

# ***Sexual Abuse, Harassment, Safe Environment Office and Related Personnel Matters***

(See Human Resource Manual)

## ***ANTI-DISCRIMINATION AND HARASSMENT POLICY***

### **THE ROMAN CATHOLIC DIOCESE OF FRESNO POLICY AND PROCEDURE**

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DEPARTMENT: HUMAN RESOURCES

POLICY NUMBER: 100

SUBJECT: ANTI-UNLAWFUL DISCRIMINATION, HARASSMENT, CHILD ABUSE AND NEGLECT

ISSUED: November 7, 1995

REVISED: January 2005

APPROVED

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**SCOPE:** All employees, priests, deacons, seminarians of the Diocese of Fresno, priests of other dioceses who have written faculties in the Diocese of Fresno, and all members of religious orders who are employed or contracted by the Diocese of Fresno.

**PURPOSE:** To define prohibited discriminatory and harassing conduct, child abuse, and sexual exploitation and to provide guidelines for the elimination and correction of that conduct.

**POLICY:** It is the policy of the Roman Catholic Diocese of Fresno to promote a ministerial environment in which those who minister and those who receive the Church's ministry can expect to do so in safety and without fear in an atmosphere of mutual respect and trust.

The primary purpose of the Diocese of Fresno is the ministry of the Roman Catholic Church. Under the moral instructions, doctrines, and canon law of the Roman Catholic Church, certain ecclesiastical requirements, which are not expressed in this policy, may apply to activities in the Diocese of Fresno.

The Diocese of Fresno provides a work environment that is free of discrimination. No one will be denied employment or discriminated against because of race, gender, age, disability, color, and national or ethnic origin. It is the unique responsibility of the Diocese of Fresno to provide the means and opportunity for achieving the pastoral mission and ministry of the Roman Catholic Church. Preference in hiring decisions will be given to candidates who are of the Catholic faith and have an understanding and commitment to that faith.

The Diocese of Fresno expressly prohibits all of the following:

1. All unlawful discrimination and harassment, sexual harassment, sexual abuse, sexual exploitation, and related conduct contrary to the teaching of the Roman Catholic Church are prohibited. For convenience, all of the conduct, which is defined in this paragraph, is referred to as "prohibited conduct."
2. Retaliation and/or discrimination against any person who complains of or who reports prohibited conduct is strictly prohibited.
3. Any prohibited conduct by or against vendors, service personnel, or other third parties shall be reported under these policies.
4. Prohibited conduct is foreign to and outside the scope of ministry of the Diocese. Except for the pastoral response, the Diocese will not be legally or financially responsible for prohibited conduct by anyone, whether lay employees, priests of the Diocese of Fresno or other dioceses, members of religious orders, students, or members of the Church. No person can engage in prohibited conduct and expect the Diocese to be legally or financially responsible for prohibited conduct.

Supervisors, including but not limited to pastors, administrators, principals, and employees with supervisory responsibility over two or more employees must receive training in this policy no less than every two years. New supervisors will receive this training within six months of beginning the assignment.

New employees will receive a copy of this policy at orientation.

## DEFINITIONS

These definitions are intended to illustrate the conduct prohibited and certain actions may fit within more than one category.

**The Roman Catholic Diocese of Fresno (Diocese of Fresno, or Diocese):** The Diocese of Fresno for the Roman Catholic Church. This includes for the purposes of this policy the Roman Catholic Bishop of Fresno, Diocese of Fresno Education Corporation, Diocese of Fresno Catholic Charities and all parishes and parish organizations.

The Diocese of Fresno Education Corporation has specific policies and procedures for use in Catholic schools regarding unlawful harassment and child abuse reporting. See diocesan education policies 3610, 3611, and 4710 in the Diocese of Fresno, Administrative Handbook.

**Child:** Person under the age of eighteen (18).

**Child Abuse and Neglect:** A child is physically injured by other than accidental means.

A child is subjected to willful cruelty or unjustifiable punishment,

A child is abused or exploited sexually.

