

# DIOCESE OF HELENA



POLICY  
REGARDING ABUSE  
OF MINORS AND  
VULNERABLE  
ADULTS,  
SEXUAL  
MISCONDUCT,  
AND  
SEXUAL  
HARASSMENT,  
AND  
CODE OF  
PASTORAL  
CONDUCT

Revised Edition

Effective **July 1, 2022**

Page intentionally left blank



Dear Brothers and Sisters in Christ,

Jesus says: “Let the little children come to me” (Matthew 19:14). As Catholics, we share a sacred obligation to protect the children, youth, and vulnerable adults in our community.

In the Diocese of Helena, our Safe Environment program and victims’ assistance ministry has been in place since 1993, and it has made great strides in prevention, detection, and early intervention efforts. However, we constantly face new challenges, the need to update existing policies, to incorporate best practices, and to integrate Safe Environment measures in everything that we do.

With the Decree that follows, I am promulgating the latest revision of the Diocese of Helena Safe Environment Policies, including the trainings and practices for the protection of children, young people, and vulnerable adults. Our Safe Environment Policies are found in the document that follows, entitled: *Diocese of Helena Policy Regarding Abuse of Minors and Vulnerable Adults, Sexual Misconduct, and Sexual Harassment, and Code of Pastoral Conduct*. The Policy is available online at the “safe environment” tab on the Diocese of Helena website: [www.diocesehelena.org](http://www.diocesehelena.org).

It is my desire as Bishop that we work together to reinforce the Diocese of Helena’s efforts to ensure the safest possible environment for children, youth, and vulnerable adults through awareness training and by strengthening all our prevention initiatives. This will ensure that adults and minors have important information on how to identify warning signs of abuse while using technology, and how to properly report suspected abuse to Civil authorities and to the Diocese. The initiatives contained in my July 20, 2021, letter are included in the attached Policy.

I have decided to continue utilizing the VIRTUS® *Protecting God’s Children* program, both the initial training and the monthly bulletins, for adults who work with minors and vulnerable adults, and their *Empowering God’s Children* program for our students in Catholic Schools and religious education.

Our goal is to create a safe environment for our children, youth, and vulnerable adults so that the early warning signs of abuse will not go unnoticed or unreported. We have made great strides to ensure the safety and wellbeing of the children, youth and vulnerable adults entrusted to our care. I am grateful for your support and cooperation with these efforts.

In Christ, I am

A handwritten signature in blue ink that reads "Austin A. Vetter". The signature is written in a cursive style with a small cross at the beginning.

Most Reverend Austin A. Vetter  
Bishop of Helena

## Table of Contents

Decree of Promulgation	Page 5
General Introduction	Page 7
Chapter I: Abuse of Minors and Vulnerable Adults	Page 9
Chapter II: Sexual Misconduct Adults	Page 21
Chapter III: Sexual Harassment	Page 28
Chapter IV: Code of Pastoral Conduct	Page 31
Appendix I: Review Board	Page 39
Appendix II: Background Searches	Page 40
Appendix III: Montana Law	Page 41
Appendix IV: Statement of Receipt/Agreement	Page 52
Appendix V: Communication Policy	Page 53
Appendix VI: Rights and Obligations of Accused	Page 57
Appendix VII: Social Media/Electronic Communication	Page 58



## Decree of Promulgation

The **Policy Regarding Abuse of Minors and Vulnerable Adults, Sexual Misconduct, and Sexual Harassment** updates the Diocese of Helena **Policy** which became effective on September 1, 2015, and was re-promulgated by Bishop Austin A. Vetter, effective August 1, 2021. Our Policy results from the concern that the Church utilize competent ministers who provide effective ministry. We are convinced that the majority of those who serve in various capacities in the Diocese of Helena are competent, ethical, balanced, and mature. At the same time, we are aware that accusations have been made, and we are concerned that the *Charter for the Protection of Children and Young People* of the United States Conference of Catholic Bishops, with the accompanying *Essential Norms for Diocesan/Eparchial Policies Dealing with Allegations of Sexual Abuse of Minors by Priests or Deacons*, both revised in November 2005 with the *Norms* becoming effective May 5, 2006, and with the *Charter* being further revised in June 2011 and 2018, are upheld and maintained in the Diocese of Helena.

