

Policy for Protection of Children and Young People ***Catholic Diocese of Dodge City, Kansas*** ***(revised December 2005)***

I. Preface

1 All Church workers must conduct themselves with prudence and virtue, being aware of our responsibility before God as ministers and as representatives of the Church, and being aware of the sensitivity of our times to these questions. This *Policy for Protection of Children and Young People* as well as the *Diocesan Code of Pastoral Conduct*, are set forth for the guidance of the priests, deacons, religious, and laity of our Church.

2 In all cases where an allegation of sexual abuse of a child or young person has been made, the primary concern of the Catholic Diocese of Dodge City will be the alleged victim's safety and well being. The Diocese will be committed to pastoral care for the alleged victim, the family, for the accused, and for the congregation. It is paramount that the Diocese reach out to alleged victims and their families and demonstrate a commitment to their spiritual and emotional well being. The actions described below are meant to ensure the safety of all, and to protect the rights of all, including the right to a good name for the accused. With these pastoral concerns in mind, the following the official policy of the Diocese of Dodge City.

3 Abusive sexual behavior in any form is outside the scope of employment, ministry or volunteer work for all persons in the Diocese. The Church strongly supports the state as it tries to deal with this social and moral evil. We will comply with all civil laws, and we also expect those serving with us to do so as well. All ministers, employees, volunteers and affiliates of the Diocese must comply with state and local laws as well as with the *Diocesan Policy for Protection of Children and Young People* and *Code of Pastoral Conduct*.

4 This *Policy* emphasizes our pastoral concern for the victim and the family of the victim; to safeguard against fraudulent claims that may ruin the reputation of innocent persons; to assist in the reconciliation of the offender, alleged victim and his or her family if the alleged victim and family so desire; and to bring healing to the affected parish or institution.

5 This document presents guidelines intended to thwart sexual child abuse, mitigate harm to others, and provide guidance to Diocesan personnel in responding to allegations.

6 Any questions about the *Diocesan Policy* or *Code of Pastoral Conduct* should be directed to the Bishop, the Vicar General, or the Diocesan attorney.

II. Definitions

For the purposes of this *Policy*, the following definitions are applicable:

1 The terms "child" and "young person" mean any person under 18 years of age.

2 "Physical, mental or emotional abuse or neglect" as referred to herein means the physical, mental or emotional injury to a child.

3 "Sexual abuse" includes any unlawful sexual act to or with a child as set forth under article 35 and 36 of Chapter 21 of the Kansas Statutes Annotated. Sexual abuse need not be a complete act of intercourse, nor should the term necessarily be equated with the definitions of sexual abuse or other crimes in civil law.

4 "Personnel" encompasses all personnel of the Diocese including bishops, priests, deacons, women and men religious, principals of schools, administrators and directors of ministries and services, officers and affiliates, lay employees, and lay volunteers who serve in a regular, ongoing apostolate to children.

III. Applicable Law

1 The provisions of canon law as well as Kansas statutes and cases define the types of conduct that constitute sexual abuse under this *Policy*. A supplement to this *Policy* (cf. Section XVI) summarizes certain aspects of Kansas civil law regarding sexual abuse of children. However, sexual abuse for purposes of this *Policy* should not be necessarily equated with the definitions of sexual abuse or other crimes in civil law.

2 For purposes of this *Policy*, sexual abuse of a minor includes sexual molestation or sexual exploitation of a minor and other behavior by which an adult uses a minor as an object of sexual gratification.

3 For clerics, sexual abuse shall include any offense against the Sixth Commandment of the Decalogue with a minor, as understood in the Code of Canon Law, Canon 1395, §2.¹

4 The law changes from time to time. Therefore, all personnel should familiarize themselves with the changes that may occur. The Diocesan Attorney and Judicial Vicar or other canon lawyer will provide regular updates of civil and canonical law to all personnel.

IV. Reporting

1 Every incident or allegation of suspected child sexual abuse, whether reportable to state officials or not, must be brought to the Bishop's attention promptly (within 24 hours). Upon receipt of the oral report, the Bishop or his Vicar General will notify the Diocesan attorney. A written report shall follow as soon as practicable. Generally, Diocesan personnel should report to the person to whom they are responsible. Priests should report to the Bishop or Vicar General. If that person is not available, or should such a step be inappropriate, the report is made to the next person in the chain of responsibility.

