

II. POLICY TO PREVENT AND ADDRESS SEXUAL ABUSE OF MINORS

1.0 Policy

It is the policy of the Diocese of Davenport that sexual abuse of minors 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 abuse of minors is not to be tolerated and is grounds for immediate termination of employment/assignment and may necessitate canonical proceedings regarding continued ministry by clergy. All personnel of the Diocese of Davenport must comply with (1) this policy and (2) all applicable federal and state law pertaining to actual or suspected sexual abuse of minors.

2.0 Definitions

For purposes of this policy only:

2.1 "Sexual abuse of a minor" includes sexual molestation or sexual exploitation of a minor and other behavior by which an adult uses a minor as an object of sexual gratification. 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 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 violation...unless it is otherwise apparent" (CIC, c. 1321 Sec. 3; CCEO c. 1414 Sec. 2) (Cf. CIC canons 1322-27 and CCEO canons 1413, 1415 and 1416). (This definition is taken from the *Charter* and should be understood in the context of the Church's moral teaching on sexual matters.) Sexual abuse will include definitions applicable under the laws of the State of Iowa. (See www.davenportdiocese.org.)

2.2 "Minor" means all children under the age of 18 unless otherwise defined.

3.0 Diocesan Personnel to Assist in Addressing Abuse of Minors

3.1 The Diocese of Davenport shall have a Victim Assistance Coordinator to receive allegations and reach out to alleged victims with provision of counseling, spiritual assistance, support groups or other services. The Victim Assistance Coordinator will listen with compassion and concern, facilitate any additional meetings between the Bishop or another designee and the alleged victim, provide for publication of the policies and procedures regarding allegations and facilitate the preliminary investigation.

3.2 The Diocese of Davenport will have a Review Board functioning as a confidential consultative body for the Bishop. The majority of its members will be lay persons not in the employ of the diocese. There will be at least five members of outstanding integrity and good judgment who are in full communion with the Church. At least one member should be a priest who is an experienced and respected pastor of the Diocese and at least one member should have expertise in the treatment of sexual abuse of minors. A Promoter of Justice should either be on the board or participate in the meetings. Members serve for five-year renewable terms. The functions of this board may include:

- advising the bishop in assessment of allegations of sexual abuse of minors and in his determination of suitability for ministry,
- reviewing policies and procedures dealing with sexual abuse of minors and
- offering advice on all aspects of responses required in connection with these cases.

4.0 Safe Environment Program and Educational Efforts

The Diocese will provide a safe environment program that includes education or training regarding sexual abuse of minors in general and this policy in particular. The program will include educational programs concerning sexual abuse such as methods of recognizing and preventing sexual abuse of minors for personnel defined by this policy as well as children and parents. Some personnel of the Diocese of Davenport, such as principals, licensed school employees, counselors, etc., are governed by additional special training requirements (e.g., mandatory reporting laws).

5.0 References and Criminal Background Checks

5.1 References and criminal background checks will be required for all personnel defined above who are regularly in contact with children as well as for anyone who will be chaperoning minors overnight. A criminal background check should at the least include a reasonable check for felony and misdemeanor sexual offenses and a check of the sex offender list(s) and should be conducted only after written consent by the subject of the criminal background check. This may require checking different states if this person has not been in Iowa for a long time (e.g., 5-7 years). The results should be kept confidential. The offices of the Diocese of Davenport may act as clearinghouse for and repository of this information to maintain confidentiality and

facilitate clearances of individuals who may move within the Diocese of Davenport. Checks may be coordinated by contacting the Victim Assistance Coordinator, Director of Human Resources, Director of Faith Formation/Superintendent of Schools or Coordinator of Youth Ministry. Parishes, schools and other entities would pay for criminal background checks, as well as request the criminal background check (e.g. through the diocesan contacts) and check personal and professional references of their personnel.

- 5.2 An informational questionnaire and acknowledgment of receipt and acceptance of these and related policies with a consent for conducting a criminal background check are to be completed by all the personnel listed in the Preamble unless an alternative form is specified by state law or the entity conducting the background check.

Completed questionnaires and acknowledgments and waivers by personnel shall be filed as outlined in the Preamble of these policies.

