

Roman Catholic Diocese of Boise

# **Sexual Misconduct Policies**



Promulgated August 26, 2003  
Revised March 26, 2007

# Diocese of Boise

## Sexual Misconduct Policies

In the spirit of the *Charter for the Protection of Children and Young People*, I have directed that our diocesan policies for sexual misconduct be reviewed and where necessary, be revised to better reflect our unwavering commitment to prevent sexual abuse and protect all people from any form of sexual misconduct taking place within our diocese. Sexual misconduct is behavior that degrades or diminishes the value of each human person, and thus is behavior inappropriate to those ministering or working in our church.

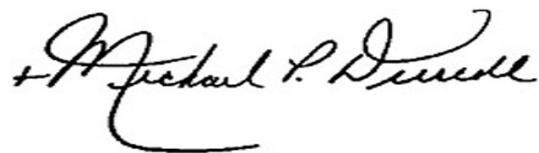
These policies are a continuation of those that have been in effect in the Diocese of Boise since 1998, revised in 2003 and again in 2007. They reflect greater vigilance in the protection of children, including establishment of a safe environment program which encompasses standards of behavior for all church personnel, screening practices, and training and education for all, including parents and children.

The Diocese of Boise's revised policies for sexual misconduct follow the four major headings outlined in the *Charter* and are organized as follows: (1) Protecting the Faithful in the Future; (2) Promoting Healing and Reconciliation; (3) Guaranteeing a Fair and Effective Response to Allegations of Sexual Misconduct; and (4) Ensuring Accountability of Our Procedures.

The diocese views the protection of children to be a primary concern. No child in our schools, our religious education programs or any program affiliated with the Church should be exposed to danger in any form. Children need and deserve a safe and caring environment, which will enable them to grow towards their full human potential and experience the love of Christ in the person of those who minister to them and teach them about the love of God.

The vast majority of church workers (priests, deacons, seminarians, women and men religious, lay employees and volunteers) are ethical, competent, and mature. We are called to support and trust them. In the cases where church workers have been less than professional, the Church must demonstrate accountability for the harm caused. It is my hope that these diocesan policies will help prevent any form of sexual abuse or misconduct from taking place within our diocese.

Promulgated the 26<sup>th</sup> Day of August, 2003, the 110th anniversary of the establishment of the Diocese of Boise. Revised March 26, 2007.

A handwritten signature in black ink, reading "Michael P. Driscoll". The signature is written in a cursive style with a large, sweeping initial 'M'.

Most Rev. Michael P. Driscoll, M.S.W., D.D.  
Roman Catholic Bishop of Idaho

# Diocese of Boise Sexual Misconduct Policies

## PREAMBLE

These policies are particular law for the Diocese of Boise, and intended to provide all who are associated with the Catholic Church in Idaho with established guidelines for the behavior and conduct of church personnel. This policy, originally promulgated in August of 2003, and now updated in 2007, replaces “Understanding Sexual Issues in Ministry” which was promulgated in 1998. These policies are in full compliance with both the letter and the spirit of the *Charter for the Protection of Children and Young People*, (see definitions) June, 2002, and the accompanying Essential Norms (updated, and promulgated by the USCCB on May 5, 2006). These policies apply to many forms of sexual misconduct, but embrace the fullness of the *Charter*, and its important goal of the protection of children and young people in our church. These policies follow the four themes of the *Charter*:

**SECTION 1:** To Protect the Faithful in the Future

**SECTION 2:** To Promote Healing and Reconciliation with Those Victimized by Sexual Misconduct

**SECTION 3:** To Guarantee A Fair and Effective Response to Allegations of Sexual Misconduct

**SECTION 4:** To Ensure Accountability of Our Procedures

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## GENERAL POLICY STATEMENT

The Diocese of Boise is committed to the responsibility to care for the spiritual, moral and pastoral well being of all God's people. Pastoral ministry is the principal mission of the Church. It is built on a sacred trust that is shared by all the members of the Church. Whenever it is alleged or proven that this sacred trust has been broken or violated, those charged with the governance of the Church must respond in justice and with the mercy of God to protect and safeguard the rights of all. Sexual misconduct, including sexual abuse, sexual exploitation, violation of sexual ethics, and sexual harassment, are serious breaches of this sacred trust and cannot be ignored without compromising the integrity of the church's mission and causing grave damage to the whole Body of Christ. When any of these forms of sexual misconduct occur, the church must address the issue responsibly and promptly.

By recognizing that all people are susceptible to such breaches of trust, we can act to prevent sexual misconduct by educating those who work for the church, instituting standards of behavior, and responding effectively to allegations of such misconduct in an atmosphere of listening, understanding, Christian love, mutual respect, and social justice.

In particular, the Diocese of Boise is determined to provide a safe environment for the children and young people involved in its ministries, implementing policies and procedures to assist in preventing sexual abuse, and to assist Diocesan personnel in recognizing, reporting and attending to the needs of abused children and their families.

This policy applies to, and governs the behavior of all church personnel as defined in Section 1.0 below. The policy is intended to prohibit all forms of sexual misconduct: abuse, exploitation, violation of ethics, and harassment. When this policy is violated, appropriate steps, consistent with civil and canon law,<sup>1</sup> will be taken to respond promptly and correct the misconduct. In addition, when misconduct does occur, the diocese will take any necessary steps to prevent the misconduct from reoccurring.

When even a single act of sexual abuse of a minor by a priest or deacon, including use of child pornography, is admitted or is established after an appropriate process in accord with canon law, the offending priest or deacon will be removed permanently from ecclesiastical ministry, not excluding dismissal from the clerical state, if the case so warrants. See Appendix I, Procedural Guidelines for Allegations of Sexual Abuse of a Minor by Priests or Deacons. Should such an act of sexual abuse be perpetrated by a lay minister (volunteer or employee), appropriate steps shall be taken to permanently remove such persons from any ministerial role in the Church.

Violations of this policy will be addressed promptly. Appropriate action will be taken to correct the misconduct, heal any harm caused by the misconduct, and to prevent the

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<sup>1</sup>Since the issue of sexual abuse of minors by clergy is governed by the universal law in Canon 1395, in *Sacramentorum Sanctitatis Tutela (SST)* and by the particular law of the USCCB Essential Norms, the procedural steps necessary to ensure that canon law is followed are outlined in a special appendix located at page 23

misconduct from reoccurring. Violation of these policies may result in the imposition of a just penalty, in accord with the norms of Canon Law. Other appropriate action could include conducting an assessment of the causes and context of the misbehavior, providing counseling and pastoral care, implementing disciplinary or corrective measures, and providing for healing and outreach. Procedures required by canon law will be observed. Corrective actions shall be proportional to the seriousness of the offense, the harm caused, the scandal created, and the likelihood of repetition of the behavior. See Appendix II, Procedural Guidelines for Allegations of Sexual Misconduct with Adults by Priests or Deacons.

## **1.0—Definitions**

Some words used throughout these policies have meanings that are important to the context and interpretation of the policy, and thus are defined below.

### **1.1 Sexual Misconduct**

Sexual misconduct, as used in these policies, includes four different types of behaviors. This definition is intended to provide a broad outline of the types of behaviors that are prohibited by this policy. The Bishop reserves the right to determine whether any particular type of conduct falls within the definition. To assist those who work for the church in understanding appropriate behavior, representative examples of the types of prohibited behavior are included within the definitions.

**1.1.1. Types of Sexual Misconduct.** The types of sexual misconduct that are prohibited by this policy include: (1) sexual abuse of minors; (2) sexual exploitation; (3) violation of sexual ethics; and (4) sexual harassment.

**1.1.2. Sexual Abuse.** The definition of sexual abuse of a minor by clergy is specifically defined in canon law, including Canon 1395, 2; and the Essential Norms as revised. Those definitions are incorporated here. The following examples outline behavior that the Bishop may consider to be sexual abuse for purposes of enforcement of these policies with respect to church personnel (including clerics and lay employees or volunteers). Sexual abuse is sexual behavior by and between church personnel and a minor. Sexual abuse can include physical contact, exposure of private anatomy, requiring the minor to expose private anatomy, sharing sexually explicit pictures or materials, taking sexually explicit pictures of minors, voyeurism, exposing minors to sexually explicit behavior of adults, viewing or possession of child pornography, or use of sexually explicit language with the intent to subjugate the minor for the gratification of the adult.

Examples of actions that are consistent with sexual abuse of minors include, but are not limited to:

- Exhibiting or providing sexually suggestive objects or pornography (outside of formal sex education or human sexuality discussions consistent with church teachings).
- Vaginal, anal or oral sexual intercourse, causing the child or youth to touch any private areas of the adult's body, or intentional touching by the adult of any private areas of the body of a child or youth, particularly where the touching results in sexual gratification or arousal for the adult.
- Making sexual propositions.
- Any federal or state crime involving sexual exploitation or abuse of a minor including use or possession of child pornography. Voluntarily accessing child pornography in any form falls within the definition of child sexual abuse, and thus the procedures and consequences of engaging in child sexual abuse and the procedures used to address it apply to that particular behavior.

In addition, actions that may be interpreted as sexually stimulating or provocative, and which could progress to sexual abuse (i.e., grooming behavior) may be considered by the Bishop as sexual abuse depending upon the severity and/or frequency. Examples include but are not limited to:

- Inappropriate gifts (such as intimate apparel).
- Prolonged hugging.
- Inappropriate touch (e.g., kissing, caressing, wrestling, pinching, slapping or other physical contact that causes uneasiness or discomfort in the person touched), see Section 2.2.
- Verbal behavior such as sexual innuendo or sexual talk, sexual jokes, suggestive comments, tales of sexual exploits, experiences or conflicts.

The Diocese of Boise has also incorporated the definition of sexual abuse noted in the footnote to Section 2 of the *Charter*, and that contained in the preamble of the Essential Norms.<sup>2</sup>

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<sup>2</sup>A note to the Charter reads: In accord with Sacramentorum sacritatis tutela (SST), article 4 §1, sexual abuse, for purposed of this Charter, shall include any offense by a cleric against the Sixth Commandment of the Decalogue with a minor as understood in the Code of Canon Law, c. 1395 §2 (“A cleric who in another way has committed an offense against the sixth commandment of the Decalogue, if the delict was committed by force or threats or publicly or with a minor below the age of sixteen years [raised in SST to eighteen years which has been the age of majority for the USA since 1994], is to be punished with just penalties, not excluding dismissal from the clerical state if the case so warrants”). . .If there is any doubt whether a specific act qualifies as an external, objectively grave violation, the writings of recognized moral theologians should be consulted, and the opinions of recognized experts should be appropriately obtained. . .Ultimately, it is the responsibility of the diocesan bishop/eparch, with the advice of a qualified review board, to determine the gravity of the alleged act.