While this Policy statement is necessarily canonical in tone, it reflects the compassion the Church has for victims of sexual abuse and provides abusers with hope for mercy. It is based on the conviction that behaviors that are contrary to the provisions of the Policy are objectively grave violations of the Sixth Commandment, potential crimes, and usually associated with serious psychological illness. Any response must address all three dimensions.

This amended Policy becomes effective on July 1, 2022, nearly twenty-nine years after the first **Policy** became effective. It applies to all priests and deacons incardinated in the Diocese of Helena, all seminarians affiliated with the Diocese of Helena; to women and men religious, lay men and women, employed by or utilized as volunteers by the Diocese of Helena, its parishes, schools, institutions, offices, or programs; and to all priests and deacons incardinated in a diocese other than the Diocese of Helena serving in any capacity here, and to women and men religious serving in any capacity within the Diocese of Helena.

Should a complaint be received after the date of this Decree and prior to July 1, 2022, the procedures outlined in the September 2015 Policy will be followed.

In virtue of my authority as Bishop of the Diocese of Helena, this revision of the **Policy Regarding Abuse of Minors and Vulnerable Adults, Sexual Misconduct, and Sexual Harassment** is hereby promulgated by sending an electronic copy to each priest, deacon, seminarian, woman and man religious, employee and volunteer currently serving in the Diocese of Helena; by sending printed copies to each parish and institution of the Diocese; and by publication of the revised Policy on the diocesan web site.

Given at Helena, Montana, May 31, 2022; to take effect on July 1, 2022.

Signed by: Most Reverend Austin A. Vetter, Bishop of Helena

Witnessed by: Most Reverend Jeffrey M. Fleming, Chancellor

The portions of this Policy on the abuse of minors by clerics fulfills Norm 2 of the *Essential Norms for Diocesan/Eparchial Policies Dealing with Allegations of Sexual Abuse of Minors by Priests or Deacons* approved by the Bishops of the United States in June 2005, which received *recognitio* from the Congregation for Bishops, and became effective beginning May 5, 2006. The Policy also conforms to various portions of the *Charter for the Protection of Children and Young People*, finalized by the Bishops of the United States in November 2005, amended in 2011 and revised in 2018.

It is important to be aware of the description of terms on pages 9-10, including:

- All that is in place to safeguard minors is also mandated for vulnerable adults.
- Pornography is a form of sexual abuse of minors and is treated as such throughout the Policy.

Please be aware that a background search is required for everyone prior to beginning employment and prior to beginning as a volunteer (also see Appendix II, Page 40), and every five years thereafter. The VIRTUS® Program is required prior to beginning as a volunteer and at least within 30 days of beginning employment. For Seminarians, Priests, and Deacons refer also to the information on Page 13.

**Supervisors** (see description on page 10) are responsible for assuring that all aspects of this Policy are followed, including the requirements for background searches prior to beginning as a volunteer or employee, and completing the VIRTUS® Program prior to beginning as a volunteer and at least within 30 days of beginning employment. Personnel Policies are to include this requirement.

Throughout the text of Chapter I, references to the *Essential Norms for Diocesan/Eparchial Policies Dealing with Allegations of Sexual Abuse of Minors by Priests or Deacons* are indicated: {Norm, followed by the number of the norm}. References to the *Charter for the Protection of Children and Young People* are indicated: {Charter, following by the Article number}.

**Abuse by a Bishop.** The *Motu Proprio* of Pope Francis *Vos estis lux mundi*, promulgated June 1, 2019, establishes procedures for reporting and investigating claims of abuse and failing to address abuse by bishops and others in significant positions of authority in the Church. Following their June 2019 meeting, the Bishops of the United States promulgated “Directives for the Implementation of the Provisions of *Vos estis lux mundi* Concerning Bishops and Their Equivalents.”

