CLERGY POLICY: FOR PREVENTION OF AND RESPONSE TO
ALLEGATIONS OF SEXUAL ABUSE OF MINORS

Introduction

The Diocese of Fresno Anti-Discrimination and Harassment Policy, based on civil law, applies to all
clergy, religious, and lay employees of the Diocese. But the status of a member of the clergy is
also governed by canon law and his relationship to the bishop. Note, the terms “cleric” and
“clergy” are used within this policy. “Cleric” and “clergy” refer to both priests and deacons.
When the word “priest” is used, the reference is only to priests.

This policy does not diminish the application of the civil law policies to members of the clergy, but
provides specific guidelines to the clergy of the Diocese of Fresno for their own understanding
and guidance.

These guidelines for prevention of and response to allegations of sexual abuse of a minor are
meant to show how seriously the bishop regards any allegation of sexual misconduct by a
member of the clergy and to delineate the steps the bishop will take in case of such an allegation.
Every member of the clergy is bound by civil law to report to Children’s Protective Service (CPS)
or law enforcement agency, any sexual abuse of a minor of which they have actual knowledge or
reasonable suspicion, except in a penitential forum reserved to priests and bishops.

Precautions for Clergy in Relation to Sexual Misconduct

- Directions in Relation to Boundaries with Minors

- The priestly commitment to the virtue of chastity and the gift of celibacy is well
  known. A deacon (permanent or transitional) has a similar commitment to the virtue
  of chastity in marriage. The following are diocesan standards of ministerial behavior
  and appropriate boundaries for clergy who have regular contact with children and
  young people.

- In this day and age especially, a cleric must avoid any kind of activity or contact with
  both minors and adults that could raise questions or lead to negative comment on
  the part of reasonable people, but at the same time, he must avoid paranoia in this
  area.

  » Clerics are not to be alone with minors in their rooms and should not spend
    their days off alone with minors (with the reasonable exception of immediate
    family, adopted children or grandchildren). No minors are ever to stay
    overnight nor for any extended period of time at the rectory without adult
    members of their family. A minor should never be alone in the rectory or
    parish offices with a cleric.

  » Clerics are not to go on vacation with minors unless the parents/guardians
    are present. On field trips or other outings involving minors, at least one
    other adult should be present.

  » Clerics are to avoid activities with minors that involve close physical contact
    (such as tickling or wrestling). Hugging is part of the life of many cultures, but
    a priest should be careful in the way he hugs a minor, and should never hug
    minors without adults being present.

  » Clerics should never create an excessive or exclusive emotional attachment
    with a child/youth.

1 Issued October 19, 1995
» Clerics should never speak in a manner that is abusive or demeaning or use inappropriate language/humor.

» Clerics should never discuss topics such as sex, abortion, birth control, drugs, explicit television or video movies and/or games with child/youth outside of the formal catechetical or pastoral setting.

» Clerics should never use, possess, be impaired by alcohol or illegal drugs nor dispense alcohol, tobacco, or illegal drugs to child/youth.

» Clerics should never dispense over-the-counter or prescription medication to child/youth without the proper diocesan permission forms on file.

» Clerics should never use physical discipline, or knowingly put any child/youth in a potentially risky situation.

» Clerics should never display physical affection unless the child/youth first initiates such. In such cases, contact should strictly be limited to a brief, appropriate response.

» Clerics should never touch any private area of the body under any circumstances or engage in sexual intimacies.

» Clergy may not stay overnight at a private residence other than the home of a relative. On trips or outings, clerics are to take quarters separate from minors, and ensure they are not alone with a minor in vehicles or quarters. Also, clerics should be wary of any situation when alone with a minor in a vehicle or any other situation when alone with a minor.

» Appropriate precautions and boundaries should be taken within counseling situations with minors or adults. Available reference material: *The Minister in a Counseling Role: Guidelines for Ethical Behavior*, by Thomas B. Drummond, Ph.D.

**Fraternity Charity**

Given the seriousness of the consequences of sexual misconduct, especially when minors are involved, clergy have a responsibility to be their brother’s keepers in these matters. While they must avoid paranoia or unhealthy interference in others’ lives, they need to be aware of danger signs in a brother cleric’s activities. Such danger signs might be clear violations of the guidelines presented above. In addition, they also need to be aware of the danger to those who, without doing anything wrong, seek the company of children and look to them for the emotional support that only normal adult relationships provide. This includes seminarians who are assigned to work in the Diocese during the summer months and/or during their internship.

