

DIOCESE OF JUNEAU
POLICY REGARDING SEXUAL MISCONDUCT

INTRODUCTION

Sexual misconduct is a longstanding problem of society which is now becoming better recognized and understood, discussed more openly, and dealt with more effectively. Clergy, religious, and lay ministers, whether employees or volunteers, are not exempt from the problem of sexual misconduct. Indeed, this problem cannot be ignored without compromising the integrity of the Church's ministers and causing serious damage to potential victims and to the whole Body of Christ.

There is an urgent need to acknowledge and address openly the possibility and the past experience of sexual misconduct in the pastoral relationships of clergy, religious, and lay ministers, whether employees or volunteers, who minister in the Diocese of Juneau.¹ Only by recognizing this can we act to prevent such sexual misconduct and respond effectively to allegations of such misconduct in an atmosphere of wisdom, justice, and Christian love.

THE MINISTER AND THE PASTORAL RELATIONSHIP

For purposes of this Policy, a "minister" is any person acting on behalf of the Diocese of Juneau or any organization supervised by the Catholic Bishop of Juneau who has a pastoral relationship with at least one other person. A minister is covered by this Policy whether that

¹ As used in this Policy, the term "religious" includes lay and clerical members of religious institutes, societies of apostolic life, and personal prelatures.

minister is clergy, religious, or lay, and whether he or she is an employee of the Diocese or organization or a volunteer.

For purposes of this Policy, a “pastoral relationship” is any relationship in which, according to the law of the Catholic Church, one person exercises canonical or pastoral authority over another; or in which one person, acting on behalf of the Catholic Church, leads another in public worship or offers another the Sacraments, sacramentals, advice, material support and assistance, teaching, training, or other religious activities and services of that Church.

SEXUAL MISCONDUCT

For purposes of this policy, “sexual misconduct” means the following forms of behavior:

- (1) sexual intercourse and any other behavior, including language, that is intended or could reasonably be known to be highly likely to result in sexual arousal, between a minister and a person with whom that minister has a pastoral relationship other than his or her spouse, even when both parties consent to such behavior;
- (2) any demand, request, or suggestion by a minister to a person with whom that minister has a pastoral relationship that they or other persons engage in such behavior, whether or not the demand, request, or suggestion is accompanied by any form of coercion;
- (3) the production and distribution of any pornographic material, and the consumption of such material that is prohibited by State and Federal law.

In some instances, the otherwise lawful exercise by a minister of his or her ministry will unavoidably and through no fault of the minister cause sexual arousal of a person with whom that minister has a pastoral relationship, due solely to the disordered attitudes or abnormal

psychological condition of that person. Such behavior by the minister does not constitute sexual misconduct.

For purposes of this Policy, “pornographic material” means images and language recorded or preserved by any media whatsoever that portray sexual intercourse and any other behavior by any person that is intended or could reasonably be known to be highly likely to result in sexual arousal of a person exposed to such images and language.

BASIC STANDARD

No minister may ever, under any circumstances, engage in sexual misconduct. A minister who is proven in accordance with this policy to have violated this standard shall be treated as one who has publicly violated his or her fundamental commitment to Christ and his Church, as well as any contract that he or she may have had with the Diocese and any applicable provisions of civil and canon law, including those imposing criminal liability.

The response of the Diocese to any proven violation of this standard shall include the following:

- (1) pastoral, medical, and psychological care of any victim of the violation for the effects of that violation, including a clear acknowledgment of the wrong that has been done to the victim and request for forgiveness of that wrong;
- (2) pastoral care for all other persons who had pastoral relationships with the violator, including a clear acknowledgment of the pain and confusion that has been caused them and request for forgiveness on behalf of the leadership of the Church;
- (3) prevention and deterrence of any further violations by, and rehabilitation and reform of the violator, including but not limited to his or her removal from ministry for at least as

long as there is any significant likelihood of such violations, the requirement that he or she undergo treatment of the causes of the violation, and full cooperation by the Diocese with all government and other ecclesiastical authorities investigating the violation.