**1.1.3. Sexual Exploitation.** Sexual exploitation is inappropriate sexual contact between church personnel and an adult who is receiving pastoral care.<sup>3</sup> Sexual exploitation can include any of the physical or verbal behaviors listed above in the definition of sexual abuse. Sexual exploitation is presumed if there is sexual contact, and there is any indication that the free will of the adult was impaired by physical force, administration of substances that would reduce judgment, such as mind altering drugs or excessive amounts of alcohol, or the presence of psychological coercion because of the mental state of the victim in responding to the behavior of church personnel. It remains at all times the obligation of church personnel to observe appropriate boundaries with those receiving pastoral care and assure that inappropriate sexual contact does not occur.

**1.1.4. Violation of Sexual Ethics.** A violation of sexual ethics occurs when church personnel fail to maintain appropriate boundaries with other adults or fail to exhibit exemplary ethical behavior related to sexual issues with other adults. (Cf. c. 277, §2) Examples of potential violations of sexual ethics include, but are not limited to:

- Church personnel who are called to a celibate lifestyle violating their vow of chastity/celibacy. (Cf. c. 277)
- Behavior creating a perception of a violation of boundaries of celibate chastity for those called to a celibate lifestyle
- Sexual conduct, behavior, or intimate relationships that are contrary to living a life of chastity
- Church personnel accessing written materials or websites containing pornography or other inappropriate sexual content, or communicating with others over the Internet in a way that includes sexual content or innuendo. Language or verbal comments containing sexual content that violates acceptable standards of propriety
- Violation of generally accepted ethical standards of sexual behavior by church personnel
- Violation of codes of conduct established by these policies

**1.1.5. Sexual Harassment.** Sexual harassment is unwanted sexualized contact or sexualized behavior between pastoral leaders and adult employees, or between co-employees. Sexual harassment which violates Diocesan policies includes, but is not limited to, the following behaviors:

- Making unsolicited sexual advances and propositions.
- Using sexually degrading or gender-demeaning words to describe an individual or his/her behavior

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<sup>3</sup>Such actions may be the subject of a penal action under canon law, e.g., canons 1387; 1389; 1395; 1399, and the particular law of the Diocese of Boise.

- Telling inappropriate or sexually-related or demeaning jokes
- Retaliating against another employee who refuses sexual advances or demands an end to other sexual behavior
- Offering favors or employment benefits such as promotions, favorable performance evaluations, favorably assigned duties or shifts, recommendations, etc., in return for sexual favors
- Sexualized or gender-demeaning behavior that creates a hostile work environment

This definition is intended to supplement the Diocesan Personnel Guidelines for Employees. A copy of the Diocesan Policy on Sexual Harassment is incorporated into this policy and attached as Appendix III. That policy provides more detail with respect to the standards of behavior and prohibitions with respect to sexual harassment.

- 1.2 Church Personnel.** A term used to denote all people working on behalf of church organizations, including: (1) priests involved in ministry, whether active, inactive or retired, Diocesan or other religious affiliation; (2) deacons, whether permanent or transitional; (3) parish life directors; (4) religious working on behalf of the Diocese; (5) seminarians while working in Idaho on behalf of the Diocese; (6) pastoral associates; (7) religious education directors; (8) school principals and educators; (9) youth ministers; (10) Diocesan employees; (11) parish and school employees; (12) music ministers; (13) pre-seminarians and other men involved in the priestly formation program while working on behalf of the Diocese; and (14) volunteers (regardless of age). Included within this definition are clerics who reside in the diocese even when not working on behalf of the church.
- 1.3 Clergy.** The Bishop, priests and deacons, whether permanent or transitional.
- 1.4 Charter and Essential Norms.** The *Charter for the Protection of Children and Young People*, adopted by the United States Catholic Bishops in June of 2002, and incorporated in the *Essential Norms for Diocesan/Eparchial Policies Dealing with Allegations of Sexual Abuse of Minors by Priests or Deacons, Revised* (referred to in these policies as the Essential Norms) which were effective as particular law for the United States on March 1, 2003, and revised on May 5, 2006, and as subsequently amended or renewed. References in these policies to potential canonical delicts pursuant to the *Charter* and Essential Norms is also intended to incorporate the universal law embodied in the 1983 Code of Canon Law and *SST*, April 30, 2001 in AAS 93 (2001) pp. 737-739.
- 1.5 Minor.** A minor is a person under the age of 18.
- 1.6 Volunteer.** An unpaid person working in a Diocesan, parish or school program, including volunteers in religious education, school or parish nurses, playground supervisors, scouting programs, after school activity programs, fundraising programs, sports programs, social service programs, community service programs,

and similar parish or school activities. Particular requirements are applicable to volunteers who have regular contact with children.

- 1.7 Regular Contact with Children.** The term regular contact with children means that type of contact which would allow an employee or a volunteer to form a relationship with the minor. Every regular volunteer in programs involving children or youth is a person who has “regular contact with minors” and thus would require a criminal background check and attendance at a safe environment workshop. This includes anyone who: (1) is involved in more than one event per year; (2) is involved for more than three hours at a time in direct contact with minors; or (3) chaperones an overnight event.

## **SECTION 1: To Protect the Faithful in the Future**

### **2.0—Standards of Behavior**

- 2.1** Church personnel working with children and youth shall maintain an appropriate and trustworthy relationship between minors and adult supervisors. Church personnel must be aware of their own and others’ vulnerability to inappropriate relationships when working with children and youth. See Section 2.5.5.

- 2.2** Adults should avoid any physical touching of minors that may reasonably be perceived as sexual in nature. Examples of behaviors with minors that can be misconstrued as sexual in nature, and thus should be avoided, include but are not limited to:

- Inappropriate or lengthy embraces
- Kisses on the mouth
- Holding minors over two years old on the lap
- Touching bottoms, chests, legs; or genital areas
- Spanking or slapping
- Showing affection while in an isolated location
- Wrestling or tickling
- Piggyback rides
- Massages

Adults should also immediately interrupt and address any sexually stimulating or inappropriate touching by a minor. Adults should also avoid verbal behavior that might reasonably be perceived as sexual in nature when working with minors, such as compliments that relate to physique or body development.

- 2.3.** Church personnel must refrain from both the use or possession of illegal drugs and the use of alcohol at youth events or functions. Church personnel must not supply alcohol (except for liturgical purposes) or illegal drugs to minors.
- 2.4** Clerics must not allow an individual under the age of 18 (excluding family

members and their guests) to stay overnight in their private accommodations or personal residence. Priests must not provide shared, private, overnight accommodation for individual minors including, but not limited to, accommodations in any Church-owned facility, private residence, hotel room, or any other place where there is no other immediate adult supervision present. Any exceptions to this standard require prior written permission from the Bishop or his delegate.

**2.5** During church activities or functions, all church personnel must avoid overnight accommodations that are shared with minors without other adults present and immediately available. Overnight accommodations where at least two adults are present are permissible. Caution should be exercised to assure that the safety of children is paramount. Church personnel should never share beds with minors other than their own children.

**2.5.1** In rare, short-term emergency situations, overnight accommodation may be necessary for the health and well-being of the youth, when a second adult cannot be present. In that situation, church personnel should take extraordinary care to protect all parties from the appearance of impropriety and from all risk of harm, and other arrangements should be secured the following day. The Bishop or his delegate should be notified prior to utilizing this emergency option.

**2.6** Church personnel must behave at all times in a professional manner appropriate to their position. Church personnel must not sexually exploit the trust placed in them by the faith community.

**2.6.1** Church personnel who are committed to a celibate lifestyle are called to be an example of celibate chastity in all relationships at all times.

**2.6.1.1** Lay Church personnel are also called to live chaste lifestyles. Accordingly, they are follow generally accepted ethical standards of sexual behavior.

**2.6.2** Church personnel who provide pastoral counseling or spiritual direction services must avoid developing inappropriate relationships with counselees or directees.

**2.6.3** Church personnel must not distribute any sexually oriented or morally inappropriate material. Moreover, Church personnel, while on church property or in the presence of minors, are prohibited from possessing any sexually-oriented or morally inappropriate printed materials (magazines, cards, videos, films, clothing, etc.), from viewing sexually-oriented or morally inappropriate websites, and from viewing or sending electronic mail messages containing similar content.

- 2.6.4** Church personnel are prohibited from engaging in any sexually oriented conversations with minors. The limited exception to this standard is for educational lessons and discussions with teenagers that may address human sexuality issues related to dating and sex. These lessons must convey to youth the Church’s teachings on these topics. If youth have further questions not answered or addressed by their individual teachers they should be referred to their parents or guardians for clarification or counseling. In addition, church personnel are prohibited from discussing their personal sexual activities or history with minors.
- 2.6.5** Church personnel should adhere, as much as possible, to the “two adult rule, where adults avoid situations where they are alone with a single minor. However, church personnel cannot always avoid situations where they are alone with a minor. When it is not feasible to have another individual present, such as when counseling or teaching a minor, during reconciliation, or other one-on-one contact with minors, church personnel should meet with the minor in as public a place as reasonable under the circumstances, such as a room with the door open, or with a window in the door. In one-on-one situations, church personnel should try to avoid physical contact with minors.
- 2.6.6** When parishes sponsor intergenerational events (where adults and minor are both present) the following guidelines apply:
1. All “supervising volunteers” must have a criminal background check on file, following the procedure outlined in Section 3.1, and must be responsible for adequate supervision of the interaction between adults and minors to assure a safe environment. In addition, a supervising volunteer must have attended the “Creating a Safe Environment” workshop, as noted in Section 5.4, prior to serving as a supervising volunteer at intergenerational events. A “supervising volunteer” is the person responsible for the program and for supervising any other parishioners who interact with children. For large events, adequate supervision may require more than one supervising volunteer to assure a safe environment.
  2. Those who are involved in such events who have not received the education or a background check cannot have unsupervised one-on-one contact with minors. If intergenerational parish activities require a volunteer to interact one-on-one with minors on a regular basis (defined in sections 1.6 and 1.7) that volunteer must have a criminal background check on file, and must attend the “Creating a Safe Environment Workshop.”
- 2.6.7** Church personnel should review and understand the contents of the child

abuse regulations and reporting requirements for the state of Idaho, as outlined in these policies, and should follow those mandates.

