

DIOCESE OF COVINGTON

Policies and Procedures for Addressing Sexual Misconduct

1985, 1995, 2000, 2003, 2007

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**For help, please contact
 Ms. Margaret M. Schack
 Victim Assistance Coordinator, (859) 392-1515
 or
 Ms. Cindy Dixon
 Catholic Social Services, (859) 581-8974**

Reporting current abuse of minors or vulnerable adults

- Cabinet for Families and Children:
 Division of Protection and Permanency
- Boone County (859) 371-8832
 - Bracken County (606) 735-2195
 - Campbell County (859) 292-6733
 - Carroll County (502) 732-6681
 - Fleming County (606) 845-2381
 - Gallatin County (859) 567-7381
 - Grant County (859) 824-4471
 - Harrison County (606) 234-3884
 - Kenton County (859) 292-6340
 - Lewis County (606) 796-2981
 - Mason County (606) 564-6818
 - Owen County (502) 484-3937
 - Pendleton County (859) 654-3381
 - Robertson County (606) 724-5413

Reporting adults who were abused as minors

- Commonwealth Attorney
- Boone County (859) 586-1723
 - Bracken County (606) 564-4304
 - Campbell County (859) 292-6490
 - Carroll County (502) 732-6688 or (502) 732-5841
 - Fleming County (606) 564-4304
 - Gallatin County (859) 586-1723
 - Grant County (502) 732-6688 or (502) 732-5841
 - Harrison County (859) 234-2707
 - Kenton County (859) 292-6580
 - Lewis County (606) 473-9823
 - Mason County (606) 564-4304
 - Owen County (502) 732-6688 or (502) 732-5841
 - Pendleton County (859) 234-2707
 - Robertson County (859) 234-2707

My dear Brother Priests, Deacons, Religious and Lay Faithful:

“But we hold this treasure in earthen vessels, that the surpassing power may be of God and not from us.” (2 Cor. 4:7) St. Paul, in his second letter to the early Christian Community of Corinth, refers to his ministry as a “treasure” held in an “earthen vessel.” The same is true of every ministry and minister in the Church even today. It is surely a treasure and it is just as surely held in an earthen vessel.

In the previous verses of this Chapter 4, St. Paul speaks about his preaching. He makes crystal clear that “we do not preach ourselves, but Jesus Christ as Lord, and ourselves as your slaves for the sake of Jesus.” (2 Cor. 4:5) The message is that of Jesus. We who preach do so in Jesus’ Name, unworthy though we may be. The treasure of our ministry is indeed held in earthen vessels.

Perhaps this has never been more recognized or understood so clearly as in this past year and a half in the United States. We have all been saddened and yes, even shocked, at the reports of abuse of children by priests. If ever it were clear that this treasure, which is our ministry, is held in earthen vessels, in vessels of clay, it is clear now. A flood of emotions has swept over us from outrage to heartbreak, from disbelief to disgust. We have seen victims of sexual abuse come forward with heart-wrenching stories, stories which many held in their hearts, for many, many years.

Unfortunately, our Diocese of Covington has not been exempt from instances of abuse of children by priests. When I arrived here as the tenth Bishop of Covington just one year ago, I began an immediate investigation into this matter. I was pleased to find that a policy for addressing the sexual abuse of minors had been initiated in our Diocese as early as 1985. In 1994 a Diocesan Committee for Addressing Sexual Misconduct was formed. This committee revised and updated the policies and procedures regarding sexual misconduct in 1995 and again in 2000.

In light of the *Charter for the Protection of Children and Young People* adopted by the United States Conference of Catholic Bishops at their June 2002 meeting, I am now promulgating a revised edition of our Diocesan policies and procedures for dealing with sexual misconduct for all parishes, offices and agencies of the Diocese of Covington, effective immediately. I am directing that meetings be scheduled to familiarize Diocesan personnel with the revisions of our policies.

In accordance with the *Norms for the Protection of Children and Young People*, I have appointed Ms. Margaret M. Schack, our Diocesan Chancellor, as the *Victims Assistance Coordinator*. Ms. Schack will coordinate assistance for the immediate pastoral care of persons who report having been sexually abused when they were minors by priests or deacons. Every report will be taken seriously and be heard.

As Bishop, I am your shepherd and your father and I take seriously this responsibility. My heart aches for any victim of child abuse, especially for those who were abused as minors by priests of this Diocese. Too often, the response of the Diocese to victims of child sexual abuse was inadequate. In the name of

the Diocese of Covington, I apologize to you, ask your forgiveness and pray for reconciliation and healing. I have been meeting individually with victims to convey this apology and my commitment to their healing personally. I encourage anyone who was abused as a child by a priest or employee of this Diocese to contact Ms. Schack to schedule a private pastoral meeting with me. These meetings have been very valuable to me and, I hope, to the victims with whom I have met.

I assure you that, as far as humanly possible, we will do all we can to ensure that there are no further instances of child abuse by priests, deacons, religious and church employees in our Diocese. I can assure you now that, to the best of my knowledge, there is no priest in public ministry in the Diocese of Covington who has abused a minor. I am also pleased to report that we have just completed our audit as called for in the *Charter for the Protection of Children and Young People*.

Following St. Paul's claim that we possess our ministry, this treasure, in earthen vessels, he goes on to say: "We are afflicted in every way, but not constrained; perplexed, but not driven to despair; persecuted, but not abandoned; struck down, but not destroyed; always carrying about in the body the dying of Jesus, so that the life of Jesus may also be manifested in our body. For we who live are constantly being given up to death for the sake of Jesus, so that the life of Jesus may be manifested in our mortal flesh." (2 Cor. 4:8-11) Although this terrible scourge of sexual abuse of minors afflicts our Church, let us not be constrained in teaching and preaching, in believing and fostering the Word of the Lord. Let our faith not be destroyed, but rather let us pray to the Lord of all life that our faith be strengthened and deepened by this adversity so that we emerge a purified and even stronger force for good in the world.

