

**SEXUAL MISCONDUCT
POLICY**

**DIOCESE OF DAVENPORT
DAVENPORT, IOWA
1998**

SEXUAL MISCONDUCT POLICY

Diocese of Davenport

Preamble

There is a sacred relationship which exists between the Church and its members, whether they be adult or child. Sexual abuse, sexual misconduct, sexual assault and/or sexual exploitation, when it occurs within the context of the Church, create a tragic reality which misrepresents the Good News to those who have been victimized and indeed to all of us. Each and every instance of sexual violation of those who are the most vulnerable amongst us is a matter of the gravest concern. Knowledge of these instances calls for an organized Diocesan response so that healing may occur and the safety of the community is assured.

The Diocese of Davenport upholds the highest standards of ethical conduct for its members and employees and strives to maintain safe environments for its people. Therefore, we have adopted the following policy regarding sexual misconduct. Acceptance, understanding of the policy and acknowledgment of receipt are required of all persons involved in "ministry" in the Diocese prior to ordination, employment or acceptance of regular voluntary services.

Sexual misconduct violates human dignity as well as the moral teaching and mission of the Church. The Diocese establishes this policy to review the fitness for "ministry" of any individual within the Diocese. This policy seeks to be as fair and responsive as possible to the pastoral needs of the victim, the victim's family, the parish or institution involved, the community and the alleged or determined guilty perpetrator of sexual misconduct. This policy shall facilitate cooperation and avoid interference with civil authorities responsible for investigating allegations of sexual misconduct. The primary purposes of this policy and its procedures are the safety of children, protection of the vulnerable, the well being of the community and the integrity of the Church.

Sexual Misconduct Policy

Diocese of Davenport -- effective July 3, 1998
The Feast of St. Thomas the Apostle

Sexual misconduct by personnel of the Diocese of Davenport is contrary to Christian principles and Catholic moral teaching. All personnel of the Diocese must comply with applicable state and local laws regarding incidents of actual or suspected sexual misconduct and with the following policies. Some personnel of the Diocese of Davenport, such as principals, licensed school employees, counselors, etc., are also governed by mandatory reporting laws, a violation of which subjects them to civil and penal liability. These requirements are in addition to those mentioned in the policy herein.

This policy is particularly concerned with addressing sexual misconduct in the special circumstances described herein. It is intended to establish procedures in an effort to prevent sexual misconduct by personnel of the Diocese of Davenport and the resulting harm to others. It is also intended to provide guidance to the personnel of the Diocese on how to respond to allegations of sexual misconduct if any do occur.

- 1.0 **Policy.** It is the policy of the Diocese of Davenport that sexual misconduct by personnel of the Diocese of Davenport while performing the work of the Diocese of Davenport is contrary to Christian principles and is clearly outside the scope of the duties, responsibilities and employment of all personnel of the Diocese of Davenport. Sexual misconduct is not to be tolerated and is grounds for immediate termination of employment. All personnel of the Diocese of Davenport must comply with (1) this policy and (2) all applicable federal and state laws pertaining to actual or suspected sexual misconduct.
- 2.0 **Definitions.** For purposes of this policy only:
 - 2.1 "Sexual Misconduct" means any sexual conduct of Diocesan personnel which is unlawful as described by the laws of the State of Iowa and in Section 4 of these policies or is contrary to the moral instructions, doctrines and canon law of the Catholic Church and causes injury to another.
 - 2.2 "Vulnerable persons" means all children and all dependent adults as defined in Iowa Code (Section 235, B.2).
 - 2.3 "Personnel" include the following categories:
 - 2.3a All incardinated clerics (including all incardinated permanent deacons and all incardinated transitional deacons of the Diocese);