- 2.7** Church personnel directing programs for youth and children should also follow any guidelines provided or suggested by Diocesan Education or Finance Office staff, including but not limited to guidelines for necessary release forms, permission forms, safety guidelines, insurance requirements, youth/adult ratios, retreat guidelines, and similar guidelines.
- 2.8** Sexual harassment is a violation of Diocesan policy. Appropriate preventative measures will be used to promote respect for the rights of church personnel to be free from such harassment. Remedial measures and/or corrective actions, up to and including dismissal, shall be used when acts of harassment occur. Church personnel have an affirmative duty to maintain a workplace free of harassment and intimidation. Further, all church personnel are bound to follow the guidelines on sexual and other harassment set forth in the Personnel Guidelines for Employees at the Diocesan Pastoral Center. A copy of that policy is attached as Appendix III.
- 2.9** Church personnel who complain of sexual misconduct, or provide information related to such complaints, or oppose such behavior, are protected against retaliation. Retaliation is considered as serious as prohibited misconduct, and immediate and appropriate disciplinary action, up to and including dismissal, may be taken, in a manner consistent with the provisions of civil and canon law.

### **3.0—Screening of Applicants**

- 3.1** For all volunteers working in parish or Diocesan programs who have regular contact with children, youth, or vulnerable adults, volunteer service must be delayed until satisfactory results from a criminal background check are confirmed prior to their volunteer service. In addition, parishes and schools are encouraged to screen volunteers, by checking references and inquiring into qualifications, to assure that those who volunteer are trustworthy in working with children. Screening forms that can be used for this purpose will be provided by the diocesan office of Child, Youth and Adult Protection. No volunteer should be permitted to have regular contact with minors until the screening is satisfactorily completed. In addition, names of all volunteers in programs serving children, youth and vulnerable adults must be forwarded to the Diocese, so that they may be checked against state sexual offender databases. The Diocese, parishes and schools will not knowingly use the volunteer services of an individual whose background includes even a single substantiated incident of child abuse/sexual abuse or sexual behavior that may suggest that the volunteer could be a risk to children.
- 3.2** In situations where a volunteer with regular contact with children is unable to comply with the requirements for a criminal background check because of their undocumented status, parishes may dispense with this requirement, but should use the “supervising volunteer” concept described above in Section 2.6.6 governing

intergenerational events to assure a safe environment. In addition, such volunteers are still required to attend the safe environment workshop.

- 3.3** All employees must be screened prior to hire, and their references and certifications checked. If the information revealed in this screening gives rise to any concern with respect to the safety of minors, a copy of the information should be forwarded to the Bishop for review prior to hiring. All employees must be interviewed by the parish, school, and Diocesan or program staff prior to hire. All information obtained through the screening process shall be treated confidentially.
- 3.4** Criminal background checks are required for all employees. For parish employees, background checks must be completed through the diocesan office of Child, Youth and Adult Protection. For school employees, criminal background checks may be conducted through the state Department of Education, but the school must be able to document that all such checks have been satisfactorily completed. Forms for completion by the applicant have been provided to parishes and schools in the Parish and School Safe Environment Manual. Parishes and schools may not hire, or continue to employ, individuals who have not satisfactorily completed the required criminal background check.
- 3.5** Prior to conferral of an office or ministry within the Diocese by the Bishop or his delegate, all clergy and religious must be thoroughly screened according to established Diocesan guidelines, and a criminal background check must be successfully completed.
- 3.6** The Diocese, parishes and schools will not knowingly hire, assign or employ an individual, employee or volunteer, whose background includes even a single substantiated incident of child abuse/sexual abuse or other behavior that may suggest that the individual could be a risk to children. The diocesan office of Child Youth and Adult Protection has, at the direction of the Bishop, established a protocol for determining what types of prior behavior will result in disqualification of employment or volunteer service. Inquiries about specific types of criminal background issues should be directed to that office.

## **4.0—Visiting Clergy and Transfer of Clergy**

- 4.1** Priests visiting an individual parish for a short time (e.g., while on vacation or during travel through the diocese), are invited to celebrate or concelebrate the Eucharist in the parish church if they are able to provide a current (no older than one year) “celebrant” card to the parish priest or parish administrator (cf., c. 903).
  - 4.1.1** Those clerics (priests or deacons) traveling to the Diocese of Boise for a particular event in which they have some participatory role (e.g., to provide vacation supply, witness a wedding, conduct a parish mission or retreat, etc.,) are to provide a current background reference from his bishop or religious superior, through a process established by the Diocese. Forms to

be used for this purpose will be provided by and are to be returned to the Chancery Office.

- 4.2 Clergy from other Dioceses or religious orders who seek a ministerial assignment in this Diocese must receive a thorough background check equivalent to diocesan clerics (see section 3). In addition, the Bishop shall direct his staff to contact references and conduct additional screening prior to any ministerial assignment, in accord with canon law. Such clergy will also be required to sign an acknowledgement of receipt and acceptance of these policies before they are accepted for ministry in the Diocese. They must also agree to attend the next available safe environment workshop.
- 4.3 When a priest or deacon from this Diocese requests permission for assignment, transfer or residence in another Diocese, the Diocese will forward to the new Diocese an accurate and complete description of the cleric's record, including whether there is anything in his background or service that would raise questions about his fitness for ministry.
- 4.4 Individuals seeking incardination into the Diocese, or applying for positions as a parish life director, may be required to undergo psychological evaluation in addition to the screening described in 3.0. In addition, the Bishop may direct his staff to conduct more thorough inquiries of a cleric's background, consistent with canon law, prior to incardination.

## **5.0—Training and Education**

- 5.1 As one method of educating church personnel concerning their obligations for the prevention of sexual misconduct, all church personnel will receive a copy of these policies, and will be required to sign an acknowledgement of receipt and understanding. This acknowledgement will then be placed in the employee or volunteer file. A copy will also be kept on file in the diocesan office of Child, Youth and Adult Protection. Under normal circumstances, the policy shall be provided and the acknowledgement signed within seven days of employment, or within seven days of any significant policy changes.
- 5.2 The Diocese will design and provide a specific training program for clergy which shall address the following topics:
  - The provisions of this policy
  - The definitions of sexual misconduct
  - The nature of child sexual abuse
  - Pastoral care for victims of child sexual abuse
  - The obligation to report suspicions of child abuse
  - Prevention of child sexual abuse
  - Sexual misconduct and harassment, and prevention techniques

- Sexual ethics in ministry
- Leadership and accountability for prevention of sexual misconduct

Any training created and required will address, at a minimum, the safe environment training content established by guidelines issued by the United States Conference of Catholic Bishops, Office of Child and Youth Protection.

**5.2.1** All clergy are required to attend training as required by the Diocese.

**5.3** The Diocese will design and provide a specific training program for employees which shall address the following topics:

- The provisions of this policy
- The definitions of sexual misconduct
- The nature of child sexual abuse
- Pastoral care for victims of child sexual abuse
- The obligation to report suspicions of child abuse
- Prevention of child sexual abuse
- Sexual misconduct and harassment, and prevention techniques
- Ethics in ministry

In addition, those who supervise other church personnel will be given instruction on leadership and modeling of appropriate behavior. Any training created and required will address, at a minimum, the safe environment training content established by guidelines issued by the United States Conference of Catholic Bishops, Office of Child and Youth Protection.

**5.3.1** All employees are required to attend initial and ongoing training as required by the Diocese.

**5.4** All volunteers who have regular contact with children and youth are required to attend at least one training session covering the safe environment training content established by guidelines issued by the United States Conference of Catholic Bishops, Office of Child and Youth Protection.

**5.5** As part of the Diocesan safe environment program, training programs will also be developed for, and offered to, parishioners, parents and children in diocesan, parish or school programs.

## **6.0—Communications**

**6.1** The Diocese is committed to dealing with issues of sexual misconduct within the Church in an open, truthful and straightforward manner. While the Diocese must respect the privacy and reputation of all parties involved in sexual misconduct issues, the Diocese will deal as openly as possible with all members of the

community, including victims/survivors, the accused, families, affected communities, the general Catholic community, and the general public.

## **SECTION 2: To Promote Healing and Reconciliation With Those Victimized by Sexual Misconduct**

### **7.0—Outreach During Assessment/ Preliminary Investigation Stages**

- 7.1** The Diocesan Assistance Coordinator will coordinate and provide personal and pastoral assistance to those alleging sexual misconduct during the assessment/preliminary investigation stage of a complaint. The nature of assistance which will be provided is within the Bishop's discretion.

### **8.0—Victim Outreach After Conclusion of Assessment/ Preliminary Investigation**

- 8.1** The Diocese will offer victims and/or survivors pastoral, medical and psychological care for the effects of a violation of this policy, including a clear acknowledgement to the victim that a wrong was done, and a request for forgiveness of that wrong. The Diocese will offer, without regard to legal liability, appropriate pastoral and counseling support. This will be coordinated through the Diocesan Assistance Coordinator. Psychological counseling and/or pastoral care will be offered in the spirit of Christian justice. When counseling is paid for by the Diocese, the type of treatment must be approved by the Bishop or his designee.
- 8.2** The Diocese will not enter into any confidentiality agreement when rendering assessment, pastoral care or assistance to persons who allege or have been proven to have been sexually abused by any church personnel, except for grave or substantial reasons brought forward by such persons. When a victim of sexual abuse requests a confidentiality agreement, it shall be so noted in the text of the agreement, and must be approved by the Bishop. Any such agreement shall be notified to the Sexual misconduct Board on an annual basis for their review and comment.

### **9.0—Care and Assistance for the Accused**

- 9.1** While seeking to prevent sexual misconduct and to assist complainants and victims, the Diocese must adhere to the principles of the Catholic faith regarding justice, compassion and forgiveness for wrongdoers, even at the risk that this may be misperceived as implicit tolerance by the Church of the wrong itself or as insensitivity to victims. Therefore, this policy affords the accused fair treatment, dignity, and pastoral support. If an accused has engaged in sexual misconduct, then that individual may be removed from his/her position with the Diocese to protect

others from harm and to maintain the integrity of the relationships within the Diocese. See Section 11.1.