A child is neglected by a parent or caretaker who fails to provide adequate food, clothing, shelter, medical care, or supervision. (State of California Department of Social Services, Office of Child Abuse Prevention.)

**Clergy:** According to Roman Catholic tradition and canonical definition includes those who have received Holy Orders: a deacon, priest, or bishop.

**Mandated Reporters of Suspected Child Abuse and Neglect:** Clergy, child care custodians, school personnel, health care practitioners, any person who is an administrator or presenter of, or a counselor in, a child abuse prevention program in any public or private school, any custodian of records of a clergy member and certain other professionals and lay persons, who have knowledge of or observes a child in his or her professional capacity or within the scope of his or her employment whom he or she reasonably suspects has been the victim of child abuse shall report such suspected instance of child abuse to a child protective agency immediately or as soon as practically possible.

**Special Note:** Others working within the Church not specifically included within this definition, while not obligated under the *California Child Abuse and Neglect Reporting Act* as a mandatory reporter, are encouraged to obtain training in the identification and reporting of known or suspected instances of child abuse or neglect and are at minimum morally bound to report to their supervisor reasonable suspicions of child abuse.

**Neglect:** Means the negligent treatment or the maltreatment of a child by a person responsible for the child's welfare under circumstances indicating harm or threatened harm to the child's health or welfare. The term includes both acts and omissions of the part of the responsible person.

**Severe Neglect:** Means the negligent failure of a person having the care or custody of a child to protect the child from severe malnutrition or medically diagnosed non-organic failure to thrive. Severe neglect also means those situations of neglect where any person having the care and custody of a child willfully causes or permits the health of the child to be placed in a situation such that his or her person or health is endangered, including the intentional failure to provide adequate food, clothing, shelter or medical care.

**General neglect:** Means the negligent failure of a person having the care or custody of a child to provide adequate food, clothing, shelter, medical care or supervision where no physical injury to the child has occurred.

**Penitential Communications:** Under the discipline, tenets, customs and practices of the Roman Catholic Church, the term includes the following communications involving clergy:

The hearing of a penitent's confession by a priest or bishop.

The non-sacramental forum of spiritual direction, by a member of the clergy.

Communications made or received in a canonical penal process (canons 1717-1731).

Communications made or received by clergy in processes undertaken by ecclesiastical tribunals, insofar as required by the norms of canon law.

**Reasonable Suspicion of Child Abuse or Neglect:** Means when it is objectively reasonable for a person to entertain a suspicion based on facts that could cause a reasonable person in a like position, drawing, when appropriate, on his or her training and experience, to suspect child abuse or neglect.

**Review Board:** This board is comprised of the Vicar General who is the chairperson, the Human Resource Director, the Victim Assistance Coordinator and a minimum of 5 lay persons not employed by the Diocese, who have professional expertise in the area of child abuse and/or law enforcement. This board acts as an advisory and consultative board to the Bishop in reviewing all allegations of sexual abuse of minors by clergy and makes recommendations to the suitability of a cleric for ministry.

**Sexual Harassment:** Sexual harassment is a prohibited form of unlawful sexual discrimination. Types of conduct which may constitute sexual harassment include, but is not limited to, making unwelcome sexual advances, requests for sexual favors, sexually offensive or degrading remarks, or other unwanted sexualized language, conduct or visual materials of a sexual nature when any or all of the following occurs, whether between superiors, subordinates, coworkers or students. Sexual harassment is prohibited in the Diocese of Fresno. Examples of how such prohibited conduct could affect the employment relationship of an employee are as follows:

- 1) Submission to such conduct is made explicitly or implicitly a term or condition of a person's employment, advancement, or participation in programs or activities.
- 2) Submission or rejection of such conduct is used as the basis for employment or other decisions affecting the employee, student or other person regarding employment or participation.
- 3) Such conduct had the purpose or effect of unreasonably interfering with or having a negative impact upon the employee's, or student's work or creating an intimidating, hostile or offensive learning or working environment by a reasonable person.