When a priest or deacon is concerned that a fellow cleric or seminarian may be manifesting signs of such behaviors, he should normally speak first to the cleric and also bring his concerns to the Vicar for Priests. Furthermore, it is important to recognize that the abuse of alcohol or other substances can lead to a breakdown of inhibitions that would normally keep someone from acting inappropriately. In all this, clerics must keep in mind any reasonable suspicion of child abuse must be reported to CPS or law enforcement, because of their responsibility as a mandated reporter.

**When an Allegation is Brought to the Attention of the Bishop**

- If the Allegation Creates a Reasonable Suspicion

Any allegation of sexual misconduct, which creates reasonable suspicion of its veracity, will be investigated immediately in harmony with canon law. If the
preliminary investigation leads to a belief that there may be probable cause for an allegation against a member of the clergy, the Congregation of the Doctrine of the Faith shall be notified. The bishop may place the accused on immediate administrative leave while the investigation continues, if the bishop deems this is necessary for the good of the faithful. In every instance, the Diocese will advise victims of their right to make a report to public authorities and will support this right. Any credible allegations of sexual misconduct with a minor will result in immediate administrative leave. Any allegation of sexual misconduct with a minor will be reported to Children’s Protective Service or law enforcement agency. This does not imply guilt, but is necessary for the good of God’s people. All appropriate steps shall be taken to protect the reputation of the cleric during the investigation. The Diocese will also be aware of the needs of the accused cleric in order to see that he receives the personal support he needs during a very difficult time. The Diocese will urge the cleric to contact a criminal attorney and canonical counsel. The cost of such legal assistance will be borne by the cleric. The cleric may be asked to have a medical and psychological evaluation, which again does not imply guilt, so long as this does not interfere with the investigation by civil authorities, but is for the good of the cleric as well as for the good of God’s people, even if he may be accused unjustly.

- Pastoral Outreach to the Alleged Victim and Family and Community

The Diocese will immediately contact any known alleged victim or appropriate family members in the case of minors, and offer pastoral assistance and appropriate counseling.

This outreach will include provision of counseling, spiritual assistance, support groups, and other social services agreed upon by the victim and the Diocese.

The Diocese will not enter into confidentiality agreements except for grave and substantial reasons brought forward by the victim/survivor and noted in the text of the agreement.

The Diocese will establish "safe environment" programs in cooperation with parents, civil authorities, educators, and community organizations to provide education and training for children, youth, parents, ministers, educators, and others about ways to make and maintain a safe environment for children.

*If Guilt is Determined Regarding Current or Recent Sexual Abuse of a Minor*

Where sexual abuse by a cleric is admitted or is established after an appropriate investigation in accord with canon law, the following will pertain:

- Diocesan policy provides that for even a single act of sexual abuse of a minor—past or present—the offending cleric will be permanently removed from ministry not excluding dismissal from the clerical state, if the case so warrants. An offending cleric will be offered professional assistance for his own healing and well-being, as well as for the purpose of prevention.

- 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 shall apply to the Congregation for the Doctrine of the Faith for a dispensation from the prescription, while indicating appropriate pastoral reasons. For the sake of 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.

- If the penalty of dismissal from the clerical state has not been applied (e.g., for reasons of advanced age or infirmity). He will not be permitted to celebrate Mass publicly, or to administer the sacraments, to wear clerical garb, or to present himself publicly as a priest. His faculties to publicly act as a priest will be revoked.

If an Allegation is Made Against a Cleric Belonging to a Religious Community

When an allegation is made against a cleric belonging to a religious community, the bishop or Vicar General will notify the religious community of the allegation immediately. The religious community will be asked to handle the complaint according to its policy and procedures. However, the Diocese of Fresno does not delegate its responsibility to report allegations brought to its attention, and will work with the religious community to assure the safety of God’s people. If the allegation involves a minor, this allegation will be reported to Children’s Protective Service or law enforcement agency and if the accusation is credible, he will be removed from ministry in the Diocese.