- 9.2** For incardinated priests and deacons accused of sexual misconduct, a comprehensive medical and psychological assessment, and initial treatment as prescribed by the assessment, may be requested by the Bishop. If such assessment and treatment is obtained, it shall be paid for by the Diocese.
- 9.3** For members of religious orders/congregations accused of sexual misconduct, a medical and psychological assessment is recommended. This assessment and any treatment recommended may be paid for by the order/congregation or the diocese. Members of religious orders/congregations are not incardinated in this Diocese and are therefore responsible to the major superiors of their orders/congregations.
- 9.4** For accused lay employees and volunteers, such medical and psychological assessment and initial treatment are recommended, and may be mandated by the Bishop, but will not be paid for by the Diocese unless specifically directed by the Bishop.
- 9.5** Failure to comply with a mandated or directed assessment and/or treatment under the provisions and procedures of this section may result in a temporary removal from office or ministry in accord with the norms of canon law for clerics, and removal from position for religious, lay employees and volunteers.

## **10.0—Pastoral Response to Affected Communities**

- 10.1** The Diocese recognizes that sexual misconduct affects not only the accused, the victim and the victim's family, but also affects the involved parish and school community. The Diocese is committed to the pastoral care and well-being of the affected communities. The Diocese will reach out to affected communities as appropriate, and will develop resources to promote healing. Its response to parishes and other church organizations experiencing the pain caused by sexual misconduct of church personnel will be guided by the acknowledgement that:
1. Parishes and other communities undergo a complex process of grieving when they learn that a trusted and respected leader has been accused.
  2. One of the most important elements in healing is that the affected community receives as much full, accurate, and timely information as possible, while recognizing and protecting the privacy rights of victims, their families, and accused persons.

The Diocese will work with professionals, where appropriate, to assist in the communication process and to help the affected communities to heal.

## **11.0—Pastoral Response to Families and Others Affected**

- 11.1** The Diocese will reach out to families of victims, the accused, or other secondary victims, as appropriate. The Diocese may provide assistance to families and others affected by misconduct in securing necessary services for healing. This assistance may be provided through use of the services of an Assistance Coordinator.

## **SECTION 3: To Guarantee A Fair and Effective Response to Allegations of Sexual Misconduct**

### **12.0—Interim Leave or Withdrawal from Ministry**

- 12.1** If a complaint of sexual misconduct is received, and based upon preliminary information gathered it appears that the complaint may be credible, the church personnel involved may be withdrawn from ministry to assure the safety and security of other employees, parishioners, children or youth. If the accused is a priest or deacon, withdrawal may be imposed by the Bishop administratively, cf. c. 381 §1, and c. 49; Essential Norms 9, with all rights protected under canon law observed, as noted in Appendix I and/or II. If the accused is a religious, Diocesan, parish or school employee, the accused may be placed on interim administrative leave. The length and terms of withdrawal or leave are at the discretion of the Bishop. However, in the event that the alleged misconduct results in a secular criminal investigation, the accused will be automatically withdrawn from ministry or placed on leave pending the results of that investigation. If such a withdrawal or leave is necessary, it will be accomplished in a manner consistent with canon law, and sensitive to the rights of all involved, including the accused, the alleged victim, and the affected community.

### **13.0—Reporting Misconduct to Civil Authorities**

- 13.1** All church personnel must comply with Idaho law, which requires individuals to report any situation giving rise to a “reason to believe” that neglect or abuse of a child under the age of 18 has occurred. This must be reported as explained in 13.2(2).
- 13.2** Sexual abuse of a minor is a crime. Every report of sexual abuse of a minor, regardless of when the offense occurred, must be seriously considered and the following steps must be taken by any employee who receives a report of such abuse:
1. If the accusation involves allegations of abuse of a person who is under the age of 18 at the time of the report, and there is reasonable cause to believe the accusations may be true, the employee must immediately notify the appropriate governmental agency in accordance with Idaho law. Church

personnel should immediately consult with their supervisor in determining whether such reasonable cause exists. However, consulting with a supervisor does not relieve church personnel of the legal obligation to report, and the supervisor is then under the same legal obligation to report the abuse.

2. In Idaho, such a report of child sexual abuse can be made to law enforcement, or to the local office of the state Department of Health and Welfare, Child Protective Services. Such a report must be made within 24 hours of acquiring knowledge of reason to believe abuse is occurring. If after consultation with a supervisor, the employee and his or her supervisor are unsure of how or whether to report to governmental authorities, he or she must immediately notify the Bishop or Coordinator for Child Youth & Adult Protection of the information, and they will make any required report to governmental authorities.
  3. If the accusation involves allegations of abuse of a person who was under the age of 18 at the time of the abuse, but who is over the age of 18 at the time of the report to the Diocese, the complainant will be notified of their right to report this crime, and strongly encouraged to report it to the proper civil authorities. Diocesan officials will assist the complainant in reporting, by providing information on where to report, or by making the report if requested by the complainant. Church personnel who become aware of such a complaint, where the complaint alleges that the abuse was allegedly administered by church personnel, must immediately notify the Bishop or the Coordinator, Child Youth and Adult Protection.
  4. If the allegation involves abuse of a person who was over the age of 18 at the time of the abuse, but which may be a criminal act, the complainant will be notified of their right to report this crime, and encouraged to report it to the proper authorities. Diocesan officials will assist the complainant in reporting, by providing information on where to report, or by making the report if requested by the complainant. Church personnel who become aware of such a complaint where the abuse was allegedly administered by church personnel should immediately notify the Bishop or the Coordinator, Child Youth & Adult Protection.
- 13.3** The only exception to this reporting requirement is when the information leading to the reasonable suspicion of abuse is obtained during the Sacrament of Reconciliation. Under those limited circumstances, the priest/penitent privilege remains inviolate.
- 13.4** Disclosures regarding child abuse made outside the context of the Sacrament of Reconciliation must be reported to law enforcement or child protective services, regardless of the desire of the complainant for nondisclosure, if the alleged victim is under the age of 18.

## **14.0—Reporting Misconduct to Church Officials**

- 14.1** Every report to the diocese or other church personnel of sexual abuse of a minor allegedly committed by church personnel, regardless of when the offense occurred, will be seriously considered and thoroughly investigated. Reports of other sexual misconduct of any kind by church personnel will also be seriously considered and investigated to the extent appropriate under the circumstances.
- 14.2** All church personnel, whether at the Diocesan, school or parish level, who receive information indicating possible sexual abuse of a minor by church personnel, must immediately report the information to the Bishop or the Coordinator, Child Youth & Adult Protection. This internal reporting requirement is in addition to the requirement to report to governmental authorities. In addition, this internal reporting requirement does not require certainty of reasonable cause to report the allegations. If the person who receives the information has already contacted governmental authorities before contacting the Diocese, he or she should provide the contact information of the government official to the Bishop or Coordinator, Child, Youth & Adult Protection. Diocesan employees must cooperate fully with governmental authorities in any investigation of sexual abuse of a minor. Any questions regarding the duty to report or the procedure to follow should be immediately directed to the Bishop or the Coordinator, Child, Youth & Adult Protection.
- 14.3** In addition, all church personnel must immediately report any other instances of sexual misconduct by church personnel to the Bishop or the Coordinator, Child, Youth & Adult Protection.
- 14.4** Retaliation against any person who in good faith makes an allegation of sexual misconduct involving church personnel is prohibited and will not be tolerated. Retaliation should be reported immediately. Retaliation is defined as taking action where the intent or effect is to compromise the right of the alleged victim to assert their complaint. 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 and/or removal from ministry.

## **15.0—Inquiry into Allegations**

- 15.1** When an allegation of sexual misconduct of any kind by church personnel is reported to the Diocese, the Bishop will direct that information be gathered to assess the validity of the complaint.
- 15.2** An initial determination will be made, following receipt of a complaint, with respect to whether the misconduct alleged may constitute a canonical offense. If so, the Bishop shall make a determination about whether it is appropriate to issue a decree commencing in inquiry under Canon 1717. If so, a decree will be prepared,

denoting the basis for its issuance, and assigning an appropriate investigator to gather additional information.

- 15.3** This will include working with the complainant to secure adequate information about the nature of the complaint, and gathering information from other people and sources. At the appropriate time, the accused will be informed of the allegation and provided an opportunity for input. Every effort will be made to make this information gathering process comfortable for both the complainant and the accused. The assessment of allegations will be conducted as confidentially as possible. Allegations of child sexual abuse involving a priest or deacon will follow the procedures noted in Appendix I. Allegations of sexual misconduct involving a priest or deacon with an adult (not a minor) will follow the procedures noted in Appendix II. Once this assessment is completed, a report will be provided to the Bishop. The Bishop will then determine what action should be taken with respect to the allegation according to the provisions of c. 1718. The complainant and the accused will be informed of the progress of the assessment.
- 15.4** If the misconduct is not a canonical offense, but still calls into question the cleric's ability to effectively minister in this diocese, or provide for pastoral care, the Bishop may take action by imposing pastoral measures for correction or repair of the problem created.

## **16.0—Procedure for Decision Making**

- 16.1** To respect the privacy of those involved, confidentiality is maintained to the extent possible and consistent with the civil reporting requirements and the Diocese's policies and procedures, with regard to:
- 16.1.1** The need to advocate for those who are victims;
  - 16.1.2** The need to provide appropriate outreach to victims;
  - 16.1.3** The need to provide appropriate outreach to the accused;
  - 16.1.4** The need to comply with civil and canon law;
  - 16.1.5** The right of Church personnel and volunteers to be treated justly;
  - 16.1.6** The need to fairly investigate all complaints of sexual misconduct particularly child sexual abuse;
  - 16.1.7** The need to make a report to the Diocese in a timely manner; and
  - 16.1.8** The need for a pastoral response to affected communities.

- 16.2** For church personnel other than clergy, once the assessment phase is completed, the Bishop has the discretion to: (1) immediately remove the individual from employment or ministry pending further action; (2) conduct a further inquiry into the nature of the misconduct; or (3) immediately impose discipline upon employees up to and including dismissal. The action to be taken is at the discretion of the Bishop. For clergy, the decision-making process is governed by procedures identified in Appendix I and or Appendix II, or otherwise prescribed by canon law.

## **17.0—Restoration of Good Name**

- 17.1** If the complaint, after investigation, is unsupported, every effort must be made to restore the good name of the accused, to the extent that damage may have occurred to the accused's reputation.

