way to retaliate against an individual who makes a report of sexual misconduct. Any acts of retaliation are to be reported immediately to the Bishop. Any person found to have retaliated against another individual for reporting sexual misconduct will be subject to disciplinary action, including the possibility of termination of contract or exclusion from volunteer service or ministry.
16. **Step 3 - Precautionary Measures:** In conjunction with the initial evaluation or at any stage of the process, to prevent scandalous activity, to protect the freedom of witnesses and to guard the course of justice, the supervisor may impose precautionary measures such as temporary removal from service while the complaint is evaluated.
17. If a complaint is filed against a contractor employee, that person will be suspended from further work at any diocesan, parish, or school activity until the matter is resolved. The contractor entity is expected to cooperate in the investigation and resolution of the complaint. Whether the following action steps occur in such a particular case will depend on the circumstances and which entity, the contractor or the diocese or parish has the lead responsibility.
18. **Step 4 - Initial Evaluation:** Upon receipt of the written complaint, the supervisor will consult with the Diocesan Director of Human Resources, and in certain situations the Diocesan Review Board to make his initial evaluation of whether the complaint has the semblance of truth. The supervisor is to consider, among other things, the facts alleged in the complaint and the circumstances surrounding them, the credibility of the accuser and the internal consistency of the complaint itself in making this initial evaluation. This is not a determination for or against the guilt of the accused. The purpose of this evaluation by the Bishop is to eliminate manifestly false or frivolous allegations. When an allegation has

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<sup>13</sup> *These reporting requirements are in addition to civil requirements that apply to mandated reporters (Chapter 350, Hawai'i Revised Statutes).*

proven to be unfounded but is publicly known, every step possible will be undertaken to restore the good name of the person falsely accused.

19. **Manifestly False or Frivolous Allegations:** After consulting with the Diocesan Review Board, if the Bishop determines that the complaint does not have at least the semblance of truth, no action will be taken. The complainant is to be informed of the outcome and the accused, if he or she is aware of the allegation, is to be informed of the outcome. If an allegation is later found to be manifestly false or frivolous as a result of the preliminary investigation, this norm shall also apply.
20. **Step 5 - Investigation:** All credible complaints of sexual misconduct will be referred to a team for investigation. If possible, one (1) member of the investigative team shall be an individual who has expertise in dealing with sexual misconduct. Another member of the team will ordinarily be the Diocesan Director of Human Resources.
21. The investigation will inquire about the facts, circumstances and imputability of the accused. The investigation may be deferred if criminal investigations or civil action are pending. Any investigation may also need to be suspended in accord with the law of the State of Hawaii in situations involving the sexual abuse of minors until after the police or the Hawaii Department of Human Services/Child Welfare Services completes its investigation. It is meant to provide the supervisor or administrator and the Diocesan Review Board with a sense of probability that sexual misconduct did or did not occur. It is not meant to result in a final judgment.
22. Keeping in mind that the accused has the right to privacy and the right to a good reputation, at least until the act is admitted or established; the investigative team will contact the accused and tell him or her of the nature of the allegation and by whom it was made. The accused must be fully informed of the allegation so that he or she can exercise his or her right of defense. Remind the accused of the prohibition of retaliation for making a complaint of sexual misconduct. The team will take the statement of the accused.
23. The findings by the investigative team will be submitted to the supervisor and in certain situations the Diocesan Review Board. The report will include the opinion of the investigators regarding whether an incident of sexual misconduct has occurred and their reasons for their opinion.
24. **Step 7 - Conclusion:** The appropriate supervisor/director will review the results of the investigation and give the accused an opportunity for self-defense. If sexual misconduct is admitted or established, the service of the individual volunteer or contractor employee will be terminated immediately. With respect to individual religious, the Bishop or other appropriate supervisor/director will work with the individual's superior on that person's discipline.

### **Guidelines Particularly Related to Religious Sisters and Brothers**

25. Unless by agreement the major superior and the Bishop have decided that some other disciplinary path is applicable, all the above guidelines for lay persons also apply to religious sisters and brothers.
26. If an allegation of sexual harassment or sexual misconduct involves a religious sister or brother, the Bishop is to inform the individual's major superior. Because a religious is under the jurisdiction of his or her major superior, it may be the responsibility of that superior to initiate disciplinary action toward a member. Jointly the Bishop and the major superior will decide whether the Diocesan Review Board or the religious institute's review board, if they have one, will take the lead, though each should report the incident to the respective review board. The Bishop and major superior will keep each other informed during the process and of the conclusion.
27. The Bishop retains the right to remove the religious sister or brother from ministry (including volunteer service) in the territory of the Diocese of Honolulu. When concern for scandal demands it, the Bishop can further prohibit a religious sister or brother from residing in the Diocese of Honolulu (canon 679).
28. If the complaint involves an allegation of sexual harassment by a religious sister or brother, then the policies contained in *What Employees Need to Know*, as noted above, shall apply.
29. If the complaint involves an allegation of sexual misconduct by a religious sister or brother, then the above guidelines apply and the major superior will be invited to designate a member of the investigative team formed to conduct any investigation. The failure of or delay in response to such an invitation will not defer the investigation.
30. The accused religious sister or brother is encouraged to retain the assistance of canonical counsel. If the accused participates in the preliminary investigation, he or she is to be provided canonical counsel if he or she has not secured counsel for him or herself.

## VI. INSTRUCTION REGARDING ALLEGATIONS OF SEXUAL HARRASSMENT AND SEXUAL MISCONDUCT AGAINST CLERICS

**Diocese of Honolulu** • Office of the Bishop • [www.catholicahawaii.org](http://www.catholicahawaii.org)  
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### Decree of Issuing Instruction

In November of 2002, the United States Conference of Catholic Bishops first issued the *Charter for the Protection of Children and Young People* and promulgated the related *Essential Norms* to deal with an unprecedented crisis in the Church. Now, over ten years later, much has been learned about the problem of sexual harassment and sexual misconduct in the Church and in society as a whole. Also, much has been done in terms of prevention and responding promptly and effectively to allegations of a sexual nature. What has been learned from the past ten years has been incorporated into the current *Instruction Regarding Allegations of Sexual Harassment and Sexual Misconduct Against Clerics*, with three appendixes. This instruction was reviewed and approved by the Diocesan Review Board, replaces prior clergy policies, and goes into effect immediately.

The goals of the current instruction include the following: first, to establish clear and easy to follow procedures for anyone who wants to make a complaint of sexual harassment or sexual misconduct; second, to provide direction to all those in positions of authority regarding the steps to be taken when an allegation is made; third, to outline the due process that must be followed so that the rights of the accused are protected; and fourth, to foster a spirit of transparency.

This instruction is to be distributed to all clerics, both diocesan and religious who have faculties from the Diocese of Honolulu, as well as to seminarians and those in formation for the permanent diaconate, who will sign an acknowledgement that they have received it. Clerics new to the diocese will receive the instruction and sign the acknowledgement when receiving faculties, and men new to formation will receive the instruction and sign the acknowledgement upon acceptance by the diocese. The acknowledgements will be maintained by the Office of Clergy. The instruction is also to be made available to anyone on the diocesan web site. *Appendix A: How to Make a Report of Sexual Harassment or Sexual Misconduct About a Cleric* is be widely distributed within the diocese by the Human Resources Department.

Given at the curia of the Diocese of Honolulu on the 22th day of January 2014.