¹ See *Charter for the Protection of Children and Young People* (*Charter* hereafter) footnote, United States Conference of Catholic Bishops (USCCB), 2005 revision.

2 Generally speaking, persons responsible for the care of children must report suspected child sexual abuse to civil authorities. Such reports are made to the Kansas Department of the Social and Rehabilitation Services (SRS). Persons who must report are those who deal with the care or supervision of children: for example, teachers, principals, other school officials, day care center workers or child care workers. Priests must report to civil authorities only when they fall within the categories of professionals listed in K.S.A. 38-1522 (See Kansas Law Summary, Section XVI attached to this *Policy*, especially paragraphs 1, 2, and 8).

3 The seal of sacramental confession is inviolable. Nothing a priest hears in the Sacrament of Penance (Confession) from either a perpetrator or victim may ever be revealed or reported.

4 The Diocese will comply with all applicable civil laws with respect to the reporting of allegations of sexual abuse of minors to civil authorities and will cooperate in their investigation. In every instance, the Diocese will advise and support a person's right to make a report to public authorities.² If the alleged victim is presently a minor, the Kansas Department of Social and Rehabilitation Services, the county attorney for the county in which (1) the incident occurred, (2) where the alleged victim resides, or (3) where the accused resides, should be notified immediately by the Vicar General, the Diocesan Attorney or other designee of the Bishop. This notification may be made verbally, but should be followed with a written confirmation of the verbal report directed to the county attorney.

5 The Diocese will cooperate with public authorities about reporting cases even when the person is no longer a minor. If the alleged victim is no longer a minor, the person will be advised they have a right to make a report to the public authorities, and that the Diocese will cooperate with public authorities if a report is made. If the alleged victim requests assistance from the Diocese in making the report to the public authorities, the county attorney for the county in which (1) the incident occurred, (2) where the victim resides, or (3) where the accused resides, shall be notified of the report by the Vicar General, Diocesan Attorney or other designee of the Bishop. This notification may be made verbally, but should be followed with a written confirmation of the verbal report directed to the county attorney.

6 A standard report form will be provided by the Diocese to any person requesting information about reporting an incident of abuse, and is available at the Diocesan offices as well as at all Diocesan churches and schools. A standard report form is also available on the Diocesan web site: <http://www.dcdiocese.org/diocese/reportform.pdf>. The report form contains the following:

- (a) the full name, position, address and telephone number of the person making the report.
- (b) the date of the report.
- (c) the full name, position, address and telephone number of the person suspected or accused of misconduct
- (d) the full name, sex, age, address, and telephone number of the child who has been or is suspected to be the victim of sexual abuse, and the name, address and telephone number of the parents or guardian of such victim.
- (e) a description of the incident of sexual abuse including date, time and location.
- (f) the names, positions, addresses and telephone numbers of all eyewitnesses or others having information.

² See *Charter* Article 4.

- (g) any additional information bearing on the incident that may be helpful to the investigation.

7 Allegations of abuse which are required to be reported to the public authorities pursuant to paragraph 2 above should be directed to the Kansas Department of Social and Rehabilitation Services (SRS hotline 1-800-922-5330).

V. Action Where Abuse by a Lay Person Is Admitted or Otherwise Established

1 Any lay employee of the Diocese who is the subject of an investigation relating to an incident of sexual abuse of a child may be placed on leave with pay pending a determination of whether such employee should continue to be employed. If the lay employee is allowed to continue his or her job function pending the completion of the investigation, restrictions may be placed on the lay employee that would limit or eliminate contact with children while the employee is at work.

2 Any volunteer or affiliate of the Diocese who is the subject of an investigation relating to an incident of sexual abuse of a child may not continue to serve in any capacity which would involve contact with children during the pendency of the investigation.

3 After an appropriate investigation by the Review Board, any lay employee, volunteer or affiliate of the Diocese who admits to, does not contest, or whom the Review Board determines committed an act of sexual abuse of a child, shall be terminated.