## **SECTION 4: To Ensure Accountability Of Our Procedures**

### **18.0—Independent Review Board and Coordinator Child/Youth/and Adult Protection**

- 18.1** The Diocese of Boise has established an independent Review Board to assure accountability of its responses to sexual abuse of minors, and related issues, which is called the Diocesan Review Board for Sexual Abuse. The Review Board, a confidential, consultative body, will review reports of actions taken by the Diocese regarding sexual abuse of minors, assure the integrity of the process for responding to such issues, offer advice regarding investigations and all other aspects of responses required, and provide oversight for the handling of complaints of sexual abuse of minors.
- 18.2** The Review Board consists of nine to twelve voting members. Of the voting members, a majority must be lay members not employed by the Diocese. At least one member will be a priest who is a respected pastor of a parish. At least one member must have particular expertise in the evaluation and treatment of sexual abuse of minors. The Promoter of Justice will participate in Review Board meetings.
- 18.3** The Review Board will: (a) review any allegation of sexual abuse of a minor and assess the validity of the complaint and the accused's suitability for ministry, with particular attention to the evaluation of the potential for any further victimization of children; (b) provide recommendations to the Bishop or his designee on all aspects of action to be taken with respect to the victim, the accused and parishes affected; (c) review current policies and procedures, and recommend any changes; (d) examine allegations both retrospectively and prospectively; and (e) review and assist in developing Diocesan efforts to provide a secure environment for children and young people, and recommend any changes to policies, procedures and

programs. The process used by the Review Board and its functions are more precisely defined in the Constitution and Bylaws of the Diocesan Review Board for Sexual Abuse and approved by the Bishop.

- 18.4** Following the initial assessment of allegations, and during the preliminary/prior investigation, allegations may be presented to the Review Board through a report prepared and delivered by the Bishop, the Coordinator, Child Youth & Adult Protection, or another delegate of the Bishop. After presentation of reports, the Review Board may ask for any additional information necessary. After assessing the credibility of any allegations presented, the Review Board will provide advice and recommendations on appropriate actions to the Bishop. Communication between the Review Board and the Bishop will be facilitated by sharing of minutes of meetings, written recommendations, and written responses from the Bishop, as defined in the Constitution and Bylaws.
- 18.5** The Coordinator, Child Youth & Adult Protection serves as secretary to the Review Board, and participates in initial inquiries in collaboration with the Bishop and other members of his Curia involved in the investigation of allegations of sexual abuse of a minor. The Coordinator, Child Youth & Adult Protection also works with complainants, victims and the accused to understand their pastoral care needs and communicate those to the Review Board. The Coordinator also works with a Victim Assistance Coordinator, assigned through an agreement with Catholic Charities of Idaho. The Victim Assistance Coordinator assists victims, where appropriate, in securing psychological, medical and pastoral care where recommended by the Review Board and approved by the Bishop.
- 18.6** The Diocese of Boise has established a second panel to assure accountability of its responses to sexual misconduct involving clerics and adults (not minors under the age of 18), which is called the Bishop's Canonical Advisory Panel. The Panel will review those cases involving sexual misconduct between a cleric (priest or deacon) and another adult. The Panel is a confidential, consultative body, made up of the Vicar General, Judicial Vicar, an Adjutant Judicial Vicar, a Deacon, Office of Canonical Affairs Director, and a mental health professional. Experts in other particular fields may be asked to assist the Panel as it goes about its work. The Bishop's Canonical Advisory Panel may act both retrospectively and prospectively. Specific duties relating to the Bishop's Canonical Advisory Panel and its work regarding sexual misconduct involving a cleric and an adult, may be found in Appendix II of this document.

# APPENDIX I

## Procedural Guidelines for Allegations of Sexual Abuse of a Minor by Priests or Deacons

### 1.0 General Principles

The intent of the Diocese of Boise is to comply with the letter and spirit of the *Charter for the Protection of Children and Young People*, and the accompanying Essential Norms, as well as *Sacramentorum Sanctitatis Tutela (SST)*. This Appendix applies in situations where a cleric, either priest or deacon, is accused of an act which could constitute sexual abuse of a minor. In all such situations, canon law will be observed.

The Diocese will comply with all applicable civil laws on reporting allegations of sexual abuse of minors to civil authorities and will cooperate in any investigation. In every instance, the Diocese will advise of and support a person's right to report to civil authorities.

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 accord with canon law, the offending priest or deacon will be removed permanently from ecclesiastical ministry, not excluding dismissal from the clerical state, if the case so warrants.

### 2.0 Rights of the Accused During Inquiry/ Investigation Stages

- 2.1 During the preliminary investigation, to the extent deemed necessary by the Bishop, and consistent with canon law, the Diocese will provide the accused with an explanation of the nature of the allegations.
- 2.2 The Diocese will exercise discretion in conducting the investigation, preserving confidentiality to the extent possible, and protecting the good name of all of the parties to the investigation to the extent possible. All appropriate steps shall be taken to protect the reputation of the accused during the investigation. If the allegation is not proven, every step possible is to be taken to restore his good name, should it have been harmed. *Charter*, Article 5L.
- 2.3 The Diocese will honor the accused's right not to implicate himself. The Diocese will afford the cleric the presumption of innocence during the investigation of the allegation. See *Charter*, Article 5L.

- 2.4** The Diocese will encourage the accused to retain the assistance of canonical counsel. *Charter*, Article 5L, and to be represented by a canonical advocate approved by the Bishop during the appropriate times in any penal process. The accused is primarily responsible to obtain and pay for counsel. If he is unable to pay for canonical counsel, upon request, the diocese may assist in the financial arrangements for canonical counsel. (*Charter*, Article 5, par. 4). The accused should be encouraged to obtain canonical advice prior to speaking with the Bishop or any investigator.
- 2.5** The Diocese will encourage the accused to retain the assistance of civil counsel. *Charter*, Article 5L.
- 2.6** The Diocese will respect the right of the accused to defend himself/herself against the allegations.
- 2.7** The Diocese will respect the right to due process in accord with canonical norms.
- 2.8** The Diocese will inform the accused when the investigation has been completed, and provide any information concerning the results of the investigation that the Bishop deems reasonable and prudent under the circumstances, and in accord with canon law.

### **3.0 Obligations of the Accused During the Inquiry/Investigation**

- 3.1** During the investigation, the accused has the obligation not to interfere with the investigative process.
- 3.2** During the investigation, the accused has the obligation to observe any special provisions or restrictions imposed by the Bishop (cf. c. 273).
- 3.3** During the investigation, the accused has the obligation not to retaliate against the complainant for bringing the complaint forward, and to respect the complainant's right to be heard. (cf. c. 212 §§2 and 3).

### **4.0 Rights of the Complainant During Inquiry/ Investigation Stages**

- 4.1** All appropriate steps shall be taken to protect the reputation of the alleged victim during the investigation. The Diocese will exercise discretion in conducting the investigation, preserving confidentiality to the extent possible, and protecting the good name of all the parties to the extent possible.
- 4.2** The complainant has the right to make his or her grievances known to the

Diocese, and to tell the Bishop or his delegate about the alleged abuse (cf. c. 212 §§2 and 3).

- 4.3 The complainant also has the right to bring the alleged abuse before the civil authorities.
- 4.4 The Diocese will hear the allegations, and take appropriate steps, as determined by the Bishop, to gather appropriate information to determine if a crime under canon law has been committed. The Diocese will offer the complainant the opportunity to provide any relevant information regarding the allegations, and will inform the complainant when the investigation has been completed, and provide any information concerning the results of the investigation that the Bishop deems reasonable and prudent under the circumstances.
- 4.5 The complainant also has the right to expect that the Diocese will make every effort to prevent intimidation of the Complainant by those acting on behalf of the Church, the accused, or the faith community.

## **5.0 Obligations of the Complainant During the Preliminary Investigation**

- 5.1 During the course of the preliminary investigation, the complainant has the obligation to provide complete and accurate information regarding the allegation.
- 5.2 The complainant is obliged to provide names of additional witnesses, and relevant documents, to investigators.
- 5.3 The complainant has the obligation not to interfere with the investigative process.
- 5.4 The complainant has an obligation to take an oath, as specified in canon law, when giving formal testimony to the Bishop's delegate(s).

## **6.0 Receipt of Initial Complaint**

If a person is unsure about whether he or she wishes to make an allegation, the person may give a general, anonymous description of the concern to the Bishop, Vicar General, Intake Coordinator(s), or members of the Diocesan Review Board, without giving his or her name or the name of the cleric accused. The church official to whom the report is made will describe how the Diocese would respond to this allegation and describe the information that is required to begin that response.

The person can then decide whether to make an allegation.<sup>4</sup> No penal action may be taken against a cleric solely on the basis of an anonymous allegation.

## **7.0 Steps to be taken Following Receipt of Allegation**

- 7.1** When an allegation of sexual abuse of a minor by a priest or deacon is received, the Bishop will review the information and determine whether the allegation seems to be true. The Bishop should delegate to appropriate persons the task of gathering information about the allegation.

If the information received by the Bishop seems to be true, a preliminary investigation consistent with canon law will be initiated and conducted as promptly and objectively as circumstances warrant (c. 1717). In every case involving canonical penalties, the canon law processes and provision must be observed and considered.

This investigation may be entrusted to the Vicar General, the Coordinator of Child, Youth and Adult Protection, or other appropriate qualified persons. (Cc. 1717-1719). The Bishop's decree will identify the person(s) assigned to conduct the preliminary investigation.

- 7.2** The question of prescription (limitations on time) must be examined. A derogation from the prescription will be requested from the Congregation for the Doctrine of the Faith, (CDF) for the "appropriate pastoral reasons" which may include repair of harm, scandal, or the restoration of order in the ecclesial community.

- 7.3** An allegation involving a cleric residing in the Diocese but incardinated in another diocese or belonging to a religious order will be reported immediately to his own diocesan bishop or religious superior. The Bishop will continue to oversee the implementation of the universal and particular law with respect to the investigation of behavior that occurred within the Diocese of Boise.

- 7.4** The Coordinator of Child Youth and Adult Protection or another delegate appointed by the Bishop, will meet as quickly as possible with the complainant, parent, or guardian on behalf of the Diocese to:

1. Assure the complainant of the Diocese's care and concern.
2. Obtain more information regarding the allegation, if necessary.

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<sup>4</sup>This does not relieve any church personnel of the obligation to report in accordance with state law as soon as he or she has reasonable cause to suspect a child has suffered harm as a result of abuse or neglect.

3. Explain the process.
4. Assess the pastoral response needed.
5. Prepare a report for the Bishop.

**7.5** The Bishop may meet with a complainant to provide pastoral care and concern.

**7.6** At all times during the processing of a complaint, the Bishop retains 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 ministry.