To make a report regarding abuse by a bishop, see: <https://ReportBishopAbuse.org> or telephone (800) 276-1562. There also is information on the Diocese of Helena website: <https://diocesehelena.org> at “Report Abuse by a Bishop” within the Safe Environment tab.

# **Diocese of Helena**

## **Policy Regarding Abuse of Minors and Vulnerable Adults, Sexual Misconduct, and Sexual Harassment**

### **General Introduction**

Scripture tells us that from the very beginning man and woman were created in the image and likeness of God, and that God saw all creation as very good (see Genesis 1:26-31). Therefore, our identity as "good people" is a significant aspect of God's plan of creation. Consequently, it is with appreciation, wonder and respect for the goodness of God instilled in all people by their creator that we approach the phenomena of abuse of minors and vulnerable adults, adult sexual misconduct, and sexual harassment.

In November 1992, the Bishops of the United States stated "all our actions should show our Church as a living, caring and healing Church. We pledge again our care and concern for all victims of abuse, wherever and however it occurs. We commit ourselves anew to bring the healing ministry of our Church to our people, to dialogue and pray with all who have suffered, and to foster opportunities for reconciliation" (NCCB Resolution, November 19, 1992). "Let there now be no doubt or confusion on anyone's part: For us, your bishops, our obligation to protect children and young people and to prevent sexual abuse flows from the mission and example given to us by Jesus Christ himself, in whose name we serve" (*Charter, Preamble*).

In November 2002, November 2005, November 2011, and June 2018, the Bishops of the United States, responding to the crisis involving the sexual abuse of minors and young people by some priests and bishops, issued the *Charter for the Protection of Children and Young People*. In that document, the Bishops reaffirmed the obligation of all involved with the Church to "protect young people and to prevent sexual abuse" since this "flows from the mission and example given to us by Jesus Christ himself." This Diocesan Church takes seriously the principles in the *Charter* as well as the accompanying *Essential Norms for Diocesan/Eparchial Policies Dealing with Allegations of Sexual Abuse of Minors by Priests or Deacons*, the revised edition which became effective on June 16, 2011, and incorporates them into this amended Policy statement.

The Safe Environment Program called for by the *Charter* (Article 12) is established throughout the Diocese of Helena by means of the VIRTUS® Program. Prior to beginning volunteer work and at least within 30 days of beginning employment, all priests, seminarians, deacons, women and men religious, lay employees and volunteers must complete this program successfully and thereafter are to keep current with updates and on-line training. An individual who falls behind six updates is thereby inactive and is required to take the training session anew to continue in the role.

Aware that the great majority of priests, seminarians, deacons, women and men religious, lay employees and volunteers are competent, ethical, balanced and mature; concerned that any victim of abuse of a minor, sexual misconduct, or sexual harassment be nurtured, treated and healed; concerned for the ministerial well-being of our people in general; and concerned that a perpetrator of abuse be treated justly toward whatever healing is possible; the following **Policy** regarding the abuse of minors and vulnerable adults, sexual misconduct involving adults, and sexual harassment is adopted for the Diocese of Helena.

This revised Policy is effective July 1, 2022, and applies to all priests, seminarians, deacons, women and men religious, lay men and women, employed by or utilized as volunteers by the Diocese of Helena, its parishes, schools, institutions, offices or programs; and to all priests and deacons incardinated in a diocese other than the Diocese of Helena serving in any capacity here, and to women and men religious serving in any capacity within the Diocese of Helena.

By December 31, 2022, all those serving as priests, deacons or seminarians, all women and men religious, are to sign a statement acknowledging receipt of this amended Policy and their agreement to abide by it (see Appendix IV for text). All lay men and women employees and all who are utilized as volunteers are to sign a statement acknowledging their commitment to abide by this Policy, and that they have been given the opportunity to review the Policy in its entirety.

Failure to sign the statement is deemed reason for termination.

