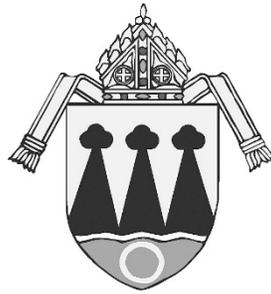


Sexual Misconduct Policy of the Diocese of Rapid City



**Policies and Procedures Relating to Allegations of Sexual Abuse
of Minors and Vulnerable Adults
by Priests, Deacons, Lay Employees or Volunteers
in the Diocese of Rapid City, South Dakota**

Revised Edition Promulgated May 20, 2019, Protocol No. 2019-04

THIS PAGE LEFT INTENTIONALLY BLANK.

1.0 PREAMBLE

In 2002, the United States Conference of Catholic Bishops (USCCB) recommitted the Church to deal appropriately and effectively with cases of sexual abuse of minors by priests, deacons and other church personnel, i.e., lay employees and volunteers. In the *Charter for the Protection of Children and Young People* and the *Essential Norms for Diocesan/Eparchial Policies Dealing with the Allegations of Sexual Abuse of Minors by Priests or Deacons*, as approved by the Apostolic See, the Bishops of the United States promised to reach out to those who have been sexually abused as minors by anyone serving the Church in ministry, employment or volunteer service, whether the sexual abuse was recent or occurred many years ago. The bishops stated that they would be as open as possible with the people in parishes and communities about instances of sexual abuse of minors, with respect always for the privacy and the reputation of the individuals involved. They have committed themselves to the pastoral and spiritual care and emotional well-being of those who have been sexually abused and their families.

The bishops will work with parents, civil authorities, educators and various organizations in the community to establish and maintain the safest possible environment for minors. In the same way, the bishops have pledged to evaluate the background of seminary applicants, as well as all church personnel who have responsibility for the care and supervision of minors.

The Diocese of Rapid City will implement these *Norms* diligently, compassionately and fairly. The following policies and procedures are intended to implement these goals.

In 2011, the *Charter for the Protection of Children and Young People* was revised to include vulnerable adults. Vulnerable adults are broadly defined as dependent adults, those who are institutionalized and those who are developmentally disabled or habitually lack the use of reason.

In 2013, the Diocese of Rapid City expanded that definition to include the following groups of individuals:

1. Those in hospitals, nursing homes or the homebound.
2. Those in programs for the bereaved, separated and divorced.
3. Those in Rachel's Vineyard.
4. Those in Returning Catholics programs.
5. Those in the annulment process.

It is to be understood that vulnerable adults are also included wherever minors are mentioned in this policy

In 2018 the USCCB again revised the Charter noting that while within the past sixteen years the number of reported cases of sexual abuse has decreased, the harmful effects of this abuse continue to be experienced by both victims and dioceses/eparchies. Thus, it is with a vivid sense of the effort which is still needed to confront the effects of this crisis fully and with the wisdom gained by the experience of the last sixteen years that the bishops have reviewed and revised the Charter. The diocese has therefore updated its Sexual Misconduct Policy to reflect the revisions of the USCCB Charter.

2.0 PROHIBITION OF SEXUAL ABUSE OF MINORS

Under the Universal Law of the Church, the sexual abuse of minors by a cleric is a grave delict (offense) reserved to the Holy See, and the offender is subject to severe penalties, including dismissal from the clerical state, if the case so warrants. Even a single verified act of sexual abuse of a minor – in the past, present or future – by a priest or deacon will lead to the permanent removal from the ministry. An act of sexual abuse of a minor by a lay employee or volunteer – in the past, present or future – will lead to dismissal from any role within the diocese or any diocesan organization or institution.

Under both federal and South Dakota civil and criminal law, the sexual abuse of minors is a grave crime, and an offender may be subject to severe penalties, including incarceration, fines and/or monetary damages.

2.1 DEFINITION OF SEXUAL ABUSE OF MINORS

Sexual abuse of a minor includes sexual molestation or sexual exploitation of a minor and other behavior by which an adult uses a minor as an object of sexual gratification. This includes, but is not limited to, sexual contact with the intimate parts (genital area, groin, anus, inner thighs, buttocks or breasts) of a minor for the purpose of sexual gratification or arousal or for the purpose of degrading or humiliating the minor. Deliberate touching of the intimate parts of a minor, requesting that the minor touch the intimate parts of the adult, exposing the intimate parts of the adult to a minor or requesting that the minor expose his or her intimate parts also constitute sexual abuse. The use, viewing, creation or distribution of child pornography is also considered sexual abuse under this policy. A minor is a person who has not yet reached his or her eighteenth birthday.

