

Diocese of Central New York

Policies and Procedures

Diocesan Guidelines for Professional Conduct and Behavior
Response to Allegations and Incidents of Sexual Misconduct
Diocesan Deployment Investigation Procedures

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I. Introduction

And one of them, a lawyer, asked (Jesus) a question, to test him. "Teacher, which is the great commandment in the law?" And he said to him, "You shall love the Lord your God with all your heart, and with all you soul, and with all your mind. This is the great and first commandment and a second is like it, You shall love your neighbor as yourself. On these two commandments depend all the law and the prophets." (Matthew 22:34-40)

In response to the lawyer's question, Jesus brought together the two foundational commandments of God's covenant with Israel. In the Holiness Code of the Book of Leviticus the summary of legal, cultic and moral laws, is written: "You shall love your neighbor as yourself: I am the Lord." (Leviticus 19:18) In Deuteronomy, in the "Shema", Judaism's confession of faith, is written: "Hear, O Israel: The Lord our God is one Lord; and you shall love the Lord your God with all your heart, and with all your soul, and with-all your might." (Deuteronomy 6:4-5) These commandments were the way in which the people of Israel were to keep the covenant with the God who sought them out to be a chosen and "peculiar" people. Note, however, the relational nature of these commandments. As God's chosen, the Israelites were to love God and one another. Jesus reaffirmed the importance of this covenant relationship in his response to the lawyer.

As Christians, we continue to understand that the nature of our life in God is relational. God created the world and made human beings, male and female in God's image. Creation was given into the care of humanity, with the invitation to live as co-creators with God. That we are to take responsibility for what we do with creation, and be accountable to God for its use, is implied in the gift itself

We, however, were also created with a free will which opens the door to sin and brokenness, giving us the potential to alter our relationships and to make, at times, wrong or destructive choices. Yet even in our sin, God still seeks relationship with us. Our understanding of the relational nature of God helps us to understand how it possible for us to be reconciled with God and with one another. It also makes it possible for us to learn how to make healthy choices about relationships, and about the nature of intimacy: that is, how we can be in relationship without being so distant as to be isolated, or so close as to be invasive.

At present we are faced with challenge of responding to the problem of sexual misconduct in the church, an abuse perpetrated by both clerical and lay leadership. In the case of clergy, the problem has largely been disregarded until recently. The church has been put on notice, not by its own zeal for justice for those victimized, but by the number of lawsuits through which victims have demanded that their complaint be heard. The dominance of men in positions of authority has allowed a closing of the ranks around alleged offenders, often denying the truthfulness of claims of sexual misconduct by clergy.

Now that the secret of sexual misconduct has been exposed, it must be understood that any circumstance of sexual misconduct by clergy or laity is a breach of professional ethics, and an

exploitation of those whom they are called to serve. Such misconduct represents a misuse of power and trust.

Clergy, and some lay leaders, have access to the most intimate aspects of parishioners' lives. Pastoral leadership is trusted to provide help and encouragement regardless of the situation for which this leadership is summoned.

Clergy must maintain a professional and trustable relationship with all who seek their pastoral care. There can be no excuse for taking sexual advantage of another human being through a pastoral relationship. It is the responsibility of clergy and lay leaders to recognize the sacred trust of their professional relationships and to respect the boundaries that those relationships require.

The following policies of the Diocese of Central New York regarding sexual misconduct have been adopted to insure that in any circumstance of alleged sexual misconduct, just and fair procedures will be followed -- both for the alleged recipient of sexual misconduct and for the accused. Even more importantly, this policy is designed for prevention. Our concern is to encourage healthy clerical and lay leadership in the church. Through careful screening of individuals with high risk behavior, and with ongoing education for mature and accountable behavior in the church, it is our hope that we may not only limit opportunities for abuse to occur, but that we may foster safe and wholesome behavior. Our baptismal call is to respect the dignity and worth of all persons, and to keep the Covenant we have made with God and with one another.

This manual is also directed to the larger community of ordained and lay ministers in the church who have tried to live their callings with faithfulness and care. Helping the church to be more accountable in the way she directs us relate to one another, and couching that accountability in legal terms can provoke anxiety at times into the lives of the many, vulnerable and caring people who work in the church. We wish to affirm these sacred callings, and the risks they involve. These policies are intended to protect and support those who make our church a place of hope and of vision.

II. Definitions and General Policy Statements on Sexual Misconduct

The Diocese of Central New York is committed to protecting all persons within its care from sexual misconduct by church workers, whether such workers are clergy, lay employees or lay volunteers.

The Diocese of Central New York strictly prohibits interaction with children and young people by anyone with a civil or criminal record of child sexual abuse, who has admitted prior abuse, or anyone known to have a paraphilia diagnosis as defined by the American Psychiatric Association.

Definitions and Policies

Sexual misconduct by clergy or other church workers can involve sexual abuse, sexual harassment, and sexual exploitation.