Regarding volunteers:

- (1) Anyone who serves as a volunteer for the Diocese of Helena, its parishes, schools, institutions, offices or programs is expected to abide by the various provisions of this document.
- (2) A background search will be conducted for any person prior to acceptance for service as a volunteer (see Appendix II).
- (3) Those who are regularly utilized as volunteers are to sign the "Statement of Receipt and Agreement" at the time they agree to serve as a volunteer (see Appendix IV). This requirement does not apply to those who serve only in liturgical ministries (such as usher, lector, Eucharistic minister). The requirement does apply to those who serve as volunteers in any capacity involving young people under age 18 (such as at the diocesan summer camp, schools, in religious education programs or other youth ministry programs), or in any position which would otherwise be filled by an employee.

The Review Board (see Appendix I for a description of this group) will review the policy at least every three years, making any necessary recommendations for modification.

Any woman or man religious or any lay man or woman employed by or regularly utilized as a volunteer by the Diocese must sign the acknowledgement and agreement at the time of hiring or volunteering (see Appendix IV); any man desiring ordination as a priest must sign the acknowledgement and agreement at the time he applies for diocesan sponsorship, and again prior to ordination as deacon; any man desiring ordination as a permanent deacon must sign the acknowledgement and agreement at the time he applies for acceptance into the formation program, and again prior to ordination as a deacon; any priest or deacon from outside the Diocese of Helena must sign the acknowledgement and agreement before he may serve as priest or deacon here; any woman or man religious must sign the acknowledgement and agreement before serving in any capacity in the Diocese of Helena. Anyone who refuses to sign the statement may not be employed, serve as a volunteer, be accepted for sponsorship as a seminarian by the Diocese of Helena, be accepted into the permanent deacon formation program, or serve as a priest or deacon here. Additionally, each person covered by this Policy must sign a new Policy Receipt and Agreement each time he or she changes role, assignment or location within the Diocese.

Pastors, Parish Administrators, School Principals, and those who coordinate a diocesan-affiliated program, are to attest to the Human Resources Director before June 30 each year that all aspects of this Policy have been implemented in the Parish, School, or program. A form for this purpose will be provided.



# Chapter I - Abuse of Minors and Vulnerable Adults

## Introduction

No minor or vulnerable adult should ever be abused by an adult. However, since we know that such abuse can happen, this policy seeks to ensure that should it occur, the abuse of minors or vulnerable adults by those adults who are clerics, church workers and volunteers in the Diocese of Helena is dealt with swiftly, justly, and with the compassion envisioned by the Gospel. { *Charter, 2* }

The particular problem of sexual abuse of minors is “a crisis without precedent in our times” in the Church in the United States, according to the *Charter for the Protection of Children and Young People* issued in June 2002 and reissued in November 2005, June 2011, and June 2018 by the United States Conference of Catholic Bishops (USCCB).

The damage caused by sexual abuse of minors is devastating and long-lasting, and the USCCB has committed to pastoral outreach to repair the breach with those who have suffered sexual abuse and with all people of the Church, to provide safety and protection for minors and young people in Church ministries and institutions, to manifest accountability to God and his people, to strive to heal the trauma that victims/survivors and their families suffer, and to be in dialogue with all Catholics about the issue. { *Charter, 1* }

There is a special need to address the problem of unethical sexual contact by clerics, church workers and volunteers with transparency and openness. The atmosphere needs to be one where silence, ignorance, and minimization are overcome by understanding, Christian love, and mutual respect.

Aware that the great majority of priests, seminarians, deacons, women and men religious, lay employees and volunteers are competent, ethical, balanced and mature; concerned that any minor who is the victim of abuse be nurtured, treated and healed; concerned for the ministerial well-being of our people in general; and concerned that a perpetrator of abuse be treated justly toward whatever healing is possible; the following Policy regarding the abuse of minors is adopted for the Diocese of Helena.

## Description of Terms

“Adult” denotes a person 18 years of age or older.

“Minor,” “child,” or “young person” all denote a person who is under 18 years of age.