2.1.1 The transgressions in question relate to obligations arising from divine commands regarding human sexual interaction, as conveyed to us by the sixth commandment of the Decalogue. Thus, the norm to be considered in assessing an allegation of sexual abuse of a minor is whether conduct or interaction with a minor qualifies as an external, objectively grave violation of the sixth commandment (*Canonical Delicts Involving Sexual Misconduct and Dismissal from the Clerical State*, USCC, 1995, p. 6).

2.1.2 A canonical offense against the sixth commandment (c. 1395, §2) need not be a complete act of intercourse. Nor, to be objectively grave, does an act need to involve force, physical contact or a discernible harmful outcome. Moreover, imputability (moral responsibility) for a canonical offense "is presumed upon external violation." (c. 1321, §3. Cf. cc 1322-27)

2.1.3 If there is any doubt whether a specific act qualifies as an external, objectively grave violation, the writings of recognized moral theologians may be consulted and the opinions of recognized experts may be obtained (*Canonical Delicts*, p. 6). Ultimately, it is the responsibility of the bishop of the Diocese of Rapid City, with the advice of the diocesan review board, to determine if the allegation warrants further action.

2.2 OTHER OBJECTIONABLE CONDUCT

- 2.2.1 Even conduct that does not constitute sexual abuse may be offensive or may create misunderstanding or embarrassment. Experience has shown that actions by a priest or deacon with minors such as hugging, patting, tickling or similar "horseplay," even if intended innocently, may be misconstrued. Priests and deacons must be especially careful, therefore, to avoid such conduct, especially when other adults are not present. NOTE: The Diocese of Rapid City promulgated and published separately a *Code of Conduct* applicable to all personnel and all personnel will receive training regarding the *Code of Conduct*.
- 2.2.2 Similarly, lay employees and volunteers should refrain from engaging in any non-sexual physical contact with minors under their care, if there is any realistic possibility that the contact may be misunderstood by the minor or found objectionable by the minor's parents or guardians. Notwithstanding the above, a teacher or other school employee or volunteer may use reasonable physical force in a school setting pursuant to South Dakota statutes. (*See* SDCL § 13-32-2, 13-32-3.)
- 2.2.3 South Dakota law also prescribes criminal penalties and fines for specific crimes including, but not limited to, sexual offenses involving children (SDCL § 22-22) and child pornography (SDCL § 22-24A); and South Dakota law further protects minors from sexual abuse, exploitation or molestation by parents, guardians or others responsible for the child's care (SDCL § 26-8A-2). The law changes from time to time by enactment of amendments to statutes and judicial interpretations. It is not possible to set forth all of the laws and the interpretation of those laws in this document; however, the Diocese will provide assistance to all diocesan personnel having questions or seeking knowledge concerning these matters. For a more detailed list of offenses, you may review the South Dakota Codified Laws (SDCL § 22-22).

2.3 DEFINITIONS OF POLICY

- 2.3.1 "Diocese" encompasses the Roman Catholic Diocese of Rapid City, in accord with Canon 369 of the Code of Canon Law; all parishes and other inferior canonical juridical persons whose competent ecclesiastical superior is the bishop of the Diocese of Rapid City or administrator of the Diocese of Rapid City; the Rapid City Roman Catholic Diocesan Corporation, as chartered by the State of South Dakota; all other corporations (including parish corporations) having the bishop of the Diocese of Rapid City or administrator of the Diocese of Rapid City as their president or presiding officer.
- 2.3.2 "Personnel" includes all persons (clergy, religious and laity) who are employed by or volunteer in any of the entities encompassed by the Diocese. Of special concern are those in supervisory capacities or in particularly sensitive areas, such as those who work with or around children, the very elderly and the physically or mentally infirm; those who counsel others; and generally, those who work with people who are less capable of protecting themselves.

2.3.3 "Reasonable cause" means a prudent estimation based on trustworthy information that an incident occurred or is perceived as having occurred.

2.3.4 "Credible" allegation, accusation or information means that, under all the circumstances known at the time of the determination with regard to time, place and person, a prudent person would conclude that there is a significant possibility that an incident occurred or is perceived as having occurred.

2.4 DISTRIBUTION OF POLICIES

2.4.1 A copy of this policy will be distributed to all personnel of the diocese and posted on the website of the diocese.

2.4.2 This policy will be incorporated into all diocesan personnel guidelines and printed in the *Pastoral Handbook*.

2.4.3 This policy will be communicated to the competent ecclesiastical superiors of all members of religious institutes and societies of apostolic life who have members serving as personnel within the diocese.

2.4.4 A signed acknowledgment of receipt and understanding will be required of all personnel of the diocese. The signed acknowledgments of receipt and understanding of these guidelines will be returned to their superior or supervisor for retention in the appropriate personnel files.

