



Diocesan Regulations for the Response to Claims of Sexual Abuse of Minors

**Including revisions regarding:
Essential Norms for Diocesan/Eparchial Policies Dealing with Allegations of
Sexual Abuse of Minors by Priests or Deacons, *of the USCCB***

May 19, 2003

DIOCESAN POLICY on SEXUAL ABUSE by CLERGY

INTRODUCTION

The Diocese of Memphis recognizes that sexual abuse by clergy constitutes one of the most serious breaches of trust in human relationships, and that it can have devastating consequences for the victim and his or her family, for the Church Community at large, and for the priest or deacon involved. Therefore, to deal with abuse that has occurred and to prevent further problems in the future, the Diocese of Memphis sets forth the following policy.¹

DEFINITIONS OF TERMS AS USED IN THIS POLICY

1. **SEXUAL ABUSE OF A MINOR** for the purposes of this policy includes "child sexual abuse" as defined:

A. in Tennessee state law

B. and by the United States Conference of Catholic Bishops,

C. the canonical crime identified in Catholic Church law (i.e., Canon 1395 § 2 of the Code of Canon Law), and

D. sexual contact between a cleric or a layperson of the Diocese of Memphis or its subsidiaries and a minor.

a. Tennessee Code Annotated (TCA) 37-1-602(2)(A) identifies "child sexual abuse" as the commission of any act involving the unlawful abuse, molestation, fondling, or carnal knowledge of a child under the age of thirteen (13) that would constitute a criminal offense.

b. The USCCB defines child sexual abuse as sexual molestation or sexual exploitation of a minor and other behavior by which an adult uses a minor as an object of sexual gratification (Charter for the Protection of Children and Young People, 2002).

c. The Canon Law of the Catholic Church (c. 1395 § 2) forbids a cleric having sexual contact with any person under the age of 18.

¹ This policy refers to sexual abuse by clergy. Any sexual misconduct on the part of a priest or deacon involving a minor constitutes sexual abuse. When adults are involved, sexual abuse occurs when a priest or deacon takes sexual advantage of another person, when he intentionally engages in sexual contact or touching in the context of providing pastoral care, or when he is guilty of sexual harassment, such as unwanted sexual advances or suggestions.

2. MINOR refers to anyone under the age of 18.
3. CLERGY refers to any priest or deacon who possesses faculties issued by the Diocese of Memphis.
4. CHURCH PERSONNEL refers to any person who has not received the sacrament of holy orders who is an employee, an appointed minister, a diocesan seminarian, a candidate enrolled in the permanent diaconate formation program, or an authorized volunteer of the Diocese of Memphis or one of its subsidiaries.
5. EMPLOYEE refers to anyone paid a wage or a salary by and controlled by the Diocese, a parish, or another subsidiary of the Diocese.

I. POLICY

It is the policy of the Diocese of Memphis that sexual abuse by clergy is a most serious abuse of trust and will not be tolerated. The Bishop has the responsibility to the People of God to appoint priests and deacons to positions of trust only if he is morally certain that they will be able to properly serve the people entrusted to their pastoral care.

In dealing with issues of sexual abuse involving clergy, the Diocese will:

- treat all allegations of sexual abuse seriously
- educate clergy and people about the problem of sexual abuse and set in place screening procedures and educational policies on this subject for those training for the ordained ministry;
- cooperate fully with civil reporting procedures governing sexual abuse, and will always and in every instance of an allegation of sexual abuse involving a minor adhere to all mandated reporting requirements established by State and local governing agencies.
- should an allegation appear credible, the diocese will not transfer or reassign the accused priest/deacon while the allegation is being investigated.
- if deemed necessary, the accused priest/deacon will be removed from active duty while the investigation is in process.

In situations involving accusations of sexual abuse by a priest or deacon, the Bishop is the shepherd and advocate of all parties. He must seek the good of all. This good involves providing a full and fair hearing both for those who complain of abuse and for clergy accused of such abuse. The good of all demands that the Bishop appoints to function in ministry only those clergy he is certain will minister properly and will not sexually abuse those to whom he ministers. It also demands that clergy be protected against false accusations of sexual abuse.

The Diocese acts in the belief that a true solution to a situation involving sexual abuse can proceed only from finding healing for victims of abuse, providing assistance to those who commit abuse, and ensuring that priests and deacons in ministry will not be a danger to minors or adults. This Diocesan Policy with respect to the alleged abuse of minors will be governed completely by the "Essential Norms for Diocesan/Eparchial Policies Dealing with Allegations of Sexual Abuse of Minors by Priests or Deacons," as approved by the Congregation for Bishops on December 8, 2002 (hereafter referred as "Essential Norms.")