When I was named the tenth Bishop of Covington, I chose as my episcopal motto: *Lux Luceat Vestra, Let Your Light Shine*. I chose this motto, taken from the Gospel of St. Matthew (Matt 5:16), because I firmly believed that now, perhaps more than ever, our light, the light of our faith, needs to shine in the darkness. The passage from St. Matthew goes on to say that we must let our light shine "before others, that they may see your good deeds and glorify your heavenly Father." May all of us as sons and daughters of the same God, as brothers and sisters, let our light shine so that the darkness is vanquished and we may all glorify our heavenly Father.

I assure you of my prayers and I ask for your prayers for all the victims of sexual abuse. I also ask for your prayers for those priests who minister to you daily and who grieve over the present state of this crisis.

May God bless you and those you love.

Yours devotedly in the Lord,

Most Rev. Roger J. Foys, D.D.
Bishop of Covington

I. Introduction

Sexual misconduct has a long history. Only recently has society begun to address openly the many issues involved. These include breaking generational cycles of abuse, encouraging and healing victims, and creating an environment of intolerance for all forms of sexual misconduct, including abuse, exploitation or harassment. It is never defensible for individuals or institutions to condone, ignore or abet sexual misbehavior, nor should we blame the victim or withhold our support and assistance.

As members of the Church, we understand that addressing questions of sexual misconduct effectively requires first recognizing their spiritual dimension. Sexual misconduct stems from a damaged spiritual life and has at its heart a profound sense of loneliness — of separation from God, self and others. Those who lack a sense of their own goodness in the sight of God feel empty. Trying to fill this void, they may turn to inappropriate behaviors, thus deeply harming themselves and others. These wrongs lead to further spiritual alienation through sensations of shame, guilt and —particularly when the perpetrators hold positions of authority—hypocrisy.

For the immediate victim, who too often suffers in silence, the sense of betrayal and self-blame can be devastating, with a lifelong impact on countless relationships. Thus these private acts have wide public consequences. Deception corrupts and corrodes; exposure scandalizes. Both wound the faith life and well being of the entire Church.

Terms

Sexual misconduct includes sexual abuse, sexual exploitation and sexual harassment.

Sexual abuse is any sexual contact in violation of the laws of the Commonwealth of Kentucky between a cleric (priest or deacon), employee or volunteer of the Catholic Diocese of Covington (“Diocese”) and a child or vulnerable adult. Child sexual abuse is a criminal act and must be reported to civil authorities.

Sexual exploitation is any sexual interaction between a cleric, employee or volunteer of the Diocese and an adult who is receiving care from that person.

Sexual harassment is unwelcome or unwanted sexual advances; requests for sexual favors; verbal, non-verbal or physical conduct reasonably perceived as a demand for sexual favors; any conduct sexually offensive in nature occurring in a Church-related setting in which at least one person is a cleric, employee, volunteer or student of the Diocese when:

(1) the recipient's response to this conduct influences his or her hiring, evaluation or promotion; or (2) this conduct substantially interferes with an individual's life, employment or education; or (3) this conduct creates an intimidating, hostile or offensive work or Church-related environment. (See Section VI.)

Acceptance Form

Policy 1 This statement shall be distributed to all diocesan personnel who shall sign an acknowledgment of understanding and acceptance of its contents. The required acceptance form is to be signed and returned to the parish, school or agency where one is employed or volunteers.

II. Safe Environment

Policy 2 The Diocese will cooperate with parents, civil authorities, educators, and community organizations to provide education and training for children, youth, parents, ministers, educators and others about ways to make and maintain a safe environment for children and vulnerable adults.

Continuing in-service is required of all those who work with children and vulnerable adults.

Parish leaders (pastors, administrators, parish life collaborators, principals, DRE's, scout leaders, head coaches, etc.) are responsible for seeing that clerics, employees, volunteers and students are updated concerning this policy and appropriate sexual conduct. Resources are available through the audiovisual section of the Department of Catholic Schools and through programs provided through the Chancellor. Any groups affected by previous sexual misconduct are encouraged to address this issue. Professional facilitators are available; names of resource persons may be obtained from the Chancellor.

Counseling is urged for anyone who feels the need to address sexual adjustment or behavioral issues.

Safe Environment Program for Children and Their Parents

Policy 3 All parishes and schools in the Diocese shall offer for parents and students, on at least a biennial basis, a “safe environment for children” component of the educational program, in keeping with the American Bishops’ “Charter for the Protection of Children and Young People.”

“Dioceses/eparchies will establish “safe environment” programs. They will cooperate with parents, civil authorities, educators, and community organizations to provide education and training for children, youth, parents, ministers, educators, and others about ways to make and maintain a safe environment for children. Dioceses/eparchies will make clear to clergy and all members of the community the standards of conduct for clergy and other persons in positions of trust with regard to sexual abuse.” (Article 12, Charter for the Protection of Children and Young People, USCCB, March 2003)

This policy applies to students (and their parents) enrolled in programs in grades preschool through 12 in all schools and parish religious education programs of the Diocese.

The Department of Catholic Schools will monitor compliance.

The following programs are approved for use in the Diocese of Covington:

Family Nurturing Center

Women’s Crisis Center

Council on Child Abuse of Southern Ohio, Inc.

Protecting God’s Children for Adults may be used for parents only.

The Chancery shall approve any other programs prior to their use.

Parents: A presentation to parents is to be offered at the beginning of each year in which the program will be offered.

Parish Schools of Religion (CCD), who do not have access to the three approved programs, may choose from an approved list of audiovisuals that may be obtained from the Office of Religious Education.

Parents will be given the opportunity to review the children's program before its presentation. Parents may also view Protecting God's Children for Adults (Virtus).

The trauma sexual misconduct causes its victims, their families and the community is compounded when the perpetrator is a representative of the Church. Unsubstantiated allegations also have serious consequences. Thus the policies presented here address the rights of victims and of the accused. The allegation of any such misconduct is a matter of grave concern and responsibility to the local Church and to civil authorities. All legal and canonical requirements regarding notification of such charges will be carefully observed. (See Appendix A)

Safe Environment for Clergy, Employees and Volunteers

Policy 4 All clergy, employees and volunteers serving the parishes, schools and agencies of the Diocese of Covington are required, as a precondition of service, to enroll in the Virtus program, receive and sign the Acceptance Form for Diocesan Policies and Procedures, and submit an Application Form for a background evaluation.

