

## POLICY: CLERGY SEXUAL MISCONDUCT INVOLVING MINORS

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The teaching of the Church, particularly her moral teachings rooted in Scripture and Tradition, serve as the basis for this policy. This teaching recognizes the dignity of every human person.

Because of our desire to protect the rights and dignity of every person in the Diocese of Pittsburgh entrusted to the care of a priest, **most especially the safety and wellbeing of children**, the following procedure will be followed whenever an allegation of clergy sexual misconduct involving a minor is reported to the Diocese.

This policy is intended to complement and at the same time be in compliance with both the *Code of Canon Law*, the *Motu Proprio Sacramentorum sanctitatis tutela* and the *Norms on Delicts Reserved to the Congregation for the Doctrine of the Faith*. It is also in conformity with the *Charter for the Protection of Children and Young People* and the *Essential Norms for Diocesan/Eparchial Policies Dealing with Allegations of Sexual Abuse of Minors by Priests, Deacons or Other Church Personnel* established by the United States Conference of Catholic Bishops.

The following principles guide the policy and its application:

- ***Children come first.*** The safety of anyone entrusted to the care of a priest, especially children, is the first priority in any pastoral assignment.
- ***Concern for the victims.*** We are always concerned about victims who have suffered abuse and their families. The Diocese offers pastoral and spiritual support to victims and their families as well as psychological counseling.
- ***All allegations reported.*** All allegations of sexual abuse of minors are turned over to the proper civil authorities.
- ***Suitability for parochial ministry.*** No cleric against whom there is an admitted or established allegation of sexual misconduct with a minor may serve in any ministry. It is the role of the Church alone to determine the suitability of a cleric for ministry.

This policy will be reviewed every two years to ensure its effectiveness.

In an attempt to review the serious matter of clergy sexual misconduct and how the Church addresses it, this diocesan policy is presented under two aspects: 1) The Pastoral Response and 2) The Administrative Process.

## I. The Pastoral Response

The *Policy for Clergy Sexual Misconduct Involving Minors* of the Diocese of Pittsburgh is concerned with allegations that a cleric (a priest or a deacon) has engaged in either sexual misconduct with a minor<sup>1</sup>, a person who habitually has an imperfect use of reason<sup>2</sup>, or with one who is considered by canon law to be the equivalent of a minor.

Allegations dealing with adults are governed by the *Policy on Sexual Misconduct Against Adults Committed by Members of the Clergy*.

The goal of the Diocese in this policy is to respond to allegations in a way that is pastorally and canonically effective in application. The prompt response of the Diocese to complaints of sexual misconduct by clergy will include among other steps:

- A. An examination by the Vicar for Clergy and the Diocesan Victim Assistance Coordinator of the content of the allegation in order to begin the determination of its credibility as regarding the suitability of the cleric for any ministry (cf. Administrative Process);
- B. All allegations of sexual misconduct against minors will be promptly turned over to proper civil authorities; in addition, the diocese encourages and supports the complainants to report the matter in question to the proper civil authorities;
- C. Designated diocesan officials – usually the Vicar for Clergy and the Diocesan Victim Assistance Coordinator – will interview the person who made the allegation, and/or the alleged victim and where appropriate, that person’s parents, as well as the cleric against whom the allegation was made;
- D. In addition to turning the allegation over to proper civil authorities, actions which may also be taken as a result of these interviews may include: (1) immediate removal of the cleric from his diocesan assignment; (2) a complete medical and psychological assessment; and/or (3) ongoing treatment; (4) and an assessment of the allegation and fitness for ministry by the Clergy Task Force and the Independent Review Board;
- E. Allegations cannot be received in confidence given the obligation and/or need to report this

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<sup>1</sup> Sexual misconduct with a minor (an individual under the age of 18) includes sexual molestation or sexual exploitation of a minor, viewing of child pornography, and other behavior by which an adult uses a minor as an object of sexual gratification.