If the violation is proven to have involved physical sexual contact with or an image portraying a person under the age of eighteen; a person who was especially vulnerable to the violation due to his or her advanced age or physical, emotional, or mental health; or any form of force or other coercion by the minister, the response of the Diocese shall normally include the permanent termination of the violator's ministry in the Diocese, including, where appropriate, canonical procedures for dismissal from the clerical state or declaration of an impediment to the exercise of Holy Orders in the case of a diocesan priest or deacon.

PREVENTING SEXUAL MISCONDUCT

In order to prevent the fact or appearance of sexual misconduct by its ministers, the Diocese establishes the following requirements for the recruitment of ministers, their education and training, and their interaction with those whom they serve in certain special situations.

Recruitment

The Diocese shall, in consultation with seminary staffs and other experts, select and use methods of psychological screening and background investigation of prospective candidates for the diocesan priesthood and diaconate that have been found to be effective in identifying persons who, as ministers, would be likely to engage in sexual misconduct. No person may be ordained as a priest or deacon of the Diocese unless he has demonstrated, through the means prescribed by the law of the Church on priestly and diaconal formation and admission to Holy Orders, the

ability and the resolve to lead a chaste life in accordance with his sacred commitment to celibacy or to marriage.

No diocesan priest or deacon or religious from outside this Diocese, other than a priest or deacon incardinated or permanently assigned in another Diocese of the ecclesiastical Province of Anchorage, may be given an assignment to minister in this Diocese until the Diocese has received a testimonial of suitability for ministry from his or her diocesan bishop or religious superior, following or substantially equivalent to the form presented in Appendix A; and, if the assignment is to be for more than 30 days, a certificate signed by the minister who has applied for the assignment following the form presented in Appendix B, and the results of a criminal background check conducted by the Office of the Bishop.

No person other than a priest, deacon, or religious may be recruited as an employed minister in the Diocese until his or her background has been investigated sufficiently to establish that he or she would be highly unlikely to engage in sexual misconduct as a minister, and the Diocese has received a certificate concerning sexual conduct, signed by that person, following the form presented in Appendix B, and the results of a criminal background check conducted by the Office of the Bishop.

No person other than a priest, deacon, or religious may serve as a volunteer minister until the minister who would oversee his or her volunteer ministry has sufficient knowledge of that person to establish that he or she would be highly unlikely to engage in sexual misconduct as a minister. If the person's volunteer ministry would be directed toward persons under the age of eighteen, or persons suffering infirmities related to age, sickness, or injury, the minister who would oversee that volunteer ministry must also first receive a certificate concerning sexual

conduct, signed by that person, following the form presented in Appendix B, and the Diocese must receive the results of a criminal background check conducted by the Office of the Bishop.

Education and training

The Diocese shall, in consultation with seminary staffs and other experts, ensure that each candidate for the diocesan priesthood and diaconate receives, as part of his theological and pastoral education, a thorough knowledge of the nature, causes, and effects of sexual misconduct, and the means of effectively preventing and responding to it. Those responsible for the spiritual and pastoral training of such a candidate shall identify any attitudes or behaviors on his part that might raise the risk of sexual misconduct by him, and shall ensure either that these are corrected or that he is dismissed as a candidate for ordination.

Each diocesan priest or deacon or religious from outside this Diocese who receives an assignment to minister in this Diocese for more than 30 days, and any other person who is recruited to serve as an employed minister of the Diocese, shall provide to the diocese a summary of his or her education and training on the nature, causes, and effects of sexual misconduct, and the means of effectively preventing and responding to it.

Within ninety days of beginning his or her ministry in the Diocese, each new minister shall receive training on the nature, causes, and effects of sexual misconduct, and the means of effectively preventing and responding to it, including an introduction to and explanation of the contents of this Policy. Materials and procedures for this training shall be accommodated to the diverse pastoral situations in the Diocese, including those of the smallest parishes and missions. Upon completing this training, each minister shall sign and submit a statement of training and agreement concerning sexual misconduct, following the form presented in Appendix C.