- 2.3b All religious priests and deacons who have the faculties of the Diocese of Davenport and are working in a Diocesan assignment;
- 2.3c All those non-ordained persons to whom a participation in the exercise of the pastoral care of a parish is entrusted according to Canon 517, Section 2, of the *Code of Canon Law*;
- 2.3d All clerics of other dioceses or religious communities who are working for the Diocese;
- 2.3e All male and female religious working in the Diocese;
- 2.3f All personnel of Catholic schools of the Diocese (administration, faculty and support staff);
- 2.3g All religious education directors or coordinators and teachers in the parishes and schools of the Diocese;
- 2.3h All youth ministers in the parishes, schools and institutions of the Diocese;
- 2.3i All personnel of the Newman Catholic Student Center at the University of Iowa;
- 2.3j All paid personnel in the offices, parishes and the schools of the Diocese;
- 2.3k All volunteers in the offices and institutions mentioned in 2.3j who work on a significant scale with vulnerable persons;
- 2.3l Such other personnel as designated by the Bishop of Davenport; and
- 2.3m Catholic corporate entities within the Diocese of Davenport that are listed in the *Official Catholic Directory* or the Diocesan Directory that do **NOT** have the Bishop of Davenport as their President are **NOT** covered by this policy. (St. Ambrose University, while following the general outline of this policy, has its own policy regarding sexual abuse that is particularly appropriate to these concerns in higher education.)
- 2.4 "Diocese" means the Diocese of Davenport, an Iowa corporate entity, all parishes within the Diocese of Davenport, all parochial schools/religious education/youth ministry and other programs operated by the offices and agencies of the Diocese of Davenport.

3.0 Policy Distribution

- 3.1 This policy is to be distributed to all personnel listed in Section 2 above and to the following:

- 1) All those who seek ordination as clerics of the Diocese at the time they are admitted into an ordained ministry formation program
- 2) All clerics of other jurisdictions who seek assignment for work in the Diocese

All personnel shall fill out a brief questionnaire and sign an acknowledgment of receipt, understanding and acceptance of the policy. Copies of the required receipt and questionnaire accompany this policy.

- 3.2 Personnel listed in Sections 2.3a - 2.3d and those additional persons noted in Section 3.1 are to forward this receipt and questionnaire to the Vicar General of the Diocese or his designee.
- 3.3 All Catholic school employees other than principals should return the receipt and questionnaire to their principal; principals should return the document to the Diocesan schools office; all non-ordained parish personnel not associated with a parish school should return the document to the pastor; and any others not referred to in this statement should return it to the Vicar General.

4.0 Applicable Law

- 4.1 This policy is intended to address violations of civil and criminal law. A violation of the civil and criminal law can subject the perpetrator to a prison sentence and/or a monetary fine. It can also be the basis for a civil suit for monetary damages.
- 4.2 The law changes from time to time by enactment of amendments to statutes and judicial interpretations. It is not possible to set out all of the laws in this document, but assistance will be given to all personnel having questions or seeking knowledge concerning the law.
- 4.3 The Iowa Criminal Code defines the various types of conduct that violate this law. Three of the primary areas of concern are sexual abuse, sexual exploitation and sexual harassment.
 - 4.3a Sexual abuse is the subjection of a child or dependent adult by any person responsible for their care to any sexual offense which is defined as a violation in the Iowa Criminal Code.
 - 4.3b Sexual exploitation is any kind of sexual conduct, whether verbal or physical, between counselor and client or in any other relationship which involves an imbalance of authority between the parties.
 - 4.3c Sexual harassment includes unwelcome sexual advances, requests for sexual favors, sexually-motivated physical contact, or other verbal or physical conduct or

communication of a sexual nature when:

- 1) Submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining employment, public accommodations or public services, education or housing;
- 2) Submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's employment, public accommodations or public services, education or housing; or
- 3) That conduct or communication has the purpose or effect of substantially interfering with an individual's employment, public accommodations or public services, education or housing, or of creating an intimidating, hostile, or offensive employment or housing environment.