Should an allegation of sexual abuse of a minor by a priest/deacon occur, the Bishop will immediately notify the Coordinator of Victim Assistance Ministry who will initiate pastoral care for the person (and their family) who allege to have been sexually abused.

In dealing with accusations of sexual abuse involving clergy, the Bishop will appoint and notify in writing a competent person as a delegate to lead a thorough investigation in accord with the requirements of canons 1717-1719 of the *Code of Canon Law* and with the norms of this policy. The role of the Bishop's delegate is to seek the truth of the situation. -The delegate's role is not to accuse the priest or deacon in question. Rather, the delegate is to ensure the good of the faithful and all those who come into contact with the Church, including those who complain about clergy, as well as the priest or deacon himself. When an allegation of sexual abuse of a minor by a priest or deacon is received, a preliminary investigation in harmony with canon law will be initiated and conducted promptly and objectively according to and supplemented by the specifications of "Essential Norms," number 6.

In investigating allegations of sexual abuse by clergy, the Bishop's delegate will ensure that persons who complain of sexual abuse receive and the accused priest/deacon receives a full and fair hearing. Those entrusted with ministry to victims will ensure that those who have been victimized will be extended the ministry of the Church in coping with their trauma and suffering.

In carrying out his duties, the Bishop's delegate will be assisted by a review board established by the "Essential Norms" of the American Bishops to ensure that the Diocese is providing practical support for all parties involved. The role of this review board will be governed by the specifications of "Essential Norms," numbers 4 and 5. Specifically with respect to the priest or deacon accused of sexual abuse, the Vicar for Clergy will ensure the provision of fraternal priestly or diaconal support during the investigatory phase.

Allegations of sexual misconduct presented to the Diocese that involve a priest from a religious community serving in the diocese will be referred to the appropriate religious superior (e.g., Provincial) for investigation and appropriate action. The Diocese will require a report of the findings of the investigation and any action taken in order to assist the Bishop in making a determination of whether or not the Diocese will be willing to accept the priest for further assignment, as well as whether or not the Diocese will be willing to extend faculties.

With respect to priests belonging to religious provinces, please consult "Essential Norms," number 12.

PROCEDURES FOR INVESTIGATION AND RESPONSE TO ALLEGATIONS OF SEXUAL ABUSE BY CLERGY

NOTE: With respect to the allegation of sexual abuse of a minor by a priest or deacon, the Policy of the Diocese of Memphis will be governed by "Essential Norms," numbers 6, 7 and 8.

1. SITUATIONS IN WHICH INFORMATION REGARDING SEXUAL ABUSE IS PROVIDED BY THE PRIEST OR DEACON HIMSELF

If a priest or deacon himself discovers or determines that he currently is involved in a situation of sexual abuse or in the past has struggled with tendencies toward sexual abuse, he is strongly encouraged to bring this to the attention of the Bishop or the Vicar General.

In an instance where a priest or deacon comes forward, the Diocese will assist him in seeking the help he needs and will do everything possible to support him.

The Diocese will immediately contact any known victims, or appropriate family members in the case of minors, and offer pastoral assistance and appropriate counseling. In cases involving minors, appropriate reporting laws will be followed. When even a single act of sexual abuse by a priest or deacon is admitted, the provisions of "Essential Norms," numbers 6 and 8 will be applied.

2. SITUATIONS IN WHICH CLERGY ARE ACCUSED BY ANOTHER OR OTHERS OF SEXUAL ABUSE

Unless clearly corroborated by other information, the Diocese normally does not investigate anonymous allegations. Unless they are clearly frivolous, such allegations may be communicated to the priest or deacon. However, for the protection of minors and the protection of the good name of the cleric, it may become necessary to investigate anonymous allegations involving minors.

With respect to an allegation of sexual abuse of a minor by a priest or deacon, the provisions of "Essential Norms," number 6 will be followed and applied. When there is sufficient evidence that sexual abuse of a minor has occurred, the Congregation for the Doctrine of the Faith shall be notified. The diocesan Bishop shall then apply the precautionary measures mentioned in Canon 1722 -i.e., remove the accused from the sacred ministry or from any ecclesiastical office or function, impose or prohibit residence in a given place or territory, and prohibit public participation in the Most Holy Eucharist pending the outcome of the process. (cf, "Essential Norms," number 6).