Most Reverend Clarence Silva  
Bishop of Honolulu

Ecclesiastical Notary

Diocesan Seal



## INTRODUCTION

1. **Purpose:** Sexual abuse, exploitation, and other forms of misconduct are long-standing problems in society. Within the Church, this issue has caused serious damage to the whole Body of Christ. It has harmed the innocent and undermined trust. There has always been a need to acknowledge and address the problem of sexual misconduct by clergy, religious, church employees and volunteers, and from time to time the procedures and processes utilized to do so need to be updated in view of best practices that have come to light. While opening the door to pastoral care to all possible subjects of harassment or misconduct, the Church must also protect the rights of both the accuser and the accused. The entire Church must create an atmosphere where silence, ignorance and minimization are overcome by healing, truth, Christian love and respect.
2. **Scope:** This instruction sets forth procedures to be followed whenever allegations or incidents of sexual harassment or sexual misconduct have occurred that may involve
  - a. priests and deacons incardinated into the Diocese of Honolulu;
  - b. seminarians and men in formation for the permanent diaconate, except in matters that apply only to clerics properly speaking, by universal Canon Law or by particular law of the United States Conference of Catholic Bishops (USCCB);
  - c. priests and deacons incardinated in other dioceses with an assignment made by the Bishop of Honolulu while in the State of Hawaii;
  - d. priests and deacons who are members of religious institutes or societies of apostolic life with an assignment made or confirmed by the Bishop of Honolulu and when carrying out that assignment;
  - e. military chaplains only when carrying out ministry off-base in the Diocese of Honolulu with permission of the local Ordinary or pastor; and,
  - f. visiting or retired priests and deacons not incardinated in the Diocese of Honolulu for incidents that occur in carrying out ministry with permission of the local Ordinary or pastor.
3. This instruction is intended to serve as a part of the internal governing structure of the Catholic Church and provides internal operating procedures only. It does not create any civil or criminal cause of action nor is it intended to hinder the course of any civil or criminal action that may be operative.
4. This instruction fulfills the requirements of the USCCB's, *Essential Norms for Diocesan/Eparchial Policies Dealing with Allegations of Sexual Abuse of Minors by Priests or Deacons*, and revised 2006 (EN) no. 2. A copy of this instruction is filed with the USCCB.
5. If the Bishop is accused of the sexual abuse of a minor, he is obliged to inform the Apostolic Nuncio, the Papal Ambassador to the United States. The Vicar General or the Vicar for Clergy is also to inform the Apostolic Nuncio. The Bishop is subject to the same national norms as priests and deacons, universal Canon Law, and federal and state criminal law.

6. **Authorities and Substitutes:** The Bishop in this document refers to the incumbent Diocesan Bishop of Honolulu or, in case of a vacant See, the diocesan administrator or apostolic administrator. All functions of the Bishop fall to the Vicar General if the Bishop is absent or at the direction of the Bishop. The Bishop may also mandate others, within the norm of Canon Law, to fulfill individual tasks entrusted to him.
7. Matters to be handled by the Vicar for Clergy will be handled by the Vicar General if the Vicar for Clergy is absent or recuses himself.
8. **Publication of the Instruction:** The Vicar for Clergy is to provide copies of this document to all clerics subject to this instruction before the commencement of their service. All diocesan seminarians and men in formation for the permanent diaconate are to be informed upon acceptance as a candidate. Acknowledgment of this instruction shall be made in writing, and such written acknowledgements shall be maintained by the Office of Clergy.
9. A copy of this instruction is available to anyone from the Office of Clergy or the Safe Environment Office upon request or on the diocesan web site.
10. **Education:** The Diocese of Honolulu from time to time shall arrange programs and seminars for training and education on issues of interpersonal boundaries, sexual harassment and sexual misconduct. Participation in such programs and seminars may be mandatory for the clergy and prospective clergy, and all clergy and prospective clergy will be provided with a copy of the Diocese of Honolulu's Code of Pastoral Conduct.
11. **Background Check:** All prospective clergy and clergy new to the Diocese of Honolulu shall be subject to a background and reference check and, for clergy, a letter of suitability from their Ordinary. This will include a criminal history record check as permitted by federal and state law for any history of sexual misconduct involving minors. All clergy assigned to the Diocese of Honolulu from other countries where criminal history record checks are not able to be conducted will require a letter of suitability from their ordinary in lieu of a criminal background check and will be subject to independent verification and review.
12. **Diocesan Review Board:** The Diocesan Review Board is the council appointed by the Bishop to assist where appropriate, in the review of allegations of sexual misconduct. The members are Catholics,<sup>1</sup> the majority of whom do not work for the Diocese of Honolulu, and who are of outstanding integrity and good judgment. The Board includes a psychiatrist or psychologist with expertise in the treatment of the sexual abuse of minors, a civil attorney, and a respected and experienced pastor. The Promoter of Justice will attend and participate in meetings.
13. Notification of the membership of the Diocesan Review Board shall be provided on occasion to the clergy and is available from the Office of the Bishop upon request.

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C. *The Bishop has the right to dispense from this requirement in situations where individuals would be available to serve on the board with particular areas of expertise that would be beneficial.*

## Sexual Harassment

14. **Sexual Harassment:**<sup>2</sup> Sexual harassment is defined as unwanted sexual advances or other unwanted or offensive visual, verbal or physical conduct of a sexual nature by one adult toward another adult. (Any act of sexual harassment toward a minor is an act of sexual misconduct. Sexual harassment includes but is not limited to:
  - a. Unwanted sexual advances or propositions.
  - b. Offering jobs, promotions or benefits in exchange for sexual favors.
  - c. Threatening to demote, terminate or withhold benefits if an employee protests, refuses or ignores sexual advances.
  - d. Visual conduct such as leering, making sexual gestures or displaying sexually suggestive objects, pictures, cartoons or posters.
  - e. Verbal conduct such as making or using derogatory comments, epithets, slurs or jokes.
  - f. Verbal abuse of a sexual nature such as graphic commentaries about an individual's body.
  - g. Sexually degrading words used to describe an individual.
  - h. Suggestive or obscene letters, notes or invitations.
  - i. Unwanted physical conduct such as touching, assault, impeding or blocking movements.
15. Sexual harassment by clerics is completely prohibited. Sexual harassment is unacceptable on ecclesiastical property, at ecclesiastical events held at other locations, and on church-related trips. All complaints of sexual harassment are to be investigated and acted upon promptly according to the following process.
16. **Step 1 - Confrontation of the Offender:** Any individual who believes that he or she is being harassed has a right to firmly and promptly notify the offender that his behavior is unwelcome and inappropriate. The offender is to stop the offensive behavior immediately.
17. **Step 2 - Reporting:** Power and status disparities between an alleged harasser and the subject of harassment may sometimes make such confrontation ineffective or undesirable. If, in the judgment of the person being harassed, such informal, direct communication between individuals is ineffective or undesirable, the subject of harassment is urged to report the alleged harassment.
18. The person being harassed may make the report to his or her pastor, principal, supervisor, the Vicar for Clergy, the Vicar General or the Bishop. A report may also be made by a third (3<sup>rd</sup>) party who has certain knowledge of the situation. A pastor, principal, or other supervisor will refer all situations involving clerics to the Vicar for Clergy for him to handle.
19. **Protection from Retaliation:** No cleric is in any way to retaliate against an individual who makes a report of sexual harassment. Any acts of retaliation are to be reported immediately, as above. Any cleric found to have retaliated against someone for reporting sexual harassment will be subject to disciplinary action.