Failure to enroll in the Virtus program or to participate in the Protecting God's Children for Adults session shall be a prohibition to active employment or volunteer activities.

Failure to participate in the Virtus program through continued update training shall be cause for termination of employment or, in the case of a volunteer, prohibition from providing volunteer services.

A prospective employee or volunteer who fails to register for the Protecting God's Children for Adults program, or who registers but fails to attend, shall have his/her employment contract or agreement canceled.

III. Code of Conduct

Maintaining Boundaries

Physical contact is a powerful human expression that must be safeguarded by respect and reverence for boundaries among all ages, especially in dealings with children or vulnerable adults. Each individual has the right to pray, work, learn and socialize in an atmosphere that is free of even the beginnings of abusive practices, including sexual harassment (Article 6;12).

Policy 5 Clerics, employees and volunteers are to maintain a professional decorum with the persons to whom they minister and must never engage in sexual intimacies with them.

Policy 6 The Diocese shall make clear to clergy, employees and volunteers the Code of Conduct for persons of trust. (Article 12, Charter for the Protection of Children and Young People, USCCB, March 2003)

Principles

Four Principles provide the basis for the Code of Conduct

Clergy, employees and volunteers are expected to represent the Church in faithful, authentic and loving ways.

Clergy, employees and volunteers are expected to seek and maintain competency in areas in which they are exercising their roles.

Clergy, employees and volunteers are expected to foster the dignity of each person and be committed to the best interests of others.

Clergy, employees and volunteers are duty bound to hold one another accountable to conduct and standards appropriate to their respective roles.

Code of Conduct

As someone who ministers where minors/vulnerable adults are present in the Diocese of Covington, I will maintain a professional role

and be mindful of the trust and power I possess to provide a safe environment. To achieve this, I will

- Never touch a minor/vulnerable adult in a sexual way or other inappropriate manner.
- Never be alone with a minor/vulnerable adult in a residence, rectory, sleeping facility, vehicle or in any isolated room.
- Never share a bed with a minor/vulnerable adult.
- Never take an overnight trip alone with a minor/vulnerable adult.
- Never participate in group activities for minors/vulnerable adults that do not have at least two supervising trained adults present or an adequate number of supervising adults.
- Never introduce sexually explicit or pornographic topics, vocabulary, music, recordings, films, games, websites, computer software, or entertainment.
- Never provide illegal drugs, alcohol or tobacco to a minor/vulnerable adult.
- Never engage in physical discipline for behavior management of minors/vulnerable adults. No form of physical discipline is acceptable.
- Never give expensive or inappropriate gifts that single out specific minors/vulnerable adults.
- Never participate in chat rooms or via personal electronic media with minors/vulnerable adults.

IV. Screening

Introduction

The Diocese of Covington will make every attempt to provide a safe, healthy environment for those whom it serves. Of particular concern are children and vulnerable adults. The Diocese of Covington will implement policies and procedures to assure, as far as possible, that employees and volunteers do not have a history of sexual misconduct, criminally violent behavior or other background issues that render them unsuitable for the safety of the children and vulnerable adults in its care.

Policy 7 All clergy, all employees, and all volunteers in programs under the auspices of a parish, school or agency of the Diocese of Covington who will be employed or will volunteer in a location where children or vulnerable adults are present shall submit to a criminal history background check.

Policy 8 Employees and volunteers who minister where children/vulnerable adults are present shall be screened and evaluated through the resources of law enforcement and other community agencies. Kentucky law requires criminal record checks for those with supervisory or disciplinary power over minors. (See Appendix A; USCCB Charter, Article 13)

The application for the background check shall be submitted no later than the effective date of employment or the first volunteer date. Employment or continued volunteer status shall be probationary pending the outcome of the background check. References will be checked as part of the background evaluation.

No person who has been convicted of or pled guilty to a sex crime, a violent crime or other offense that would render the person unsuitable shall be employed or serve as a volunteer in any position where children or vulnerable adults are present.

If a potential employee or volunteer refuses to submit to the required background evaluation, that person shall not be employed or allowed to volunteer in any program under the auspices of the parish, school or agency that requires a background check.

All **application forms** for positions within the Diocese and all **job descriptions** of positions that require criminal background checks will contain the following statement:

“The Diocese of Covington requires a criminal history background check as a condition for employment/volunteering.”

An employee or volunteer may be terminated upon receipt of a criminal history background check documenting a record of a sex crime or a violent offense and may be terminated for other offenses that would render the person unsuitable.

A **Background Check Coordinator**, engaged by the Diocese, will process background checks submitted by the parish, school or agency for non-certified hires and volunteers. Summary results will be returned to the parish, school or agency. The detailed results will be kept on file at the Diocesan Curia. Results of the background checks are strictly confidential and will remain on file at the Diocesan Curia. Only persons approved by the Bishop may access them.

An employee/volunteer may request to see the report and/or summary report of his/her own criminal history background check.

An employee or volunteer **transferring** from one parish, school or agency to another and who has submitted to a background check within the past year may present evidence to that effect. It is at the discretion of the employer or administrator to require a new background check. Local administration may also reduce this time for specific individuals or job classification.

An employee or volunteer may request in writing a copy of the summary criminal history background check to be sent to another parish, school or agency in the Diocese when the employee/volunteer **transfers** to a different work location within the Diocese.

The **pastor** of the parish or **administrator** of the agency is responsible for seeing that background checks are submitted, for working with the Background Check Coordinator on decisions based on the results of the check and for filing the summary results at the parish, school or agency.

The pastor or administrator of the parish, school or agency and/or the one delegated, receives the summary results of the background check and makes the **appropriate decision**. Questionable results from the background check should be discussed with the Background Check Coordinator and/or legal counsel.

Background evaluations will be repeated regularly.

Policy 9 Candidates for diaconate, priesthood or pastoral ministry will be carefully screened and evaluated on a wide variety of issues and factors, including their sexual maturity and the

appropriateness of their behavior and background (USCCB Charter, Article 13).

Policy 10 The Diocese will request information about allegations of sexual misconduct from dioceses or religious orders whose clerics or religious seek to work in the Diocese (USCCB Charter, Article 13).

The Diocese will use screening criteria and techniques that conform to current testing and assessment procedures. Any further investigations of prospective diocesan personnel must be approved and coordinated by the Bishop or his delegate.