3.0 PASTORAL CARE FOR VICTIMS

3.1 SAFE ENVIRONMENT PROGRAM

In order to guard against incidents of sexual abuse of minors by personnel of the diocese, the diocese will establish and maintain a Safe Environment Program, designed to prevent, identify and respond to abuse and to provide appropriate education and training to diocesan personnel about inappropriate behavior and warning signs of possibly abusive behavior. Education and counseling opportunities are to be made available to church personnel as a part of the diocese's continuing education and training of church personnel. Each new employee or volunteer will be provided with a copy of this policy and the *Code of Conduct* and will be required to read them and sign the acknowledgment forms.

3.1.1 BACKGROUND CHECKS

The Safe Environment Program will also evaluate the background of all diocesan personnel who have contact with minors or vulnerable adults in their ministerial, employment or volunteer duties.

3.1.2 DISQUALIFYING OFFENSES

No person may serve minors, or other protected persons if he or she has ever been convicted of any disqualifying offense, been on probation or received deferred

adjudication for any disqualifying offense or has presently pending any criminal charges for any disqualifying offense until a determination of guilt or innocence is made. This also applies to any person who is presently on deferred adjudication.

Disqualifying offenses are:

3.1.2.1 Offenses or adjudications against a person or family:

Examples of offenses against a person include, but are not limited to: murder, assault, battery, rape, sexual assault, stalking and abandoning or endangering a child. Examples of offenses against the family include, but are not limited to bigamy, incest, sexual assault and sexual exploitation of a minor.

At all times, the Diocese reserves the right to include within the disqualifying offenses any and all additional offenses or conduct determined to be inconsistent with serving minors or vulnerable adults.

3.1.2.2 Offenses or Adjudications against public order or decency:

Examples of offenses against public order or decency include, but are not limited to: prostitution, human trafficking, stalking, sexual performance by a child, solicitation of a minor, criminal pedophilia, promotion of prostitution of a child or adult, possession, promotion, or sale of child pornography, indecent exposure, dissemination of materials harmful to minors, possession or sale of prepaid adult entertainment telephone cards, and any other similar offenses against public order or decency.

At all times, the Diocese reserves the right to include within the offenses against public order or decency any and all additional offenses or conduct determined to be inconsistent with serving minors or vulnerable adults.

3.1.3 **SAFE ENVIRONMENT COORDINATORS**

The bishop of the Diocese of Rapid City will appoint a Safe Environment Coordinator who will be responsible for the implementation of the Safe Environment Program, compliance with the policies and procedures set forth in this document and assuring that the program is appropriately monitored.

Each entity in the Diocese will designate a safe environment coordinator, whose name is to be kept on file by the chancellor. Each entity of the Diocese will report annually on their compliance regarding the Safe Environment Program to the diocesan coordinator. Each entity in the diocese will post a copy of both the Sexual Misconduct Policy and the Code of Conduct Policy in a conspicuous place and copies will be made available to anyone who requests one. Each parish in the diocese will publicize a notice of the Safe Environment Program monthly in their bulletin and make the policies available for review.

3.1.4 CONFIDENTIALITY

Personnel records, information obtained through the employment application, reference information, interviews, criminal background checks, etc., will be kept confidential. All material is to be kept on site at the church/organization premises in a locked file cabinet and access is to be restricted to those who have a "need to know." These records will be maintained in a manner consistent with the diocesan document retention policies.

3.2 **ASSISTANCE TO VICTIMS**

The Diocese of Rapid City recognizes that sexual abuse of minors often causes serious and continuing emotional and psychological problems for the victim. The diocese wants to reach out to these victims in the spirit of concern which the Holy Father has personally expressed and encouraged. The diocese is committed to providing victims of such misconduct with appropriate professional assistance to address the consequences of abuse by any personnel of the diocese.

The bishop of the Diocese of Rapid City will appoint a victim assistance coordinator, who will be notified of all allegations of sexual abuse against a minor involving personnel of the diocese. The victim assistance coordinator will advise the alleged victim of his/her rights and the procedures to be implemented under this policy. In addition, the alleged victim may meet with the bishop at any time throughout this process.

3.2.1 When credible accusations of sexual misconduct with a minor are made involving any personnel of the diocese, contact by the victim assistance coordinator with the alleged victim and family will be promptly initiated. Contact should be made for the purpose of offering whatever concern or solace may be needed, with no comment as to the truth of any accusation. Medical care, mental health services, spiritual guidance and economic assistance may be offered in the spirit of Christian justice and charity to the extent determined appropriate for the situation presented. In all cases, a copy of the Sexual Misconduct Policy is to be made available to the victim and family.

3.2.2 Under the direction of the victim assistance coordinator, competent counselors and social workers employed or designated by Catholic Social Services in western South Dakota will offer appropriate assistance to persons who make a credible claim that personnel of the diocese sexually abused them when they were minors. This outreach will be made regardless of whether the alleged abuse was recent or occurred in the past. The outreach will include the offer of counseling, spiritual assistance, support groups or other social services agreed upon between the victim and the diocese. The diocese will cooperate with local social service agencies and other churches in promoting support groups for victims/survivors and others affected by abuse.