VI. Action Where Abuse by Clergy Is Admitted or Otherwise Established

1 For even a single act of sexual abuse of a minor—whenever it occurred—which is admitted or established after an appropriate process in accord with canon law, the offending priest or deacon is to be permanently removed from ecclesiastical ministry and, if warranted, dismissed from the clerical state. An offending priest or deacon will be offered therapeutic professional assistance.³ The offending priest or deacon may request a dispensation from the obligations of the clerical state at any time.

2 The Bishop has the executive power of governance, within the parameters of the universal law of the Church, 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. The Bishop shall exercise this power of governance to ensure that any priest or deacon who has committed even one act of sexual abuse of a minor as defined above (see Section III, Nos. 2 and 3) shall not continue in active ministry.⁴

³ See *Charter Article 5 and Essential Norms for Diocesan Policies Dealing with Allegations of Sexual Abuse by Priests or Deacons (Essential Norms hereafter)* 8, USCCB, revised 2005.

⁴ See *Charter Article 5 and Essential Norms* 9.

3 If the penalty of dismissal from the clerical state has not been applied, the offender ought to lead a life of prayer and penance. A priest will not be permitted to celebrate Mass publicly or to administer the sacraments. He will be instructed not to wear clerical garb, or to present himself publicly as a priest.⁵ A deacon will not be permitted to engage in any clerical or ministerial activities.

VII. Distribution and Implementation

1 A copy of the Diocesan *Policy for the Protection of Children and Young People* and *Code of Pastoral Conduct* shall be distributed by the Diocesan Chancellor or the Chancellor's designee, to:

- (a) priests, deacons and religious men and women serving in the Diocese;
- (b) each parish, principals of parish schools, directors of religious education and all directors of agencies and institutes;
- (c) every director and administrator of ministries and services, including all youth ministries;
- (d) all personnel (cf. Sect. II, No. 4) who work with or around children. Pastors, principals of schools, directors and administrators are to distribute the *Policy* and *Code of Pastoral Conduct* to all future personnel at the time they enter their assignments.

2 Each person involved in work with children in the Diocese will, upon receiving a copy of the *Policy* and *Code of Pastoral Conduct*, sign a receipt and return it to the person who distributed it. A copy of the receipt shall be kept by the parish, institution or agency, ministry or service, obtaining the receipt.

3 The successful implementation of the Diocesan *Policy* and *Code of Pastoral Conduct* will require a judicious vigilance by all, including priests, school principals, administrators, and directors of ministries and services.

4 Future revisions or amendments to the Diocesan *Policy* and/or *Code of Pastoral Conduct* will be posted to the Diocesan web site: <http://www.dcdiocese.org/Protectchildren/PGCpage.htm>

VIII. Safe Environment Program

1 The Diocese will maintain a "safe environment" program, which is comprised of two components: education and evaluation.

2 Education

The education component, conducted cooperatively with parents, civil authorities, educators and community organizations will provide training and education to students, parents, ministers, educators, volunteers and others about ways to make and maintain a safe environment for children and young people.⁶

- (a) The following are required to participate in the safe environment training program:

⁵ See *Essential Norms* 8B.

⁶ See *Charter* Article 12.

- clergy (active or retired) ministering within the Diocese;
 - employees (i.e., paid personnel) of the Diocese, parish, parish school or diocesan affiliate organization;
 - all volunteers who have regular contact with children and/or young people;
 - men accepted into the seminarian program for the diocese.
- (b) All of those listed in (a) above must also agree to abide by the contents of the *Diocesan Code of Pastoral Conduct*.
- (c) All parents and other adults are encouraged to participate in the safe environment program as well.