In Church law, the transgressions in question relate to obligations arising from divine commands regarding human sexual interaction as conveyed to us by the sixth commandment of the Decalogue. Thus, the norm to be considered in assessing an allegation of sexual abuse of a minor is whether conduct or interaction with a minor qualifies as an external, objectively grave violation of the sixth commandment (USCCB, *Canonical Delicts Involving Sexual Misconduct and Dismissal from the Clerical State*, 1995, p.6). A canonical offense against the sixth commandment of the Decalogue (CIC, c. 1395, 1398; CCEO §1) need not be a complete act of intercourse. Nor, to be objectively grave, does an act need to involve force, physical contact, or a discernible harmful outcome. Moreover, “imputability [moral responsibility] for a canonical offense is presumed upon external violations...unless it is otherwise apparent” (CIC, c. 1321 §4; CCEO, c. 1414 §2); cf. CIC, canons 1322-27, and CCEO, canons 1413, 1415, and 1416.

<sup>2</sup> A person 18 years or older whose ability to perform the normal activities of daily living or to provide for his or her own care or protection is impaired due to mental, emotional, physical, development disability, brain damage or the infirmities of aging.

information to proper civil authorities;

- F. Assistance to the complainant and his or her family by offering pastoral and spiritual support and psychological counseling as needed;
- G. Recognition of the civil and canonical rights of all involved;
- H. Assistance to parishes or communities affected by the allegations through the help of a Pastoral Support Team, which will provide appropriate spiritual and psychological help;
- I. Availability of the Diocesan Victim Assistance Coordinator to assure that appropriate assistance continues to be made available by the Diocese.

## II. The Administrative Process

### Phase One

If an allegation is lodged against a cleric regarding sexual misconduct with a minor, a person who habitually has an imperfect use of reason, or with one who is considered by canon law to be the equivalent of a minor, the Vicar for Clergy and the Diocesan Assistance Coordinator must be notified immediately, a canonical preliminary investigation (cf. canons 1717-1719) is initiated, and the following steps will be taken. It should be noted that the steps presented in this policy should not be construed as a presumption of guilt of the accused cleric.

- A. Those making the allegation will be interviewed by the designated diocesan officials, normally the Vicar for Clergy and the Diocesan Victim Assistance Coordinator. Both the substance and the source of the allegation must be shared with the cleric against whom the complaint is lodged.

No allegation can be received in confidence given the obligation and/or need to report this information to the proper civil authorities. If the allegation appears to have merit, the canonical process begins when the allegation is confirmed in writing.

- B. The cleric must be apprised of the allegation during a separate interview conducted by the appropriate diocesan officials, normally the Vicar for Clergy and the Victim Diocesan Assistance Coordinator. The cleric must be informed before he responds to the allegation that he has a right to canonical counsel, if he chooses. He will be assisted in identifying such counsel, if necessary.
- C. If the cleric against whom an allegation is made is a member of a religious community on assignment or in residence within the Diocese, the Vicar for Clergy and the Diocesan Victim Assistance Coordinator will review the allegations made and the diocesan process with his religious superior. Cases of this nature are within the jurisdiction of the religious community of which the accused is a member.
- D. As a matter of policy, **all allegations of clergy sexual misconduct with a minor, no matter how long ago the alleged misconduct occurred and regardless of whether or not the allegation is ultimately deemed to be credible, are reported to the proper civil authorities.**

## **Phase Two:**

After interviewing both the complainant and the accused cleric, the designated diocesan officials, normally the Vicar for Clergy and the Diocesan Victim Assistance Coordinator, must determine action to be taken based on the credibility of the allegation.

### **A. First Scenario**

If, after careful review of all available information, including the results of the civil investigation if applicable, the allegation is judged to be completely impossible, the matter will not be pursued further and the parties will be informed of this decision. Appropriate steps will be taken to affirm the cleric in his ministry and to repair any damage to his reputation.

### **B. Second Scenario**

When the allegation against a cleric is doubtful or there is a semblance of truth, the cleric is immediately removed from his diocesan assignment and placed on an administrative leave of absence.