“Vulnerable Adult” denotes those who are chronologically adults but who for reasons of developmental disabilities, age, or physical incapacity are considered more vulnerable. Note that all that is in place to safeguard children is also mandated for vulnerable adults. Montana Adult Protective Services indicates that vulnerable adults include: people who are age 60 older, or if the person has a disability, age 18 and older, and who are being abused, neglected or exploited. [Neglect is failing to act to remove someone or yourself from harms way of any kind of threat to health or safety. Exploitation is misuse of funds or property by another person. Abuse can be physical (pain or injury), emotional (yelling at or threatening, intimidate a person into doing something they have a right not to do, or preventing them from doing something they have a right to do), or sexual (unwanted sexual comments or actions)].

“Abuse of Minors” includes any form of physical or mental abuse of a minor or sexual abuse of a minor by an adult.

“Sexual Abuse of Minors” includes any form of sexual molestation or sexual exploitation, or the creation, acquisition, possession, distribution of pornographic images of minors or any other behavior by which an adult uses a person in their care as an object of sexual gratification, and thus constitutes an external, objectively grave violation of the sixth commandment.

“Offender” means an individual who has performed an act of abuse of a minor.

“Victim,” “survivor,” or “victim/survivor” means an individual against whom an act of abuse of a minor has been performed, and the family of such an individual.

“Supervisor” means the person to whom an individual is directly responsible, e.g., the Superintendent or Bishop’s Liaison to Catholic Schools (for school presidents and principals), the school principal (for school employees and volunteers), a program manager (for those who are employed by or volunteer in that program), the pastor (for those who are employed by or volunteer in the parish; and for priests and permanent deacons who serve the parish), a diocesan director (for personnel who work or volunteer within that area of service), the bishop (for priests, diocesan directors, school principals).

“Clerics, church workers, and volunteers” means all those to whom this policy applies, including bishops, priests, deacons, seminarians, women and men religious, lay employees and volunteers.

“Cleric” means an ordained bishop, priest, or deacon.

## **Statement of Policy**

**It is the Policy of the Diocese of Helena that abuse of minors and vulnerable adults, including sexual abuse of minors and vulnerable adults, by bishops, priests, deacons, seminarians, women or men religious, or by lay persons employed by or volunteering services to the parishes, schools, institutions, offices and programs of the Diocese is not to be tolerated. Such activity is contrary to basic Christian ethical principles and is a violation of the ministerial relationship of trust between clerics, church workers, and volunteers and those in their care. All clerics, church workers and volunteers must comply with applicable state and local laws regarding incidents of actual or suspected abuse of a minor or vulnerable adult, and with the procedures outlined in the Policy document. All that is in place to safeguard minors is also mandated for vulnerable adults.**

## **Prevention**

Everyone needs to be aware of the causes and signs of abuse of minors and vulnerable adults, the steps to take to protect minors and vulnerable adults, and what procedures to follow if abuse is suspected or observed.

The bishop, priests, deacons, and seminarians of the Diocese, the women and men religious serving here, and those lay men and women employed or regularly utilized as volunteers by the parishes, schools, and other diocesan institutions, offices or programs have an obligation to be knowledgeable of these matters. These men and women are in a position of leadership in our diocesan community and as such are perceived as special and trustworthy individuals. Additionally, they are responsible for the well-being of minors and vulnerable adults on a daily basis. Thus, all are to study and accept the provisions contained in this amended policy statement.

## **Education**

Educational sessions on these and related matters, including the VIRTUS® “Safe Environment” program, are to be an on-going part of the continuing formation of priests and the formation and continuing formation of deacons, women and men religious, lay employees and volunteers. {*Charter, 12*}

Recognition, prevention, and reporting of abuse of persons in our care are to be included in school in-service programs each year, and in the training program for anyone who serves in any capacity at the diocesan summer camp.

## **Vulnerable Adults**

Care must be taken when the ministerial relationship extends to those who are chronologically adults but who for reasons of developmental disabilities, age, or physical incapacity are considered more vulnerable. All that is in place to safeguard children is also mandated for vulnerable adults.