4.0 **DIOCESAN REVIEW BOARD**

4.1 **FUNCTIONS**

The diocese will maintain a diocesan review board that will function as a confidential

consultative body to the bishop of the Diocese of Rapid City in discharging his responsibilities. The functions of this diocesan review board will include:

- 4.1.1 Advising the bishop in his assessment of allegations of sexual abuse of minors and in his determination of the suitability of priests or deacons for ministry or dismissal of a lay person from employment or service to the diocese;
- 4.1.2 Regularly reviewing diocesan policies and procedures for dealing with sexual abuse of minors; and
- 4.1.3 Offering advice on all aspects of these cases, whether retrospectively or prospectively.

4.2 MEMBERSHIP

The diocesan review board will be composed of at least five persons of outstanding integrity and good judgment in full communion with the Church. The members will be appointed by the bishop based on their ability to bring to their deliberations a variety of relevant skills and experience which may include psychology, social work, children's rights, law enforcement, canon law, civil law, personnel administration and pastoral care. The majority of the members will be lay persons who are not in the employ of the diocese. At least one member will be a priest who is an experienced and respected pastor of the Diocese of Rapid City. At least one member should have expertise in treating individuals who have been sexually abused as minors as well as family members of the abused. Each member will be appointed for a term of five years which may be renewed. The bishop may designate a member to chair the diocesan review board.

5.0 PROCEDURES FOR REPORTING TO THE DIOCESE SUSPECTED SEXUAL ABUSE OF A MINOR OR FOR MAKING A COMPLAINT OF SEXUAL ABUSE

5.1 OBLIGATION TO REPORT SUSPECTED SEXUAL ABUSE; COMPLAINT PROCEDURE

Any personnel of the diocese, including, but not limited to, mandated reporters as set forth in paragraph 13.1.1, who have actual knowledge of, or who have reasonable cause to suspect, sexual misconduct against a minor by any personnel of the diocese (as defined in 2.3.2) must report that information to the appropriate civil authorities with due regard for the seal of the Sacrament of Penance (or the statutes regarding confidential conversations with a spiritual advisor). Diocesan personnel are to comply with all applicable civil laws with respect to the reporting of allegations of sexual abuse of minors to civil authorities and cooperate in their investigation in accord with the law of the jurisdiction in question. In addition to following the laws of the State of South Dakota regarding reporting, the report must be made to the bishop, the vicar general, the chancellor, the victim assistance coordinator, or the bishop's designee. The victim assistance coordinator, the vicar general or the chancellor shall notify the bishop of the Diocese (if the report is not made directly to the bishop) and the diocesan attorney. The Diocese will also report all credible allegations of sexual abuse by diocesan personnel to the appropriate civil authorities.

The diocese will cooperate with public authorities about reporting cases even when the person is no longer a minor.

In every instance, the diocese is to advise victims of their right to make a report to public authorities and support this right.

5.2 OPPORTUNITY TO REPORT

Any person, whether or not employed by the Diocese, who believes that he or she, when a minor, was subjected to sexual abuse by any personnel of the diocese, is encouraged to report it immediately to the diocese, as well as to the appropriate civil authorities. The report should be made to the bishop, the vicar general, the chancellor or the victim assistance coordinator of the Diocese. The reporting document should include the name and contact information of the complainant, the name and position of the person alleged to have engaged in the misconduct and the details of the incident or practice. The diocese will maintain a log of all such reporting documents. The report will be handled in confidence and no other personnel, including supervisory personnel, will be advised of this action.

6.0 INVESTIGATION OF INCIDENT REPORTS; INTERIM PROTECTIVE MEASURES

6.1 INVESTIGATION OF REPORTED INCIDENTS

Each reported incident will be investigated as soon as reasonably possible. Each incident will also be reviewed by the Diocesan Review Board. Care will be taken not to interfere with any criminal investigation. The investigation will be done with a high level of Christian care, concern and confidentiality for the alleged victim, the family of the alleged victim, the person reporting the incident and the alleged perpetrator. Unless the bishop indicates otherwise, the chancellor or his/her designee shall conduct the preliminary investigation to establish whether the allegation of sexual abuse is credible and should therefore be subject to further investigation. The investigator should consult with and seek the advice of the diocesan attorney, not only when undertaking the investigation, but also during the investigation, as deemed appropriate. If the preliminary investigation establishes a credible allegation of sexual abuse, then the Diocese may, as necessary, retain a third-party to conduct the investigation into the credible allegation of sexual abuse and provide a written report to the Diocese.