Complaints made in person or in written form will be treated respectfully, and permission will be sought by the Bishop's delegate to present them to the priest or deacon in question. When the Bishop's delegate is the party receiving the initial complaint, the Bishop's delegate will immediately inform the diocesan Bishop of the complaint. It will be explained to the party making the complaint that the complaint will be presented to the priest or deacon as an allegation, not an accusation. The person making the complaint will also be informed that he or she will be told what action the

Diocese will take after the priest or deacon responds.

The Vicar General will then call the priest or deacon to apprise him of the allegation of sexual abuse and schedule a meeting with him to review the entire matter and give him the opportunity to respond to the allegation. He will advise the priest or deacon that if he wishes to bring a friend or advisor to the meeting, he may do so.

At the meeting, the priest or deacon will be given the full report of the alleged abuse, as well as the name(s) of those making the complaint(s). He will be invited to ask questions, offer his response to the allegation(s), and present his version of the events in question. The meeting will proceed along different lines depending on the response:

A. Denial of the allegation(s) and credible explanation of events by the priest or deacon:

In cases where there are no other witnesses, no previous allegations of a similar nature, or where no other behavior from the past lends substance to the allegations, and where the explanation of events given by the priest or deacon is credible, such credible denial will normally bring the case to a close.

A record of the complaint, the priest's or deacon's response, and the decision not to investigate further is maintained in accord with the norm of canon 1719. In all circumstances the Diocese will always treat all parties with pastoral care and sensitivity.

B. Denial by the priest or deacon when substantial issues remain unresolved:

In instances where there is a previous or unrelated allegation against a priest or deacon concerning sexual abuse, or where other behavior on his part lends substance to the allegations, he will ordinarily be asked to undertake a professional evaluation voluntarily. If he refuses to undertake such an evaluation and the evidence is such that the Bishop must act as envisioned by canon 1718, the appropriate canonical process will be initiated.

If a professional evaluation is undertaken such an evaluation is not considered therapy, but rather, an assessment to identify problematic areas that may be present in the priest or deacon's life and to make recommendations on how to proceed.

The Diocese will determine what professional person or institution will be entrusted with the task of conducting the evaluation. Should the priest or deacon disagree with the results of the evaluation, he has the right to consult another agreed-upon professional for a second evaluation.

Especially in cases involving child abuse, the Coordinator of Victim Assistance Ministry will offer to help victims and/or their families find support from people who have experienced child abuse or have dealt with a person who has been abused.

A record of the complaint, the admission, and the other determinations made will be maintained in accord with the requirements of canon 489.

C. Information provided to the parish community

It is the position of the Diocese that accurate information provided in a timely fashion about what has happened in a particular case of alleged sexual misconduct is a most important element in healing within a parish community .

1. Therefore, in cases in which a priest or deacon had denied allegations of sexual abuse but substantial issues remain unresolved (paragraph 2B, above), appropriate Diocesan representatives may meet with the parish staff to inform them of the allegations and to advise them of the action that will be taken. If the priest or deacon has resigned from the parish, appropriate Diocesan representatives may inform the parishioners why the priest or deacon is not present and ministering in the parish. The information will always be prepared in the method described below.

1. In cases in which a priest or deacon has admitted the truth of allegations of sexual abuse (paragraph 2C, above), appropriate Diocesan representatives may meet with the parish staff to inform them of the circumstances. If the priest or deacon has resigned from the parish, appropriate Diocesan representatives may inform the parish staff and parishioners of the reason(s) the priest or deacon is not present in his assignment and the professional services that will be offered to assist any victims, parish staff, and the parish community. The information will always be prepared in the method described below.

In both the above instances, the advisory notice to the parish staff and/or parishioners will be written out in advance, be reviewed by the priest or deacon and by legal counsel of both the Diocese and the priest or deacon (if he has retained counsel), and the agreed-upon text will be read to those to whom it is directed.

The content of the notice will make every effort to reflect the circumstances of the case and will seek to be sensitive to and fully respect the rights of all parties. The notice will seek to observe the Fifth Amendment right of the priest or deacon not to incriminate himself. To respect the requirements of canon law (cf. canon 220), the priest or deacon will be given the opportunity to assist in determining what information should or should not be reasonably disclosed. In cases of conflict between the priest or deacon and the judgment of the Diocesan authority as to what should be disclosed, every reasonable effort will be made to resolve that conflict in a mutually satisfactory way. If the conflict is not resolved, the final decision concerning disclosure remains that of the Bishop. In this situation, the priest or deacon will be informed in advance of the exact nature of that disclosure.