## **Parents and Minors**

Parents and minors have their part to play in the prevention of abuse of minors. To that end, schools, religious education and other youth programs are to include in their health and sexuality curricula an appropriate discussion of abuse of minors. It is recommended that parents participate in these programs with their children and that parishes provide programs specifically for parents. Parents are encouraged to develop good open communication with their children.

## **Those Who Work with Minors and/or Vulnerable Adults**

Persons who serve our young people are among the most valuable assets to our faith community. Along with parents, they contribute to the spiritual, emotional, intellectual, and physical well-being of our young people. Only those persons who are suited, both by temperament and psychological make-up, should be chosen to work with young people.

Therefore, each applicant for employment in a position involving contact with minors and/or vulnerable adults in the parishes or institutions of the Diocese must supply the hiring agent with personal information sufficient to assess his or her suitability for contact with minors and/or vulnerable adults. Each applicant must agree to a background search (see Appendix II). Each applicant must supply the names of at least three references, including the most recent employer, in addition to the names of any close friends or relatives that are given as references. At the time of hiring the individual must sign the statement indicating receipt and acceptance of this Policy (see Appendix IV). {*Charter, 13*}

Candidates for ordination must agree to a background search at the time they apply for diocesan sponsorship. At the time of acceptance for sponsorship by the Diocese, the seminarian must sign the statement indicating receipt and acceptance of this Policy. {*Charter, 13*}

Hiring agents are to speak with all references provided by applicants and are to examine and verify employment history. The background of all personnel who have regular contact with minors and/or vulnerable adults will be evaluated, specifically utilizing the resources of the Diocese of Helena, who may employ law enforcement and other community agencies. In addition, adequate screening and evaluative techniques will be employed in determining the fitness of candidates for ordination. All employment information is gathered by the local hiring agent and is to be kept there in a confidential file until seven years after employment terminates, at which time it is to be destroyed. {*Charter, 13*}

In light of the foregoing requirements for employment, those who recruit volunteers who work with children are to exercise due caution in selecting volunteers. Those who regularly are utilized as volunteers must agree to a background search (see Appendix II), they must complete VIRTUS training and keep current on the monthly bulletins, and they must sign the statement indicating receipt and acceptance of this Policy (see Appendix IV). If there is any cause for concern, the matter should be brought to the attention of the appropriate supervisor, and the volunteer should not be placed in a position involving contact with minors or vulnerable adults until the concern is resolved. { *Charter, 13* }

## **Contact with Minors**

All who minister to minors in the church devote much time and attention to planning and executing activities that are of benefit to our youth. At the same time, they must be vigilant to guard against words or actions that result in mistaken perceptions, especially regarding abuse. { *Charter, 6 and 12* }

Except where civil law explicitly permits a person to counsel a minor without parental consent (e.g., licensed social workers), and in the course of the Sacrament of Penance, a minor may receive regularly scheduled, individual instruction or counseling from a cleric, church worker or volunteer only with the consent of the minor's parent or guardian.

The written consent of a parent or guardian is required for any minor to participate in an organized program sponsored by a parish or institution of the Diocese. The consent form should include how emergency care for the minor may be provided, as warranted by the program or activity involved.

At least two adults must be present for any activity sponsored by a parish or institution of the Diocese, with the exception of the Sacrament of Penance, and regular school or religion classes. Whenever possible, one of the adults should be a parent of a participant. This policy is to be followed strictly when any overnight activity is involved.

No minor or vulnerable adult may be disciplined corporally or corrected with abusive, sexually suggestive, or other inappropriate language.

No cleric, church worker or volunteer may provide alcohol to a person less than twenty-one years of age or one who habitually lacks the use of reason. This prohibition does not apply to sacramental wine at the Eucharistic celebration.

A cleric, church worker or volunteer must obtain the consent of a minor's parent or guardian before inviting or allowing the minor to visit in the adult's home, and a second adult must be present. When religious education classes take place in a home, all parents or guardians must be aware of this, and a second adult must be present.