**Sexual Abuse:** Involves a minor or vulnerable person (anyone who because of mental or physical impairment is susceptible to sexual abuse). Sexual abuse includes all conduct made unlawful by federal, state and local laws, including, but not limited to, sexual assault, rape, lewd or lascivious acts upon children, pornography, or activities related to child pornography. Sexual abuse is prohibited in the Diocese of Fresno.

**Sexual Exploitation:** Is sexual conduct among adults, including persons receiving pastoral care, which conduct may or may not be declared illegal by civil law, but is contrary to the moral instructions, doctrines and Code of Canon Law of the Roman Catholic Church. Sexual exploitation is prohibited in the Diocese of Fresno.

**Supervisor:** For purposes of this policy, supervisor shall refer to the person the employee reports directly to for direction and supervision. Examples may be a pastor, principal, clergy, director, or manager.

**Unlawful Harassment and Discrimination:** Unlawful harassment and discrimination means discrimination or harassment on the basis of race, color, sex, national origin, ancestry, age, physical disability, medical condition, marital status, or other bias protected by federal, state or local law, ordinance or regulation. Unlawful harassment and discrimination is prohibited in the Diocese of Fresno.

## **PROCEDURE:**

### **1. GUIDING PRINCIPLES**

The anti-discrimination and harassment policy of the Roman Catholic Diocese of Fresno is guided by the following commitments. When an allegation of misconduct is reported, the Diocese of Fresno will:

- a) Respond promptly to all allegations of unlawful discrimination and harassment, sexual misconduct, or other conduct, which may violate this policy and take corrective steps to stop the prohibited conduct, if such is discovered.
- b) Comply with the obligations of civil law as regards to reporting of any incident and will cooperate with any investigation.
- c) Reach out to victims and their families with a sincere commitment to their spiritual and emotional well-being.
- d) Deal as openly as possible with the members of the community, within the confines of proper respect for the privacy of individuals.

## **2. EDUCATION AND PREVENTION**

- a) **Education and Dissemination of Policy:** The Diocese of Fresno recognizes that education is the primary means of prevention of prohibited conduct. This education will cover topics such as affirmatively addressing the subject, expressing strong disapproval and developing appropriate sanctions, informing employees of their right to raise the issue of harassment, and developing methods to sensitize all concerned.
  - i. All who minister in the Church are to be aware of signs of prohibited conduct and of the procedures to follow if prohibited conduct is suspected or observed.
  - ii. The Diocese of Fresno will continue to provide information for clergy and employees about prohibited conduct, diocesan procedures, and reporting requirements. Information will be provided to employees at time of hire and periodically to all employees.
  - iii. The Diocese of Fresno Education Corporation requires that notice of its specific unlawful harassment and child abuse and neglect reporting policies be incorporated into existing employee, and parent/student handbooks.

## **3. PROCEDURES FOR REPORTING UNLAWFUL DISCRIMINATION AND HARASSMENT COMPLAINTS**

- a) **PROHIBITED CONDUCT:** Any clergy, or employee, whether as an observer or person subjected to the prohibited conduct, who has actual knowledge of or reasonable cause to suspect prohibited conduct shall immediately advise their supervisor, the Superintendent of Catholic Education, the Vicar General, Chancellor, or the Diocesan Director of Human Resources. Any student who experiences or observes prohibited conduct should contact any school administrator, teacher, or counselor (see diocesan education policy 3611).
  - i. **Confidentiality:** Confidentiality will be maintained to the extent possible, however, the individual reporting the complaint must be informed that the Diocese of Fresno will respond to this complaint and, therefore, cannot be kept confidential from those persons involved. The matter must be reported to the Vicar General, or diocesan Director of Human Resources and investigated. It must also be shared with the person alleged to have performed the prohibited conduct.
  - ii. **Report to Alternate Supervisors:** The person reporting is authorized to report to someone other than the person's supervisor or to a supervisor of the same gender, however, the supervisor receiving the report must report the incident to the Vicar General, or the Diocesan Director of Human Resources immediately.
  - iii. **Report Form:** A sample reporting form is attached in addendum A of this policy, however, verbal or other written reports are acceptable. The person alleging the prohibited conduct should be encouraged to place his or her statement in writing at the time of the report. Verbal reports will be written by the supervisor receiving the complaint. The allegation(s) will be read back to the person making the allegation to