II. POSSIBILITY OF RETURN TO MINISTRY FOLLOWING RESIDENTIAL THERAPY.

In Cases Involving Minors:

The Diocese of Memphis will not knowingly assign a priest or deacon to serve in its parishes, schools, pastoral ministries or any other assignment when such an individual is determined to have engaged in the sexual abuse of a minor. The Policy of the Diocese of Memphis will be governed by "Essential Norms," number 8: "When even a single act of sexual abuse of a priest or deacon is admitted or is 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." 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. Because sexual abuse of a minor by a cleric is a crime in the universal law of the Church and all jurisdictions in the United States 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 shall not continue in active ministry (cf. "Essential Norms " number 9) .

In Cases of Sexual Abuse Involving Adults:

The decision to permit a priest or deacon to return to active ministry must take into account the nature and seriousness of the misconduct, the progress in treatment, positive signs of continuing recovery , the need to prevent a relapse into abusive behaviors, and the danger of scandal. In deciding whether to permit a return to active ministry, the Bishop will seek advice from experts in the field. There are a number of possibilities:

1. Return to ministry with appropriate restrictions and follow-up program. The priest or deacon's immediate supervisor will be fully informed of his background and present situation.
2. Three to five years outside active ministry with a good prognosis for return. From the very beginning, the hope of both the priest or deacon and the Diocese is that some form of ministry can be restored, and efforts will be made during the leave to prepare for that possible return. Any return will likewise involve appropriate restrictions and an aftercare program. The purpose of this program is to allow the priest or deacon to demonstrate continuing and progressive signs of recovery .
3. **Three to five years outside active ministry with the understanding that there is little chance of return.** In this situation, a new assessment will be made should the priest or deacon in question petition for reinstatement to active ministry .

4. **No possibility of return.** In this case, the Diocese will assist the priest or deacon to petition for laicization. Should the priest or deacon be unwilling to submit such a petition, the Diocese will initiate appropriate canonical procedures and will preclude him from any active ministry.

III. REVIEW BOARD

There shall be a Review Board to assist the Bishop (or his delegate) with the implementation of this policy. This Board will be known as the "Diocesan Review Board." The role and functions of this Board will be governed by the specifications of "Essential Norms," numbers 4 and 5.

The Board will consist of a minimum of five persons of outstanding integrity and good judgment in full communion with the Church. The majority of the Board will be lay persons who are not in the employ of the Diocese of Memphis. At least one member should be a priest who is an experienced and respected pastor of the Diocese of Memphis. At least one member should have particular expertise in the treatment of the sexual abuse of minors. The members will be appointed by the diocesan Bishop for a term of five (5) years. It is desirable that the Promoter of Justice participate in the meetings of the Board.

The Board will be consultative in nature and responsible to the Bishop. It will be independent of internal diocesan structures and will not be involved in the day-to-day implementation of the policy. Every two (2) years the Board will evaluate the effectiveness of the policy and propose revisions as indicated.

The Board will meet at least quarterly and will have the following functions: to advise the diocesan Bishop in his assessment of allegations of sexual abuse of minors and in his determination of suitability for ministry; to review diocesan policies for dealing with sexual abuse of minors; to offer advice on all aspects of these cases, whether retrospectively or prospectively.

IV. PREVENTION FOR THE FUTURE — PRECAUTIONS CLERGY NEED TO TAKE

Clergy can and should develop a good rapport with minors. However, they must also avoid the kind of contact with minors that could raise questions or lead to negative comment on the part of reasonable people. Therefore, the diocesan Bishop has established the following regulations:

1. Priests must not have minors (with the exception of family members) in their rooms and must not spend their days off alone with minors. Minors are never to stay overnight at a rectory or other priests' residence.
2. Priests must not go on vacation with minors (excluding family members) unless parents or other adults are present. On field trips or other social outings involving minors, at least one other adult should be present.

3. Priests must avoid activities such as hugging, tickling, wrestling, and any other activities that involve physical contact with minors that may be misconstrued as inappropriate sexual contact on the part of the minor, the minor's parent(s), or other third parties.
4. Both married and celibate clergy should follow similar norms adapted to their family and living situations.

Given the seriousness of the consequences of sexual misconduct, especially when minors are involved, clergy have a responsibility to be their brothers' keepers in these matters. While they must avoid an unhealthy interference in others' lives, they need to be aware of danger signs in a brother cleric's activities. Such danger signs might be clear violations of the guidelines presented above. In addition, they also need to be aware of the danger to those who, without doing anything wrong, seek the company of children and look to them for the emotional support only normal adult relationships provide.

When a priest or deacon fears that another priest or deacon may be involved in such behaviors, the former (priest or deacon) should normally speak first to the latter (priest or deacon) and also immediately bring these concerns to the Director of Priest Personnel and/or the Vicar for Clergy.