Communication with young people using social media requires caution for any cleric, church worker or volunteer. The availability of social media to the young and its use in connecting with them is a reality, and appropriate use of this rapidly changing landscape requires discretion and transparency. (*Note: the Policy regarding the use of social media is attached as Appendix VII.*)

Taking or sharing pictures of a minor must be done only with the consent of the minor's parent or guardian and caution should be exercised especially in sharing such pictures on social media.

No minor may visit overnight at the residence of a cleric or stay overnight with a cleric in any other place, unless in the company of his or her parent or guardian. An exception can be made if the minor is a close relative of the cleric and provided the parent or guardian consents.

No minor may travel alone with a cleric, church worker or volunteer for an extended distance, unless in the company of or with the express permission of his or her parent or guardian. An exception can be made if the minor is a close relative of the cleric, church worker or volunteer and when circumstances require assuming parental permission (such as giving a stranded minor a ride home).

### **Seminarians and Deacon Candidates**

Part of the application process for acceptance as a student for priesthood or as a permanent deacon candidate in the Diocese of Helena is a psychological evaluation. Part of this evaluation is to consider matters relating to sexuality.

The Diocese expects that each seminary will offer sufficient training regarding clerical continence and celibacy and the necessity of leading a chaste and moral life. This occurs in the academic setting, but more particularly in spiritual direction and pastoral formation. The Diocese will require that the seminary include this aspect of formation in its reports on seminarians.

The Diocesan Program of Formation for Permanent Deacons will offer sufficient training with regard to the necessity of leading a chaste and moral life. This occurs both in the academic setting and in spiritual direction and pastoral formation.

Prospective seminarians are to agree to a background search at the time they apply for sponsorship by the Diocese, prior to ordination as a deacon, and every five years thereafter; prospective permanent deacons are to agree to a background search at the time they apply for acceptance into the program of formation, prior to ordination as a deacon, and every five years thereafter (see Appendix II). At the time he is accepted, each must sign the statement indicating that he has received and agrees to adhere to this Policy (see Appendix IV). { *Charter, 13* } Each priest or deacon is to sign the Policy Receipt form prior to beginning a new assignment.

### **Bishops, priests, or deacons from outside the diocese**

Before a bishop, priest or deacon will be accepted for ministry in the Diocese of Helena, regardless of the length of time, he must obtain a letter of suitability for ministry from his bishop or religious superior. As part of this letter, and in keeping with the *Essential Norms*, the bishop or religious superior must indicate that there have been no founded accusations or convictions involving abuse of a minor brought against the cleric. { *Norm 12; Charter, 14* }

Further, for ministry that will last longer than one month, the individual must agree to a background search (see Appendix II), prior to beginning ministry and every five years thereafter. Prior to beginning his first and each subsequent assignment, the cleric must sign the statement indicating that he has received and agrees to adhere to this Policy (see Appendix IV). { *Charter 13* }

### **Preventative Intervention**

Any cleric, church worker or volunteer who observes another cleric, church worker, or volunteer behaving in a manner which may pose a potential risk to a minor or vulnerable adult ordinarily should bring this concern to the attention of that person. The matter is to be reported to the proper supervisor. That supervisor is to deal with any situation of potential risk without delay. If the serious potential risk is not resolved in a satisfactory manner, the supervisor may take appropriate action in keeping with these policies and the appropriate personnel policies.

Any adult who observes a cleric, church worker or volunteer behaving in a manner which may pose a potential risk to a minor or vulnerable adult is encouraged to call the matter to the attention of that adult. Such concerns are to be reported to the proper supervisor.

No one subject to this Policy may discharge, demote, suspend, threaten, harass, or discriminate against any individual for making a report in good faith under this Policy. Any such retaliation or harassment may subject

an individual to disciplinary action up to and including discharge. Reports shall be deemed made in good faith if the individual had reasonable grounds to believe or suspect abuse, even if the belief or suspicion later proves to be unsubstantiated.

## **Response**

When there is a violation of the ministerial relationship, the persons involved must have recourse, and the situation must be evaluated and addressed in a manner that is just, compassionate and understanding. To that end, the Diocese of Helena has developed the following response to situations of abuse of a minor or vulnerable adult.