verify accuracy. A written record of the verbal complaint will be provided to the person making the allegation and a request that the report be reviewed, confirmed, corrected, signed, dated, and returned.

- iv. Report Receipt and Meeting: The person making the report may choose to be accompanied by a translator, if needed, friend, family member, colleague or a person of the same gender.
- v. Diocesan Response: The Diocese will respond to all reports of prohibited conduct.

#### **4. INVESTIGATION OF UNLAWFUL HARASSMENT OR UNLAWFUL DISCRIMINATION COMPLAINTS**

All allegations of harassment shall be taken seriously and promptly investigated. If child abuse or neglect is suspected the reporting requirements outlined in the CHILD ABUSE AND NEGLECT REPORTING section of this policy and any other requirements under state or federal law shall be followed. All other suspected harassment allegations will be investigated as outlined in this section. The first objective of any investigation conducted under this policy is the determination of validity of complaints made. In order to obtain the fullest information possible, such investigations and the information resulting from them shall be held confidential to the fullest extent possible except mandatory reporting required by law, Victim Assistant Coordinator, the diocesan insurance carriers, or any others necessary to the investigation, resolution or for legal consultation.

- The individual(s) assigned by the Bishop of the Diocese of Fresno the duty of conducting an investigation under this policy will be given appropriate training in the skills required for a proper and expeditious investigation at time of assignment.
- The policies and procedures set forth a process of internal policy administration. The investigation in no way looks to determine civil or criminal liability of any person charged, the Diocese, or any religious order involved.
- The beginning of an investigation is not an expression of judgment, but indicates the serious nature of prohibited conduct and respect for all rights concerned.
- The Diocese of Fresno will cooperate with law enforcement authorities.
- Upon receipt of a report of suspected prohibited conduct, whether or not a formal complaint has been made, the person to whom the report has been forwarded, shall immediately contact the Vicar General, Chancellor, or the Director of Human Resources. If any of these individuals is the charged party, the bishop will appoint another individual to conduct the investigation.
- All reports of sexual harassment or sexual exploitation shall be reported to the Vicar General.
- The investigator will meet with the complainant to obtain a clear understanding of the complaint. The complainant will be encouraged to place their complaint in writing. Further determination should be made as to how the complainant would like the issue resolved. The complaint shall be investigated promptly and thoroughly. Any required insurance reporting will be made. Addendum A to this policy will be provided to the complainant.
- The complainant must be told that confidentiality will be maintained to the extent possible, however, the alleged harasser, witnesses, supervisors and others reasonably believed to have relevant knowledge of the alleged incident(s) may be interviewed or consulted in the course of this investigation.
- At the request of any person interviewed, an adult of the same gender shall be present at the interview. In the case of interviews with minors or vulnerable adults, another adult shall be present.
- The investigator will meet with the charged party and any other party reasonably believed to have relevant knowledge of the alleged incident to obtain a response to the complaint.

- i. The charged party shall be advised of the Diocese of Fresno's strict policy against harassment or discrimination, and informed that the Diocese will not tolerate any retaliation against or intimidation of any individual who has cooperated in the investigation of this complaint.
  - ii. The charged party will further be advised that any violation of this policy will be considered a separate cause of discipline.
- The charged party shall be directed:
    - i. Not to communicate with the complainant with regard to any of the charges.
    - ii. Not to associate with the complainant at any time without supervision until the complaint is resolved. (Depending upon the gravity of the situation and location, the complainant and the alleged harasser will be asked for recommendations for mutually agreeable and reasonable accommodation in contact parameters especially in isolated or small parish rectory settings.)
    - iii. Not to take any actions that may be interpreted to be retaliation.