Precautions in certain special situations

When ministering to persons under the age of eighteen, to a person of the other sex other than the minister's spouse or other member of the minister's immediate family, or to a person of the same sex if either the minister or the other person is known by the minister to have a homosexual orientation, a minister shall try to ensure the presence or ready access of at least one other adult to the place in which the ministry is taking place.

A minister may never share lodging in a bedroom or hotel room with any of the persons described in the preceding paragraph, and shall, whenever reasonably practicable, avoid sharing other types of lodging space with such persons, other than large spaces readily accessible to the public, such as school gymnasiums, parish halls, and public areas on Alaska State ferries. When this is not reasonably practicable, and any of the other persons is under the age of eighteen, the minister may share the lodging space with at least two persons over the age of seven. In such situations, the minister must bathe and change clothes in a time and place separate from any person under the age of eighteen.

RESPONSE TO COMPLAINTS OF SEXUAL MISCONDUCT

The response of the Diocese to any complaint of sexual misconduct by a minister must be inspired by justice and love. It must, during the investigation, ensure the protection and care of alleged and potential victims of sexual misconduct, while also ensuring the ultimate and public vindication of every minister who is the target of an unfounded complaint of such misconduct. Every minister who is alleged to have engaged in sexual misconduct, whether or not he or she is ultimately proven to be a violator of the *Basic Standard* set forth above, shall be given a full opportunity to defend himself or herself against the charges. When a minister is proven to have

engaged in sexual misconduct, the final response of the Diocese shall conform to the criteria of the *Basic Standard*.

The making of a complaint of sexual misconduct

A complaint that a minister has engaged in sexual misconduct may be made to any other minister of the Diocese. If a person is in doubt about whether or how to make a complaint, he or she has the right to communicate confidentially and anonymously with a minister of the Diocese to describe his or her allegations and concerns and to obtain the necessary guidance. When possible, the person who makes the complaint or the minister who receives it should reduce it to writing and sign and date it.

Upon receiving the complaint, the minister to whom it was made shall immediately inform the Bishop² or the vicar general or, in their absence, the judicial vicar, who shall promptly contact the Bishop or the vicar general. The Bishop may designate a fourth diocesan official to be informed of a complaint and to contact the Bishop when the vicar general and the judicial vicar are each either absent or the object of the complaint. Immediately upon being informed of the complaint, the Bishop or the vicar general shall take the following action:

- (1) assure the person making the complaint, any alleged victims of the alleged sexual misconduct, any other persons having pastoral relationships with the accused minister, and any other persons affected by the complaint, of the care and concern of the ministers of the Diocese;
- (2) ensure full compliance by the Diocese with all laws requiring notification of government agencies of the complaint;

² As used in this Policy, the term "Bishop" includes the Diocesan Administrator when the See is vacant.

(3) instruct all ministers and other representatives of the Diocese to cooperate fully in any government investigations and criminal court proceedings, and to respond fully to all court orders and legitimate discovery requests in civil court proceedings, concerning the facts underlying the complaint, always in consultation with the attorneys for the Diocese;

(4) appoint a delegate to investigate the complaint and determine whether, to a moral certainty, the accused minister has engaged in sexual misconduct;

(5) inform the accused minister

(a) of the complaint and the appointment of the delegate to conduct the investigation;

(b) of the accused minister's right to defend himself or herself against the complaint, as well as the extent, if any, to which the Diocese will assist the accused minister in obtaining and paying for civil and canonical counsel;

(c) of any limitations on the accused minister's duties and functions that may be necessary during the investigation to prevent any real or perceived danger of sexual misconduct by the accused minister, as well as any limitations on the living arrangements of an accused priest, deacon, or religious that may be necessary for the same purpose;

(d) of any medical, psychological, or spiritual assessment by experts in the identification of sexual disorders that the accused minister may be required to undergo in order to assist the investigation;

(e) of his care and concern for the accused minister and that of the other ministers of the Diocese, whatever the outcome of the investigation might be;

- (6) designate a single representative to speak on behalf of the Diocese about the complaint;
- (7) inform the attorneys and affected insurance carriers of the Diocese of the complaint;
- (8) convene the Diocesan Review Board as expeditiously as possible for consultation about the complaint.