If the Allegation is Unsupported but it is Determined Preventive Measures Could have Avoided the Accusation

If the complaint is judged to be unsupported but it is determined that reasonable precautions could have been taken to avoid any appearance of inappropriate behavior and prevent an allegation of misconduct, the bishop may provide instruction and counseling for the cleric. The Diocese reserves the right to take all prudent measures to follow up on the matter and to monitor the behavior of the person in question, so that there is no cause for further complaints.

Administrative Guidelines

- Responsibility for the Investigation of an Allegation Against a Priest
  The Victim Outreach and Assistance Coordinator will conduct the investigation of sexual abuse by any cleric. The coordinator will be making the report to the bishop who in consultation with the Diocesan Review Board alone will make the ultimate decision in relation to an accused cleric. If an allegation is brought to a priest or deacon about a fellow priest or deacon, the allegation is to be referred immediately to the Victim Outreach and Assistance Coordinator.

- Making a Report
  An allegation of sexual misconduct may be made to the bishop, Vicar General, Superintendent of Catholic Education, Chancellor, or the Diocesan Director of Human Resources. The report may be made verbally; however, the person making the report will be requested to place their report in writing. The report will be forwarded to the Victim Outreach and Assistance Coordinator immediately.

Victim Outreach and Assistance Coordinator for Pastoral Care of Those Abused Sexually

A lay employee of the Diocese of Fresno is the designated diocesan Victim Outreach and Assistance Coordinator and under the supervision of the Vicar General.
The Victim Outreach and Assistance Coordinator personally reaches out pastorally to any victims and their families, as soon as possible after any allegation of sexual abuse of a minor is received.

**Diocesan Review Board (Board)**

- **Board Membership:**
  - Board Chair: Vicar General
  - Diocesan Director of Human Resources
  - Victim Assistance Coordinator
  - Four lay appointees including at minimum:
    - Educator
    - Two parents
    - Psychologist/psychiatrist/psychotherapist
    - Present or past law enforcement officer, and/or legal counsel
  - Term of appointment by the bishop is five years
  - Board members may be removed for cause

- **Board Responsibilities:**
  - To assist the bishop in his work, the board will execute the following functions:
    - The assessment of allegations of sexual abuse of minors by clerics in order to advise the diocesan bishop on whether or not the allegations appear to be credible; the assessment will be communicated to the victim and accused; the board can act both retrospectively and prospectively on these matters;
    - The independent review of the diocesan policy and procedures for dealing with these allegations at least every two years in order to recommend to the diocesan bishop any modifications, if appropriate; and
    - The recommendation concerning fitness for ministry in particular cases.
  - The board will verify that the Diocese has reported or will report each allegation to the civil authorities.
  - The board will make recommendations about pastoral outreach to victims and their families.
  - The Board will make recommendations whether the parish staff or community has been or should be advised of the cleric’s reported misconduct, and how a response to the whole parish community may be made, if needed.
  - The board will keep up to date with each case and make the recommendation whether the cleric should be permanently removed from ministry.
  - Meetings will be held once a month, or as needed.
  - The board will provide guidance in developing a communication program to the church community including complaint procedures, safe environment programs, or any other communication deemed necessary.
  - All matters discussed at board meetings are strictly confidential.

**If a Priest Realizes He Needs Support and Assistance in this Area**

If a cleric, himself, realizes he needs assistance in this area, he shall bring this to the attention of the Vicar General/Vicar for Priests, and the chairman of the Diocesan Sensitive Claims Team or the bishop. While following the guidelines of this policy, the Diocese will do all to assist him in seeking the professional and spiritual help he needs. If this involves past or current sexual abuse of minors,
the cleric will no longer be able to continue in ministry and a report will be made to Children’s Protective Service or law enforcement agency.

Support for an Accused Cleric Asked to take an Administrative Leave from His Assignment

An accused cleric does not have a right to be given a ministry assignment if there is substantial reason to support an allegation against him. The presumption of innocence under the criminal laws of the state does not preclude the Diocese from taking appropriate action to provide for the safety of God’s people before the Church and civil investigation is completed.

The bishop is concerned for the needs of the accused cleric and wants him to receive the personal support necessary during this very difficult time. Psychological evaluation and possible counseling and spiritual direction shall be an integral part of this administrative leave.

The priest will be assisted to find housing, and arrangement for his financial support will be made during the time of the investigation process.