V. Electronic Media

Policy 11 Misuse of electronic media and services is strictly prohibited. Employees and volunteers who use electronic media and services provided by any Diocesan institution will abide by these principles and policies.

- The Diocese of Covington is increasingly using electronic forms of communication and information exchange. Diocesan employees have access to one or more forms of electronic media and services (computers, e-mail, telephones, fax machines, wire services, online services, and Internet access).
- The Diocese of Covington encourages the use of these media and associated services because they make communications more efficient and effective, and because they are valuable sources of information. However, electronic media and services provided by diocesan parishes and schools are diocesan property and are to be used to facilitate diocesan business.
- With the rapidly changing nature of electronic media and the etiquette that is developing among users of electronic media, external online services and the Internet, this policy cannot lay down all the rules to cover every possible situation. Instead, this policy expresses the Diocese's philosophy and sets forth general principles to be applied to use of electronic media and services at parishes and schools.

The following procedures apply to all electronic media and services that are:

- accessed using parish or school computers and/or telephone lines;
- used in a manner which identifies the individual employee with a diocesan parish or school.

Procedures

- Electronic media may not be used to knowingly transmit, retrieve or store any communications of a discriminating or harassing nature, or which are derogatory to an individual or group, or which are obscene or X-rated, or which are of a defamatory or threatening nature, or for any other purpose which is illegal, against diocesan policy or contrary to diocesan interest.
- Electronic media and services are primarily for parish or school use.
- Limited, occasional or incidental use of electronic media (sending or receiving) for personal or non-business purposes is to be viewed in the same manner as personal telephone calls.
- Electronic media may not be used to access games or other forms of personal entertainment during business hours.
- Acceptable use questions during or outside of business hours may be directed to the pastor, principal or administrator.
- Any costs incurred for use of electronic media, other than for parish or school business, are the responsibilities of the person incurring that cost.
- Electronic information created and/or communicated by an employee using e-mail, telephones, fax machines or any other method of electronic data or information transfer will not generally be monitored. However, the following conditions should be noted:
- Usage patterns for both voice and data communications (e.g. number of calls or sites accessed) may be monitored for reasons that include cost analysis and the management of the gateway to the Internet.
- The parish or school Internet access system automatically tracks the websites visited.
- An employee's electronic files, messages and usage may be reviewed to the extent necessary to ensure that electronic media and services are being used in compliance with the law and with this and other diocesan policies.

- Employees should, therefore, not assume electronic communications are totally private and confidential and should transmit sensitive information in other ways.
- Parish and school staff must respect the confidentiality of other people's electronic communications and may not attempt to read the communications of others, "hack" into other systems or other people's files, "crack" passwords, etc.
- No e-mail or other electronic communications may be sent which attempts to hide the identity of the sender or represent the sender as someone else.
- Any messages or information sent by a parish or school staff member to one or more individuals via e-mail or fax are identifiable and attributable to the parish or school. In other words, every message sent from a parish or school e-mail or fax has a "finger print" that is easily traced back to the parish or school.
- Internet Services and World Wide Web sites can and do monitor access and usage and can identify which company—and often which specific individual—is accessing their services. Thus, accessing a site leaves a diocesan "finger print" even if the employee merely reviews the material. The parish, school or individual may receive return e-mail or other communication from a site visited.
- Any parish or school staff member found to be abusing the privilege of parish or school facilitated access to electronic media or services may risk having the privilege removed for him/herself and possibly other employees. Flagrant disregard for this electronic media policy may be cause for termination of employment.

VI. Harassment in the Workplace

Definition

Sexual harassment includes, but is not limited to, unwanted sexual advances; demands for sexual favors in exchange for favorable treatment or continued employment; repeated sexual jokes, flirtations, advances or propositions; verbal abuse of a sexual nature; graphic, verbal commentary about an individual's body or sexual experience; leering, whistling, touching or pinching; assault; coerced sexual acts; suggestive, insulting or obscene comments or gestures; and

display of sexually suggestive objects or pictures in the religious, employment or educational setting.

Purpose

The purpose of this policy is to inform all Diocesan employees, parishioners, teachers, students, administrators, clergy, volunteers, visitors and others that harassment of any individual by any person or group because of the individual's race, color, religion, sex, national origin, age disability or for any other reason will not be tolerated. The Diocese is committed to maintaining an environment in which all individuals are treated with respect and dignity. Each individual has the right to a work atmosphere that is free of discriminatory practices, including harassment. This policy provides guidance for reporting, investigating, and documenting claims of harassment and for taking disciplinary action where appropriate in order to eliminate instances of harassment.

For information and reporting of sexual harassment, refer to Section VII.

Policy 12 Sexual harassment, whether verbal or physical, is prohibited and illegal. This policy applies to clerics, employees, volunteers and students within the Diocese.

Harassment based on race, color, religion, sex, national origin, age or disability-

Any conduct by way of words, actions, gestures, pictures or other behavior that creates or has the potential to create an intimidating, hostile or offensive work environment for any individual or group of individuals.

Examples include disparaging statements about a person's race, color, religion, sex, national origin, age or disability in any form including jokes, gestures and epithets that have negative connotations.

Procedures

Policy 13 Any individual who feels he/she has experienced any form of harassment is encouraged to make a personal effort to correct the situation.

Often, harassment problems can effectively be stopped by informing the person responsible for the harassment of the offensive nature of the person's conduct.

Policy 14 If a problem persists after the individual's personal effort, a complaint should be brought to the immediate attention of the person's supervisor for further investigation and follow up.

However, if the supervisor is the person doing the harassing, the complaint should be brought to the attention of the person having direct authority over the supervisor. If the person does not have a supervisor, the complaint should be brought to the attention of the Bishop. Prompt reporting of complaints is strongly encouraged as it allows for rapid response and resolution. However, there is no limited time frame for the reporting of harassment complaints. All complaints must be reported in good faith.

Policy 15 The person receiving the complaint will take the following actions:

1. Require that the complaint be made in writing.
2. Investigate the allegations in the complaint by reviewing the facts presented (including the frequency/type of alleged harassment), interviewing the person(s) named in the complaint and any potential witness(es) to the alleged harassment, and collecting any evidence to support or refute the validity of the complaint. Upon completion of the investigation, prepare a written report containing findings and conclusions.