## ***CHILD ABUSE AND NEGLECT REPORTING***

California law requires the reporting of child abuse and neglect to a child protective agency by mandatory reports.

### **Reporting Child Abuse – The Reporting Law**

While everyone should report suspected child abuse and neglect, Article 2.5 of the State of California Penal Code provides that it is a crime for certain individuals who have contact with and supervision of children (e.g., school and parish teachers and administrators, coaches, etc.) not to report suspected child abuse to the proper authorities. The following are excerpts and summaries of sections from the State of California Child Abuse Reporting Laws:

“...any child care custodian, health practitioner, or employee of a child protective agency who has knowledge of or observes a child in his/her professional capacity or within the scope of his/her employment whom he/she knows or reasonably suspects has been the victim of child abuse shall report the known or suspected instance of child abuse to a child protective agency immediately or as soon as practically possible by telephone and shall prepare and send a written report thereof within 36 hours of receiving the information concerning the incident. For the purposes of this article, ‘reasonable suspicion’ means that it is objectively reasonable for a person to entertain such a suspicion, based upon facts that could cause a reasonable person in a like position, drawing when appropriate on his/her training and experience, to suspect abuse.” (Pen. Code, §11166)

### **Clergy**

Since January 1997, California law requires that clergy join childcare custodians, school personnel, health care practitioners, and other professional groups as mandated childcare reporters of suspected child abuse.

### **Penitential Communication Exemption**

The law allows for exemptions from reporting by clergy in limited circumstances called penitential communication, which is defined as “a communication, intended to be in confidence, but not limited to a sacramental confession made to a clergy member who, in the course of the discipline or practice of his or her church, denomination, or organization, is authorized or accustomed to hear those communications, and under the discipline, tenets, customs, or practices of his or her church, denomination, or organization, has a duty to keep those communications secret.”

For Catholic clergy, this limitation, however, is only available when there is a clear religious tradition, supported by the teachings, laws, and practices of the Church, which would outweigh the reporting mandate. Clearly, this exemption includes the hearing of a penitent's confession by a priest or bishop. In cases of confidential communication apart from confession, the duty to protect children by reporting the known or suspected child abuse may, and in some instances should, prevail over the presumption of confidentiality. This would be true where a member of the clergy determines that children are currently at risk of abuse. Should a clergy member have questions about whether he must report in a given instance, he should consult with the Vicar General or the Director of Human Resources.

## **Making a Report**

The mandated reporter must provide his/her name and the following information when making the telephone report of suspected child abuse to the child protective agency.

- Name of child;
- Present location of child;
- Nature and extent of the injury; and
- Any other information, including that which led the person to suspect child abuse, requested by the child protective agency.

Within 36 hours of making the telephone report, a written report must also be filed with the child protective agency. The written report must be filed on Department of Justice Form SS8572, "Suspected Child Abuse Report." This form is available through county welfare and probation departments and law enforcement agencies. It is recommended that diocesan parishes, schools, and agencies obtain a supply of these forms and keep them in a well-known and readily accessible location.

One copy of the report will be kept in a confidential file.

## ***DETECTION OF CHILD ABUSE***

Childcare custodians, clergy, and other parish school and agency employees can play a critical role in the early detection of child abuse and neglect. Symptomatic signs of abuse and/or neglect, which may include injuries, listlessness, poor nutrition, disruptive behavior, absenteeism, or depression, are often first seen by such personnel.

Symptomatic signs of serious emotional damage or substantial risk of suffering serious emotional damage, evidenced by states of being or behavior, include, but are not limited to severe anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others.

Immediate investigation of suspected abuse by child protective agencies and the designated Diocesan investigator may save a child from repeated injuries. Therefore, personnel should not hesitate to report suspicious injuries or behavior. If in doubt, contact the appropriate person at the Chancery. The mandated reporter's duty is to immediately report his/her reasonable suspicion of child abuse or neglect to the child protective agency, not to conduct an exhaustive investigation.