6.1.1 If requested, an advocate may be appointed to assist the alleged perpetrator, or counsel of his/her own choosing may represent the alleged perpetrator. In the case of a priest or ecclesiastical office holder, the advocate, if possible, should be someone with canonical expertise. In any case, any expense involved is the responsibility of the alleged perpetrator.

- 6.1.2 If needed, the Diocese shall provide those priests and deacons alleged to be perpetrators with therapeutic and/or counseling assistance.
- 6.1.3 For accusations against all diocesan personnel, the alleged perpetrator should be interviewed. The alleged perpetrator should be advised of the provision of 6.1.1 and should be informed of his/her rights, and that anything said may be used against the alleged perpetrator in a criminal proceeding or in a civil lawsuit. The alleged perpetrator should be presented with a specific listing of allegations. The alleged perpetrator should be given an opportunity to ask any clarifying questions and should then be asked to respond to the allegations. The investigator should also review the alleged perpetrators' personnel file and should inquire of the alleged perpetrator whether there have been any other incidents of sexual misconduct which may have gone unreported. The investigative process may include an evaluation conducted by a professional counselor or therapist. If the allegation of sexual abuse involves the use, viewing, creation or distribution of child pornography on a computer or other electronic device owned by the Diocese (as defined under Sec. 2.3.1), the computer or other electronic or hard-copy source of the child pornography shall be provided to the civil authorities.
- 6.1.4 The investigation will also ordinarily include a meeting with and an interview of complainant and/or victim, and interviews with such persons identified as witnesses or persons likely to possess information relevant to the investigation, as the investigator thinks necessary for purposes of the investigation.
- 6.1.5 When accusations of sexual misconduct are made against personnel of the Diocese, contact by the appropriate diocesan staff with the alleged victim and family should, if appropriate, be promptly initiated. The bishop is available to meet with and address the needs of victims. Contact should be made by priestly and other counselors chosen by the bishop for the purpose of offering whatever concern or solace may be needed, with no comment as to the truth of any accusation. Medical, psychological and spiritual assistance will be offered in the spirit of Christian justice and charity. This may include individual counseling, spiritual direction and support groups.
- 6.1.6 Upon completion of the investigation, a written report will be provided to the bishop, outlining the findings of the investigation. The bishop, at his discretion, may also request an oral report regarding the results of the investigation.
- 6.1.7 If the alleged claim is substantiated, or if it appears it can be substantiated, the alleged perpetrator, in accordance with canonical and other considerations, will be relieved of all responsibilities in the diocese, parish, office or institution, and be placed on administrative leave pending the outcome of the internal and any outside investigation. Such leave will be with or without pay or benefits as the bishop may decide.

- 6.1.8 The bishop or his designee will keep appropriate records of each incident of sexual abuse reported to the Diocese and of the investigation and the results thereof. All records are to be reviewed by the diocesan attorney. The records shall be maintained in a secure manner; they shall be kept confidential and they shall be kept permanently.
- 6.1.9 Notification of the incident shall be given to insurers in accordance with the terms of applicable insurance policies. The diocesan attorney should be consulted regarding such notification.
- 6.1.10 Taking into account first the needs and desires of the victim, communications concerning issues of sexual abuse will be as open as possible.
- 6.1.11 When the investigation shows that the allegations are unfounded, all possible steps will be taken to restore the good name of the person accused.
- 6.1.12 If, following completion of the investigation, a credible allegation of sexual abuse is substantiated, the results of the investigation shall be communicated to the victim, the victim's representative or the victim's designee.
- 6.1.13 If, following completion of the investigation, the allegation of sexual abuse cannot be substantiated, the results of the investigation shall also be communicated to the alleged victim, the victim's representative or the victim's designee.

6.2 DIOCESAN CLERGY – RAPID CITY DIOCESE

If the alleged perpetrator is a priest or deacon incardinated in the Diocese of Rapid City, the report and investigation shall be referred to the bishop of the Diocese of Rapid City in accordance with canon law and subject to the provisions of Canon 1722.

6.3 DIOCESAN CLERGY – ANOTHER DIOCESE

If the alleged perpetrator is a priest or deacon incardinated in another diocese, the Bishop of the Diocese of Rapid City shall contact the proper Ordinary of the priest or deacon and refer the matter for further action and investigation.

6.4 PRIEST OR RELIGIOUS – RELIGIOUS ORDERS & SOCIETIES OF APOSTOLIC LIFE

If the alleged perpetrator is a member of a religious order, institute or society of apostolic life, the bishop shall contact the competent ecclesiastical superior of such member for consultation on the proper procedure to be followed.

6.5 RECORDS

The Diocese shall keep appropriate written records of each reported incident including the investigation and the results thereof. All records shall be marked CONFIDENTIAL

and be kept in a secure place, with access limited to the bishop of the Diocese of Rapid City and other diocesan officials designated by the bishop on a strictly “need to know” basis. The records shall be maintained permanently.