All complaints of harassment will be reviewed and investigate with every reasonable effort to respect the confidentiality of the parties involved.

Policy 16 When a harassment complaint is determined to have validity, the Diocese will take appropriate disciplinary action, up to and including, discharge of the responsible person(s).

The severity of such disciplinary action will be determined based on the circumstances of the situation, including the nature and frequency of the harassment.

Since false accusations of harassment can have serious effects on innocent persons, disciplinary action may also result for false accusations.

Policy 17 The Diocese will not retaliate against an individual who, in good faith, makes a report of harassment, nor allow any employee to do so.

Retaliation is a very serious violation of this policy and should be reported immediately. Any individual found to have retaliated against an individual for reporting harassment or against anyone participating in the investigation of a complaint will be subject to appropriate disciplinary action, up to and including termination.

VII. Responding to Allegations of Sexual Misconduct

The trauma sexual misconduct causes its victims, their families and the community is compounded when the perpetrator is a representative of the Church. Unsubstantiated allegations also have serious consequences. Thus the policies presented here address the rights of victims and of the accused. The allegation of any such misconduct is a matter of grave concern and responsibility to the local Church and to civil authorities. All legal and canonical requirements regarding notification of such charges will be carefully observed. (See Appendix A)

Application and Compliance

Policy 18 The Diocese will make every reasonable effort to prevent the occurrence of sexual misconduct by any of its clerics, employees, students and volunteers and will deal promptly with all allegations. The Diocese will move quickly and with compassion to attend to the needs of the victims and their families and to protect them against any further misconduct. At the same time every reasonable effort will be made to provide those accused with assistance and the opportunity to defend themselves.

Policy 19 All personnel of the Diocese must comply with applicable Church, state and local laws regarding incidents of actual or suspected sexual misconduct and with this Diocesan statement.

Review Board

Policy 20 The Diocesan Review Board (“Review Board”) consists of at least five members from various professional and non-professional backgrounds, the majority of whom are lay persons not in the employ of the Diocese. At least one member shall be an experienced and respected pastor of the Diocese and at least one shall have expertise in the treatment of sexual abuse of minors. It is desirable that the Promoter of Justice participates in meetings of the Review Board. The Review Board functions as a consultative body to the Bishop. It monitors diocesan response to sexual misconduct, formulates policy, recommends procedures and routinely reviews past and present cases. It also responds to written requests for review of a particular case. If the misconduct involves sexual abuse of minors by clergy, it advises the bishop in his assessment of the allegation and in his determination of suitability for ministry (USCCB, Norm 4).

Initial Notification

Policy 21 Personnel of the Diocese who know, or have a reasonable cause to believe, that an incident of sexual misconduct by any cleric, employee, volunteer or student of the Diocese has occurred shall comply with applicable reporting or other requirements of state and local laws (see KRS 620.030-1 in Appendix A) and shall ensure that the Bishop or his delegate is informed.

The Bishop or his delegate shall see to it that other relevant persons are informed. If a civil investigation occurs, the Diocese will not interfere when conducting a concurrent investigation.

Strict confidentiality shall bind the person who makes the initial notification lest someone’s good name be unjustly harmed. All allegations must be reported in good faith.

Prompt reporting of allegations is strongly encouraged, as it allows for timely response and resolution of objectionable behavior or conditions. However, delayed reporting will not preclude the Diocese from taking remedial action.

Policy 22 Any person who believes he or she has been the object of or has witnessed sexual harassment in a Church-related setting may first discuss the matter directly with the alleged harasser to resolve the matter informally. If an individual

does not wish to approach the offender directly, or if such discussion does not halt the harassment, the individual should notify his or her supervisor or any diocesan administrator with whom he or she is comfortable. (See Section VI)

Policy 23 The Diocese will advise victims of their right to make a report to public authorities and will support this right. It will report all allegations to civil authorities, even in cases in which the person is no longer a minor (USCCB Charter, Article 4). The Diocese shall make itself available to those who need to make an accusation, to report a suspected incident, or to seek the help of the Church in dealing with an incident of sexual misconduct by a cleric, employee, volunteer or student of the Diocese.

The Victim Assistance Coordinator will be available to accept calls, meet with victims and direct them toward counseling, spiritual assistance, support groups and other social services. The Diocese will publicize the names and telephone numbers of the Victim Assistance Coordinator and other contact persons who may be of assistance (USCCB Charter, Norm3). These will also appear in the *Messenger* at least twice a year (USCCB Charter, Article 2). Anyone making an allegation will be treated with dignity and respect, as will the accused, bearing in mind the accused's right to a presumption of innocence.

Investigative Procedures

Policy 24 The Bishop or his delegate will promptly initiate an investigation when an allegation is made. The Diocese will cooperate with civil investigative agencies and follow the prescriptions of canon law (c 1717) (USCCB Charter, Norm 11; Article 4).

Each case will be handled individually depending on the nature of the allegation. The following steps may be taken in the diocesan investigation.

1. The Bishop will select and convene the members of an investigative team that shall include competent professionals. Because of the complex legal considerations affecting allegations of sexual harassment, the investigative team will include a lawyer knowledgeable in this area or will consult such a lawyer.

2. The investigative team will interview those it deems necessary and may obtain professional assistance in assessing the accused and/or the accuser. Trained professionals will interview children and vulnerable adults.
3. The investigative team will report its findings to the Bishop.
4. The Bishop shall see to it that the accused is informed of the charges, given an opportunity to respond, and is encouraged to retain the assistance of civil and/or canonical counsel.
5. The Bishop or his delegate shall see to it that those involved in the allegation are offered pastoral and psychological support.
6. Measures will be taken to protect any child or vulnerable adult involved in the accusation.
7. The alleged offender may be requested to seek and may be urged to voluntarily comply with an appropriate medical and psychological evaluation at the facility mutually acceptable to the Diocese and to the accused (USCCB Charter, Norm 7).
8. When credible evidence of guilt is found, the Bishop or his delegate will perform an assessment of risk, which includes the length of time since the alleged offense, psychological reports and the content of the allegation to aid in determining an appropriate response. The Congregation of the Doctrine of the Faith will be informed when the accused is a cleric and the prescriptions of Canon 1722 followed (USCCB Charter, Norm 8).
9. The Bishop or his delegate will maintain confidential records of the investigation and its results.