- 5.3 More extensive criminal background checks than the minimum and any further investigations (e.g. credit checks), when necessary, will be coordinated by the head of the office, parish or institution responsible for hiring and may be coordinated through the offices of the Diocese of Davenport by contacting the Victim Assistance Coordinator, Director of Human Resources, Director of Faith Formation/Superintendent of Schools or Coordinator of Youth Ministry.
- 5.4 All applicants for ordination in the Diocese of Davenport and certain professional personnel as determined by the Bishop shall have a criminal background check prior to beginning a formal relationship with the Diocese.
- 5.5 Failure to disclose information or failure to complete the appropriate questionnaire regarding previous allegations of sexual abuse or other misconduct may be grounds for immediate termination of ministry.
- 5.6 With regard to personnel listed in Preamble 1b, 1d and 1e, 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, or other misconduct by such individuals of which the religious order/diocese is or may become aware. The Diocese of Davenport will inform the superior/bishop of such personnel of any credible allegation of sexual misconduct.
- 5.7 Priests and deacons will not be transferred to another diocese for ministerial work if they have committed an act of sexual abuse of a minor. No priest or deacon will be transferred to another diocese for residence or be received into the Diocese of Davenport until disclosures are made in a confidential manner between bishops/eparchs or religious ordinaries regarding any credible allegations of sexual abuse of a minor by the priest or deacon being transferred.

6.0 Allegations of Sexual Abuse - Reporting and Investigation

6.1 Reports

Diocesan personnel will comply with the current state and federal reporting requirements. As a reference at the time of this revision, 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. (See www.davenportdiocese.org for some helpful links.)

6.1a Any personnel of the Diocese governed by this policy who know, or have reason to know, of an incident of sexual abuse 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 report of the incident to the Victim Assistance Coordinator. Unless otherwise determined, if the allegation involves Catholic schools, the principal should also be notified who shall complete the prescribed Level I Investigation.

The Victim Assistance Coordinator may be reached by:

- calling the Diocese of Davenport Pastoral Center ((563) 324-1911,
- e-mailing: vac@davenportdiocese.org,
- or writing to Victim Assistance Coordinator, 2706 N. Gaines St., Davenport, Iowa 52804-1998.

6.1b The Victim Assistance Coordinator will listen to the complainant's allegations and take notes. Alleged victims have the right to make any report to civil authorities also.

The alleged perpetrator will be removed from any possible contact with children, pending the resolution of the charges and the outcome of the investigation. Such action will not imply guilt or innocence.

6.1c When accusations of sexual abuse of a minor are made against personnel of the Diocese, contact by the Victim Assistance Coordinator or designated Diocesan staff with the alleged victim and family should, if appropriate, be promptly initiated. Contact should be made for the purpose of offering whatever concern or solace may be needed with no comment or implication as to the truth of any accusation. Medical, psychological and spiritual assistance may be offered in the spirit of Christian justice and charity.

6.2 Investigation of Reported Allegations

Each reported allegation 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 as much confidentiality as practical for the alleged victim, the family of the alleged victim, the person reporting the incident and the accused. The Victim Assistance Coordinator or investigator(s) designated by the Bishop shall complete a preliminary investigation of each reported incident in accordance with Canon Law, and this shall be done as soon as reasonably possible. Those conducting the preliminary investigation may consult with and seek the advice of the Diocesan attorney, as deemed appropriate.

The alleged perpetrator shall not contact the alleged victim after the initial charges have been made.

6.2a All appropriate steps shall be taken to protect the reputation of the accused during the investigation. He/She may be represented by legal counsel of his/her own choosing. The Diocesan legal counsel shall not act as counsel for the accused.

6.2b In the case of a cleric or ecclesiastical office holder, the accused may also seek canonical counsel. If the clergy cannot afford canonical counsel, the Diocese may provide for one. In any legal proceedings the accused is responsible for obtaining legal counsel. In any case, any legal expense where an allegation is found to be proven is the responsibility of the accused.

6.2c The accused should be advised of the provision of Section 6.2a and b and should be informed of his/her rights and that anything said may be used against the accused in a criminal proceeding or in a civil lawsuit. The accused should be presented with specifics of the allegations. The accused 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 accused's personnel file. The investigative process may include an evaluation conducted by a professional counselor or therapist.

6.2d 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. While 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 abuse and to be able to prove the abuse occurred.

- 6.2e Upon completion of the investigation, a report will be provided to the Bishop outlining the findings of the investigation. The Bishop may request confidential consultation with the Review Board.
- 6.2f 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 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.
 - the bishop will notify the Congregation of the Doctrine of Faith if the alleged perpetrator is a priest or deacon.
- 6.2g If the alleged claim is proven unfounded, every step possible should be taken to restore the good name of the alleged perpetrator.
- 6.2h Appropriate records of each incident reported and of the investigation and the results thereof will be kept as directed by the Diocesan Attorneys.
- 6.2i Any media inquiries regarding allegations of sexual misconduct by Church personnel or volunteers should be directed to Diocese of Davenport Communication Office at the Pastoral 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 a responsible manner. In light of the permanent harm to all involved 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.