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d. *The definition of sexual harassment is from the Hawai'i Civil Rights Commission.*

20. **Step 3 - Informal Resolution:** With the consent of the person making the complaint, the Vicar for Clergy may attempt to resolve the matter in an informal manner. If this can be done successfully and to the satisfaction of the person making the complaint, then the Vicar for Clergy is to write a summary of the complaint and the resolution. He is to maintain a copy of the written summary which may also be reviewed by the Diocesan Review Board if requested by the Bishop or in connection with the Board's overall advisory role to the Bishop.
21. **Step 4 - Formal Complaint:** After, or instead of an informal process, the complainant may make a formal complaint either verbally or in writing. It is helpful to the process for the complainant to be as detailed as possible regarding the identity of the accused, the nature of the acts, the time and place of the acts and special circumstances surrounding the acts (e.g., use of drugs or alcohol, force or threats, gifts or promises). If the complainant makes the complaint verbally, the Vicar for Clergy is to document the details of the complaint, which the Vicar is to sign and date. The complainant is encouraged, but not required, to review the written report for accuracy and sign it. Even if the person making the complaint does not sign the document, the claim must still be investigated.
22. Individuals who believe they have been or currently are being harassed are encouraged to maintain a written record of objectionable conduct to document the allegations. **Note:** Such documentation is not privileged and may be subject to discovery by criminal or civil courts.
23. In situations involving religious clerics or secular clergy not incardinated in the Diocese of Honolulu, the cleric's own Ordinary will be notified of the complaint as soon as possible and will be asked to take appropriate action as may be warranted then or at the conclusion of the process. This action will not replace the investigation by the Diocese of Honolulu.
24. **Step 5 - The Investigation:** Any allegation of sexual harassment is to be promptly investigated in a manner that protects the privacy and reputation of the persons involved (*Code of Canon Law*, canon 220). Privacy will be maintained for the complainant and the accused cleric throughout the investigation to the extent appropriate under the circumstances and subject to the requirements of applicable federal, state and Canon Law. The accused cleric also possesses the right to a good reputation at least until such time as the harassment is determined as true.
25. The Vicar for Clergy will investigate all complaints involving clerics himself or through others, including an outside investigator.
26. When first interviewing the accused cleric, the Vicar for Clergy will remind the cleric of the prohibition of retaliation for making a complaint of sexual harassment.
27. The accused has the right to a presumption of innocence and the right of defense, which means that he must be fully informed of the allegation and evidence against him. The accused may admit the harassment if he so chooses. However, the accused cannot be compelled to admit the harassment or say anything that would be self-incriminating (canon 1728, §2). The accused cleric also possesses the right to privacy and a good reputation at least until such time as the harassment is determined as true.
28. In pursuing the investigation, the wishes of the complainant are to be considered. Nevertheless, the Vicar for Clergy should thoroughly probe the matter as he sees fit. In addition, when the complaint is related to a workplace, the Vicar for Clergy may work in connection with the Diocesan Director of Human Resources or similar professional and

the diocesan attorney. The Bishop may also direct the Vicar for Clergy to consult the Diocesan Review Board in conducting the investigation and making a determination.

29. **Step 6 - Making the Determination:** In making a determination about whether a violation has occurred, the Vicar for Clergy is free to seek the advice and counsel of the Bishop, the Diocesan Director of Human Services, a civil attorney, and a diocesan canonist. In seeking the advice of others, the person conducting the investigation should be mindful of the rights of the accused to privacy, a good reputation and presumption of innocence until an act is proven.
30. If the Vicar for Clergy finds that a violation has occurred, the harasser will be subject to appropriate disciplinary action depending on the severity of the situation and reasonably calculated to prevent further inappropriate conduct. Disciplinary actions can include appropriate additional actions under Canon Law, including warnings, rebukes, penances, and the possible imposition of expiatory penalties as provided for in Canon Law (canons 1336-1340).
31. In situations where a violation has occurred, the cleric may be referred for voluntary therapeutic counseling or other professional training as the situation dictates.
32. In all situations, a written summary of the findings of the investigation and the sanctions imposed is to be placed in the cleric's record in the Office of the Vicar for Clergy. The written summary of the findings is to be signed by the person conducting the investigation. In situations where it is determined that no sexual harassment occurred the reasons for such findings are to be included in the report.
33. In situations where a violation has occurred, the complainant will be informed of the disciplinary sanctions imposed. If the person doing the investigation determines that no sexual harassment has occurred, this finding will be communicated to the complainant in an appropriately sensitive manner.
34. **Knowingly False Allegations:** If an investigation results in a conclusion that the complainant falsely and knowingly accused a cleric of sexual harassment, the complainant will be subject to possible sanctions including the possibility of termination of employment or exclusion from volunteer service. Efforts will then need to be made to restore the good name of the accused cleric, as needed.
35. **Recourse:** If either the accused or the complainant is not satisfied with the determination, the person has the right to take recourse to the Bishop, who will consult the Diocesan Review Board and then determine how to proceed. To take recourse, the request must be put in writing along with the reasons for seeking recourse within one (1) month of having been given the results of the investigation.

## **Sexual Misconduct**

36. **Sexual Misconduct:** Sexual misconduct is defined as any sexual conduct which is contrary to the doctrine or moral teaching of the Catholic Church and any sexual conduct proscribed by federal or state law. Sexual misconduct includes the following:
  - a. **Sexual exploitation of a vulnerable adult:** This involves any kind of sexual interaction between a cleric and an adult who can be taken advantage of due to age or physical or mental infirmity.

- b. **Sexual abuse of a minor** is any sexual activity with a child or adolescent under the age of eighteen (18) by an adult. Sexual abuse of a minor can involve sexual touching, lewd sexualized talk, exposure to genitals or indecent images, rape, incest, prostitution, pornography or possession of pornography involving minors. It may occur once or over short or long periods of time and may be accompanied by varying levels of coercion or even physical violence.<sup>3</sup> In Canon Law, a person who habitually lacks the use of reason is considered equivalent to a minor (canon 99; Pope John Paul II, Apostolic Letter, *Sacramentorum Sanctitatis Tutela* [SST] 6).
37. In addition to the acts of sexual misconduct defined in the previous paragraph, the following delicts are also to be treated according to the process set out in this instruction: an attempted marriage, even if only civil, living in concubinage, persisting in scandal in an external sin against the sixth commandment of the Decalogue or such a sin which involves force or threats or is public (canons 1394, §1; 1395).
38. Any individual who believes that he or she is being subjected to sexual misconduct by a cleric has a right to firmly and promptly notify the offender that his behavior is unwelcome and inappropriate. The offender is to stop the offensive behavior immediately.
39. **Step 1 - Contacting Public Authorities:** If the complaint involves a minor or involves any other violation of federal or state criminal law,<sup>4</sup> the police or Hawaii Department of Human Services is to be contacted immediately (*EN 11*).<sup>5</sup> The pastor, principal, supervisor or diocesan official who first knows of the complaint will verify that public authorities have been contacted or, if necessary, will make the report him or herself. The pastor, principal, supervisor or diocesan official will then inform the Bishop regarding when and which public authorities have been notified.
40. All involved are expected to cooperate fully with all public authorities investigating a complaint (*EN 11*).
41. The Bishop may designate a diocesan representative to assist the public authorities and to be present at meetings between the public authorities and the accused cleric, if permitted. This representative will seek a written report from the public authorities indicating that a report was filed, by whom and the date of filing.