7.0 ACTIONS TO ADDRESS INCIDENTS OF SEXUAL ABUSE OF MINORS BY PRIESTS OR DEACONS

When even a single act of sexual abuse 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. In addition, in appropriate cases, other canonical penalties may be imposed, which may include dismissal from the clerical state. Removal from ministry is required even if the cleric is not diagnosed by qualified experts as a pedophile or ephebophile or as suffering from any other psychosexual disorder that may require professional treatment.

7.1 JURISDICTION

In every case involving canonical penalties, the processes provided for in canon law must be observed, and the various provisions of canon law must be considered (cf. *Canonical Delicts Involving Sexual Misconduct and Dismissal from the Clerical State*, 1995; *Letter from the Congregation for the Doctrine of the Faith*, May 18, 2001). Unless the Congregation for the Doctrine of the Faith, having been notified, assumes direct responsibility for the case because of special circumstances, the bishop of the Diocese of Rapid City will proceed according to the directives of the Congregation for the Doctrine of the Faith (Article 13, "Procedural Norms" for *Motu proprio Sacramentorum sanctitatis tutela*, AAS, 93, 2001, p. 787).

7.2 WAIVER OF PERIOD OF LIMITATIONS

Since sexual abuse of a minor is a grave offense, if the case would otherwise be barred by the statute of limitations prescribed by canon law, the bishop of the Diocese of Rapid City will petition the Congregation for the Doctrine of the Faith for a dispensation from this prescription, while indicating appropriate pastoral reasons rendering it so.

7.3 ASSISTANCE OF COUNSEL

For the sake of due process, the accused is to be encouraged to retain the assistance of civil and canonical counsel. When necessary, the Diocese will supply canonical counsel to a priest or deacon. The provisions of Canon 1722 will be implemented during the pendency of the penal process.

7.4 FINDING OF CULPABILITY

When there is sufficient evidence that sexual abuse of a minor has occurred, the Congregation of the Doctrine of the Faith will be notified. The bishop will then apply the precautionary measures mentioned in Canon 1722; that is, the bishop will 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.

7.5 SANCTION IN LIEU OF DISMISSAL FROM MINISTRY

If the priest or deacon has either admitted culpability or been found culpable after a trial in accordance with canon law and if the penalty of dismissal from the clerical state has not been applied for (e.g., for reasons of advanced age or infirmity) or prescribed by the tribunal after a trial, the offender ought to lead a life of prayer and penance and agree to a place of residence designated by the bishop. He will not be permitted to celebrate Mass publicly or to administer the sacraments. He is to be instructed not to wear clerical garb or to present himself publicly as a cleric.

8.0 ADDITIONAL AUTHORITY OF THE BISHOP TO TAKE ADMINISTRATIVE ACTION

In addition to the sanctions that the bishop of the Diocese of Rapid City or the Congregation for the Doctrine of Faith may impose under Sections 2, 6 and 7 of this policy, the bishop of the Diocese of Rapid City has the executive power of governance, through an administrative act,

8.0.1 To remove an offending cleric from office, to remove or restrict his faculties and to limit his exercise of priestly ministry (See Canons 35-58, 149, 157, 187-189, 192-195, 277 §3, 381, 383, 391, 1348, 1740-1747) and

8.0.2 To limit, suspend or terminate the employment of any "at will" lay employee and to terminate the service of any lay volunteer.

8.1 "SINGLE INCIDENT" POLICY

Because sexual abuse of a minor is a crime in all jurisdictions in the United States, for the sake of the common good, and in observance of the provisions of canon law, the bishop of the Diocese of Rapid City will exercise this power of governance to ensure that any priest or deacon who has committed even one act of sexual abuse of a minor as described above will not continue in active ministry.

8.2 POSSIBLE ADMINISTRATIVE MEASURES

The bishop may exercise his executive power of governance to take one or more of the following administrative actions relating to a priest or deacon (cc. 381, 129ff):

8.2.1 He may request that the accused freely resign from any currently held ecclesiastical office (cc. 187-189).

8.2.2 If the accused declines to resign, and if the bishop judges the accused to be truly not suitable (c. 149, §1) at the time for holding an office previously freely conferred (c. 157), then he may remove that person from office, observing the required canonical procedures (cc. 192-195, 1740-1747).

8.2.3 For a cleric who holds no office in the diocese, any previously delegated faculties

may be administratively removed (c. 391, §1 and 142, §1), while any *de lege* faculties may be removed or restricted by the competent authority as provided in law (e.g., c. 764).