Relevant supervisors, legal counsel and members of the Review Board will be kept informed of the investigation. However, confidentiality of all allegations, of the investigative process and of the results of the investigation will be maintained to the fullest extent possible under the circumstances.

Admission or Credible Evidence of Guilt

Policy 25 When guilt is admitted, or when the investigative team finds the allegation of sexual exploitation of a vulnerable adult to be credible, the accused will be subject to any sanction or combination of sanctions deemed necessary and appropriate by the Bishop.

Policy 26 When sexual harassment is admitted, or when the investigative team finds the allegation of sexual harassment to be credible, prompt, effective remedial action will be taken. Any harassing employee will be subject to disciplinary action up to and including termination of employment; any harassing student will be subject to disciplinary action up to and including dismissal from school; and any other harasser will be subject to any sanction or combination of sanctions deemed necessary and appropriate by the Bishop.

Policy 27 When sexual abuse of a minor by a priest or deacon is admitted or is established after an appropriate investigation in accord with canon law, the Diocese will provide that for even a single act of sexual abuse of a minor—past, present or future—the offending priest or deacon will be permanently removed from ministry (Norm 9; Article 5). An offending priest or deacon will be offered professional assistance for his own healing and well-being, as well as for the purpose of prevention.

In every case, the processes provided for in canon law must be observed, and the various provisions of canon law must be considered. These provisions may include a request by the priest or deacon for dispensation from the obligation of Holy Orders and the loss of the clerical state, or a request by the Bishop for dismissal from the clerical state even without the consent of the priest or deacon. For the sake of due process, the accused is to be encouraged to retain the assistance of civil and canonical counsel. When necessary, the Diocese will supply canonical counsel to a priest or deacon.

If a penalty of dismissal from the clerical state has not been applied (e.g., for reasons of advanced age or infirmity), the offender is to lead a life of prayer and penance. He will not be permitted to celebrate Mass publicly, to administer the sacraments, to wear clerical garb, or to present himself publicly as a priest (USCCB Charter, Norm 8).

Policy 28 The Bishop or his delegate shall see to it that those involved in the allegation are offered pastoral and psychological support. Pastoral outreach will also be directed to the faith community in which sexual abuse has occurred.

Policy 29 The Bishop or his delegate will ensure that those who made the allegation, or the family of a child or vulnerable adult involved in the allegation, are offered a meeting with the

Bishop, and are informed of the actions taken by the Diocese, while observing appropriate confidentiality.

Policy 30 Where criminal or civil prosecution is a likely consequence of an allegation of sexual misconduct, the accused will be advised to obtain private legal counsel.

Policy 31 The Diocese will not enter into confidentiality agreements in legal settlements except for grave and substantial reasons brought forward by the victim and noted in the text of the agreement (USCCB Charter, Article 3).

Unsubstantiated Allegations

Policy 32 If, after the investigative team submits its findings and the professional advice of experts, is obtained it is determined that a claim of sexual misconduct is unsubstantiated, the Bishop shall, in consultation with the Review Board, seek to remedy any harm done to the good name and reputation of the accused (USCCB Charter, Norm 13; Article 5).

The Bishop will take the following steps in the case of an unsubstantiated allegation.

1. Inform the accused of the Diocese's findings while observing any appropriate confidentiality;
2. Put a summary of the investigation in the confidential personnel file of the accused;
3. Terminate any protective measures taken against the accused during the investigation, unless the investigation has yielded other reasons justifying the continuation of restrictions;
4. Extend solicitude to allay the injury to reputation experienced by the accused, and encourage the accused to receive counseling to deal with the effects of the allegation;
5. Notify the accuser (or family, in the case of a child or vulnerable adult) of the outcome of the investigation and offer pastoral assistance;
6. Ensure that an appropriate personnel decision is made by the supervisor in consultation with the person accused and the Review Board, taking into account the greatest good of all concerned;
7. Respond to any deliberately false accusation with appropriate sanctions and disciplinary action.

Conditions for Return to Active Service

Policy 33 Anyone against whom an accusation of serious sexual misconduct has been substantiated will not be considered for active service unless the following conditions have been met and the victim was not a minor at the time of the misconduct.

The person has undergone appropriate treatment and the professionals involved have advised in writing that he/she is not a threat to the public.

1. The person's contacts with the public can be adequately monitored and supervised.
2. The person has acknowledged his/her exploitative behavior and has exonerated the offended from any complicity in the acts.
3. The person can identify factors that tend to precipitate sexual misconduct and has developed strategies for avoiding those factors.
5. The person has received personal counseling and has participated in a therapy group or life management support group. These activities may terminate only with the permission of the person's designated supervisor, who receives regular written reports from the therapist.
6. Any existing alcohol or substance abuse has been treated and is under control.
7. The person has met with the community to be served to disclose the nature of the misconduct and ask for the community's support, understanding and prayer.

Even if all these criteria are met, the decision to reinstate or otherwise assign the offender rests solely with the Bishop.

Disclosure

Policy 34 The Bishop or his delegate shall disclose substantiated allegations of sexual misconduct and recovery activities to any Church leaders with whom the accused seeks a position of responsibility or of residence. The Bishop will obtain the necessary information regarding any past act of sexual abuse of a minor by the priest or deacon who wishes to minister or reside within the Diocese. (USCCB Charter, Norm 12; Article 14)

Appeal to Bishop

The Diocesan Review Board may review cases upon request, analyze the information and make recommendations to the Bishop. Its task is to assure fairness, thoroughness and pastoral sensitivity.

Policy 35 The Review Board can review the conduct of a case if so requested by an employee, a person who made an allegation, a victim or a member of a victim's family. Such requests for review shall be made to the Bishop in writing and shall include a statement of the question or point of review, the applicant's position with respect to the matter, and any supporting explanation or information.

Protection Against Retaliation

Policy 36 Retaliation against any person who in good faith makes an allegation of sexual misconduct is prohibited and will not be tolerated.