Sexual abuse

Sexual abuse is sexual involvement or contact with a person who is a minor or who is legally incompetent. Sexual abuse is a criminal offense and must be reported to law enforcement officials. In the State of New York, certain professionals are obliged to report suspicion of sexual abuse to the child abuse hot line even before the full process of legal investigation is complete, in order to enable the removal of children from possible situations of abuse. While clergy are not included in the list of mandated reporters, professional counselors and teachers are. If a cleric or church school teacher suspects that a child is being subjected to abuse, the diocese would encourage that church worker to call the child abuse hot line.

It is the policy of this diocese to comply fully with law enforcement officials and child protective services in cases of sexual abuse.

Sexual harassment

Sexual harassment includes, but is not limited to, unwelcome sexually oriented humor or language, questions or comments about sexual behavior or preference unrelated to employment qualifications, unwelcome or undesired physical contact, inappropriate comments about clothing or personal appearance, or repeated requests for social engagements in a situation where there is an employment relationship, a colleague relationship, or a relationship of power created by the church situation, as in the relationship between clergy and lay persons involved in church activities. This explicitly includes harassment of clergy, aspirants, postulants and candidates for Holy Orders, and seminarians sponsored by or working in this diocese, and all employees of parishes and institutions of the diocese.

It is the policy of this diocese that sexual harassment will not be tolerated.

Sexual exploitation

Sexual exploitation is a betrayal of trust in a pastoral relationship by the development, or the attempted development, of a sexual or romantic relationship between a cleric or supervisor and a person with whom that person has a pastoral or supervisory relationship. Sexual exploitation includes activity such as dating during the course of a counseling relationship, verbal suggestions by a supervisor or cleric of sexual-contact or the actual engaging in physical sexual contact, either genital or other physical contact which is, or reasonably could be, interpreted as sexually oriented. The apparent consent of a possible recipient of the sexual or romantic relationship seldom determines whether there has been exploitation, because the imbalance of power between the cleric, or supervisor, and the person in the pastoral or supervisory relationship usually undermines the validity of the apparent consent. The cleric should not engage in an on-going dating relationship with a member of his/her congregation without consultation with the Bishop. A supervisor should consult with his or her own supervisor

A pastoral relationship, as used in these policies, refers to the relationship between a cleric, lay employee or volunteer, and any person to whom the cleric, employee or volunteer provides counseling, pastoral care, spiritual direction or spiritual guidance, or from whom the cleric, employee or volunteer has received a confession or confidential, privileged information.

Sacramental confession, which is a privileged, inviolably confidential rite, is normally to be understood as an intentional confession of sin, made before a priest according to the rites of the Book of Common Prayer, and heard in a church by a priest vested for this office. Confidences shared in the privacy of a cleric's office, or in the context of pastoral care or counseling, while often intended to be confidential, are not protected under the seal of confession.

It is the policy of this diocese that clergy and lay employees and volunteers will be trained to be aware of the potential for sexual exploitation, will avoid situations which might lead to exploitation, and will not engage in sexually exploitative relationships.

III. Strategies for Prevention of Sexual Misconduct

Central to church accountability in the area of sexual misconduct are strategies for prevention of such misconduct.

Hiring and Selection

Safeguards for hiring and selection of persons to serve in the church form the first line of prevention. Our approach to deployment of clergy and lay employees is outlined in section V of this manual.

Pastoral Care safeguards

It is the policy of this Diocese that a distinction be made between pastoral care and pastoral counseling.

Pastoral care which involves counseling around a particular life issue, beyond six sessions shall be considered "pastoral counseling." Clergy and other pastoral care providers who engage in "pastoral counseling" shall be required to have ongoing professional supervision and specific liability insurance.

Fees or donations for pastoral care are prohibited. All canonically resident clergy charging fees for counseling outside the scope of church employment must possess appropriate professional credentials and proof of separate professional liability insurance, including coverage for Sexual Misconduct, in force at all times.

Persons practicing formal **spiritual direction** shall submit that ministry to peer or supervisory review with a spiritual advisor approved by the Bishop.

Training in sexual misconduct

Child Abuse For clergy, selected volunteers and employees

A minimum of four hours of initial training on issues of child sexual abuse in church settings will be required for all clergy, volunteers who regularly supervise youth activities and employees.

Adult misconduct for clergy and employees (excluding clerical and maintenance workers)

A minimum of four hours of initial training on issues of sexual harassment in employment, mentor and colleague relationships and **sexual exploitation** in pastoral relationship will be required for all clergy and selected employees.

This training will also be required of all incoming clergy and church employees who fall under these guidelines within six months of the initiation of their ministries.

On-going compliance will be required by the Diocese, with periodic training sessions of veteran employees, to keep everyone current and aware of policies and procedures concerning sexual misconduct. This on-going training shall occur no less than every three years.

Encouragement of mature and healthy clergy

The Diocese will foster wellness and maturity of clergy through clergy conferences and gatherings, through standards of continuing education and sabbaticals; through group mentoring and support such as the Canterbury Way; and through the provision of adequate health coverage in Diocesan Health insurance packages.