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e. *The Federal Child Abuse Prevention and Treatment Act definition of sexual abuse states: "The employment, use, persuasion, inducement, enticement, or coercion of any child to engage in, or assist any other person to engage in, any sexually explicit conduct or simulation of such conduct for the purpose of producing a visual depiction of such conduct; or the rape, and in cases of caretaker or interfamilial relationships, statutory rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children" (42 United States Code Annotated § 5106g [4] [2003]).*

f. *To determine when public authorities should be contacted, consult a civil attorney for advice if needed.*

g. *These reporting requirements are in addition to civil requirements that apply to mandated reporters regarding minors and vulnerable adults.*

42. At the earliest opportunity and if permitted under the circumstances<sup>6</sup> the Bishop will see that the accused cleric is informed of the following:
  - a. The nature of the charges lodged against him.
  - b. That diocesan legal counsel does not represent him.
  - c. That the accused has the right to retain his own civil legal counsel (*EN 6*).
  - d. Whether such counsel will be provided at diocesan expense.
43. **Step 2 - Reporting to the Bishop:** All allegations of sexual misconduct are to be reported to the Bishop. If pastors or other supervisors first receive the allegation, they are to forward the complaint to the Bishop. The complainant might be the subject of the alleged misconduct or a third party (e.g., a parent, teacher or coworker). If the person making the complaint is a third party, then the procedures below apply, as appropriate, both to the party lodging the complaint and to the subject of the alleged complaint.
44. The complaint to the Bishop should ordinarily be made in writing and seek to include the following information at a minimum:
  - a. The identity of the accused.
  - b. The nature of the acts.
  - c. The date and place of the acts.
  - d. The names of witnesses.
  - e. Any special circumstances surrounding the acts (e.g., use of drugs or alcohol, force or threats, gifts or promises).
45. The written report must be signed by the complainant and notarized by an ecclesiastical or public notary. If the complaint is lodged orally, the complaint is to be put in writing by the person receiving the complaint and then signed by the complainant and notarized by an ecclesiastical or public notary.
46. If the complainant refuses to sign a written statement or if the complaint comes from an anonymous source or from public sources such as media outlets, the Bishop will consult the Diocesan Review Board to determine the scope and extent of whether further investigation or monitoring of the accused cleric is warranted. If a complainant refuses to sign a written statement because he or she wishes to remain anonymous, the complainant is to be cautioned that his or her identity will ultimately have to be revealed to the accused because of the right of defense of the accused (canon 1620, 7°). The name of the complainant is not revealed to the accused in situations involving solicitation within the sacrament of penance or absolution of an accomplice in a violation of the sixth commandment.
47. If the complaint comes from a third party, an anonymous source or a public source, and the subject of alleged misconduct is unwilling to make a complaint or participate in an investigation by ecclesiastical authorities, it should be made clear to the subject of alleged misconduct that this may make it difficult for the diocese to pursue the investigation and take effective action to respond and to protect others.

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<sup>6</sup> *Some police departments will not permit notice to the accused until after the criminal investigation is complete. If that occurs, the diocese will document that request and the response.*

48. If the sexual misconduct involves a religious cleric, the Bishop is to inform the religious' own ordinary. Because a religious cleric is under the jurisdiction of his own ordinary, it may be the responsibility of that ordinary to initiate disciplinary action toward a member. Jointly the Bishop and religious Ordinary will decide whether the Diocesan Review Board or the religious institute's review board, if they have one, will take the lead, though each should report the incident to the respective review board. The Bishop and religious Ordinary will keep each other informed during the process. The Bishop retains the right to remove the religious cleric from ministry in the Diocese of Honolulu and can further prohibit a religious cleric from residing in the diocese whenever he deems it prudent to do so (canon 679).
49. In the case of a secular cleric ministering but not incardinated in the Diocese of Honolulu, the Bishop shall notify the cleric's bishop apprising him of the allegation and the procedure that will be followed in investigating the allegation. The Bishop will keep the other bishop informed during the process and further, may remove the faculties of the cleric and take other action he deems prudent.
50. **Protection from Retaliation:** No cleric is in any way to retaliate against an individual who makes a report of sexual misconduct. Any acts of retaliation are to be reported immediately to the Bishop. Any cleric or other person found to have retaliated against another individual for reporting sexual misconduct will be subject to disciplinary action.
51. **Step 3 - Precautionary Measures:** In conjunction with the initial evaluation or at any stage of the process to prevent scandalous activity, to protect the freedom of witnesses and to guard the course of justice, the Bishop, after having heard the Promoter of Justice and notified the accused, shall impose precautionary measures. These measures are of their nature temporary and non-punitive and are imposed by means of a precept. Once the process ceases, all these measures must be revoked; they also end by the law itself when the penal process ceases.
52. The Bishop may exclude the accused cleric from sacred ministry or from some office and ecclesiastical function, or prohibit public participation in the Most Holy Eucharist; he may also impose or forbid residence in some place or territory (canon 1722; EN 6). If the accused is a priest, the Vicar for Clergy may arrange for him to move to another residence provided by the Church. Clerics may be placed on administrative leave with full pay and benefits. Care will be taken not to compromise any criminal investigation by the state.
53. After consulting with the Diocesan Review Board, the Bishop may assign a monitor who shall oversee the cleric in his daily activities. When possible, the monitor shall be the Vicar for Clergy. A secondary monitor may also be assigned to function in the primary monitor's absence. This monitoring may include:
  - a. The use of schedules prepared by the accused and approved by the monitor of the accused cleric's daily activities and planned locations.
  - b. Unannounced phone calls to the accused or visits to place where the cleric is scheduled to be.
  - c. Pre-approval by the monitor of any changes in the schedules.
54. **Step 4 - Initial Evaluation:** Upon receipt of the written complaint, the Bishop is to consult with the Diocesan Review Board to make his initial evaluation of whether the complaint has the semblance of truth. The Bishop and the Board are to consider the facts alleged in the complaint and the circumstances surrounding them, the credibility of the accuser and the internal consistency of the complaint itself in making this initial evaluation, as well as the cleric's file and other information about the accused and others. This is not a determination for or against the guilt of the accused cleric. The purpose of this evaluation by the Bishop is to eliminate manifestly false or frivolous allegations.



55. **Manifestly False or Frivolous Allegations:** After consulting with the Diocesan Review Board, if the Bishop determines that the complaint does not have at least the semblance of truth, no action is mandated. For allegations of delicts reserved to the Congregation for the Doctrine of the Faith (CDF), no referral to the CDF is required. The complainant and the accused, if he is aware of the allegation, will to be informed of the outcome. If an allegation is later found to be manifestly false or frivolous as a result of the preliminary investigation, this norm shall also apply.
56. If at any stage in the process the complainant is found to have falsely accused another of sexual misconduct knowingly, the complainant may be subject to appropriate sanctions, including possible termination of employment or exclusion from volunteer service or other consequences.
57. When an allegation has proven to be unfounded but is publicly known, every step possible will be undertaken to restore the good name of the cleric falsely accused (*EN 13*).
58. **Allegations with a Semblance of Truth:** If the Bishop determines that the allegation at least seems true, he is to issue a decree opening a preliminary investigation. The decree is to name the members of the investigative team.
59. In situations of the sexual abuse of minors, the Bishop will refer the complainant to the Diocesan Victim Assistance Coordinator for immediate pastoral care (*EN 3*). This may include counseling, spiritual assistance, support groups and other social services. These services will be made available even if the complaint comes from a third party or if the subject of alleged misconduct is unwilling to make a complaint or cooperate with the investigation.
60. The Bishop will keep the diocesan legal counsel and diocesan insurance carrier as required by the policy, appraised of pertinent details of the situation.
61. The Bishop may decree a deferral of the preliminary investigation while criminal investigations or civil action are pending. Results of the criminal investigations or civil litigation may be taken as evidence in the canonical process.
62. **Step 5 - Preliminary Investigation:** All complaints of sexual misconduct shall ordinarily be referred to a team of two (2) or three (3) persons appointed by the Bishop to conduct the preliminary investigation (canon 1717, §1; *EN 6*). If possible, one (1) member of the investigative team shall be an individual who has expertise in dealing with sexual misconduct. Another member of the team may be the vicar for clergy. If the complaint involves sexual misconduct by a religious cleric subject to this instruction, then the religious' Ordinary is to designate a member of the investigative team. A judge of the Diocesan Tribunal is **not** to serve as a member of the team (cf. canon 1717, §3).
63. The preliminary investigation is to inquire about the facts, circumstances and imputability of the accused cleric. It is meant to provide the Bishop (and the Diocesan Review Board) with a sense of probability that a delict did or did not occur. It is not meant to result in a final judgment.
64. The investigative team will contact the complainant and assure the complainant that the matter will be thoroughly investigated and dealt with seriously. Interviews with the complainant and witnesses by the investigative team should be taken under oath unless the person refuses an oath in which case, the interview is to be transcribed. The transcript of the interview should be reviewed and signed by the interviewee, if possible.
65. If not already known, the investigative team will contact the accused cleric and tell him of the nature of the allegation and by whom it was made. The accused is to be fully informed of the allegation so that he can exercise his right of defense and will be reminded of the prohibition of retaliation for making a complaint of sexual misconduct.
66. The accused cleric is encouraged to retain the assistance of canonical counsel (*EN 6*). If the accused participates in the preliminary investigation, he is to be provided canonical counsel if he has not secured counsel for himself (*EN 8a*).