Retaliation should be reported immediately. Any person found to have retaliated against an individual for alleging sexual misconduct, or against anyone participating in the investigation of an allegation, will be subject to appropriate disciplinary action up to and including termination of employment or dismissal from school.

Communications

Policy 37 Within the confines of respect for the privacy and the reputation of the individuals involved, the Diocese will deal as openly as possible with the members of the community. This is especially so with regard to assisting and supporting parish communities directly affected by sexual misconduct involving minors. (USCCB Charter, Article 7)

Any media contacts or inquiries regarding an incident of sexual misconduct are to be referred to the Diocesan Director of Communications.

Appendix A

Kentucky Revised Statutes Pertaining To Sexual Abuse

413.249 Action relating to childhood sexual abuse or childhood sexual assault.

(1) As used in this section:

- (a) "Childhood sexual assault" means an act or series of acts against a person less than eighteen (18) years old and which meets the criteria defining a felony in KRS 510.040, 510.050, 510.060, 510.070, 510.080, 510.090, 510.110, 529.030, 530.020, 530.064, 531.310, or 531.320. No prior criminal prosecution or conviction of the civil defendant for the act or series of acts shall be required to bring a civil action for redress of childhood sexual assault;
- (b) "Childhood sexual abuse" means an act or series of acts against a person less than eighteen (18) years old and which meets the criteria defining a misdemeanor in KRS 510.120, KRS 510.130, KRS 510.140, or KRS 510.150. No prior criminal prosecution or conviction of the civil defendant for the act or series of acts shall be required to bring a civil action for redress of childhood sexual abuse;
- (c) "Child" means a person less than eighteen (18) years old; and
- (d) "Injury or illness" means either a physical or psychological injury or illness.

600.020 Definitions for KRS Chapters 600 to 645.

- (54) "Sexual abuse" includes, but is not necessarily limited to, any contacts or interactions in which the parent, guardian, or other person having custodial control or supervision of the child or responsibility for his welfare, uses or allows, permits, or encourages the use of the child for the purposes of the sexual stimulation of the perpetrator or another person;
- (55) "Sexual exploitation" includes, but is not limited to, a situation in which a parent, guardian, or other person having custodial control or supervision of a child or responsible for his welfare, allows, permits, or encourages the child to engage in an act which constitutes prostitution under Kentucky law; or a parent, guardian, or other person having custodial control or supervision of a child or responsible for his welfare, allows, permits, or encourages the child to engage in an act of obscene or pornographic photographing, filming, or depicting of a child as provided for under Kentucky law;

620.030 Duty to report dependency, neglect or abuse.

- (1) Any person who knows or has reasonable cause to believe that a child is dependent, neglected or abused shall immediately cause an oral or written report to be made to a local law enforcement agency or the Kentucky State Police; the cabinet or its designated representative; the Commonwealth's attorney or the county attorney; by telephone or otherwise. Any supervisor who receives from an employee a report of suspected dependency, neglect or abuse shall promptly make a report to the proper authorities for investigation. If the cabinet receives a report of abuse or neglect allegedly committed by a person other than a parent, guardian or person exercising custodial control or supervision, the cabinet shall refer the matter to the Commonwealth's attorney or the county attorney and the local law enforcement agency or the Kentucky State Police. Nothing in this section shall relieve individuals of their obligations to report.
- (2) Any person, including but not limited to a physician, osteopathic physician, nurse, teacher, school personnel, social worker, coroner, medical examiner, child-caring personnel, resident, intern, chiropractor, dentist, optometrist, emergency medical technician, paramedic, health professional, mental health professional, peace officer or any organization or agency for any of the above, who knows or has reasonable cause to believe that a child is dependent, neglected or abused, regardless of whether the person believed to have caused the dependency, neglect or abuse is a parent, guardian, person exercising custodial control or supervision or another person, or who has attended such child as a part of his professional duties shall, if requested, in addition to the report required in subsection (1) of this section, file with the local law enforcement agency or the Kentucky State Police or the Commonwealth's or county attorney, the cabinet or its designated representative within forty-eight (48) hours of the original report a written report containing:
 - (a) The names and addresses of the child and his parents or other persons exercising custodial control or supervision;
 - (b) The child's age;
 - (c) The nature and extent of the child's alleged dependency, neglect or abuse (including any previous charges of dependency, neglect or abuse) to this child or his siblings;
 - (d) The name and address of the person allegedly responsible for the abuse or neglect; and
 - (e) Any other information that the person making the report believes may be helpful in the furtherance of the purpose of this section.
- (3) The cabinet upon request shall receive from any agency of the state or any other agency, institution or facility providing services to the child or his family, such cooperation, assistance and information as will enable the

cabinet to fulfill its responsibilities under KRS 620.030, 620.040, and 620.050.

620.050 Immunity for good faith actions or reports

- (1) Anyone acting upon reasonable cause in the making of a report or acting under KRS 620.030 to 620.050 in good faith shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such report or action. However, any person who knowingly makes a false report and does so with malice shall be guilty of a Class A misdemeanor.

17.165 Definitions -- Criminal record check for job applicants at child-care centers

-- Restrictions on employing violent offenders or persons convicted of sex crimes.

- (4) No child-care center as defined in KRS 199.894 shall employ, in a position which involves supervisory or disciplinary power over a minor, or direct contact with a minor, any person who is a violent offender or has been convicted of a sex crime.

Each child-care center shall request all conviction information for any applicant for employment from the Justice Cabinet or the Administrative Office of the Courts prior to employing the applicant.

Appendix B

Glossary of Terms

The following terms have a specific meaning as given in this statement.

Article – Policies promulgated by the United States Conference of Catholic Bishops in Dallas 2002 to promote healing and reconciliation with victims and survivors of sexual abuse, to guarantee an effective response to allegation of sexual abuse of minors, to ensure the accountability of procedures, and to protect the faithful in the future.

Accused – an individual who is suspected of sexual abuse, sexual exploitation or sexual harassment.

Adult – an individual who is at least 18 years old and not impaired by reason of physical, mental or emotional handicap.

Allegation – a complaint of sexual misconduct made against another.