The executive power of governance may include such administrative actions as:

1. The Bishop may request that the accused freely resign from any currently held ecclesiastical office.
2. If the accused declines to resign, and the Bishop determines that the accused is truly not suitable at this time for holding an office previously freely conferred, then the Bishop may remove that person from office observing the required canonical procedure.
3. For a cleric who holds no office, any previously delegated faculties may be administratively removed while any *de inure* faculties may be removed or restricted by any competent authority as provided in law.
4. The Bishop may also determine that circumstances surrounding a particular case constitute the just and reasonable cause for a priest to celebrate the Eucharist with no member of the faithful present. The Bishop may forbid the priest to celebrate the Eucharist publicly and to administer the sacraments, for the good of the Church and for his own good.
5. Depending upon the gravity of the case, the Bishop may also dispense the cleric from the obligation of wearing clerical attire and may order that he not do so, for the good of the Church and for his own good.
6. Any actions taken under this section shall be documented in writing, and a decree issued, so that the cleric will have the opportunity of recourse against them in accordance with canon law (cf. cc. 1732-1739).

## **8.0 Pastoral Care Following an Allegation**

Upon being informed of an allegation of sexual abuse, the Bishop will immediately provide for the pastoral care of the complainant using the Coordinator of Child Youth and Adult Protection or the Assistance Coordinator to whom this

responsibility has been entrusted. Before reaching a conclusion regarding the canonical actions to be taken against the accused cleric, the issue of any harm suffered by the complainant and the healing of that harm should be addressed. (1718, §4).

Upon being informed of an allegation of sexual abuse, the Bishop will also immediately provide for the pastoral care of the accused, including any necessary medical or psychological evaluation and/or therapy.

## **9.0 Form of Allegation**

The allegation should be made in writing whenever possible and contain the signature of the complainant. In cases involving minors, the parent or guardian should sign the allegation. Allegations and complaints may be made to the Bishop, Vicar General, Intake Coordinator(s), or members of the Diocesan Review Board.

Whenever church personnel receive information regarding sexual abuse of a minor s/he is required to assist the potential victim/survivor in contacting the Bishop or his delegate, as mandated by the Sexual Misconduct Policies.

If an allegation is made orally, the person to whom the allegation is made shall:

1. Immediately record the specifics of the allegation, the date, time, and place of the allegation, the name of the person making the allegation, and if applicable, that person's relationship to the alleged victim.
2. As soon as possible, obtain the signature of the complainant on that written record.

## **10.0 Participation in Proceedings**

### **10.1 Participation of the Complainant**

To assist in the investigation of the alleged abuse, the complainant will be asked to provide a statement and to respond to questions posed by the Bishop's delegate. Any interview will be conducted in a location and atmosphere that is comfortable to all parties.

If the complainant chooses not to respond to questions or participate in the investigation, the complainant will be advised that such a decision may make it impossible for the Church to impose a canonical penalty on the accused cleric should one be warranted. The Bishop still has the responsibility to address, where appropriate, the harm suffered by the complainant.

Interviews with the complainant or with witnesses shall be taken under oath, tape recorded, and transcribed. Interviews with the accused shall also be tape recorded and transcribed.

## **10.2 Statements of the Accused**

A cleric who has been accused of sexual abuse has the right to speak with his Bishop, and he can admit the offense if he so chooses. He cannot be compelled to confess the offense or to say anything that would be self-incriminating or to take an oath concerning the truth of his statements. (1728, §2).

## **10.3 Preliminary Investigation**

### **10.3.1 Actions by the Bishop**

When there is sufficient evidence that sexual abuse of a minor may have occurred, the Congregation of the Doctrine of the Faith shall be notified at the conclusion of the preliminary investigation. The Bishop, exercising his executive power of governance, shall then remove the accused from the sacred ministry (if not already done) or from any ecclesiastical office or function. He may also impose or prohibit residence in a given place or territory, prohibit public participation in the most holy Eucharist pending the outcome of the process, and prohibit contact with minors (cf. c. 381, §1 and c. 49).

Interviews with the victim or with witnesses should be taken under oath and transcribed.

If the allegation involves allegations of abuse of a child or other criminal actions and there is reasonable cause to believe the allegation may be true, diocesan officials will:

1. Notify the appropriate government agency in accordance with the law<sup>5</sup> ;
2. Notify every party who has the right to know; and<sup>6</sup>

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<sup>5</sup>This obligation is to be tempered only with the requirements of Canon 983 which states: "Sec. I The sacramental seal is inviolable, therefore, it is a crime for a confessor in any way to betray a penitent by word or in any other manner or for any reason or in any other manner or for any reason."

<sup>6</sup>In accordance with Idaho law, no church minister, because of his or her occupation is exempted from complying with the state child abuse reporting laws.

3. Direct local church authorities to cooperate in any government investigation of the case.

### **10.3.2 Psychological Evaluation of the Accused**

The accused may be encouraged to undergo psychological assessment by a person or facility chosen by the Bishop, specializing in the evaluation of sexual abuse.

## **11.0 Role of the Diocesan Review Board For Sexual Abuse of Minors**

The Review Board will assess the information gathered during a preliminary investigation, assess the probability of guilt and the subjective and objective imputability of the offense, and provide a recommendation to the Bishop concerning action to be taken on the complaint. The Review Board may act both prospectively and retrospectively. The Review Board is a confidential, consultative body. It is left to the Bishop to make any final determination regarding the necessity of further action.

## **12.0 Procedure Following the Preliminary Inquiry**

Once the preliminary investigation has been completed, the designated officials will present a report to the Bishop.

After the investigation mentioned in 7.1 and after the Review Board has presented their confidential recommendation to the Bishop, he then brings the Preliminary Investigation to closure or, if he determines that additional information is still needed, he orders that further investigation be conducted and the results presented to the Review Board for its advice.

If the proofs gathered are sufficient, in the estimation of the Bishop, to establish the probability of the delict, the following steps must be undertaken:

1. The accused cleric is to be “promptly notified of the results of the investigation.” (Essential Norm 6).
2. The Bishop shall then apply the precautionary measures of c. 1722, i.e., remove the accused from the sacred ministry or from any ecclesiastical office or function, impose or prohibit residence in a given place or territory and prohibit public participation in the most holy Eucharist pending the outcome of the process. As noted above, these restrictions may also be imposed during the course of the preliminary investigation by the Bishop using his executive power of governance. In order to comply with canon 1722 the citation of the accused cleric must take place, if it has not already

been provided for during the course of the preliminary investigation; and the promoter of justice must be consulted to assure that proper procedure has been followed and the accused cleric's right of defense provided for. Under all circumstances, the Bishop shall make every reasonable effort to restrict the accused's duties or privileges to prevent further victimization of children.

3. Notification to the CDF must also take place at this time regarding the allegations, the results of the preliminary investigation, and the Bishop's votum (recommendation) regarding further canonical acts and/or penalties.

## **13.0 Procedure for Decision Making**

### **13.1 Findings by the Bishop and Subsequent Action**

From the findings of the preliminary investigation the Bishop must decide if there is sufficient probability that an act of abuse of a minor has occurred. If there is sufficient probability, he must then issue a decree stating such and submit a votum to the CDF.

If there is insufficient probability, the Bishop must decide that no abuse took place and submit a votum to the CDF.

If the allegation is not probable, the Bishop must issue a decree declaring that, and do all he can to help the cleric regain his reputation and good name.

If only "inappropriate" behavior is found (without actual abuse or misconduct taking place) the Bishop may apply administratively penal remedies and penances as may be appropriate. (c.1342).

The accused cleric has the right to procedural due process; therefore, he must be informed of the Bishop's decision and receive a formal citation of the Bishop's action.

In cases of child sexual abuse, the CDF will determine the appropriate canonical process to be followed by the Diocese or by the CDF itself.

When it appears that there is no substance to the allegations, the following actions may be taken in appropriate circumstances:

1. If it appears that an allegation was made in bad faith, the accuser shall be informed of the canonical and legal consequences of a false allegation.
2. If behavior of the accused, however innocent, gave rise to a misunderstanding, the accused will be so informed and appropriately

cautioned. If necessary, penal remedies and penances may be imposed upon the accused by the Bishop.

3. If necessary, the Diocese will work with the accused and his family to provide for pastoral and professional support.

The priest or deacon may at any time request a dispensation from the obligations of the clerical state. In exceptional cases, the Bishop may request that the Holy Father dismiss the priest or deacon from the clerical state ex-officio, even without the consent of the priest or deacon.

## APPENDIX II

### Procedural Guidelines for Allegations of Sexual Misconduct with Adults by Priests or Deacons

#### 1.0 General Principles

This Appendix applies in situations where a cleric, either priest or deacon, is accused of an act which could constitute sexual misconduct (i.e., not with a minor). Violation by a cleric of sections 1.1.3, 1.1.4 and 1.1.5<sup>7</sup> of the Diocese of Boise Sexual Misconduct Policies, may result in the imposition of a just penalty, in accord with the norms of canon law.<sup>8</sup>

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<sup>7</sup>Section 1.1.3 reads: **Sexual Exploitation.** Sexual exploitation is inappropriate sexual contact between church personnel and an adult who is receiving pastoral care. (footnote in original reads: Such actions may be the subject of a penal action under canon law, e.g., canons 1387; 1389; 1395; 1399.) Sexual exploitation can include any of the physical or verbal behaviors listed above in the definition of sexual abuse. Sexual exploitation is presumed if there is sexual contact, and there is any indication that the free will of the adult was impaired by physical force, administration of substances that would reduce judgment, such as mind altering drugs or excessive amounts of alcohol, or the presence of psychological coercion because of the mental state of the victim in responding to the behavior of church personnel. It remains at all times the obligation of church personnel to observe appropriate boundaries with those receiving pastoral care, and assure that inappropriate sexual contact does not occur.

Section 1.1.4 reads: **Violation of Sexual Ethics.** A violation of sexual ethics occurs when church personnel fail to maintain appropriate boundaries or exhibit exemplary ethical behavior related to sexual issues. (Cf. c. 277, §2) Examples of potential violations of sexual ethics include, but are not limited to:

- Church personnel who are called to a celibate lifestyle violating their vow of chastity/celibacy. (Cf. c. 277)
- Behavior creating a perception of a violation of boundaries of celibate chastity for those called to a celibate lifestyle.
- Sexual conduct, behavior, or intimate relationships that are contrary to living a life of chastity.
- Church personnel accessing written materials or websites containing pornography or other inappropriate sexual content, or communicating with others over the Internet in a way that includes sexual content or innuendo.
- Language or verbal comments containing sexual content that violates acceptable standards of propriety.
- Violation of generally accepted ethical standards of sexual behavior by church personnel.
- Violation of codes of conduct established by these policies.