67. The investigative team is to keep in mind that the accused cleric has the right to privacy and the right to a good reputation at least until an act is proven (*EN 6*, 13; canons 220 and 1717, §2). They are to start with the presumption that he is innocent (*EN 6*) and be mindful of the possibility of a false complaint. The accused may admit the offense if he so chooses. However, the accused cleric cannot be compelled to admit the offense or say anything that would be self-incriminating. The accused may not be put under oath (canon 1728, §2). The interview is to be transcribed, reviewed and signed by the accused.
68. The accused cleric may be requested to seek and may be urged voluntarily to comply with, a forensic physical and mental health evaluation (*EN 7*). The accused is to be advised to seek civil and canonical counsel before agreeing to undergo such an evaluation. Upon receipt of required releases, the report of the evaluation may be made available to the accused, the Bishop and the Diocesan Review Board. This evaluation alone cannot be considered fully probative concerning guilt or innocence. If the accused cleric refuses to undergo a psychological evaluation, this does not create a presumption of guilt, but the Bishop may not be able to resolve all credible doubts without it (cf. canon 220).
69. A written summary of the findings by the investigative team is to be submitted to the Bishop and the Diocesan Review Board along with a copy of all the interviews and other information gathered. The report is to include the opinion of the investigators regarding whether a delict has occurred and their reasons for their opinion. If the members of the investigative team have different opinions, each member is to give their individual opinions and their supporting reasons.
70. **Step 6 - Preliminary Assessment:** Once the Bishop has received the results of the preliminary investigation, he is to convene a meeting of the Diocesan Review Board to review the written complaint and the results of the preliminary investigation. The Board is to advise the Bishop in how he might proceed. If the Bishop decides that further investigation is warranted, then the Board must be reconvened once the additional evidence is gathered.
71. Once the Bishop is satisfied that sufficient information has been collected to reach a determination regarding whether it is probable that a delict has been committed, the Bishop is to issue a decree closing the preliminary investigation. The decree closing the preliminary investigation should also state the Bishop's preliminary assessment with a summary of the reasons for his assessment along with an indication of the next steps to be taken (canon 1718, §1). The Bishop is to promptly inform the accused cleric of his preliminary assessment and of the next steps that will be taken (*EN 6*). The following are the four mutually exclusive possibilities (Step 7, Options A-D).
72. **Step 7, Option A -- Referral to the CDF:** Referral to the CDF must take place in the following three situations:
- a. Any delicts against the sixth commandment of the Decalogue committed by a cleric with a minor below the age of eighteen (18) years or with a person who habitually lacks the use of reason (*SST 6*, §1, 1°; canon 1395, §2).
  - b. Situations involving the acquisition, possession or distribution by a cleric of pornographic images of minors under the age of eighteen (18) for the purposes of sexual gratification by whatever means or by the use of technology (*SST 6*, §1, 2°).
  - c. The solicitation to a sin against the sixth commandment of the Decalogue in the act, on the occasion, or under the pretext of confession, when directed to sinning with the confessor himself (*SST 4*, §1, 4°; canon 1387).
73. If the delict involves a matter that requires referral to the CDF, the decree closing the preliminary investigation is to indicate that the acts are to be forwarded to the CDF. The Bishop is to prepare his own *votum*, carefully considering the report of the investigators and the observations of the Diocesan Review Board, regarding whether it seems probable that a delict has been committed and giving his own recommendation to the CDF as how best to proceed.

74. The *votum* of the Bishop is given significant weight in the decision of the CDF regarding how to proceed. The CDF may respond to the bishop's *votum* and results of the preliminary investigation by requesting further information or clarification of the data already submitted. Unless the CDF concludes that the allegation is false, it will likely choose one of the following options:
- a. Direct the Bishop to treat the matter through an extrajudicial penal process (see option C below).
  - b. Remand the cause to the Bishop to be processed in a judicial penal process in the Diocesan Tribunal (see Option D below).
  - c. Try the cause in a judicial process in the tribunal of the CDF.
  - d. Recommend to the Roman Pontiff that *ex officio* dismissal be imposed, even without the consent of the cleric (*EN* 10).
75. When even a single act of sexual abuse by a cleric is admitted or is established after a canonical process, the offending cleric will be removed permanently from ecclesiastical ministry, not excluding dismissal from the clerical state, if the situation so warrants (*SST* 6; canon 1395, §2; *EN* 8-9). A guilty cleric will not be permitted to celebrate Mass publicly, administer the sacraments, wear clerical garb or present himself publicly as a priest or deacon (*EN* 8b).
76. Recourse against any extrajudicial decrees issued or approved by the CDF and appeal against judicial sentences of the CDF must be taken within the time limits defined by law and in the manner prescribed by Canon Law (see *SST* 27-28).
77. **Step 7, Option B -- Actions Other Than Penal Sanctions:** If referral to the CDF is not required and the Bishop determines that, short of imposing penalties, fraternal correction or rebuke or other means of pastoral solicitude can sufficiently repair scandal, restore justice and reform the offender, then he is to issue a decree to that effect (canon 1341). The Diocesan Review Board is to be consulted regarding the methods to be used, which include the following possibilities:
- a. The accused may merit monitoring if the Bishop determines that the complaint is not wholly insupportable, but is nonetheless weak. In such a situation, the activities of the cleric will be monitored for a period and in a manner determined by the Bishop.
  - b. The accused cleric may be requested to seek and may be urged voluntarily to comply with a therapeutic physical and mental health evaluation at a facility mutually acceptable to the Bishop and to the accused. This may take place before being restored to any ministry both for prevention and for his healing and well-being.
  - c. Acts of penance or of charity may be imposed by the Bishop.
  - d. The Bishop may issue a formal rebuke of the offending cleric and warning that a further infraction could result in additional penalties.
78. The Bishop is to promptly inform the accused cleric of the results. The complainant is also to be informed of the results.
79. The acts of the preliminary investigation, the decrees of the Bishop and everything which preceded and followed the investigation are to be kept in the appropriate archive of the curia (canon 1339, §3).
80. If either the accused cleric or the complainant is not satisfied with the outcome, the person has the right to take recourse against the decision. The dissatisfied party must submit his or her written request to the Bishop within one continuous month of being notified of the outcome, along with the reasons for seeking recourse. The Bishop will consult the Diocesan Review Board and then determine how to proceed. Furthermore, the person has the right to take further recourse to the appropriate Vatican dicastery.