Background Check Coordinator - a person employed by the Diocese and stationed at the Diocesan Curia to process background applications, summarize results, return summary results to the pastor/administrator, assist the pastor/administrator in arriving at employee/volunteer decisions resulting from the background check, and file and maintain background check information in a confidential manner.

Cabinet for Families and Children: The Division of Protection and Permanency - the authority to whom actual or suspected instances of child sexual abuse are to be reported in accordance with Kentucky law.

Child – a person less than 18 years of age.

Church – in this statement, Church refers to the Roman Catholic institution.

Clerics – a term from the Code of Canon Law referring to ordained priests and ordained deacons who are incardinated in the Diocese of Covington, as well as priests, religious priests and deacons incardinated in other dioceses who are engaged in a ministry under the control or auspices of the Diocese.

Criminal Record Check – a check of police records to ascertain whether a person has been convicted of an offense. (See Appendix A.)

Dependent – any child, other than an abused or neglected child, who is under improper care, custody, control or guardianship that is not due to an intentional act of the parent, guardian or person exercising custodial control or supervision of the child. (See Appendix A.)

Diocesan Review Board – a committee appointed by the Bishop and advisory to him, consisting of at least five men and women from various backgrounds, professional and nonprofessional, the majority of whom are lay persons not in the employ of the Diocese, to advise on and review matters of sexual misconduct related to diocesan personnel; herein referred to as the Diocesan Review Board.

Diocesan personnel – any cleric, employee or volunteer of the Diocese.

Diocese – the Roman Catholic Diocese of Covington. May also refer to the Bishop and/or his delegate.

Employee – any person employed by the Diocese. An employee may be a cleric, a lay person or a member of a religious order.

Guardian or Parent – that person possessing legal custody of a child.

Incardinated – in the Church the legal tie that binds a cleric to a particular diocese.

Injury or illness – a physical or psychological injury or illness. (See Appendix A.)

Institutions – all parishes, schools and agencies of the Diocese.

Investigative team – an ad hoc team formed by the Bishop or his delegate to investigate the initial report of an allegation of sexual misconduct.

KRS – Kentucky Revised Statutes, which enumerates every law.

Local administration - the parish, school or agency receiving the services of the employee/volunteer.

Mentor – one who serves as an experienced guide and companion.

New employee - a new hire to the parish, school or agency. An employee returning to work after a summer recess is not a new employee. An employee rehired in the same or different location who has not previously submitted to a background check is considered a new employee for purposes of the background check. The same holds for volunteers.

Non-certified employee - one who is not in a position that requires a professional educational certificate issued by the State of Kentucky.

Norm – essential regulations proposed by the United States Conference of Catholic Bishops and approved by the Congregation for Bishops in Rome on December 8, 2002 that deal with allegations of sexual abuse of minors by priests or deacons.

Offender – one who has committed some form of sexual misconduct.

Parent or Guardian – that person possessing legal custody of a child.

Past allegations—those allegations for which reporting to child protective services is not mandatory because the alleged victim is no longer a minor, or the alleged perpetrator is deceased.

Policy – any provision of this statement requiring an action or standard of behavior on the part of specified persons, offices or institutions. The policies of this statement are the law of the Diocese as defined by the Code of Canon Law.

Professionals – in the Church those persons who by their specialized training and/or leadership roles hold a position of privilege and trust; e.g., clerics, religious, teachers, mentors, youth ministers, catechists, counselors and those who work with children.

Program – is an activity in a parish, school or agency at which children or vulnerable adults are present. Programs include, but are

not limited to, formal school programs, parish schools of religion, Sunday preschool programs, Bible schools, after school programs, youth groups, athletic activities, social gatherings and any other activity under the auspices or in the name of the parish, school or agency at which children or vulnerable adults gather under the supervision of adults.

Promoter of Justice – an office designated in canon law. This person collects and presents the evidence showing that a church law has been violated to the Church court when there is a trial of a priest or deacon.

Religious – a priest, deacon, brother or sister who is a vowed member of a religious congregation or order.

Sexual abuse – any sexual contact in violation of the laws of the Commonwealth of Kentucky between a cleric, employee or volunteer of the Diocese and a child or vulnerable adult. (See Appendix A.)

Sexual abuse according to the Norms – 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. These transgressions relate to obligations arising from divine commands regarding human sexual interaction as conveyed to us by the sixth commandment of the Decalogue.

Sexual exploitation – sexual interaction between a cleric, employee or volunteer and an adult who is receiving care from that person. (See Appendix A.)

Sexual harassment – unwelcome or unwanted sexual advances, requests for sexual favors, and other verbal, non-verbal or physical conduct reasonably perceived as a demand for sexual favors or sexually offensive in nature occurring in a Church-related setting in which at least one person is a cleric, employee, volunteer or student of the Diocese when: (1) submission to or rejection of this conduct by an individual is used explicitly or implicitly as a factor in decisions affecting hiring, evaluation, or promotion; or (2) this conduct substantially interferes with an individual's life, employment or education; or (3) this conduct creates an intimidating, hostile or offensive work or Church-related environment.

Sexual misconduct – sexual harassment, sexual exploitation, sexual abuse and other activity of a sexual nature that may adversely affect the Diocese and its people.

Sexual misconduct statement – this statement of policies and procedures with all its contents regarding sexual misconduct.

Supervisor – one to whom a person is accountable, either through the chain of command or through an assigned relationship; e.g., for a school, its principal; for a parish, its pastor; for a diocesan department, its department head; for any other organization or institution, the person in charge.

Unwanted sexual advances – behavior that is clearly made known to the offender to be offensive or perceived as offensive.

Victim – the person who is the object of some form of sexual misconduct.

Victim Assistance Coordinator – a person who aids in the immediate pastoral care of persons who claim to have been sexually abused by clergy or other church personnel.

Volunteer – one who gives time without pay in scheduled activities in the parish, school or agency. All volunteers who have supervisory responsibility for children or vulnerable adults or who have unsupervised access to children or vulnerable adults will be required to submit to the background check. Examples of persons in this category include, but are not limited to, catechists, scout leaders, coaches, youth ministers/youth workers, coordinators, substitute teachers, teacher aides and tutors.

Vulnerable Adult – a person at least 18 years of age, who, because of impairment in mental or physical function or emotional status, is unable or unlikely to report abuse or neglect without assistance.