3 Evaluation

- (a) A criminal background check of the following persons will be conducted prior to the beginning of employment, ministry or activity with children and young people:
- clergy (active or retired) ministering within the Diocese;
 - employees (i.e., paid personnel) of the Diocese, parish, parish school or diocesan affiliate organization;
 - all volunteers who have regular contact with children and/or young people;
 - potential seminarians (as a part of the acceptance process).
- (b) The results of the criminal background check will be reviewed by the Bishop or his designee. Should any concerns be raised due to the results of the check, the superior of the one whose background check was completed will be notified of the concern. The background results of Diocesan or parish/parish school employees will be kept in the person's personnel file. Background results of volunteers will be kept in a confidential file in the parish or diocesan affiliate organization facility.
- (c) As part of the acceptance process, all potential seminarians will be requested to undergo a full psychological profile, which is consistent with all applicable ethical, legal and canonical principles. The psychological profile shall be maintained as part of the permanent personnel file of the seminarian. The Bishop or his designee shall review the psychological profile and criminal background results prior to accepting the applicant as a seminarian for the Diocese.
- (d) All non-incardinated clergy who seek faculties to minister within the Diocese must present documentation from the Bishop of his diocese (or his designee). This documentation is to be an accurate and complete description of the clergy's record, including whether there is anything in his background that would raise questions about his fitness for ministry.
- (e) All men or women religious seeking to engage in ministry in the Diocese will be required to present documentation from his or her religious superior. This documentation is to be an accurate and complete description of the member's record, including anything from his or her background which would raise questions about his or her fitness for ministry.
- (f) No person who has committed an act of sexual abuse of a minor may be transferred for ministerial assignment into this Diocese.
- (g) If any incardinated cleric who has been removed from ministry due to an act of sexual abuse of a minor travels outside the Diocese for an extended period of time, or moves or retires to another diocese, the Bishop of that place will be notified of the cleric's presence within his diocese.

IX. Pastoral Care

1 The Diocese will reach out to alleged victims/survivors and their families and demonstrate a sincere commitment to their spiritual and emotional well-being. The first obligation of the Church with regard to the alleged victim is for healing and reconciliation. Outreach may include provision for counseling, spiritual assistance, support groups and other social services agreed upon by the alleged victim and the Diocese. Through pastoral outreach to alleged victims and their families, the Bishop or his representative will offer to meet with them, to listen with patience and compassion to their experiences, and to share his concern with them.⁷

X. Assistance Minister⁸

1 The Bishop has appointed a Diocesan Assistance Minister to aid in the immediate pastoral care of persons who claim to have been sexually abused as minors by clergy or other church personnel, whether the abuse was recent or occurred many years in the past. The Assistance Minister will contact the family of the alleged victim promptly, and let them know directly the Church's sincere pastoral concern. The Assistance Minister is to be a Catholic professional experienced in child abuse matters.

2 The Assistance Minister is to make the concern of the Church clear, and should inform those involved that steps are being taken to investigate the report. The Assistance Minister will make every effort to reach out to the victims and their families and demonstrate a sincere commitment to their spiritual and emotional well being. The Assistance Minister is to reassure them that they are not being asked to give up legal rights against anyone - the accused or the Church. The family will be told clearly and repeatedly that the Diocese will make a sincere effort to determine the truth and to deal appropriately with the accused.

3 The Assistance Minister, where appropriate and upon consultation with the Review Board and the Bishop or his designee, will inform the child and the family of the availability of psychological counseling, at Diocesan expense, in addition to spiritual counseling. The Assistance Minister will advise the Bishop or his designee in writing of the family's response to its actions and offer of counseling.

4 The Assistance Minister will offer to coordinate a meeting between the victims and their families and the Bishop or his designee.

XI. Review Board⁹

1 The Bishop has established a Diocesan Review Board. The Board is comprised of at least five (5) persons of outstanding integrity and good judgment in full communion with the Church, the majority of whom are lay persons who are not in the employ of the Diocese. Membership shall include, but is not limited to:

⁷ See *Charter* Article 1.

⁸ See *Charter* Article 2 and *Essential Norms* 3.

⁹ See *Charter* Article 2 and *Essential Norms* 4-5.

- (a) lay persons with expertise in psychology, child abuse or related field;
- (b) a respected pastor designated by the Bishop;
- (c) advisors, which may include the Diocesan attorney, a canon lawyer designated by the Bishop, or others possessing professional or pastoral experience.

2 The Review Board will function as a confidential consultative body to the Bishop in discharging his responsibilities. The responsibilities of the Review Board shall include:

- (a) advising the Bishop in his assessment of allegations of sexual abuse and in his determination of suitability for ministry;
- (b) reviewing Diocesan policies for dealing with sexual abuse of minors;
- (c) offering advice on all aspects of sexual abuses cases, whether retrospectively or prospectively.

3 The Review Board will meet at least annually to review the current *Policy* and *Code of Pastoral Conduct*.

4 The Bishop has appointed a chairperson of the Review Board. The chair will be a lay person who has expertise in psychology or social work or substantial experience investigating allegations of sexual abuse in children.