81. **Step 7, Option C - Penal Sanctions through Administrative Decree:** If referral to the CDF is not required and the Bishop determines that the matter must proceed by way of an administrative (extrajudicial) decree (canon 1720),
- a. the Bishop is to inform the accused cleric of the allegation and the proofs, giving an opportunity for self-defense;
  - b. the Bishop is to weigh carefully all the proofs and arguments in consultation with the Diocesan Review Board; and,
  - c. if the delict is certainly established and a penal action is not extinguished by prescription, the Bishop is to issue a decree imposing the penalty, setting forth a summary of the reasons in law and in fact.
82. If the Bishop proceeds by means of a decree, he is to notify the accused as soon as possible of the penalty imposed. Other means of fraternal correction or rebuke and pastoral means of solicitude treated under Option B can be added to the penalty.
83. The complainant is also to be informed of the results as soon as possible.
84. The acts of the preliminary investigation, the decrees of the Bishop and everything which preceded and followed the investigation are to be kept in the appropriate archive of the Curia (canon 1719).
85. If either the accused cleric or the complainant is not satisfied with the outcome of an extrajudicial process, the person has the right to take recourse against the decision. The dissatisfied party must submit his or her written request to the Bishop within one (1) continuous month of being notified of the outcome, along with the reasons for seeking recourse. The Bishop will consult the Diocesan Review Board and then determine how to proceed. Furthermore, the person has the right to take further recourse against the decree to the appropriate Vatican dicastery.
86. **Step 7, Option D - Judicial Penal Process:** If referral to the CDF is not required and the Bishop has decreed that a judicial penal process must be initiated, he is to hand over the acts of the investigation to the promoter of justice who is to present a *libellus* of allegation to the judge (canon 1721, §1). Causes without referral to the CDF involving possible dismissal from the clerical state require a judicial process. Ordinarily, the following situations are referred to the Diocesan Tribunal for a judicial process:
- a. A cleric who attempts marriage even if only civilly and does not repent after being warned and continues to give scandal (canon 1394, §1).
  - b. A cleric who lives in concubinage or who persists with scandal in another external sin against the sixth commandment of the Decalogue, if he persists in the delict after a warning (canon 1395, §1).
  - c. A cleric who in another way has committed an offense against the sixth commandment of the Decalogue, if the delict was committed by force or threats or publicly (canon 1395, §2).
87. A penal process requires the service of three (3) judges and includes the following steps:
- a. *Libellus* presented by the promoter of justice.
  - b. Acceptance of the *libellus* and citation of the accused.
  - c. Joinder of issues.
  - d. Instruction and opportunity for defense by the accused.
  - e. Publication of the acts to the accused.
  - f. Sentence of the judges.
  - g. Execution of the sentence.
88. The Bishop is to inform the complainant of the results of the judicial penal process.

89. If the accused cleric is not satisfied with the outcome of a judicial process, he has the right to appeal the decision within the time limits defined by law (canons 1630, §1; 1633). If the complainant is not satisfied with the outcome, then he or she can petition the Promoter of Justice to appeal the decision within the time limits allowed by law (canon 1727, §2). An appeal against a judicial decision given by the Tribunal of the Diocese of Honolulu may be made to the Tribunal of the Diocese of San Jose or to the Roman Rota.

### **Prescription**

90. The prompt reporting of complaints is best so that a rapid response may be taken and because delay makes the investigation more difficult. However, for many reasons, the diocese may not learn about a complaint for many years. Therefore, the following substantial periods of prescription, the canonical equivalent of a statute of limitations, are defined for reporting complaints.
91. Prescription runs from the day on which the delict was committed or, if the delict is continuous or habitual, from the day on which it ceased (canon 1362, §2). However, regarding delicts committed against minors, prescription begins to run from the day on which a minor completes his or her eighteenth (18<sup>th</sup>) year of age (SST 7, §2).
92. An action for the delicts reserved to the CDF is extinguished by prescription after twenty (20) years, with due regard of the right of the CDF to derogate from prescription in individual situations (SST 7, §1).
93. By universal law an action for the following delicts are extinguished by prescription after five (5) years (canon 1362, §1; canons 1394-1395):
- a. A cleric who attempts marriage even if only civilly.
  - b. A cleric who lives in concubinage.
  - c. A cleric who persists with scandal in another external sin against the sixth commandment of the Decalogue.
  - d. A cleric who in another way has committed an offense against the sixth commandment of the Decalogue, if the delict was committed by force or with threats or publicly.
94. If prescription excludes the possibility of a penal process, the Bishop may still proceed as permitted through his executive power of governance and seek further relief through the CDF (EN 9). In addition, he can use acts of fraternal correction, warning, rebuke or acts of penance or charity with the goal of repairing scandal, restoring justice and reforming the offender (see Step 7, Option B above). He will consult the Diocesan Review Board in such circumstances.

## **Appendix A**

### **How to Make a Report of Sexual Harassment or Sexual Misconduct About a Cleric**

#### **I. Introduction**

1. **Purpose:** Sexual abuse, exploitation, and other forms of misconduct are long-standing problems in society. Within the Church, the involvement of clerics in such misconduct has caused serious damage to the whole Body of Christ. It has harmed the innocent and undermined trust. Therefore, a pressing need has arisen to acknowledge and address the problem of sexual misconduct by clergy. While opening the door to pastoral care to all possible subjects of harassment or misconduct, the Church must also protect the rights of both the accuser and the accused. The entire Church must create an atmosphere where silence, ignorance and minimization are overcome by healing, truth, Christian love and respect.
2. **Confrontation of the Offender:** Any individual who believes that he or she is being subjected to sexual harassment or sexual misconduct by a cleric has a right to firmly and promptly notify the offender that his behavior is unwelcome and inappropriate. The offender is to stop the offensive behavior immediately.
3. **How to Begin:** The first step in making an allegation is to determine whether the situation involves sexual harassment or sexual misconduct (see next page). Then follow the appropriate process on the following pages for making the complaint.

#### **II. Distinguishing Between Sexual Harassment and Sexual Misconduct**

4. **Definition of Sexual Harassment:**<sup>1</sup> Sexual harassment is defined as unwanted sexual advances or other unwanted or offensive visual, verbal or physical conduct of a sexual nature by one adult toward another adult. (Any act of sexual harassment toward a minor is an act of sexual misconduct.) Sexual harassment includes but is not limited to:
  - Unwanted sexual advances or propositions
  - Offering jobs, promotions or benefits in exchange for sexual favors
  - Threatening to demote, terminate or withhold benefits if an employee protests, refuses or ignores sexual advances
  - Visual conduct such as leering, making sexual gestures or displaying sexually suggestive objects, pictures, cartoons or posters
  - Verbal conduct such as making or using derogatory comments, epithets, slurs or jokes
  - Verbal abuse of a sexual nature such as graphic commentaries about an individual's body
  - Sexually degrading words used to describe an individual
  - Suggestive or obscene letters, notes or invitations
  - Unwanted physical conduct such as touching, assault, impeding or blocking movements

5. **Sexual Misconduct:** Sexual misconduct is defined as any sexual conduct which is contrary to the doctrine or moral teaching of the Catholic Church and any sexual conduct proscribed by federal or state law. Sexual misconduct includes the following:
- *Sexual exploitation of a vulnerable adult:* This involves any kind of sexual interaction between a cleric and an adult who can be taken advantage of due to age or physical or mental infirmity.
  - *Sexual abuse of a minor* is any sexual activity with a child or adolescent under the age of 18. Sexual abuse of a minor can involve sexual touching, lewd sexualized talk, exposure to genitals or indecent images, rape, incest, prostitution, pornography or possession of pornography involving minors. It may occur once or over short or long periods of time and may be accompanied by varying levels of coercion or even physical violence.<sup>2</sup> In canon law, a person who habitually lacks the use of reason is considered equivalent to a minor (canon 99; Pope John Paul II, Apostolic Letter *Sacramentorum Sanctitatis Tutela* [SST] 6).

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<sup>1</sup> The definition of sexual harassment that follows is from the Hawai'i Civil Rights Commission. See Appendix 1 for complete text of civil law.

<sup>2</sup> The Federal Child Abuse Prevention and Treatment Act definition of sexual abuse states: "The employment, use, persuasion, inducement, enticement, or coercion of any child to engage in, or assist any other person to engage in, any sexually explicit conduct or simulation of such conduct for the purpose of producing a visual depiction of such conduct; or the rape, and in cases of caretaker or interfamilial relationships, statutory rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children" (42 United States Code Annotated § 5106g [4] [2003]).