8.2.4 The bishop may also judge that circumstances surrounding a particular case constitute just and reasonable cause for a priest to be allowed to celebrate the Eucharist with no member of the faithful present (c. 906); for the good of the Church and for the priest's own good, the bishop may urge the priest to celebrate the Eucharist only under such circumstances and not to administer the sacraments.

8.2.5 Depending upon the gravity of the case, the bishop may dispense the cleric from the obligation of wearing clerical attire and may prohibit him from doing so (cc.85-88, 284).

Any of these administrative actions will be taken in writing and by means of decrees (cc. 47-58) so that the cleric affected is afforded the opportunity of recourse against them in accord with canon law (cc. 1734 ff).

9.0 LOSS OF THE CLERICAL STATE

A priest or deacon may at any time request a dispensation from the obligations of the clerical state. In exceptional cases, the bishop may request of the Holy Father the dismissal of the priest or deacon from the clerical state *ex officio*, even without the consent of the priest or deacon.

10.0 RESTRICTION ON TRANSFERS BETWEEN DIOCESES

10.1 TRANSFERS FROM THE DIOCESE

No priest or deacon who has committed an act of sexual abuse of a minor may be temporarily or permanently transferred (released or incardinated) for ministerial assignment to another diocese/eparchy or religious province. Before a priest or deacon of the Diocese of Rapid City may be transferred for residence to another diocese/eparchy or religious province, the bishop will forward in a confidential manner to the local bishop/eparch and religious ordinary (if applicable) of the proposed place of residence any and all information concerning any act of sexual abuse of a minor and any other information indicating that he has been or may be a danger to minors. This requirement applies even if the priest or deacon will reside in the local community of an institute of consecrated life or society of apostolic life (or, in the Eastern Churches, as a monk or other religious, in a society of common life according to the manner of religious, in a secular institute or in another form of consecrated life or society of apostolic life).

10.2 TRANSFERS INTO THE DIOCESE

Before the bishop of the Diocese of Rapid City receives a priest or deacon from outside his jurisdiction, the bishop will obtain the necessary information regarding any past act of sexual abuse of a minor by the priest or deacon in question.

11.0 TRANSPARENCY; PROTECTION OF PERSONAL PRIVACY AND REPUTATION

11.1 DANGER OF FALSE ALLEGATIONS

Care will always be taken to protect the rights of all parties involved, particularly those of the person claiming to have been sexually abused and the person against whom the charge has been made. If an accusation proves to be unfounded, every step possible will be taken to restore the good name of the person falsely accused.

11.2 PUBLICATION OF DIOCESAN ACTION

When an allegation of sexual abuse of a minor is verified, the chancellor of the diocese, with the assistance of the diocesan director of communications, will publish an appropriate announcement of the action taken in response to the abuse. This announcement will be posted on the website and printed in the West River Catholic. In addition, the notification will be sent to each priest in the diocese.

11.3 CONFIDENTIALITY AGREEMENTS

The Diocese will not enter into confidentiality agreements regarding allegations of sexual abuse of minors except for grave and substantial reasons advanced by the victim and noted in the text of the agreement.

12.0 OUTREACH TO AFFECTED PARISHES

The bishop or his representative will be responsible for taking immediate steps to assist and support parish communities directly affected by ministerial misconduct involving minors. This outreach will be accomplished with the assistance of Catholic Social Services in western South Dakota. The outreach may consist of a parish and/or school meeting at the affected parish/school, an offer of counseling to members of the affected community, an explanation of the response process or a notification to the affected community of the action taken in response to the allegation.

13.0 COMPLIANCE WITH CIVIL LAWS; REPORTING TO CIVIL AUTHORITIES ALLEGATIONS OR SUSPICIONS OF ABUSE OR MALTREATMENT OF MINORS

The Diocese of Rapid City will comply with all applicable civil laws with respect to the reporting to civil authorities of all allegations of sexual abuse of minors and will fully cooperate in their investigation. The Diocese of Rapid City requires all personnel of the diocese to comply with these requirements and appropriate sanctions may be imposed for failure to do so. Failure to comply with reporting requirements imposed by law can result in the assessment of substantial fines against persons with relevant knowledge.

The diocese supports any person's right to make a report to public authorities concerning such allegations and, upon receiving an allegation of sexual abuse, will inform such person of his/her right to do so. (See Paragraph 3.2 above.)