1. The allegation is referred to the Clergy Task Force and the Independent Review Board to assess the allegation and the cleric's fitness for ministry.
2. Limitations are placed on the ministry of the cleric such as, but not limited to, the following: prohibition from performing any public celebration of sacraments or sacramentals; prohibition from wearing clerical attire; prohibition concerning living in a certain place or territory; and revocation of diocesan faculties.
3. The cleric is urged to undergo, as soon as possible, a complete medical and psychological assessment at a facility selected by the Diocese. Likewise, the cleric is urged to grant permission that the results of this assessment be shared by the treatment facility with the appropriate diocesan authorities.
4. Those making the allegation will be provided an appropriate update on the process.
5. If either the Clergy Task Force or the Independent Review Board reviews the allegation and recommends to the Diocesan Bishop that the cleric should not be returned to ministry and the bishop accepts the recommendation, one of the following will occur: 1) The cleric may be offered the opportunity to withdraw from priestly ministry; 2) The cleric may seek a dispensation from the obligations arising from the priesthood; or 3) The diocese will initiate a canonical penal process.
6. If the allegation involves a delict reserved to the Dicastery for the Doctrine of the Faith, following the preliminary investigation, no matter the outcome, the case will be referred to the Dicastery for the Doctrine of the Faith for determination, following the norms of the universal law (cf. *Norms of Delicts Reserved to the Congregation for the Doctrine of the Faith*, 11 October 2021).
7. When the accusation has proved to be unfounded, every step possible will be taken to restore the good name of the cleric, and he will be returned to ministry.

### **C. Third Scenario**

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

1. The offending cleric will be permanently removed from ministry and the appropriate canonical process will be applied.
2. An offending cleric will be offered professional assistance for his own healing and well-being, as well as for the purpose of prevention.
3. In every case, 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; cf. Letter from the Congregation for the Doctrine of the Faith, May 18, 2001). These provisions may include a request by the cleric for dispensation from the obligation of holy orders and the loss of the clerical state, or a request by the bishop for dismissal from the clerical state even without the consent of the cleric.
4. For the sake of due process, the accused is to be encouraged to retain the assistance of canonical counsel. When necessary, the diocese will supply canonical counsel to a cleric.
5. The cleric will be offered assistance for career retraining.
6. If the penalty of dismissal from the clerical state has not been applied (e.g., for reasons of advanced age or infirmity), the offender is to lead a life of prayer and penance. He will not be permitted to celebrate Mass publicly, to wear clerical garb, or to present himself publicly as a priest.
7. If the delict is reserved to the Dicastery for the Doctrine of the Faith, the determinations and directives of that Dicastery will be followed according to the norms of the universal law (cf. *Norms of Delicts Reserved to the Congregation for the Doctrine of the Faith*, 11 October 2021).

### **III. The Diocesan Independent Review Board Norms/Procedures**

#### **Article I -- Statement of Competency**

The policies of the Diocesan Independent Review Board of the Diocese of Pittsburgh are intended to fully comply with the revised "Charter for the Protection of Children and Young People" of the United States Conference of Catholic Bishops (USCCB) and the revised "Essential Norms for Diocesan/Eparchial policies Dealing with Allegations of Sexual Abuse of Minors by Priests or Deacons". The policies of the Diocesan Independent Review Board of the Diocese of Pittsburgh will be updated in accordance with any revisions, amendments or other modifications to the Charter or the Essential Norms or any other applicable document subsequently approved by the USCCB, and adopted by the Bishop of Pittsburgh.

The Diocesan Independent Review Board shall function as an independent and confidential consultative body to the Diocesan Bishop when any allegation with a semblance of credibility is made with respect to any living member of the diocesan clergy. These procedures are established solely for the purpose of presenting to the Diocesan Bishop a recommendation as to a particular course of action to be taken when a doubt exists regarding:

1. The credibility of an allegation involving sexual misconduct; or
2. When the suitability to hold ecclesiastical office or any other ministerial assignment has

been questioned due to circumstances beyond those defined in the universal law of the Church.