### III. Making a Report of Sexual Harassment

6. **Reporting:** Power and status disparities between an alleged harasser and the subject of harassment may sometimes make confrontation of the offender ineffective or undesirable. If, in the judgment of the person being harassed, informal, direct communication between individuals is ineffective or undesirable, the subject of harassment is urged to report the alleged harassment. A report may also be made by a third party who has certain knowledge of the situation.
7. The report can be made to the cleric's pastor, principal, supervisor or the vicar for clergy. A pastor, principal, or other supervisor will refer all situations involving clerics to the vicar for clergy for him to handle.
8. The subject of the alleged harassment also has the right to report the harassment to the bishop or the vicar general.
9. Any acts of retaliation are to be reported immediately, as above. Any cleric found to have retaliated against someone for reporting sexual harassment will be subject to disciplinary action.
10. **Informal Resolution:** With the consent of the person making the complaint, the vicar for clergy may attempt to resolve the matter in an informal manner. If this can be done successfully and to the satisfaction of the person making the complaint, then the vicar for clergy will write a summary of the complaint and the resolution. He will maintain a copy of the written summary.
11. **Formal Complaint:** After or instead of an informal process, the complainant may make a formal complaint either verbally or in writing. It is helpful to the process for the complainant to be as detailed as possible regarding the identity of the accused, the nature of the acts, the time and place of the acts and special circumstances surrounding the acts (e.g., use of drugs or alcohol, force or threats, gifts or promises). If the complainant makes the complaint verbally, the authority receiving the complaint will document the complaint. The complainant is encouraged, but not required, to review the written report for accuracy and sign it. Even if the person making the complaint does not sign the document, the claim will still be investigated.
12. Individuals who believe they have been or currently are being harassed are encouraged to maintain a written record of objectionable conduct to document the allegations. Note: Such documentation is not privileged and may be subject to discovery by criminal or civil courts.
13. The process that will be followed in investigating a formal complaint is available on the diocesan web site.



#### IV. Making a Report of Sexual Misconduct

14. **Step 1 - Contacting Public Authorities:** If the complaint involves a minor or involves any other violation of federal or state criminal law,<sup>3</sup> the person making the complaint is urged to contact the police or the Hawai'i Department of Human Services immediately.<sup>4</sup> The pastor, principal, supervisor or diocesan official who first knows of the complaint will verify that public authorities have been contacted or, if necessary, will make the report him or herself. The pastor, principal, supervisor or diocesan official will then inform the bishop regarding when and which public authorities have been notified.
15. All involved are urged to cooperate fully with all public authorities investigating a complaint.
16. **Step 2 - Reporting to the Bishop:** All allegations of sexual misconduct are to be reported to the bishop. If pastors, principals or other supervisors first receive the allegation, they will forward the complaint to the bishop.
17. The complainant might be the subject of the alleged misconduct or a third party (e.g., a parent, teacher or coworker). If the person making the complaint is a third party, then the procedures below apply, as appropriate, to both the party lodging the complaint and to the subject of the alleged misconduct.
18. The complaint to the bishop should ordinarily be made in writing and seek to include the following information at a minimum:
  - the identity of the accused
  - the nature of the acts
  - the date and place of the acts
  - the names of witnesses
  - any special circumstances surrounding the acts (e.g., use of drugs or alcohol, force or threats, gifts or promises)
19. The written report must be signed by the complainant and notarized by an ecclesiastical or public notary. If the complaint is lodged orally, the complaint will be put in writing by the person receiving the complaint and then signed by the complainant and notarized by an ecclesiastical or public notary.
20. If a complainant refuses to sign a written statement because he or she wishes to remain anonymous, the complainant will be cautioned that his or her identity will ultimately have to be revealed to the accused because of the right of defense of the accused (canon 1620, 7°). (The name of the complainant is not revealed to the accused in situations involving the sacrament of penance.)
21. If the complaint comes from a third party or an anonymous source and the subject of alleged misconduct is unwilling to make a complaint or participate in an investigation by ecclesiastical authorities, it should be made clear to the subject of alleged misconduct that this may make it difficult for the diocese to pursue the investigation and take effective action to respond and to protect others.

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<sup>3</sup> See Appendix 2 for the Hawai'i Sexual Assault Statutes to determine when public authorities should be contacted. Consult a civil attorney for advice if needed.

<sup>4</sup> This reporting is in addition to civil requirements that apply to mandated reporters (see Appendix 3 regarding minors and Appendix 4 regarding vulnerable adults).

22. In situations of the sexual abuse of minors, the bishop will refer the complainant to the diocesan victim assistance coordinator for the immediate pastoral care<sup>5</sup>. This may include counseling, spiritual assistance, support groups and other social services. These services will be made available even if the complaint comes from a third party or if the subject of alleged misconduct is unwilling to make a complaint or cooperate with the investigation.
23. Any acts of retaliation are to be reported immediately to the bishop. Any cleric found to have retaliated against another individual for reporting sexual misconduct will be subject to disciplinary action.
24. The process that will be followed in investigating a formal complaint is available on the diocesan web site.

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<sup>5</sup> *United States Conference of Catholic Bishops, Essential Norms for Diocesan/Eparchial Policies Dealing with Allegations of Sexual Abuse of Minors by Priests or Deacons, revised 2006, no. 3.*

**Appendix B**  
**For Use by Vicar for Clergy in Receiving a Report of Sexual Harassment by a Cleric**

*Questions should be asked in a nonjudgmental manner.*

Name of person taking report: \_\_\_\_\_

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

Name of the complainant: \_\_\_\_\_

Address: \_\_\_\_\_

Phone number(s): \_\_\_\_\_

Employment or position of the complainant: \_\_\_\_\_

Is the complainant a third party? \_\_\_\_\_ If so, name and contact information of subject of alleged harassment: \_\_\_\_\_

Name of the accused cleric: \_\_\_\_\_

What allegedly happened? (Include detail about the frequency and nature of the alleged harassment and the dates and locations where the alleged harassment occurred.)

How did the he or she respond to the alleged harassment?

Did the accused cleric make or carry out any threats or promises?

What was the nature of the professional relationship, degree of control and amount of interaction between the accused and the complainant? (Does the person control compensation, terms of employment or promotions? Do these individuals work in proximity to one another or on the same projects?)

Were there any witnesses who observed or were knowledgeable of the alleged harassment? (Interview them if possible.)

Did the complainant consult or make a report to anyone else about the alleged harassment? If so, who else knows and what their response was to the disclosure? (Interview them if possible.)

Are there are other individuals who have possibly been harassed by the accused? (Interview them if possible.)

What action would the complainant like to see taken as a consequence of the harassment?

**Appendix C**  
**For Use in Conducting the Preliminary Investigation of an**  
**Allegation of Sexual Misconduct by a Cleric**

*Questions should be asked in a nonjudgmental manner.*

Name of person taking report: \_\_\_\_\_

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

Name of the complainant: \_\_\_\_\_

Address: \_\_\_\_\_

Phone number(s): \_\_\_\_\_

Employment or position of the complainant: \_\_\_\_\_

Is the complainant a third party? \_\_\_\_\_ If so, name and contact information of subject of alleged misconduct: \_\_\_\_\_

Age of subject when the alleged misconduct occurred: \_\_\_\_\_

For situations requiring reporting to the police or other public authorities, date when report was made: \_\_\_\_\_

Who made the report to public authorities? \_\_\_\_\_

Public agency and person who received the report: \_\_\_\_\_

Name of the accused cleric: \_\_\_\_\_

What allegedly happened? (Include detail about the frequency and nature of the alleged misconduct and the dates and locations where the alleged misconduct occurred.)

How did the he or she respond to the alleged misconduct?

Did the accused cleric make or carry out any threats or promises?

What was the nature of the professional relationship, degree of control and amount of interaction between the accused and the complainant? (Does the cleric control compensation, terms of employment or promotions? Is there a pastoral relationship between the accused and the complainant?)