5.0 Education. Education alone cannot shape mature attitudes and behavior nor will it change inappropriate sexual behavior. Each adult must be responsible for his or her sexual growth and maturity. To aid this growth, the Diocese will attempt to provide programs which include knowledge or training applicable to these areas. Some personnel of the Diocese of Davenport, such as principals, licensed school employees, counselors, etc., are governed by special training requirements (e.g., mandatory reporting laws). All personnel and regular volunteers listed in Section 2.3 above must attend designated educational programs concerning sexual misconduct issues such as methods of recognizing and preventing sexual misconduct involving children or others.

6.0 Background and Reference Checks

- 6.1 An informational questionnaire and acknowledgment of receipt, copies of which accompany this policy, are to be completed by all the personnel listed in Section 2 unless an alternative form is specified by state law.
 - 6.1a Completed questionnaires by personnel listed in Sections 2.3a - 2.3d and Section 3.1 are to be forwarded to the Vicar General of the Diocese or his designee.
 - 6.1b Completed questionnaires by all other personnel listed in Section 2 shall be filed as outlined in Section 3.3 of this policy.
- 6.2 Further investigations, when necessary, will be coordinated by the head of the office, parish or institution responsible for hiring.
 - 6.2a All applicants for ordination in the Diocese and certain professional personnel as determined by the Bishop shall have formal criminal record checks prior to beginning a formal relationship with the Diocese.

- 6.2b Formal criminal record inquiries may be required of individuals who give a "yes" response on the required questionnaire.
- 6.3 With regard to personnel listed in Sections 2.3b and 2.3e, an agreement will be reached with their respective religious order/diocese to inform the Diocese of Davenport of any allegations of physical or sexual abuse, exploitation or harassment by such individuals of which the religious order/diocese is or may become aware. The Diocese of Davenport will inform, in writing, the superior of such personnel of any credible allegation of a sexual misconduct.
- 6.4 Failure to disclose information or failure to complete the appropriate questionnaire regarding previous allegations of physical or sexual abuse, harassment or exploitation may be grounds for immediate termination.

7.0 Sexual Abuse and Exploitation

- 7.1 **Obligation to Report.** Iowa Code Section 232.69 defines mandatory reporters. Iowa Code Section 232.70 requires mandatory reporters to file a report with the Department of Human Services if they reasonably believe a child has suffered abuse. Iowa Code 232.70 requires those who are mandatory reporters to make an oral report within 24 hours to the Department of Human Services to be followed by a written report within 48 hours if they reasonably believe a child has suffered abuse.
 - 7.1a Any personnel of the Diocese governed by this policy who know, or have reason to know, of an incident of sexual abuse (as defined in Section 4.3a) or of sexual exploitation (as defined in Section 4.3b) shall comply with applicable reporting and other requirements of the state and local laws (unless to do so would violate priest/penitent relationship of the Sacrament of Reconciliation) and shall also make a verbal report of the incident to the appropriate staff person immediately, as determined by each Diocesan or parish entity. The verbal report shall be followed, as soon as reasonably possible, by a written report to the appropriate person with a copy to the Bishop or his designee. Unless otherwise determined, the appropriate staff person for Catholic schools is the principal who shall complete the prescribed Level I Investigation; for parishes, the pastor; and for Diocesan entities, the director of the pastoral office where the alleged perpetrator is employed. If the accusation is made against "the appropriate staff person" and that person is not a priest, the verbal and written reports shall be made to the canonical pastor on the parish level and to the Vicar General or his designee on the Diocesan level. If the accusation is made against a cleric or an ecclesiastical office holder, the report shall be made to the Bishop or his designee.
 - 7.1b The alleged perpetrator will be immediately removed from any possible contact with children or vulnerable adults, pending the resolution of the charges and the outcome of the investigation. Such action will not imply guilt or innocence.