5 All reports of sexual abuse of a child will be reported immediately to the chair of the Review Board. The chair of the Review Board will maintain a separate file for each report received.

XII. Review Board Investigation

1 Upon receipt of a report of sexual abuse of a child, the chair of the Review Board shall notify Diocesan counsel of the report, and call a special meeting of the Review Board as a whole. The chair shall appoint an investigator(s). The investigator(s) may be a contracted private investigator, an outside consultant retained by the Diocese, a member of the Review Board, some other person skilled with interviewing techniques, or any combination of the above. The investigator(s) so appointed, in the absence of extenuating circumstances, shall:

- (a) interview the alleged victim if he or she is now an adult;
- (b) interview the accused;
- (c) interview the person receiving the complaint and anyone else deemed appropriate;
- (d) if the alleged victim is a child, the child's parents should be interviewed if it is appropriate..
- (e) if the alleged victim is a child, it may be deemed necessary and helpful to interview the child. If it is appropriate, the interview should be done in the presence of a parent or guardian. It may be advisable to have another person present (e.g., a skilled psychologist) and to conduct the interview jointly with public authorities where possible;
- (f) consider an appropriate course of action, including but not limited to, recommending clinical evaluation of the accused;
- (g) perform any follow-up and internal investigation;
- (h) examine relevant files and documents;
- (i) conduct further interviews and investigation as needed;
- (j) report the results of the investigation to the Review Board as a whole.

2 The Review Board will then make its report to the Bishop or his designee.

XIII. Canonical Investigation¹⁰

1 In addition to any investigation conducted by the Review Board, when an allegation of sexual abuse of a minor by a priest or deacon is received, a preliminary investigation by a canon lawyer appointed by the Bishop will be initiated and conducted promptly and objectively¹¹.

2 The accused will be encouraged to retain the assistance of civil and canonical counsel. Canonical counsel, if not chosen by the accused, will be appointed under the authority of the Bishop. The accused will be promptly notified of the results of the investigation.

3 When there is sufficient evidence that sexual abuse of a minor has occurred, the Congregation of the Doctrine of the Faith shall be notified. The Bishop shall then apply the precautionary measures mentioned in Canon 1722 (i.e., withdraw the accused from exercising the sacred ministry or any ecclesiastical office or function, impose or prohibit residence in a given place, and prohibit public participation in the Most Holy Eucharist pending the outcome of the process).

4 The alleged offender may be requested to seek, and may be urged to voluntarily comply with, an appropriate medical and psychological evaluation at a facility mutually acceptable to the Diocese and to the accused.

5 When even a single act of sexual abuse of a minor by a priest or deacon is admitted or is established after an appropriate process in accordance 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.¹²

XIV. Media Representative

1 The Bishop or his designee will be the Diocesan Media Representative. The Media Representative may advise members of the media of the substance of the Diocesan *Policy*, or of an incident, and of what is being done. The rights of the alleged victim and accused must be respected and canon law observed in all cases. The Diocesan Media Representative should inform media personnel that the primary concern of the Church is a pastoral concern for all - victims and their families and the accused - and that any incidental harm to the Church as an institution is of secondary consideration.

¹⁰ See *Charter* Article 5 and *Essential Norms* 6-7.

¹¹ Canon 1717.

¹² See *Essential Norms* 8.

XV. Confidentiality

1 The Diocese will not enter into settlements which bind the parties to confidentiality unless the alleged victim/survivor requests confidentiality and this request is noted in the text of the agreement.¹³

2 To protect the reputation and good name of all involved, those who know of an incident or case of sexual child abuse should disclose information only to those authorized to receive such under Kansas law or under this Diocesan *Policy*.

3 There is always the possibility of false accusations or unsubstantial claims. It is important for all Diocesan personnel to know that both civil law and canon law¹⁴ provide penalties for the crime of falsehood flowing from false denunciation and calumny.

¹³ See *Charter* Article 3.

¹⁴ Canons 1390-1391.

XVI. Kansas Law Summary

(May, 2003)

The following is a summary of Kansas law about reporting and other requirements relating to child abuse.