Section 1.1.5 reads: **Sexual Harassment.** Sexual harassment is unwanted sexualized contact or sexualized behavior between pastoral leaders and employees, or between co-employees. In this context, employees include clergy, religious, parish employees, school employees, ministerial employees and any other persons employed in Diocesan, parish or school programs. Sexual harassment which violates Diocesan policies includes, but is not limited to, the following behaviors:

- Making unsolicited sexual advances and propositions.
- Using sexually degrading or gender-demeaning words to describe an individual or his/her behavior.
- Telling inappropriate or sexually-related or demeaning jokes
- Retaliating against another employee who refuses sexual advances or demands an end to other sexual behavior.
- Offering favors or employment benefits such as promotions, favorable performance evaluations, favorably assigned duties or shifts, recommendations, etc., in return for sexual favors.
- Sexualized or gender-demeaning behavior that creates a hostile work environment.

<sup>8</sup>See Canons 1717 – 1731 and 1341 – 1353.

In accord with the norms of canon law, the Bishop is to attempt to reform the offender first through fraternal correction or reproof, or other methods of pastoral care. In this light, and in accord with canon 1341, the application of penalties for violations of Universal and/or Diocesan particular law regarding sexual misconduct are to be a last resort (c.f., c. 1341). If the Bishop perceives that neither fraternal correction nor reproof, nor by any methods of pastoral care, can the offender be reformed and any scandal sufficiently repaired, is the Bishop to initiate a judicial or extra-judicial process to impose a penalty (cf. cc. 1720 and 1721). Should the act of misconduct involve sexual harassment, under the civil law, the Bishop shall take appropriate steps to remediate the situation.

When sexual misconduct by a priest or deacon is admitted or established after a process in accord with canon law, the Bishop will take appropriate measures consistent with canon law to correct the misconduct and to assist the cleric in maintaining his obligation to perfect and perpetual continence. (cf. c. 277) These actions may include but are not limited to, canonical warnings, penal remedies, and penances. The Bishop may also ask the cleric to take a voluntary leave of absence, or to voluntarily undergo an evaluation and appropriate treatment if deemed necessary. If the admitted or established act is especially damaging to the ecclesial community, removal or transfer from office or appropriate penal measures consistent with the norms of law may be appropriate. (cc. 184-195, 1740-1752. See also c. 1389.)

## **2.0 Form of Allegation**

- 2.1** Whenever church personnel receive information regarding sexual misconduct she/he is required to assist the accuser in contacting the Bishop or his delegate, as mandated by the Sexual Misconduct Policies.

The allegation should be made in writing, whenever possible, and contain the signature of the complainant. Allegations and complaints may be made to the Bishop, the Vicar General, Intake Coordinator(s), or members of the Bishop's Canonical Advisory Panel.

If an allegation is made orally, the person to whom the allegation is made shall:

1. Immediately record the specifics of the allegation, the date, time, and place of the allegation, the name of the person making the allegation and, if applicable, that person's relationship to the alleged victim.
2. As soon as possible, obtain the signature of the complainant on that written record.
3. An allegation may be tape recorded by the person to whom the allegation is made. In such instances, a verbatim transcript is to be made by an

ecclesiastical notary, who shall sign the transcript attesting to its authenticity.

- 2.2** If a person is unsure about whether he or she wishes to make an allegation, the person may give a general, anonymous description of the concern to the Bishop, or his delegate, without giving his or her name or the name of the cleric accused. The church official to whom the report is made will describe the Diocesan procedures for responding to this allegation and describe the information that is required to begin that response. The person can then decide whether to make a formal allegation. *No punitive action may be taken against a cleric solely on the basis of an anonymous allegation.*

### **3.0 Steps to be Taken Following Receipt of Allegation**

- 3.1** When an allegation of sexual misconduct by a priest or deacon is received, the Bishop will review the information and determine whether the allegation at least seems to be true. The Bishop may consult with experts in the law in making this determination, if he so chooses.

If the information received by the Bishop seems to be true, a preliminary investigation consistent with canon law will be decreed and conducted as promptly and objectively as possible (c. 1717). In every case involving canonical penalties, canonical processes and provisions must be observed.

This investigation is generally entrusted to the Vicar General, who may obtain the assistance of other qualified persons in conducting the investigation. The Bishop's decree will identify the person(s) assigned to conduct the preliminary investigation.

- 3.2** The question of prescription (limitations on time) must be examined if it is suspected that a delict has occurred. If the limits of prescription have expired, appropriate pastoral measures may be taken at the discretion of the Bishop to repair harm, scandal, or restore order in the ecclesial community (cf. c. 223, §2, 381, §1).
- 3.3** An allegation of sexual misconduct involving a cleric residing in the Diocese but incardinated in another diocese or belonging to a religious order will be reported immediately to his own diocesan bishop or religious superior. The Bishop will continue to oversee the implementation of the universal and particular law with respect to the investigation of alleged behavior that occurred within the Diocese of Boise.
- 3.4** As appointed by the Bishop, a diocesan representative will meet as quickly as possible with the complainant to:

1. Assure the complainant of the Diocese's concern.

2. Obtain more information regarding the allegation, if necessary.
3. Explain the process.
4. Assess the pastoral response needed.
5. Prepare a report for the Bishop.

If he chooses to do so, the Bishop may meet with a complainant to provide pastoral care as well.

**3.5** Should the nature of the misconduct warrant, by means of the Bishop's executive power of governance (cf. cc. 135-144), through an administrative act (cc. 35-47 and cc 48-58), the Bishop may elect to temporarily restrict an accused cleric from exercising his office, to restrict his faculties, and/or to limit his exercise of ministry (cf. c. 223, §2 and c. 381, §1). Such administrative acts may include (but are not limited to) measures such as the following:

1. Should circumstances warrant (e.g., public notoriety, scandal, aversion toward the cleric by members of the faithful, etc.) , and for the well being of both the ecclesial community and the cleric himself, the Bishop may request that the accused freely resign from any currently held ecclesiastical office. If the accused declines to resign, and the Bishop determines that the accused is truly not suitable at this time for holding an office previously conferred, then the Bishop may remove that person from office observing the required canonical procedure (c.f., cc 1740-1747).
2. For a cleric who holds no office, any previously delegated faculties may be administratively restricted while any *de iure* faculties may be restricted by the bishop as provided in law.
3. The Bishop may also determine that circumstances surrounding a particular case constitute a just and reasonable cause (e.g., to prevent scandal among the faithful), for a priest to celebrate the Eucharist with no member of the faithful present. The Bishop may temporarily restrict the priest from celebrating the Eucharist or other sacraments or sacramentals, publicly, except in danger of death (e.g., c. 223, §2).
4. Any actions taken under this section shall be documented in writing, and a decree issued, so that the cleric will have the opportunity for recourse against such measures in accordance with the law (cc. 1732-1739).

## **4.0 Procedure Following the Preliminary Inquiry**

**4.1** In cases of sexual misconduct involving a cleric, not involving a minor, the Bishop's Canonical Advisory Panel will review the matter on behalf of the Bishop.

After the facts are assembled, a report, prepared by the investigating official, is presented to the Bishop's Canonical Advisory Panel whose role is to make recommendations to the Bishop regarding appropriate responses.

- 4.2** The Bishop's Canonical Advisory Panel will evaluate the information gathered during a preliminary investigation, as well as any other pertinent information, to assess the probability of guilt and the subjective and objective imputability of the offense, as well as the canonical implications, and provide a recommendation to the Bishop concerning action to be taken on the complaint. If necessary, the Bishop's Canonical Advisory Panel may ask the investigator to collect additional information.

The Bishop's Canonical Advisory Panel shall prepare a report, including its recommendations, to be given to the Bishop. The Bishop is then to decide whether there is sufficient evidence to believe that sexual misconduct may have occurred, and whether it is appropriate to initiate a process to impose or declare a penalty. The Bishop shall act in accord with c. 1718 when making this determination. Accordingly, the Bishop must assess the probability of guilt and the subjective and objective imputability of the offense. He may consult further with the Bishop's Canonical Advisory Panel, or with other experts, as he deems necessary, to assess the evidence before him. The final decision as to how to proceed in this matter is left to the Bishop alone. *The Bishop is to start a judicial or administrative procedure for the imposition or the declaration of penalties only when he perceives that neither by fraternal correction or reproof, nor by any methods of pastoral care, can the scandal be sufficiently repaired, justice restored and the offender reformed. (c. 1341)*

- 4.3** If the Bishop determines the proofs gathered are sufficient to establish the probability of the delict (c.f. cc 1389, 1394, 1395, 1399, and *Roman Catholic Diocese of Boise Sexual Misconduct Policies*, sections 1.1.3, 1.1.4 and 1.1.5), and he determines that fraternal correction or other non-penal measures will not sufficiently resolve the issue, the following steps shall be undertaken:

1. The Bishop shall issue a decree stating that a process to declare or impose a penalty is to be initiated in accord with the norms of law.
2. The accused cleric is to be promptly notified of the results of the investigation and that a canonical process to declare or impose a penalty has been initiated.
3. If a judicial process (i.e., penal trial) has been initiated, the Bishop may then apply the precautionary measures of c. 1722, i.e., remove the accused from the sacred ministry or from any ecclesiastical office or function, impose or prohibit residence in a given place or territory and prohibit public participation in the most holy Eucharist pending the outcome of the process. In order to comply with canon 1722 the citation of the accused cleric must

take place, if it has not already been provided for during the course of the preliminary investigation; and the promoter of justice must be consulted to assure that proper procedure has been followed and the accused cleric's right of defense provided for.

- 4.4** If the Bishop determines that the cleric's behavior does not stem from culpability or malice, the cleric may be asked to seek a psychological evaluation and therapy for any issues that may have led to the behavior. The cleric may not be coerced into seeking such treatment.

Such therapy, if warranted, shall be suggested to assist the cleric in addressing any personal issues which may have led him to becoming involved in the misconduct. The results of the psychological evaluation and therapy may also be used by the Bishop to determine future suitability for ministerial assignments.

- 4.5** If the allegation is found not probable, the Bishop must issue a decree declaring that fact, and do all he can to help the cleric regain his reputation and good name, if they have been harmed.