## **What to Do When Abuse or Neglect Is Suspected**

- Notify the child protective agency immediately by telephone when you have a "reasonable suspicion."
- If reasonable suspicion is determined, place employee on administrative leave pending consultation with the appropriate person at the Chancery.
- After determining reasonable suspicion, and making the report to the appropriate agency, do not attempt further investigation without consultation with the diocesan Victim Assistance Coordinator.

- Reporting the information regarding a case of possible child abuse or neglect to an employer, supervisor, school administrator, school principal, school counselor, coworker or other person is not a substitute for making a mandated report.
- Establish contact with the Vicar General or one of the following:
  - » If clergy is suspected, call the Vicar General.
  - » If school personnel are suspected, call the Superintendent of Catholic Education.
  - » If non-school personnel are suspected, call the Director of Human Resources.
  - » No supervisor or administrator may impede or inhibit the reporting duties, and no person making a report shall be subject to any sanction for making the report.
  - » Reach out to actual or alleged victims and their families and communicate your sincere concern for their spiritual and emotional well-being. Tell family members who inquire that diocesan officials have been notified and are investigating.
  - » Refer media questions to the Human Resources or Chancellor's office.

## **Whom to Call**

A phone call should be made to the appropriate county agency or local police department.

## **Remedial and Disciplinary Procedures**

- Giving due and reasonable consideration of all the factual information and circumstances (including the nature of the complaint and the context in which the alleged conduct occurred), and after appropriate investigation the following may occur:
- If appropriate, the charged party shall be relieved or reassigned immediately from present duties. A referral for counseling and evaluation may be made if necessary. No person, lay or clergy, shall be allowed to remain in or be assigned to any position endangering children or adults. No person, lay or clergy, who is convicted of prohibited conduct, including child abuse or neglect, will be allowed to serve in any position endangering children or adults.
- The Diocese will not reassign persons, lay, or clergy, to another position in avoidance of disciplinary action, but may reassign persons as part of a remedial action if appropriate.
- The complainant (or the parent or guardian of a minor) will be notified of the outcome of the investigation, if a determination has been made, or if no determination could be made based upon the investigation. The complainant shall also be advised of any disciplinary action taken. The chair of the Sensitive Claims Team or Director of Human Resources will normally provide the outcome to the complainant.
- The Diocese may attempt to resolve the matter informally through conciliation. If a resolution is successful, the investigator should record the conclusion agreed upon and obtain the signatures of the complaining party and the charged party if appropriate under the circumstances. Include Addendum A to the charged party.
- Impose any disciplinary action deemed appropriate, including termination of employment or ministry.

- Third Parties or Volunteers: In the case of vendors, service personnel, volunteers, and other third persons who are alleged to have exhibited prohibited conduct, contact will be made with those persons, and their supervisors, to stop the prohibited conduct. If appropriate under the circumstances, those third persons, including volunteers, will be asked to refrain from entering on diocesan premises (except attendance at Mass) and from contacting the diocesan personnel subjected to the prohibited conduct.
- Anonymous, unfounded accusations are counterproductive to the ministry and related activities of the Diocese and cannot be the basis of any disciplinary action. This policy, nonetheless, requires all complaints to be investigated because a serious anonymous report may result in the discovery of prohibited conduct. A person charged with an anonymous, unsubstantiated accusation would be informed of the anonymous complaint and the disposition of the matter.
- In cases where the charged person was found to be falsely accused, disciplinary action up to and including termination will result if the accuser was an employee of the Diocese. In the event of a third person making a false accusation, the same provisions described above in paragraph “Third Parties or Volunteers” will apply.