1. Who Must Report? According to Kansas State Law (K.S.A. 38-1522), when there is reason to suspect a child has been injured as the result of physical, mental or emotional abuse or neglect or sexual abuse, a report must be made by the following persons: "Persons licensed to practice the healing arts or dentistry; persons licensed to practice optometry; persons engaged in postgraduate training programs approved by the state board of healing arts; licensed psychologists; licensed professional or practical nurses examining, attending or treating a child under the age of 18; *teachers, school administrators or other employees of a school which the child is attending*; child administrative officers of medical care facilities; registered marriage and family therapists; *person licensed by the secretary of health and environment to provide child care services or the employees of persons so licensed at the place where the child care services are being provided to the child*; licensed social workers; firefighters; emergency medical services personnel; mediators appointed under K.S.A. 23-602 and amendments thereto; juvenile intake and assessment workers, and law enforcement officers." (emphasis added)

Any other person (i.e., those not listed above) may report, but is not required to under Kansas law.

2. Priests and Religious: Priests and religious are not specifically mentioned in the Kansas Statute as persons who have a duty to report abuse. However, if the individual (whether priest, religious, church or school employee or volunteer) falls into any of the categories mentioned in K.S.A. 38-1522 (i.e., a priest or sister who is a teacher, school administrator or otherwise employed by the school which the child attends), he or she has the duty to report suspected abuse under Kansas law. Kansas law does not say that clergy must report simply because they are clergy. However, the Charter for Protection of Children and Young People issued by the United States Conference of Catholic Bishops provides that in any case where there is a report of abuse of a person presently a minor, the alleged abuse *will* be reported to the appropriate authorities. If the victim is no longer a minor, the diocese will cooperate with public authorities about reporting, and will advise the victim of their right to make a report to public authorities.

3. What Requires a Report? A report must be made when a person in any of the categories listed in K.S.A. 38-1522 has reason to suspect that a child has been injured through physical, mental or emotional abuse, or neglect or sexual abuse.

4. Summary of Legal Definitions:

"Child" refers generally to any person under 18 years of age.

"Abuse" minimally includes any or all of the following:

- (a) physical, mental or emotional injury inflicted on a child;
- (b) sexual contact or intercourse;
- (c) sexual exploitation of a child.

"Neglect" minimally means failing to maintain reasonable care and treatment to the extent that the child's health or emotional well being is endangered.

5. To Whom Must The Report Be Made: Reports -- oral or written -- are made to the Kansas Department of Social and Rehabilitation Services (SRS). When this department is not open for business, the report is made to the appropriate law enforcement agency. (K.S.A. 38-1522 (c)). The person reporting may speak with the Diocesan attorney beforehand.

6. Penalties for Failing to Report : Any person who is required to report as stated above and who willfully and knowingly fails to do so may be found guilty of a Class B Misdemeanor. (K.S.A. 38-1522 (f)). Likewise, anyone who prevents or interferes with the making of a report required by law may be found guilty of a Class B Misdemeanor. (K.S.A. 38-1522 (g)).

7. Protection for Those Who Report: Under Kansas law (K.S.A. 38-1526), anyone participating without malice in the making of an oral or written report on the abuse of a child, or in any follow-up investigation of the report, shall have immunity from any civil liability that might otherwise be incurred or imposed. Such a participant has the same immunity with respect to participating in a judicial proceeding resulting from the report.

8. Penitential Communication Privilege: Kansas law (K.S.A. 60-429) recognizes as privileged what the statute defines as a "penitential communication". A "penitential communication" means "any communication between a penitent and a regular or duly ordained minister of religion which the penitent intends shall be kept secret and confidential and which pertains to advice or assistance in determining or discharging the penitent's moral obligations, or to obtaining God's mercy or forgiveness for past culpable conduct." (K.S.A. 60-429 (a) (5))

"A person, whether or not a party, has a privilege to refuse to disclose, and to prevent a witness from disclosing a communication if he or she claims the privilege and the judge finds that (1) the communication was a penitential communication, and (2) the witness is the penitent or the minister, and (3) the claimant is the penitent, or the minister making the claim on behalf of an absent penitent." (K.S.A. 60-429 (b))

Any questions regarding this summary should be directed to the Diocesan Attorney, Vicar General or Chancellor.