- 7.1c When accusations of sexual misconduct are made against personnel of the Diocese, contact by the appropriate Diocesan staff with the alleged victim and family should, if appropriate, be promptly initiated. Contact should be made by priestly and other counselors chosen by the Bishop for the purpose of offering whatever concern or solace may be needed with no comment as to the truth of any accusation. Medical, psychological and spiritual assistance may be offered in the spirit of Christian justice and charity.
- 7.2 **Investigation of Reported Incidents.** Each reported incident will be investigated as soon as reasonably possible. Care will be taken not to interfere with any criminal investigation. The investigation will be with a high level of Christian care, concern and confidentiality for the alleged victim, the family of the alleged victim, the person reporting the incident and the alleged perpetrator. The Bishop or his designated investigator shall investigate each reported incident, and this shall be done as soon as reasonably possible. Those doing the investigation may consult with and seek the advice of the Diocesan attorney, not only when undertaking the investigation but also during the investigation, as deemed appropriate.
- 7.2a In the Diocesan investigation, the alleged perpetrator may be represented by counsel of his/her own choosing. In the case of a cleric or ecclesiastical office holder, the counsel, if possible, should be one with canonical expertise. In any criminal proceedings the alleged perpetrator is responsible for obtaining his or her own legal counsel. In any case, any legal expense where an allegation is found to be proven is the responsibility of the alleged perpetrator. The Diocese will not necessarily assume legal fees. The Diocesan legal counsel shall not act as counsel for the accused. No further contact shall occur by the alleged perpetrator with the alleged victim after the initial charges have been made.
- 7.2b For accusations against all personnel, the alleged perpetrator should be interviewed by the Bishop or his designated investigator. The alleged perpetrator should be advised of the provision of Section 7.2a and should be informed of his/her rights and that anything said may be used against the alleged perpetrator in a criminal proceeding or in a civil lawsuit. The alleged perpetrator should be presented with a specific listing of allegations. The alleged perpetrator should be given an opportunity to ask any clarifying questions and should then be asked to respond to the allegations after consultation with his/her counsel. The investigator has the right to review the alleged perpetrator's personnel file. The investigative process may include an evaluation conducted by a professional counselor or therapist.
- 7.2c The investigator will ordinarily meet with and interview the complainant and persons identified as witnesses or persons likely to possess information relevant to the investigation as the investigator thinks necessary for purposes of the investigation. The investigator will assure any complainant of the Church's pastoral concern in these situations and will give the complainant a complete and caring hearing. Respecting the

complainant's rights, the investigator will inform the complainant of the necessity of the complainant's willingness to be identified if the process is to move forward in a way that will stop misconduct and to be able to prove the same.

- 7.2d Upon completion of the investigation, if done by his designee, a report will be provided to the Bishop outlining the findings of the investigation.
- 7.2e If the alleged claim is substantiated, or if it appears it can be substantiated, the alleged perpetrator, in accordance with canonical and other considerations, will be relieved of all responsibilities in the Diocese, parish, office or institution and be placed on administrative leave pending the outcome of the internal and any outside investigation. Such leave will be with or without pay or benefits as the Bishop or his designee may decide.
- 7.2f If an internal investigation substantiates a criminal matter, that matter will be immediately reported to civil authorities by the investigator. (This is true even if the investigator is not a mandatory reporter.)
- 7.2g Appropriate records of each incident reported and of the investigation and the results thereof will be kept by the Bishop or his designee and may be reviewed by the Diocesan Attorney.
- 7.2h Notification of the incident shall be given to the Director of Human Resources as soon as possible after a founded complaint is made.
- 7.2i Any media inquiries regarding allegations of sexual misconduct by Church personnel or volunteers should be directed to the Diocesan Director of Communications at St. Vincent Center. In keeping with the above-stated policies, the Diocese is committed to dealing with alleged incidents of child abuse and/or other forms of sexual misconduct in an open and responsible manner. At the same time, in light of the permanent harm that can result from such allegations, even if they ultimately prove to be unfounded, the Diocese respects the strict confidentiality and privacy of all persons who are involved in such incidents.
- 7.3 **Action Where Guilt is Determined.** Any non-cleric of the Diocese who admits to, does not contest, or is found guilty of an incident of sexual misconduct following an investigation under this policy shall be immediately terminated from employment and any position of responsibility with the Diocese. Any cleric, ecclesiastical officeholder, non-incardinated priests or deacons and religious personnel in similar circumstances will be placed on administrative leave from ministry. Only following diagnosis, evaluation, treatment and successful after-care may an individual cleric of the Diocese of Davenport be considered for reassignment with the Diocese and then only under such conditions and limitations as deemed appropriate by the Diocese. Further penal sanctions including, but

not limited to, dismissal from the clerical state may be considered.