Insurance Coverage and Risk Management

As a part of prevention and of church accountability, basic requirements concerning liability insurance and risk management will be required of all congregations in this diocese.

All parishes are required to hold professional liability insurance to cover sexual misconduct, up to the minimum of \$300,000 each occurrence with a \$300,000 annual aggregate. Parishes need not buy liability insurance from the Church Insurance Company, but must have coverage consistent with current CIC standards as agreed to by this diocese. A copy of the insurance certificate must be submitted to the Diocese on the date of the renewal of the insurance policy.

The Diocese, and every parish and diocesan institution, will have the "Diocese of Central New York Policies and Procedures," in its possession which outlines procedures to be followed and standards of conduct to be maintained, and whose purpose it is to prevent sexual Misconduct by clergy, employees or volunteers.

All parishes and diocesan institutions will keep on file with the Bishop, statements by all of its clergy, volunteers who regularly supervise youth activities, vestry members and employees that each party has received the manual and understands its content. These signed statements will be kept on file permanently.

IV. Procedures for Response to Allegations

Initial response

All complaints are to be taken seriously. All complaints should be referred to the Bishop, who will respond in a timely fashion. If the complaint involves a church worker, paid or volunteer, and another person, the parish priest may be delegated by the Bishop to investigate. Close consultation with the Bishop will be required.

Subject to the requirements of legal process, **the confidentiality of all persons involved will be protected as much as possible**, including the alleged recipient of misconduct and his/her family, and the alleged perpetrator and his/her family. However, the lay leadership of the parish may need to be informed of the situation immediately, and the cleric or other church worker accused-of misconduct may need to be relieved of duties while the matter is investigated.

The person(s) making the complaint normally must submit the complaint in writing. An investigation and action cannot proceed without a written complaint. The Bishop will limit disclosure of the name of the alleged recipient of misconduct to those who have an absolute need to know it, subject to the requirements of legal process.

The procedure followed will be consistent with Title IV of the Canons for the government of the Episcopal Church as adopted in its General Conventions.

V. Deployment Procedures

The Diocese of Central New York is committed to protecting persons from sexual misconduct by Episcopal clergy, lay employees and youth workers. Thus it has adopted a policy whereby a background investigation concerning sexual misconduct is required of all clergy, youth workers and certain lay employees (excluding unpaid Sunday School teachers) prior to employment in this diocese. Background checks will also be done of all persons prior to ordination, employment or acceptance into this diocese.

The Diocese uses the services of Oxford Document Management Company to do background investigation. Any information concerning sexual misconduct or other crime is reported directly to the Bishop to protect confidentiality.

Background checks shall include, for a minimum of the past ten years, inquiries of all bishops having past or present canonical authority over the individual, all schools attended by the individual, and all employers of the individual within the last 10 years. Written records documenting compliance with these Policies shall be made contemporaneously and retained indefinitely.

VI. Legal and Insurance Requirements

Adoption and Compliance Statement by Parishes and Diocesan Institutions

Adoption of Policies by Parishes and Diocesan Institutions.

Unless otherwise approved in writing by the Bishop of the Diocese of Central New York, on or before May 15, 1996 the Vestry or governing board of each parish or diocesan institution in this Diocese shall adopt these Policies by a formal resolution, the text of which is recorded in the official minutes of the Vestry. A sample Vestry resolution adopting these Policies appears as Appendix to these Policies.

On or before May 15 of each year, beginning May 15, 1996:

- 1) the Vestry or governing board shall reaffirm the applicability of these Policies to all clergy, lay employees and volunteers of such parish or institution, and;
- 2) all clergy, all lay employees and all volunteers who regularly supervise youth activities (excluding unpaid Sunday School teachers) shall be furnished with a copy of these Policies and shall complete and sign a certificate evidencing the receipt and understanding of these Policies.

Each parish and diocesan institution shall retain the foregoing resolutions and receipts among its permanent records. A copy of the sexual misconduct liability insurance certificate must be submitted to the Office of the Bishop on the date of the renewal of the policy.

Diocesan Sexual Misconduct Liability Insurance Requirement

Each parish and diocesan institution shall be required to have liability coverage for sexual misconduct of employees according to the required minimum of \$300,000 for each occurrence, \$300,000 annual aggregate will be required to file with the Bishop assurances of such coverage.

Parishes are not required to hold insurance coverage through the Church Insurance Company, but must show proof of coverage equal to the minimum established by the Diocese of Central New York.

VII. Concluding Remarks

At the beginning of this policy manual, emphasis was given to the relational aspect of the Christian faith. If it were a perfect world, we would treat one another with the respect and dignity commanded by God and modeled by Jesus the Christ in his relationships with the people among whom he ministered.

But it is not a perfect world, and much effort is needed to redress the pain and suffering caused by clergy and laity who have exploited members of their congregations. As we acknowledge the sin which has the power to infect our common life, there will begin to be opportunities for healing.

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