Relocation of a cleric accused of sexual misconduct of a minor pending investigation and/or trial will be at bishop’s discretion with utmost concern for the safety of God’s people.

All legal costs (attorney, bail, etc.) are the sole responsibility of the cleric who has violated this diocesan policy or the Anti-Discrimination and Harassment Policy of the Diocese.

Notification of Host Diocese

If a cleric accused of sexual misconduct of a minor pending investigation or trial travels to another diocese for an extended period of time, the bishop or the Vicar General will notify the diocese visited of the accused cleric’s presence.

If a Priest Refuses to Follow Direction of the Bishop after the Bishop Determines that there is Reasonable Suspicion of a Serious Allegation

If the bishop judges that there is reasonable suspicion to an allegation of sexual misconduct, and the priest refuses to follow the direction of the bishop regarding the appropriate response and treatment, the bishop may consider initiating the canonical process deemed more appropriate to protect the Christian community (such as the canonical process for removal from office, for withdrawing faculties, for declaring the presence of an impediment to the exercise of priestly ministry, or for the imposition or declaration of a canonical penalty). (canon §1745)

Return from Leave-of-Absence and Reassignment Policy

When the accusation has proved to be unfounded, every step possible will be taken to restore the good name of the cleric.

- The Diocesan Review Board will review each instance and make a recommendation to the bishop regarding fitness to minister.
- Priests and deacons returning from an investigatory leave-of-absence, or temporary reassignment after investigation or conclusion of trial wherein he is found not guilty, may be reassigned with the following considerations:
  - The outcome of the proceedings in the civil court, Diocesan Review Board, and canonical process.
  - The advice and judgment of professional counselors who have treated the priest or deacon.
  - The well-being of those to whom the Church ministers.
  - The best interest of God’s people.
  - Review of relevant clergy policies.
No priest who poses a threat to minors will be allowed to minister in the Diocese.

If There is No Possibility of Return to Ordained Ministry

It is the policy of the Diocese of Fresno that no cleric convicted of sexual abuse of a minor, or who has admitted to the sexual abuse of a minor, will be reassigned to active ministry in the Diocese or given permission to minister in any other diocese. If there is no possibility of return to ordained ministry, the bishop will assist the cleric to petition for laicization. Should the cleric be unwilling to submit such a petition, the bishop may take the necessary canonical steps to return him to the lay state.

Cleric Responsible Financially for His Own Legal Fees

If the actions for which a cleric is brought to trial violate the diocesan policy on sexual misconduct, the cost of legal assistance is borne by the accused and not by the Diocese. The Diocese may reimburse the cleric for all reasonable expenses if he is found to be innocent of the allegations, complied with this policy and acted in a prudent way (canon §277). The Diocese has the right to take action against the cleric found responsible to recover legal expenses and the cost of judgments against the Diocese.

In all cases, when it is possible, the offender should be the primary person responsible for paying the cost of therapy for the alleged victim and family. But the Diocese will make sure that no person will be denied appropriate treatment because an ordained offender is not able to pay.

Fingerprinting of Priests

All Priests are to Undergo Criminal Information Background Checks

- The State of California mandates fingerprinting of all priests who are responsible for a Catholic school, a licensed pre-school and/or licensed childcare center, for mandatory criminal information background checks.

- The bishops of California have decided to have criminal information background checks for all priests in all our dioceses and archdioceses, as all priests, directly or indirectly, will have contact in ministry with youth. This will be an added assurance to God’s people that no cleric with a criminal background can be involved with their children. This applies to diocesan, active and retired, incardinated and non-incardinated deacons, as well as all religious priests serving in the Diocese of Fresno.

- All priests desiring to minister in this Diocese must have this background check before being given an appointment in the Diocese.

Access to and Disposition of Information

- The Director of Human Resources will be the only person to have access to the reports that come from the background check. The report will be sent to him by the Department of Justice.

- The information provided by the Department of Justice states whether the applicant has a conviction, or an arrest pending final adjudication, for any sex offense, controlled substance offense, crime of violence, or serious or violent felony.

- Any information will only be brought to the bishop if the Director of Human Resources makes the decision that the use of this criminal background report is needed to promote public safety and the protection of youth. The bishop must always act in the interest of public safety.

- Each report will be destroyed immediately after the Office of Human Resources makes the determination that there is no danger for the public safety or protection of youth.