- 7.3a A cleric of the Diocese of Davenport shall receive diagnostic evaluation, if required, at the expense of the Diocese. The cleric shall provide the Bishop or his designee with an authorization for the release of diagnostic information to carry out the purposes of this policy. This release is limited to the purposes of this policy and is not a waiver of any statutory privilege of confidentiality.
- 7.3b A cleric of the Diocese of Davenport may be required to undergo treatment if he wishes to be considered for future service in the Diocese. Cost of such treatment and release of information from the treatment center will be negotiated between the cleric and the Bishop.
- 7.3c When a cleric of the Diocese of Davenport has completed treatment, the Bishop should receive a written evaluation from those who were responsible for his treatment. Afterwards, the cleric may be required to take part in an appropriate, supervised after-care program approved by the Bishop.
- 7.3d Following diagnostic evaluation, treatment and successful after-care, the individual cleric may, unless professional advice indicates otherwise, be eligible for consideration of a contractual assignment with such limitations (e.g., excluding ministry to minors or others at risk) as are deemed appropriate after consultation with diagnostic and treatment professionals. He will be expected to participate in a regular program of support and will report to a supervisor assigned by the Bishop.

8.0 Sexual Harassment


- 8.1 **Obligation to Report.** Any personnel of the Diocese who knows or has reason to know of an incident of sexual harassment (as defined in Section 4.3c) by any personnel of the Diocese shall comply with any applicable reporting or other requirements of state and local laws (unless to do so would violate priest/penitent relationship of the Sacrament of Reconciliation) and shall also report as follows:
 - 8.1a A verbal report of the incident shall be made immediately to the appropriate staff person as determined by each Diocesan or parish entity and shall be followed as soon as reasonably possible by a written report. Reports of incidents in educational programs governed by the Diocesan Board of Education shall follow Policy 390.1-3 found in the Diocesan Board of Education Policy Book. If the accusation is made against a person defined as "the appropriate staff person," the verbal and written reports shall be made to the canonical pastor on the parish level and to the Vicar General or his designee on the Diocesan level. In the case when an accusation is made against a cleric or an ecclesiastical office holder, the report shall be made to the Bishop or his designee.

- 8.1b A written report shall be sent to the Bishop.
- 8.1c Reasonable care will be taken to separate the complainant and the alleged perpetrator until the investigation is completed.
- 8.2 **Investigation of Reported Incidents.** Each reported incident shall be investigated as soon as reasonably possible by the appropriate staff person as determined by each Diocesan or parish entity. Unless otherwise determined, the appropriate staff person for Catholic schools is the principal; for parishes, the pastor; and for Diocesan entities, the supervisor of the pastoral office where the alleged perpetrator is employed. In the case when an accusation is made against a cleric or an ecclesiastical office holder, the investigation shall be conducted by the Bishop or his designee. In the case when an accusation is made against "the appropriate staff person," if not a priest, the investigation will be conducted on the parish level by the canonical pastor and on the Diocesan level by the appropriate supervisory personnel or the Vicar General or his designee. Each incident will be investigated so as not to interfere with any criminal investigation and with a high level of Christian care, concern and confidentiality for the alleged victim, the person reporting the incident and the alleged perpetrator.
- 8.2a An alleged perpetrator may be represented by counsel of his/her own choosing. In the case of a priest or ecclesiastical office holder, the counsel, if possible, should be one with canonical expertise. In any case, any expense involved is the responsibility of the alleged perpetrator.
- 8.2b For accusations against all personnel, the alleged perpetrator should be interviewed. The alleged perpetrator should be advised of the provisions of Section 8.2a and should be informed that anything said may be used against the alleged perpetrator in a criminal proceeding or in a civil lawsuit. The alleged perpetrator should be presented with a specific listing of allegations. The alleged perpetrator should be given an opportunity to ask any clarifying questions and should then be asked to respond to the allegations after consultation with his/her counsel. The investigator should also review the alleged perpetrator's personnel file and should inquire of the alleged perpetrator whether there have been any other incidents of sexual harassment which may have gone unreported.
- 8.2c The investigation will also ordinarily include a meeting with and interview of the complainant and interviews with such persons identified as witnesses or persons likely to possess information relevant to the investigation as the investigator thinks necessary for purposes of the investigation.
- 8.2d Appropriate records, including reports of misconduct, results of investigations, final determination and disposition, shall be made by the investigator for each investigation; and these reports shall be filed in the alleged perpetrator's personnel file.