## **Media and Information**

All complaints are treated as confidential to the extent possible. Allegations or complaints of prohibited conduct may become a matter of public knowledge, ranging from parish-wide to the general news media. The Diocese will appoint a primary spokesperson to the parish, or media as needed, in both answering questions about a particular incident of prohibited conduct and in addressing any broader questions raised. Release of such information will preserve and protect the integrity of the policy and respect the rights of those involved. Subject to common knowledge requiring acknowledgment, the Diocese normally will not confirm or deny:

- Identity of the person making the complaint.
- Identity of the person against whom the prohibited conduct occurred, including but not limited to if the person was a minor or an adult.
- Identity of the person charged or subject of investigation by civil law authorities.

## **Pastoral Response**

- The response of the Diocese includes the pastoral care of the victim, the well-being of the community, and the assessment and treatment of the offender if appropriate. Care is taken that all persons involved will be treated in a manner that is consistent with the Gospel values of dignity, compassion, understanding, justice, as well as those standards that are normative in the wider professional community. The first concern will be the needs of the victim, followed by the needs of the victim’s family, of the parish community, of the diocesan community, and of any other person affected. At the same time, care must be exercised to avoid defamation of character of all involved and to protect the rights of all individuals.
- The Diocese seeks to provide assistance to the person who has been subjected to prohibited conduct, the person’s family, if appropriate, and the affected parish community. The Diocese may seek and offer assistance of counselors or other disciplines.
- The Diocese recognizes that during investigation and resolution of a complaint, a person subjected to prohibited conduct or the person charged may not be

receptive, or the circumstances may not be conducive to an immediate pastoral response. In general, although not in every circumstance, reconciliation between the person subjected to prohibited conduct and the person charged remains desirable. Reconciliation is not required for further involvement in the Church community. No one will be pressured, rushed, or required to attempt reconciliation.

- The pastoral response is to urge healing and recovery and includes:
  - » Open and respectful receiving of complaints.
  - » Providing an advisor or spokesperson, if the person so chooses.
  - » Helping the person to obtain counseling support, if appropriate. The limits, duration, amount, and type of counseling support provided will be determined at the sole discretion of the Diocese on a case-by-case basis.
  - » Helping the person to obtain spiritual direction, if requested.
- The pastoral response is not an admission or judgment that the Diocese or any particular person is responsible. A pastoral response to the person charged is not to shelter or excuse the person from any responsibility for what may have occurred and is not to judge any allegation, but is an expression of the sincere commitment to the spiritual and emotional well-being of a person who may need punishment and reform, or of a person who has been charged unfairly.
- The pastoral response does not include furnishing an attorney or legal services to a person subjected to prohibited conduct or to the person charged. The pastoral response does not include being responsible for the prohibited conduct.

### **Amendment of Policies**

- This policy supersedes the previous practices and policies of the Diocese of Fresno. Should the procedures to be followed not fit any particular given situation, the Bishop of the Roman Catholic Diocese of Fresno reserves the right to modify or replace the policies with the consultation of the Diocesan Review Board.
- Nothing in this policy or in any document or statement shall limit the right to terminate employment at-will.
- No manager, supervisor, or employee of the Diocese of Fresno has any authority to enter into any agreement for employment for any specific period of time or to make any agreement for employment other than at-will. The only person(s) with authority to make such an agreement, and then only in writing, are the bishop, the Moderator of the Curia, and the Superintendent of Catholic Schools.

### **Registered Sex Offenders**

#### **MEGAN'S LAW SEX OFFENDER REGISTRY**

For more than 50 years, California has required sex offenders to register with their local law enforcement agencies. However, information on the whereabouts of these sex offenders was not available to the public until the implementation of the Child Molester Identification Line in July 1995. California's Megan's Law further expanded the information available in 1996 (Chapter 908, Stats. of 1996). California's Megan's Law provides the public with certain information on the whereabouts of sex offenders so that members of our local communities may protect themselves and their children.

Not every registered sex offender will appear on this Internet web site. As explained on the Summary of the Law page on the Megan's Law Website, approximately 25% of registered sex offenders are excluded from public disclosure by law. Whether public disclosure is permitted is based on the type of sex crime for which the person is required to register.