The investigation of a complaint of sexual misconduct

Upon his or her appointment by the Bishop or the vicar general, the delegate, with the assistance of the judicial vicar or another canonist designated by the Bishop and of the attorneys for the Diocese, shall collect all available evidence necessary to determine to a moral certainty whether the accused minister engaged in sexual misconduct. This investigation shall conform to the requirements of canons 1717-1719 on preliminary investigations in the canonical penal process and all other applicable provisions of canon law. Whenever possible, the delegate shall meet personally with the person making the complaint, the accused minister, all alleged victims, and any other witnesses with information about the facts underlying the complaint. The delegate, with the approval of the Bishop, may require the accused minister, and request the person making the complaint and any alleged victim, to undergo any medical, psychological, or spiritual assessment by experts in the identification of sexual disorders and the evaluation of sexual abuse allegations that might further the purposes of the investigation. The delegate shall also consult with the Diocesan Review Board in the course of the investigation.

To the extent possible, the investigation shall be recorded in writing, and its confidentiality shall be protected to minimize unjust damage to the reputation and privacy of any person.

The delegate shall complete the investigation as quickly as is consistent with the requirements of justice. Upon completing the investigation, the delegate shall present a written report to the Bishop and to the Diocesan Review Board, including his or her findings as to the facts underlying the complaint, his or her conclusion as to whether the accused minister can be found to a moral certainty to have engaged in sexual misconduct, and his or her recommendations as to the response that the Diocese should adopt in accordance with the *Basic Standard* set forth above.

Decision of the Bishop

As soon as possible after receiving the delegate's report and any recommendation of the Diocesan Review Board, the Bishop shall issue a written decision that either adopts the report and recommendation in whole or in part, or rejects the report and recommendation and orders a reopening of the investigation.

If the accused minister admits that he or she engaged in sexual misconduct, or is found by the Bishop to a moral certainty to have engaged in sexual misconduct, the Bishop shall order a response to that misconduct that conforms to the *Basic Standard*. In the case of a violator who is a priest, deacon, or religious, this shall normally include the initiation of penal proceedings in accordance with Book VI of the Code of Canon law and canons 1720-1723, as well as any other applicable provisions of canon law. In the case of a violator who is a priest or deacon not incardinated in the Diocese or a religious, this shall normally include full cooperation with the violator's superiors in any related proceedings that they may conduct. In the case of any violator, this shall normally include the imposition of at least a moral obligation that the violator compensate the Diocese, any victims, and any other persons injured by the violator's sexual misconduct or its effects, for all damages and expenses caused by the violator's sexual

misconduct. This shall normally include all expenses incurred by the Diocese for the treatment of the violator and the victims of his or her sexual misconduct.

If the accused minister is found by the Bishop to a moral certainty not to have engaged in sexual misconduct, and not to have engaged in behavior raising the danger or the appearance of such misconduct, the Bishop's decision vindicating the minister and restoring him or her to full active ministry in the Diocese shall, with the consent of the minister, be widely publicized and formally notified to all interested ecclesiastical and governmental authorities. If it appears that the complaint was made or false evidence was submitted in bad faith or with serious negligence, the Bishop shall normally issue a written warning to each person responsible, informing him or her of the possible spiritual, civil, and canonical consequences. In certain cases, the Bishop may initiate penal proceedings under the Code of Canon Law against such a person, especially the issuance of a canonical warning or rebuke, the imposition of a penance, or the enactment of a penal precept. Similarly, in certain cases the Diocese may initiate civil court proceedings or support those brought by the falsely accused minister against such a person to recover damages that the minister or the Diocese suffered as a result of the false accusation. The Diocese shall also cooperate in any criminal proceedings brought by governmental authorities against such a person in connection with the false accusation. Nevertheless, the primary purpose of the Diocese in such circumstances must always be to offer love, healing, and forgiveness to the persons responsible through bad faith or serious negligence for a false accusation of sexual misconduct against a minister, and to help them to repentance and reconciliation. The Diocese shall never take any adverse action against a person responsible for an allegation or complaint of sexual misconduct by a minister that was ultimately proven to have been unfounded, if that person acted in good faith and with reasonable care in making or supporting the allegation or complaint.