If only "inappropriate" behavior is determined by the Bishop to have occurred (without actual misconduct taking place), the Bishop may speak fraternally to the cleric, encouraging him to modify his behavior accordingly. If he deems it necessary, the Bishop may apply penal remedies and penances as may be appropriate. (cf. cc. 1339 and 1340).

- 4.6** When it appears that there is no substance to the allegations, the following actions may be taken in appropriate circumstances:

1. If it appears that an allegation was made in bad faith, the accuser shall be informed of the canonical and legal consequences of a false allegation. The Bishop, in consultation with the Promoter of Justice and the Bishop's Canonical Advisory Panel, shall determine whether any canonical action may be taken against the accuser. Every effort shall be made to publicly respond to the false accusations and restore the good name of the accused. Appropriate pastoral and professional support (counseling, etc.,) shall be offered to the accused by the Bishop. In the case of a married permanent deacon, the Diocese will work with the family of the accused to provide for pastoral support, as well.
2. If behavior of the accused, however innocent, gave rise to a misunderstanding, the accused will be so informed and appropriately cautioned. If necessary, penal remedies and penances may be imposed upon the accused by the Bishop, if he deems such action as being necessary.

## **5.0 Rights and Obligations of the Accused During Inquiry/Investigation Stages**

- 5.1** During the preliminary investigation (cf. c. 1717), at a time deemed appropriate by the Bishop, and consistent with canon law, the accused will be provided with an explanation of the nature of the allegations, and given the opportunity to respond to them.
- 5.1.1** However, should particular circumstances warrant, at no time is the Bishop bound by the universal law of the Church to inform the cleric at a particular time that a preliminary investigation is underway, unless the Bishop determines it is necessary to implement temporary administrative measures to restrict the cleric's ministry while the investigation is ongoing.
- 5.2** The Diocese will exercise discretion in conducting the investigation, preserving confidentiality to the extent possible, and protecting the good name of all of the parties to the investigation to the extent possible. All appropriate steps shall be taken to protect the reputation of the accused during the investigation. If the allegation is not proven, every step possible is to be taken to restore his good name, should it have been harmed.
- 5.3** A cleric who has been accused of sexual misconduct has the right to speak with his Bishop, and he can admit the offense if he so chooses. He cannot be compelled to confess the offense or to say anything that would be self-incriminating or to take an oath concerning the truth of his statements. (1728, §2). Should the accused be interviewed during the preliminary investigation, such an interview will be tape recorded and transcribed, and countersigned by an ecclesiastical (priest) notary.
- 5.4** The Diocese will respect the right to due process in accord with canonical norms, most especially the right of the accused to defend himself against the allegations.
- 5.5** Should any formal canonical process be initiated against the accused, such as a judicial or extra judicial process or the formal process for the removal of a pastor from office, the accused has the right to a canonical advocate. The accused also has the right to consult with a canonical advisor about his situation before any formal proceedings begin. The 2004 *Region XII Policy for Canonical Counsel and Advocacy in Non-Matrimonial Cases* addresses the issue of canonical advocates during formal canonical processes. So as not to create a conflict of interest with the Bishop, and in keeping with the spirit of the above mentioned regional policy, it is strongly suggested that canonical advice, for those occasions which arise outside of a formal canonical process, be sought from canonists who are not incardinated in, nor have an ecclesiastical office in the Diocese of Boise.
- 5.6** If civil or criminal legal action is possible, the Diocese will encourage the accused to retain the assistance of legal counsel.

- 5.7** The Diocese will inform the accused when the investigation has been completed, and provide any information concerning the results of the investigation that the Bishop deems reasonable and prudent under the circumstances. Consistent with canon law, unless a formal canonical process is initiated (e.g., removal from the office of pastor, extra-judicial process, penal trial), the accused does not have a right to access the preliminary investigation file, nor have a copy of the file. Should it be determined that a formal canonical process is to be initiated, access to the acts of the case shall be granted consistent with the norms of the law.
- 5.8** During the investigation, the accused has the obligation not to interfere with the investigative process; nor shall the accused retaliate against the complainant for bringing the complaint forward, and shall respect the complainant's right to be heard. (cf. c. 212, §2 and §3).
- 5.9** During the investigation, the accused has the obligation to observe any special provisions or restrictions imposed by the Bishop (cf. cc. 223, §2, 273, 381, §1).

## **6.0 Rights and Obligations of the Complainant During Inquiry/Investigation Stages**

- 6.1** The complainant has the right to make his or her grievances known to the Diocese, and to tell the Bishop or his delegate about the alleged misconduct. (cf. c. 212, §2 and §3).
- 6.2** All appropriate steps shall be taken to protect the reputation of the complainant during the investigation. The Diocese will exercise discretion in conducting the investigation, preserving confidentiality to the extent possible, and protecting the good name of all those involved in the investigation to the extent possible.
- 6.3** The Diocese will hear the allegations, and take appropriate steps to gather information to determine whether a crime under canon law (universal or particular) has been committed.
- 6.4** To assist in the preliminary investigation of the alleged misconduct, the complainant will be asked to provide a formal statement and to respond to questions posed by the Bishop's delegate. Any interview will be conducted in a location and atmosphere that is comfortable to all parties.
- 6.5** If the complainant chooses not to respond to questions or participate in the investigation, the complainant will be advised that such a decision may make it impossible for the Church to adequately address the complaint.
- 6.6** Interviews conducted with the complainant or with witnesses during the preliminary investigation shall be taken under oath, tape recorded and transcribed by an ecclesiastical notary. The complainant has an obligation to take an oath when giving testimony to the Bishop's delegate(s).

- 6.7** The Diocese will offer the complainant the opportunity to provide any relevant information regarding the allegations, and will inform the complainant when the investigation has been completed, and provide any information concerning the results of the investigation that the Bishop deems reasonable and prudent under the circumstances.
- 6.8** The complainant has the right to expect that the Diocese will make every effort to prevent intimidation and/or retaliation against the complainant by those acting on behalf of the Church, the accused, or the faith community.
- 6.9** During the course of the preliminary investigation, the complainant has the obligation to provide complete and accurate information regarding the allegation and to provide names of additional witnesses and relevant documents to investigators.

## **APPENDIX III**

### **DIOCESAN SEXUAL HARASSMENT POLICY**

The Diocese of Boise strives to create a work environment where all persons treat each other with dignity, charity, and respect in accord with Christian principles and the social teachings of the church. Therefore, the diocese is committed to provide a work environment that is free from harassment in any form. Harassment by any clergy, religious or lay employee, of any person working for the diocese is strictly prohibited.

Appropriate preventative measures will be used to promote respect for the right of church personnel to be free from sexual harassment. Remedial measures and/or corrective actions, up to and including dismissal, shall be used when acts of harassment occur. Church personnel, and especially supervisory personnel, have an affirmative duty to maintain a workplace free of harassment and intimidation.

All harassment complaints, regardless of where or to whom reported, or from whom, shall be taken seriously and resolved in accordance with the Diocesan Sexual Misconduct Policy. Allegations must be forwarded immediately to the Bishop or Assistance Coordinator. All allegations will be investigated in a prompt and thorough manner. Confidentiality will be maintained to the extent possible.

All of our church leaders (e.g. clergy, supervisors, etc.), through their actions, shall model respectful behavior by:

- Encouraging reports of harassment and/or discrimination incidences.
- Taking remedial measures to stop harassing behavior whenever reported or observed.
- Notifying the Bishop or the Assistance Coordinator of all allegations or incidences of harassment in the workplace.
- Ensuring that retaliatory behavior is not allowed.

Sexual Harassment is any conduct that:

- Degrades or shows hostility toward an individual because of sex.
- Creates an intimidating, hostile, or offensive working environment through written (i.e., e-mail, computer), graphic, or verbal communications (i.e., voice mail, oral remarks) including comments, jokes, slurs, or negative stereotyping.

Where the result of such harassment is to interfere with an individual's ability to do their work.

Additionally, sexual harassment is also specifically prohibited and defined as unwelcome sexual advances, or requests for sexual favors, where specific, tangible job benefits are denied or provided based upon the favorable or unfavorable response to such advances or requests. It also specifically includes other verbal or physical conduct of a sexual nature when the sexual conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.

Examples of sexual harassment, which can involve verbal, physical, visual or other behavior, include, but are not limited to:

- Demeaning and/or derogatory comments or jokes about one's gender.
- Physical behavior, including staring, pinching, touching, assault or other physical contact, or deliberately impeding or blocking the normal movements of another person.
- Unwelcome sexual comments, innuendoes, jokes, or sexually abusive personal remarks.
- Sexually explicit, derogatory or demeaning displays or distribution of posters, cartoons, written words, memos, drawings, pictures, materials, electronic media, or objects in the work area.
- Offering or implying a reward for sexual favors.
- Threats concerning work assignments, performance review, discipline, promotions, or other terms or conditions of employment in exchange for sexual favors.
- Unwelcome amorous advances or propositions, physical conduct, obscene gestures.
- Obscene letters, phone calls, E-mails, or unwelcome words or comments with sexual or other discriminatory meanings.
- Unwelcome requests for sexual favors or repeated social contact; sexual assault or other unwelcome sexual contact.

Employees who complain of harassment or discrimination, or provide information related to such complaints, or oppose harassing and/or discriminating behavior, shall be protected against retaliation. Retaliation is considered as serious as prohibited harassment and immediate and appropriate disciplinary action, up to and including dismissal shall be instituted. During the complaint investigation, all parties shall be reminded that retaliation is prohibited.

Examples of retaliation can include negative actions such as, but not limited to: unwarranted poor performance evaluations, change in job duties as a consequence of reporting harassing behavior, or other negative employment decisions, laughing at, ignoring or failing to take seriously reports/complaints of harassment, or continuing/escalating harassing behavior after the employee objects.

If you feel you are being harassed or retaliated against, you are encouraged to notify any supervisor, pastor, parish leader, the Bishop, the Vicar General, or the Coordinator of Child, Youth and Adult Protection at (208) 342-1311. There is no requirement that a supervisor, pastor or parish leader be notified if that person is involved in the harassment or retaliation.

If the findings of the investigation indicate that a violation of the harassment policy has occurred, immediate and appropriate corrective and/or disciplinary action, up to and including dismissal will be administered. If the accused is a member of clergy the procedures required by canon law and the Diocesan Sexual Misconduct policies will be followed. Corrective actions shall be proportional to the seriousness or repetitiveness of the offense.