The law is not intended to punish the offender and specifically prohibits using the information to harass or commit any crime against an offender.

Although searching Megan's Law is not a required screening procedure within the Diocese of Fresno, it is an excellent resource to raise awareness of the number of registered offenders within the boundaries of your parish community. Utilizing this resource is highly recommended for all Church Leaders.

The Website is: [www.meganslaw.ca.gov](http://www.meganslaw.ca.gov)

### **REGISTERED SEX OFFENDER ON PAROLE**

Generally speaking, sex offender registrants whose sex crime was against a victim under age 16 are prohibited by law from working, as an employee or volunteer, with minors, if the registrant would be working with minors directly and in an unaccompanied setting on more than incidental or occasional basis or would have supervisory or disciplinary power over the child. If the registrant's crime was not against a victim under age 16, the registrant must notify the employer or volunteer organization of his status as a registrant. Failure to comply with this law is a misdemeanor offense. (Penal Code § 290.95.)

Other restrictions may apply on an individual basis.

### **REGISTERED SEX OFFENDER OFF PAROLE**

When sex offender registrants are off of parole, the same restrictions are no longer in effect. However, sex offender registrants are required to update their information annually, within five working days of their birthday. Some sex offenders must update more often: transients must update every 30 days, and sexually violent predators, every 90 days. The Sex Offender Tracking Program keeps track of the next required update, and if a registered sex offender is in violation of the update requirements, the Internet web site will show the registrant as being in violation.

It is up to groups and organizations who are entrusted with the care of minors to establish policies and procedures to ensure the young and vulnerable among them are reasonably protected.

In the Diocese of Fresno, only those who are employed or volunteering in an area of ministry that places him or her in direct contact with minors or vulnerable adults, on more than an incidental or occasional basis, are subject to being fingerprinted. All others are evaluated for suitability for service by other means that may or may not reveal registered sex offender status. This elevates the importance of community awareness, and checking references on employment/volunteer applications when possible.

### **REGISTERED SEX OFFENDER WITHIN PARISH COMMUNITY**

- EMPLOYMENT & VOLUNTEER RESTRICTIONS  
Known sex offender registrants may not be employed or volunteer in any capacity whether on or off of parole. Employees and volunteers often develop a "reputation of trustworthiness" merely by their affiliation with the Church. The risk factor is too great.
- SELF DISCLOSURE
  - » Sex offender registrants are not required to disclose their status to the pastor or other Church leaders to simply attend liturgical celebrations and other events as their registered status allows, and specific circumstances. If

a sex offender does disclose his or her status, the pastor or parish leader should review diocesan policy regarding employment and volunteer restrictions with the individual in a clear and respectful manner.

- » This information should be shared on a need-to-know basis with parish leadership, ushers, etc. A signed agreement with the sex offender registrant may be deemed necessary in some situations. Please contact the Vicar General, Human Resources or Safe Environment Office for direction and support as needed.
- **THIRD PARTY DISCLOSURE**
  - » If a third party reports a concern about a sex offender registrant within the community, the issue will need to be addressed according to the specific nature of the concern.
  - » If an individual was able to enter employment or a volunteer activity within the parish in some area that did not require fingerprint clearance, the individual will need to be removed once status is confirmed.

Immediately contact the Vicar General, Human Resources or the Safe Environment Office for direction and support.

### **PASTORAL CONCERNS**

Each sex offender registrant is unique. Family members, friends and the community at large perceive his or her status differently. Some offenders have made great progress in addressing their specific psychological challenges, and have given witness to profound conversion experiences. Others have not, and often exhibit a “victim” mentality. It is beyond most Church leaders capabilities to identify with certainty where a specific individual may be within this spectrum.

To whatever degree is possible, the known sex offender registrant should be reassured of his or her acceptable place within the general population of the worshipping community. At the same time, restrictions must be strictly enforced.