13.1 REPORTING INCIDENTS OF CHILD SEXUAL ABUSE OR MALTREATMENT OR ENDANGERMENT

13.1.1 OCCUPATIONS REQUIRED TO REPORT

All diocesan personnel are required to report suspected child abuse, including sexual abuse, to the diocese as set forth in this policy. In addition, South Dakota law requires that persons engaged in certain occupations report incidents of suspected child abuse, including sexual abuse, to state or local authorities. (See SDCL § 26-8A3.) Occupations subject to these requirements include the following: physicians, dentists, doctors of osteopathy, chiropractors, optometrists, emergency medical technician, paramedic, mental health professionals or counselors, podiatrists, psychologists, religious healing practitioners, social workers, hospital intern or resident, parole or court services officer, law enforcement officer, teacher, school counselors, school officials, nurses, licensed or registered child welfare providers, employees or volunteers of domestic abuse shelters, employee or volunteer of a child advocacy organization or child welfare service provider, chemical dependency counselors, coroners or any safety-sensitive position as defined in subdivision SDCL § 23-3-64(2), who have reasonable cause to suspect that a child under the age of eighteen has been abused or neglected as defined in SDCL § 26-8A-2. These persons shall report information in accordance with § 26-8A-6, 26-8A-7 and 26-8A-8. Any person who fails to make the required report is guilty of a Class 1 misdemeanor. (See SDCL § 26-8A-2.)

13.1.2 SUBSTANCE OF REPORT

The reporting requirements under South Dakota law are as follows: "The reports required by §§ 26-8A-3 [*See list under Sec. 13.1.2*], 26-8A-6 [*hospital personnel*] and 26-8A-7 [*public or private school personnel*] and by other sections of this chapter shall be made orally and immediately by telephone or otherwise to the state's attorney of the county in which the child resides or is present, to the Department of Social Services or to law enforcement officers. The state's attorney or law enforcement officers, upon receiving a report, shall immediately notify the Department of Social Services." (SDCL § 26-8A-8.) "A report made pursuant to § 26-8A-8 to the Department of Social Services shall include the name, address, date and place of birth of the child, the name and address of the child's parents, guardian, custodian or responsible persons, the date of the report and the suspected or proven instances of child abuse or neglect as defined in § 26-8A-2. The Department of Social Services shall be the central registry for such information." (SDCL § 26-8A-10.)

13.1.3 REPORT WHERE RAPID CITY CATHOLIC SCHOOL SYSTEM EMPLOYEE ALLEGED TO BE RESPONSIBLE FOR ABUSE

When a Rapid City Catholic School System employee is suspected of causing the abuse, the report must first be made to the supervisory agent of the school in which the school employee is employed. That supervisory agent must immediately notify the child's parent or guardian of the report and then make the required oral and written reports to the state or local authorities. The supervisory

agent must immediately notify the bishop or vicar general. The report must include the information listed above (13.1.2), as well as the name of the school employee suspected or believed to be responsible for the injuries or maltreatment.

13.1.4 REPORT OF DANGER OF ABUSE

If any mandated reporter acting outside his/her professional capacity or any other person has reasonable cause to suspect or believe that a child under eighteen years of age is in danger of being abused or has been abused or neglected, that person may cause a written or oral report to be made to the State of South Dakota or appropriate law enforcement agency. (See SDCL §26-8A-4.) "Any person who knows or has reason to suspect that a child has been abused or neglected as defined in § 26-8A-2 may report that information as provided in § 26-8A-8.")

13.1.5 DEFINITION OF REASONABLE CAUSE

For purposes of these reporting obligations, "reasonable cause" means a prudent estimation based on trustworthy information that an incident occurred, is perceived as having occurred, or is in danger of occurring.

***DIOCESE OF RAPID CITY
BACKGROUND QUESTIONNAIRE
CONCERNING SEXUAL ABUSE***

1. Have you ever been convicted of a crime of sexual abuse, sexual harassment or sexual exploitation? Yes_____ No_____

2. Has any civil or criminal complaint, or any other written complaint, ever been made against you relating to sexual abuse, sexual harassment or sexual exploitation? Yes_____ No_____

3. Have you ever terminated your employment or had your employment terminated for reasons related to allegations of civil or criminal complaints of sexual abuse, sexual harassment or sexual exploitation against you? Yes_____ No_____

4. Have you ever been directed to receive any medical or psychological treatment, including counseling, involving the sexual abuse, sexual harassment or sexual exploitation of other persons? Yes_____ No_____

5. Did you enter into an agreement with any past employer not to divulge the true reason for termination of employment? Yes_____ No_____

If you answer yes to any of the above five questions, you will be asked to execute an authorization for information. If you have additional questions, contact the Office of the Vicar General, Catholic Chancery, PO Box 678, Rapid City, SD 57709, telephone (605) 343-3541.

ACKNOWLEDGMENT OF RECEIPT

I hereby acknowledge that I have received a copy of the *Sexual Misconduct Policy* and the *Code of Conduct* of the Diocese of Rapid City, SD, promulgated on May 20, 2019, and that I have read them and understand their meaning. I agree to conduct myself in accordance with the *Policy* and the *Code of Conduct*. I have read and completed the above background questionnaire.

Print name _____

Address _____

Phone _____ Email _____

Signature _____

Date _____

THIS PAGE INTENTIONALLY LEFT BLANK.