When the Bishop is unable to find to a moral certainty either that the accused minister engaged in sexual misconduct or that he or she did not do so, the Bishop shall take such measures as, under the circumstances, best implement the purposes of the *Basic Standard*, with special emphasis on the care and protection of alleged and potential victims, but also on protection of the legitimate rights of the accused minister. The Bishop may also reopen the investigation at any time, or initiate penal proceedings under Book VI of the Code of Canon Law, canons 1720-1731, and all other applicable canon law for a determination of the matter. The Diocese shall also continue to cooperate in all governmental investigations and court proceedings concerning the facts underlying the complaint.

If the accused minister is found by the Bishop to a moral certainty not to have engaged in sexual misconduct, but is found by the Bishop to have engaged in behavior raising the danger or the appearance of such misconduct, the Bishop shall take such action as might be necessary to prevent a recurrence and to repair any damage that might have resulted, including such penal action against the minister under the Code of Canon Law as the issuance of a canonical warning or rebuke, the imposition of a penance, or the enactment of a penal precept.

EFFECT

In accordance with canon 8 §2, this Policy shall be promulgated as a particular law of the Diocese by distribution to the priests, deacons, religious, and lay ministers holding assignments in or employed by the Diocese, and to each of the parishes in the Diocese, and shall take effect immediately upon its promulgation. Any complaint of sexual misconduct by a minister that is received after that time shall be responded to in accordance with this Policy, even if the alleged misconduct occurred before this Policy was promulgated.

Appendix I

Statement of Receipt and Agreement

By signing this statement, I hereby acknowledge receipt of the Diocese of Juneau **Policy Regarding Sexual Abuse of Minors, Misconduct with Adults and Sexual Harassment**, revised and promulgated July 12, 2016. I acknowledge that I have been provided time and opportunity to read the policy and to seek clarifications.

By signing this statement, I agree to adhere to all the provisions contained in it. I understand that this agreement is required for me to serve in any capacity of ministry, or to be employed by or volunteer on a regular basis for the Diocese of Juneau, its parishes, institutions, offices or programs.

For those already employed within the Diocese of Juneau or involved in volunteer service at the date of implementation of this policy, acknowledgment of receipt is to occur by January 1, 2004.

I understand that failure to comply with this policy subjects me to the responses outlined in the policy and may include termination of employment or service.

Signature

Date

Printed Name

Appendix II

**Pre-Employment Inquiry Release
Diocese of Juneau**

In connection with my assignment, employment or volunteer service in the Diocese of Juneau, I understand that investigative background inquiries are to be made on me. This may include investigation of criminal convictions, motor vehicle history, educational verification and other reports. These reports will include information as to my character, work habits, performance and experience along with reasons for any termination of past employment from previous employers. Further, I understand that the Diocese of Juneau will be requesting information from various local, state, federal or other agencies that maintain records concerning my past activities relating to driving, criminal, civil or other history.

I authorize, without reservation, any party or agency contacted by the Diocese of Juneau or its parishes, institutions or agencies, to furnish the above-mentioned information. To aid in the proper identification of my files or records, I understand that the following information is required.

Signature

Date of Birth

Printed Name

Appendix III

Statement Concerning Sexual Conduct

Please check and initial one of the boxes.

I hereby attest:

- that I have never been accused or charged of sexual misconduct with a person with whom I have had a pastoral relationship; and that I have never been charged with or discharged from employment or from a volunteer position on the grounds of child abuse, sexual misconduct, sexual harassment or related offenses; or
- that I have been accused or been so charged or discharged and attach an explanation of all attendant circumstances and shall authorize the Diocese of Juneau to obtain access to all relevant public and private records.

I understand that any misrepresentations or omissions concerning these matters may disqualify my application or result in my immediate dismissal from any assignment I may receive as a minister in the Diocese of Juneau.

Signature

Date

Printed Name