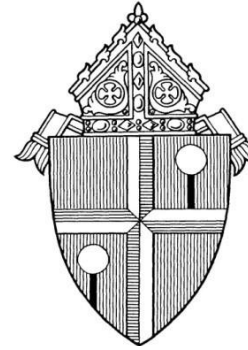
Were there any witnesses who observed or were knowledgeable of the alleged misconduct? (Interview them if possible.)

Did the complainant consult or make a report to anyone else about the alleged misconduct? If so, who else knows and what their response was to the disclosure? (Interview them if possible.)

Are there are other individuals who have been harassed by the accused? (Interview them if possible.)

# THE OFFICE OF CLERGY

CATHOLIC DIOCESE OF HONOLULU • CHANCERY OFFICE 1184 BISHOP  
STREET, HONOLULU, HAWAII 96813-2859  
[808] 585-3300 • FAX: [808] 521-8428



## **Acknowledgement**

# **Instruction Regarding Allegations of Sexual Harassment and Sexual Misconduct Against Clerics**

***(including Seminarians and Those in Formation for the Diaconate)***

I acknowledge that I have received and will read and be familiar with the Instruction Regarding Allegations of Sexual Harassment and Sexual Misconduct Against Clerics.

Name (print): \_\_\_\_\_

- I am a (check one):
- priest
  - deacon
  - seminarian
  - in formation for the diaconate

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

***Return completed forms to the Office of Clergy.***

## VII. REQUIREMENTS FOR REPORTING CHILD ABUSE

### Reporting Actual or Threatened Child Abuse

#### 1. **Step 1 - Contacting Public Authorities:**

If an allegation involves a violation of Hawaii criminal law such as abuse of a minor (in any form, whether or not sexual), the police or Hawaii Department of Human Services/Child Welfare Services are to be contacted immediately in accordance with the law of the State of Hawaii.

“Any person ..., who becomes aware of facts or circumstances which cause that person to have reason to believe that child abuse or neglect has occurred or that there exists a substantial risk that child abuse or neglect may occur in the reasonably foreseeable future, may immediately report the matter orally to the department or to the police department” (H.R.S. §350-1.3).

#### **Phone numbers (subject to change):**

**From Oahu, call (808) 832-5300**

**From a Neighbor Island, call 1-800-494-3991**

**(Or) call 911**

#### 2. **Provide the following information:**

- a. Name of minor.
- b. Present location of minor.
- c. Nature and extent of the perceived injury.
- d. Any other information, including that which led the individual to suspect child abuse, requested by the child welfare agency.

#### 3. **Follow-Up:**

Following the telephone report, a written report (Form DHS 1516) must also be filed in accordance with regulations of the Hawaii State Child Welfare Service. Form DHS 1516 is available on the State of Hawaii Department of Human Services website (<http://humanservices.hawaii.gov/>) as well as the Shield the Vulnerable website (<https://www.shieldthevulnerable.org/>) - Resources tab.

After the verbal report is made, a Child Welfare Service employee or police officer will usually be dispatched to the site.

A copy of the report should **not** be made a part of any student’s record. However, a notation in the cumulative record indicating “CWS report filed” (with date) would be appropriate. One (1) copy of the report may be kept in a confidential file or log by the administration, but **not** in the student’s folder.

Follow-up with the family is the responsibility of the Child Welfare Service.

#### 4. **Step 2 - Reporting to the Pastor and the Bishop:**

All allegations of sexual misconduct involving minors must be reported to the pastor and the Office of the Bishop. If pastors or other supervisors first receive the allegation, they shall promptly forward the matter to the Office of the Bishop for handling, including such evaluation and investigation as the Office of the Bishop deems appropriate. Such reports are in addition to and not in place of mandated reporting to appropriate public officials.



Contact the Office of the Bishop at (808) 585-3356 or [bishop@rcchawaii.org](mailto:bishop@rcchawaii.org).

**NOTE: Responsibility for notifying public authorities when the allegation involves a violation of Hawai'i criminal law is that of the individual making the initial complaint.** If the person making the **initial** complaint fails to contact the public authorities, then the pastor or supervisor who first learns of the allegation must do so. If that person fails to contact public authorities, then the Office of the Bishop will do so. It is the role of the public authorities to assess the credibility of allegations received. All allegations should be reported to them for handling.

## VIII. THE VICTIM ASSISTANCE COORDINATOR

The Diocese of Honolulu, which encompasses the Roman Catholic Church in the State of Hawaii, wishes to acknowledge the pain, anger and confusion caused by the sexual abuse of minors by clergy, religious or church workers. The Diocese of Honolulu remains committed to the promotion of safety, healing reconciliation, and the maintenance of safe environments for our children and young people.

### 1. **What is child sexual abuse?**

Child sexual abuse includes harm (or threatened harm) to a child, age seventeen (17) or younger, resulting from

- a. **sexual contact or conduct** includes sex acts, incest (sex between family members), touching a child on the breasts, genitals, or buttocks, or the clothing covering them, having the child sexually touch another person, voyeurism; e.g., watching a child bathing or changing clothes or exposing ones genitals to a child; and/or,
- b. **sexual exploitation** which includes activities like preparing, selling, distributing, or possessing pornographic materials that involve children, child prostitution, and situations where the child is used for the sexual gratification of others.

### 2. **How are reports of allegations made known?**

If you or someone you know is being, or has been, sexually abused by an ordained, paid or volunteer representative of a parish of the Diocese of Honolulu, you are encouraged to make a claim or present an allegation regarding such an act to your parish pastor, and the Office of the Bishop, ph. (808) 585-3356.

You may also submit your allegation in written form and send it to the Diocese of Honolulu, Office of the Bishop, 1184 Bishop Street, Honolulu, HI 96813.

### 3. **What happens when you make a report or allegation?**

All reports of current or past child sexual abuse are forwarded to the Bishop of Honolulu. Each report or claim is handled immediately and with strict confidentiality. The Victim Assistance Coordinator provides comprehensive support and services to child victims of sexual abuse through the confidential, licensed services of experienced mental health professionals. Your report or claim will always be treated seriously and respectfully. After thorough review and assessment, the Victim Assistance Coordinator will file a report with the diocese so that immediate steps may be taken to ensure perpetrators are held fully accountable and safe environments are maintained.

### 4. **Who should report child sexual abuse?**

- a. A parent or guardian who has reason to believe their child has been sexually abused is encouraged to report.
- b. A person who is being sexually abused should make a report.
- c. A mandated reporter who has reason to believe that child abuse or neglect will occur in the reasonably foreseeable future, must immediately report the matter to Child Welfare Services or to the Police Department.

Mandated reporters include licensed healing arts or health-related professionals; employees or officers of any public or private school; employees or officers of any public or private agency or institution, or other individuals providing social, medical, hospital, or mental health services, including financial assistance; employees or officers in a law enforcement agency; child care providers; medical examiners or coroners; employees of any public or private agency providing recreational or sports activities.

5. **What type of support and services are provided?**
  - a. An immediate and confidential meeting with the victim of abuse to assess personal needs and preferences for treatment.
  - b. Assistance in obtaining the services of mental health professionals trained in the area of sexual abuse victimization by qualified providers.
  - c. Assistance in providing or presenting a report to the Diocese of Honolulu, and arranging visits or meetings with officials of the diocese so that they can act upon your report.
  - d. The coordination of any support services, resources or other services which directly enhance your ability to maintain a level of emotional well-being, while maintaining contact with you throughout the counseling and healing process.
6. The Victim Assistance Coordinator can help you or someone you know, please call the Victim Assistance Coordinator at (808) 527-4604 [subject to change].

**Victim Assistance Coordinator  
Catholic Charities Family Services  
1822 Keeaumoku Street  
Honolulu, HI 96822**