3. In the review of diocesan policies for dealing with the sexual abuse of minors. (Charter, Article 2, Essential Norms 4.)
4. Other cases where the opinion of the Board may be useful.

**Limitation of Action** - An assessment under these procedures shall be convened only by the Diocesan Bishop or by one specifically delegated to act on his behalf.

**Exclusion** - These procedures are not applicable to doctrinal matters, the validity of sacred orders, or canonical imposition of penalties by judicial or administrative procedure.

## **Article II – Membership**

1. The Diocesan Bishop shall appoint at least five members to the Board who are laypersons not in the employ of the Diocese; but at least one member should be a priest who is respected and has experience as a pastor. The list shall include persons who are learned in civil law, behavioral sciences and any other qualifications which the Diocesan Bishop may establish. The term of appointment will be for five years and may be renewed by the Diocesan Bishop.
2. Members of the Board are to be persons "of outstanding integrity and good judgment in full communion with the Church". The Diocesan Bishop may dispense of the requirement of full communion with the Church in individual cases.
3. The Diocesan Bishop may remove any member of the Board on his own initiative or at the request of the Executive Secretary. Any vacancy in the membership of the Board shall be filled by the appointment of a new Board member by the Diocesan Bishop.
4. The Promoter of Justice of the Diocesan Tribunal shall participate in the sessions of Special Review.
5. The Executive Secretary to the Board and the Diocesan Assistance Coordinator shall serve as staff to the Board and attend the meetings.

## **Role of the Executive Secretary**

1. The diocesan bishop shall appoint a qualified person to serve as the Executive Secretary to the Board.
2. The Executive Secretary to the Board shall be responsible for the implementation and application of these procedures.
3. It shall be the duty of the Executive Secretary to:
  - a. Assume full responsibility for the proper operation of these procedures;
  - b. Process the request through the established procedures;
  - c. Maintain accurate records;



- d. Transmit said records to the Vicar for Clergy following conclusion of the action together with the recommendation of the Board.
4. The Executive Secretary has no voting power.

### **Article III – Meeting Classifications**

The members of the Diocesan Independent Review Board may be convened by the Diocesan Bishop but generally the board will meet in sessions in two instances:

1. **Special Review:** the Executive Secretary shall convene 5 members of the Diocesan Independent Review Board in instances that need urgent review. This most often will involve cases where a member of the clergy has been accused of the sexual abuse of minors.
2. **Quarterly Review:** the Executive Secretary shall schedule quarterly meetings with all members of the Diocesan Independent Review Board. This review normally will involve a status update for any open cases involving a canonical/criminal process. Additionally, the bishop may also request a recommendation in cases of immoral or scandalous behavior by clergy which do not constitute criminal behavior. If circumstances demand it, the Executive Secretary may also bring those cases which normally would be handled at Special Review meetings.

### **Process of Assessment in Special Review Sessions**

1. The Executive Secretary shall convene 5 members of the Diocesan Independent Review Board in instances that need urgent review. This most often will involve cases where a member of the clergy has been accused of the sexual abuse of minors.
2. The Executive Secretary shall convoke a Special Review of any case referred to the Diocesan Independent Review Board, with the initial hearing being scheduled not more than thirty (30) useful days after such referral unless extended by the Executive Secretary for serious reason. Useful days shall be determined in accordance with the norms of the *Code of Canon Law*.
3. The Executive Secretary shall set a time, date and place for each hearing and notify the parties, in writing, not less than fifteen (15) useful days prior to such hearings.
4. Prior to establishing a time, date and place for the initial hearing by the Executive Secretary, the Vicar for Clergy or his delegate shall submit to the Executive Secretary all documentation and information which has been previously gathered, including but not limited to the allegation, witness information, personnel file of the cleric, and any other material regarding the allegation and shall determine the willingness of the person making the allegation to participate in these procedures.
5. The Executive Secretary will select one member to serve as chair for each meeting of the Board.