6.3 Action Where A Violation is Determined

- 6.3a Any non-cleric of the Diocese who admits to, does not contest, or is found to have violated this policy following an investigation shall be immediately terminated from employment and any position of responsibility with the Diocese.
- 6.3b Any priest, deacon, ecclesiastical officeholder, non-incardinated priests or deacons and religious personnel in similar circumstances will be placed on administrative leave from ministry. The response from the Congregation for the Doctrine of the Faith (CDF) on the preliminary investigation should advise the diocese on how to proceed.

The Review Board may provide confidential consultation with the Bishop regarding fitness for ministry and recommendations for dismissal from the clerical state for priests and deacons. Diagnosis, evaluation, treatment and successful after-care may be considered.

- 6.3c When even a single act of sexual abuse of a minor by a priest or deacon is admitted or established after an appropriate process in accord with canon law, the offending priest or deacon will be removed permanently from ecclesiastical ministry, not excluding dismissal from the clerical state, if the case so warrants. (CIC, c.1395 §2; CCEO c.1453 §1) This may involve the Bishop using his executive power of governance, through an administrative act, to remove an offending cleric from office, to remove or restrict his faculties and to limit his exercise of priestly ministry.
- (i) In every case involving canonical penalties, the processes provided for in canon law must be observed and the various provisions of canon law must be considered.
- The accused is encouraged to retain civil and canonical counsel. When necessary, the diocese will supply canonical counsel to a priest or deacon.
 - Unless the CDF having been notified, calls the case to itself because of special circumstances, it will direct the Bishop how to proceed.
 - If the case would otherwise be barred by prescription, because sexual abuse of a minor is a grave offense, the Bishop shall apply to the CDF for a dispensation while indicating the pastoral reasons.
- (ii) If the penalty of dismissal from the clerical state has not been applied (e.g. for reasons of advanced age or infirmity), the offender ought to lead a life of prayer and penance. He will not be permitted to celebrate Mass publicly or to administer the sacraments. He is to be instructed not to wear clerical garb or to present himself publicly as a priest.
- 6.3d At all times, the diocesan Bishop has the executive power of governance, through an administrative act, to remove an offending cleric from office, to remove or restrict his faculties, and to limit his exercise of priestly ministry. For the sake of the common good and observing the provisions of canon law, the diocesan Bishop shall exercise this power of governance to ensure that any priest who has committed even one act of sexual abuse of a minor as described above shall not continue in active ministry.
- 6.3e A priest or deacon may request dispensation from the obligation of holy orders and loss of the clerical state. In exceptional cases, the Bishop may request of the Holy Father the dismissal of the priest or deacon from the clerical state *ex officio*, even without the consent of the priest or deacon.

6.4 Diagnosis and Treatment for Clergy

- 6.4a The alleged offender may be requested to seek, and may be urged voluntarily to comply with, an appropriate medical and psychological evaluation at a facility mutually acceptable to the Diocese and the accused. If a cleric is so encouraged, the evaluation may be 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 intended to be limited to the purposes of this diocesan policy and not to constitute a waiver of any statutory privilege of confidentiality.
- 6.4b 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.
- 6.4c 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. The cleric may be required to execute any appropriate release of information forms and take part in an appropriate, supervised after-care program approved by the Bishop.

7.0 Civil Settlements

While offers of counseling and other services may be provided as an act of charity with no implications regarding a finding of abuse, there may also be settlements reached with alleged victims which also may not have any implication regarding whether or not there was abuse. These should not be confidential unless done for grave and substantial reasons brought forward by the alleged victim and noted in the text of the agreement.

8.0 Confidentiality

All information related to an incident in which a complaint is made of sexual abuse of a minor must be assembled and retained in a written form in as confidential a manner as possible, allowing for a fair investigation. Such information should be safeguarded from unauthorized disclosure.

9.0 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.

10.0 Pastoral Responses

- 10.1 Pastoral care for alleged victims (regardless of substantiation of any sexual abuse) by the Victim Assistance Coordinator or other agent of the Diocese may include concrete and direct offers of assistance. For example, financial aid may be provided for counseling.
- 10.2 Appropriate and sensitive responses should be extended to the suffering parish community. (See attached Communication Policy and Response to Those Impacted by the Pain of Sexual Misconduct.)
- 10.3 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 diaconate.
- 10.4 The Diocese has certain expectations of the behavior of its personnel, including 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 adopted the Code of Conduct Relating to Sexuality and Personal Behavior which specifically addresses conduct and appropriate behavior in ministering to minors.

Policy issued at Pastoral Center of the Diocese of Davenport—effective July 3, 1998.

Revised July 1, 2001

Revised June 1, 2003

Most Reverend William E. Franklin
Bishop of Davenport