Furthermore, it is important to recognize that the abuse of alcohol or other substances can lead to a breakdown of inhibitions which would normally keep someone from acting inappropriately. In all the above, clerics must keep in mind their responsibilities as mandated reporters of abuse of minors.

V. SCREENING PROCEDURES

According to the provisions of "Essential Norms," number 12, no priest or deacon who has committed an act of sexual abuse of a minor may be transferred for ministerial assignment to the Diocese of Memphis. In addition, according to the provisions of "Essential Norms," number 12, before a priest or deacon can be transferred for residence in the Diocese of Memphis, his bishop/eparch or religious ordinary shall forward, in a confidential manner, to the diocesan Bishop of the Diocese of Memphis any and all information concerning any act of sexual abuse of a minor and any other information indicating that such priest or deacon has been or may be a danger to children or young people. This shall apply even if the priest or deacon will reside in the local community of an institute of consecrated life or society of apostolic life. The Bishop of the Diocese of Memphis will obtain the necessary information regarding any past act of sexual abuse of a minor by a priest or deacon seeking residency from outside of the jurisdiction of the Diocese of Memphis. (cf., "Essential Norms," number 12).

A. CLERGY FROM ELSEWHERE WHO SEEK A DIOCESAN ASSIGNMENT

When a priest or deacon applies for an assignment in the Diocese, he is asked to fill out an application. As part of that application, he is asked to state that he has not been involved in situations involving sexual abuse. His completed application is then sent to his bishop or proper religious superior, who is asked to affirm in writing that the answers given in the application are true. In addition, the religious superior is asked to recommend him for ministry in this Diocese.

The steps of this screening procedure are explained in advance so that he can submit his application with full understanding.

B. RELIGIOUS ORDER PRIESTS RECOMMENDED FOR MINISTRY IN THIS DIOCESE BY THEIR RELIGIOUS PROVINCIAL

Religious Superiors or Provincials, when they recommend a priest or deacon for ministry in the Diocese, are asked to submit a written recommendation stating that the priest or deacon has not had problems involving sexual abuse.

C. PRIESTS SEEKING HOSPITALITY OR PERMISSION TO ASSIST ON A TEMPORARY BASIS

Priests may seek hospitality or permission to assist temporarily in a parish for up to three (3) months. If the priest is not known personally to the pastor, administrator, or pastoral coordinator of the parish in question, then the pastor, administrator, or pastoral coordinator must contact the priest's proper religious superior in order to get a written recommendation for the visiting priest.

If the pastor, administrator, or pastoral coordinator has any doubt about the priest's suitability for ministry, the Director of Priest Personnel must be contacted before offering hospitality to the priest. In no case may the priest stay beyond three (3) months without written permission from the Diocese and his Superior. Temporary faculties for priests in hospitality or assisting temporarily must be requested and secured from the Bishop's office before the priest begins in residence and/or begins any type of ministry in a parish.

VI. SCREENING OF CANDIDATES FOR HOLY ORDERS

The Diocese, through the appropriate screening process and professional evaluations, will strive to accept only those candidates for the priesthood and diaconate who are judge well balanced and mature. The Diocese will cooperate fully with seminaries to screen out individuals with tendencies toward child sexual abuse. The diocesan diaconate program will follow a similar procedure.

VII. FINANCIAL RESPONSIBILITY

It is the policy of the Diocese that if a priest or deacon is involved in sexual misconduct he may be held financially responsible for counseling or appropriate treatment for the person(s) injured. However, the Diocese will make sure that no person abused by a priest or deacon will be denied treatment because the priest or deacon involved is unable to pay for it.

VIII. REPORTING OF ALLEGATIONS OF SEXUAL ABUSE OF MINORS

The Diocese of Memphis will comply with all applicable civil laws of the State of Tennessee with respect to the reporting of allegations of sexual abuse of minors to civil authorities and will cooperate in the investigation. In every instance, the Diocese of Memphis will advise and support a person's right to make a report to public authorities as mandated by "Essential Norms, " number 11.

IX. PROTECTION OF THE RIGHTS OF PARTIES INVOLVED IN ALLEGATIONS OF SEXUAL ABUSE OF MINORS

According to the provisions of "Essential Norms," number 13, care will always be taken to protect the rights of all parties involved, particularly those of the person claiming to have been sexually abused and of the person against whom the charge has been made. When an accusation has proved to be unfounded, every step possible will be taken to restore the good name of the person falsely accused.

Given in the Diocese of Memphis in Tennessee (having been approved by the Presbyteral Council and the Diocesan Review Board) on the 19th day of May, 2003.