- 8.2e. In any case, when it appears that criminal or civil action may be taken by one or more of the parties involved, notification of the incident shall be given to the Diocesan Director of Human Resources.
- 8.2f To the extent possible, all information pertaining to the investigation will be kept confidential.
- 8.3 **Action Where Guilt Determined, Non-Clergy.** If the alleged claim is substantiated, the following action shall be taken:
- 8.3a If, in the judgment of the investigator, the incident is of a significantly offensive nature or if repeated offenses by this same perpetrator have been documented, the procedure detailed in Section 7.3 shall be followed.
- 8.3b In all other cases, the investigator will inform the perpetrator, in writing, of the result of the investigation. Moreover, the investigator shall inform the perpetrator that another incident will result in termination of employment and that the report regarding the incident shall be placed in the individual's personnel file. Psychological or professional counseling may be required for the perpetrator.
- 8.4 **Action Where Guilt Determined, Clergy.** If the alleged claim is substantiated, a report outlining the findings of the investigation will be sent to the Bishop for determination. If deemed appropriate by the Bishop, the procedures outlined in Section 7.3 may be followed. If the Bishop determines that circumstances do not warrant the procedures outlined in Section 7.3, he may so advise the investigator and instruct the investigator to proceed as outlined in Section 8.3b.
- 9.0 **Confidentiality.** All information related to an incident in which a complaint is made of sexual abuse, sexual exploitation or sexual harassment must be assembled and retained in a written form in a confidential manner. Such information should be safeguarded from unauthorized disclosure.
- 10.0 **Acts of Retaliation.** The Diocese of Davenport will not tolerate retaliatory acts of any nature against persons who in good faith make reports and provide information implementing these policies.
- 11.0 **Pastoral Responses**
- 11.1 Pastoral care for victims should include concrete and direct offers of assistance. For example, financial aid may be provided for counseling.
- 11.2 Appropriate and sensitive responses should be extended to the suffering parish community. (See Appendix A - Responses to Parishes Experiencing the Pain of Sexual Misconduct)

- 11.3 While recognizing the limitations of psychological screening, the Diocese of Davenport remains committed to an intensive and extensive screening of all candidates for the priesthood and permanent diaconate.
- 11.4 The Diocese has certain expectations of the behavior of its personnel and volunteers regarding their conduct so as to assure the safety of all and to prevent misunderstanding or inappropriate action however well-intentioned. In particular, the Diocese has a written policy regarding conduct and appropriate behavior in ministering to minors. (See Appendix B - *Ministry to Minors*)

Policy issued at St. Vincent Center of the Diocese of Davenport -- effective July 3, 1998.

A handwritten signature in black ink that reads "William E. Franklin". The signature is written in a cursive style with a cross at the beginning.

Most Reverend William E. Franklin
Bishop of Davenport

Special thanks to the National Conference of Catholic Bishops and to the Archdioceses of Chicago, Dubuque, Indianapolis and Milwaukee on whose work much of this policy and the appendices is based.