6. Each party to the action shall be heard individually and in closed session by the Board Members unless the Executive Secretary deems otherwise after having consulted the Board and obtaining the consent of the parties in this action.
7. The parties may be accompanied by their respective canonical counsel.
8. Parties may appear before the Board in person or via video/teleconference.
9. The Board may take testimony of witnesses by deposition, affidavits, or otherwise when it is deemed necessary.
10. The Board Members shall make their recommendation based upon the evidence which has been collected and the testimony presented. In so far as possible, all testimony shall be taken in the presence of all Members convoked for that instance. The parties may offer any evidence as they desire, subject to a decision by the Board as to its relevancy and materiality.
11. Upon completion of the process, the Board Members shall submit their individual findings and recommendations regarding the action. The Executive Secretary shall submit, in writing, its findings and recommendations to the Diocesan Bishop.
12. After the submission of their individual findings and recommendations, any and all copies of materials related to the case in the possession of the Board Members are to be immediately destroyed. The Executive Secretary can assist in the destruction of documents if needed.
13. The written report of the Board shall be handed down not later than ten (10) useful days from the date of the closing of the process.
14. The report of the Board to the Diocesan Bishop is confidential.
15. Any recommendations of a minority of members that differ from the majority recommendations shall be clearly stated in the report to the Diocesan Bishop.

#### **IV. Canonical Penal Procedures**

##### **Introduction**

The canonical penal process establishes the fundamental procedures by which truth and justice is served within the ecclesial community. The penal process is divided into two phases:

1. The Preliminary Investigation; (c. 1717-1719)
2. The Development of the Process. (c.1720-1728)

These two phases form the administrative and judicial process by which the *Code of Canon Law* safeguards the rights of the complainant and the cleric, restores justice, repairs scandal, and reforms the offender. In addition, the penal process may be governed by the *Norms on Delicts Reserved to the Congregation for the Doctrine of the Faith*, and *Sacramentorum sanctitatis tutela*.

##### **Preliminary Investigation**

The preliminary investigation phase has two distinct components. The first component is the



investigation by the Diocesan Bishop or his delegate to determine:

- The specific offense *alleged to have been* committed;
- The precise canonical violation;
- The evidence available; and
- The canonical statute of limitation (prescription).

As in civil law, during the investigation, the accused enjoys the presumption of innocence, and all appropriate steps shall be taken to protect his reputation.

### **Development of the Process**

When this first component is completed the Diocesan Bishop proceeds to the second component and determines:

1. Whether the specific offense is a delict of the type reserved to the Dicastery for the Doctrine of the Faith, in conformity with the *Motu Proprio, Sacramentorum sanctitatis tutela* and the *Norms on Delicts Reserved to the Congregation for the Doctrine of the Faith*.
2. Following the preliminary investigation, all allegations concerning reserved delicts, no matter the outcome, are transmitted to the Dicastery for the Doctrine of the Faith for determination which, unless the Dicastery claims jurisdiction of the case itself, will order the Ordinary to proceed to a conclusion, with due regard, nevertheless, for the right of appealing against a sentence of the first grade to the Supreme Tribunal of the Dicastery for the Doctrine of the Faith.
3. If the process is directed to be handled by the Diocesan Bishop, on a local level, the Dicastery for the Doctrine of the Faith will forward appropriate norms governing the handling of the case.
4. If a case is not reserved to the Dicastery for the Doctrine of the Faith, a determination must be made by the Diocesan Bishop if the process is to be administrative or judicial.
5. If the Diocesan Bishop decides to proceed by an administrative process, he must inform the cleric of the evidence and offer the cleric the opportunity of self-defense before a decision is rendered.
6. If the Diocesan Bishop decides to proceed by a judicial process in a case that is not reserved to the Dicastery for the Doctrine of the Faith, he must do so by transmitting the evidence collected to the Promoter of Justice who is to present a formal petition to the Diocesan Tribunal. The Diocesan Tribunal must act on the petition in accord with the procedural norms established by the *Code of Canon Law* and the *Motu Proprio Sacramentorum sanctitatis*, and the *Norms on Delicts Reserved to the Congregation for the Doctrine of the Faith*.