The entire diocesan community, under the leadership of the Bishop, must respond forthrightly and with compassion and care to the victims and the victims' family, to the local church community affected, to the diocesan church community, and to the offender. The response seeks personal and communal healing, assessment of the accused and treatment for the offender, and prevention of any further abuse by the offender.

### **Response to Victim**

The first obligation of the Church with regard to victims of abuse of minors or vulnerable adults is for healing and reconciliation. The Diocese, usually through the Victim Assistant, will reach out to victims/survivors of abuse of minors, vulnerable adults and those claiming to be victims of such abuse. Diocesan outreach may include provision of counseling, spiritual assistance, support groups and other social services as may be agreed. Through pastoral outreach to victims/ survivors of abuse of minors or vulnerable adults, the Bishop or his designated representative, usually the Victim Assistant, will offer to meet with victims/survivors of abuse or those claiming to be victims of such abuse and their families, to listen with patience and compassion to their experiences and concerns, and to share the "profound sense of solidarity and concern" expressed by our Holy Father. {*Norm 3; Charter, 1*}

The welfare of the victim is of primary concern. To that end, the Diocese of Helena, usually through the Human Resources Director, offers counseling to help the individual deal with the experience he or she has undergone.

The Diocese will provide payment for counseling when assessment determines that the offender was a bishop, priest, seminarian, deacon, woman or man religious, employee or volunteer of the Diocese of Helena at the time the abuse of a minor or vulnerable adult occurred.

Whenever possible, the offender is the person primarily responsible for the payment of expenses for the victims' therapy and will reimburse the Diocese for any expenses incurred to the extent possible.

### **Response to Parish/Institution**

When an allegation regarding abuse of a minor or vulnerable adult involving a cleric, church worker or volunteer becomes public, the response of the Diocese to the people of the area is an important pastoral concern. Working in conjunction with the pastor, institution supervisor, office or program director, and/or the Dean, the Bishop will determine how the Diocese will assist the local community to respond to such an allegation. The Bishop may consult with the Victim Assistant, the Human Resources Director, the Review Board, the diocesan attorney, and others before coming to a determination.

## **Reporting to Civil Authorities**

The Diocese will comply with all applicable civil laws with respect to the reporting of allegations of sexual or physical abuse or neglect of minors or vulnerable adults to civil authorities and will cooperate fully in their investigation in accord with applicable law. The Diocese will also cooperate with public authorities investigating cases where the person is no longer a minor. In every instance, the Diocese will advise and support a person's right and obligation to make a report to public authorities. { *Charter, 4* }

Montana law requires many individuals who know or have reasonable cause to suspect abuse or neglect of minors to report the matter promptly to the Child and Family Services Division (CFS) of the Department of Public Health and Human Services (DPHHS). Every person who knows or has reasonable cause to suspect abuse or neglect of a minor must do this reporting. (See Appendix III for the text of the applicable Montana law and a listing of those who are required to report). To report a possible case of child abuse or neglect, call: 866-820-5437. Reporting to CFS is required even when the matter has been reported to local law enforcement.

All clerics, church workers and volunteers of the Diocese are to be familiar with the mandatory reporting requirements of Montana law. Those who are obligated to report to civil authorities are to do so without delay. (Note that Montana law does not apply this requirement to priests who obtain the information in the Sacrament of Penance, or to clerics who obtain the information as part of a confidential communication, or if the person who made the statement does not consent to the disclosure by the clergy person or priest.)

A section of the law provides that the person reporting is immune from civil or criminal liability, unless the person acted in bad faith or with malicious purpose. A person who is required to report and fails to do so may be charged with a misdemeanor and may be civilly liable for damages caused by the failure to report.

In Montana, reports regarding abuse, neglect or exploitation of a vulnerable adult are to be made to the Department of Health and Human Services, Adult Protective Services at 744-277-9300. An on-line reporting form is available on their website at: <https://dphhs.mt.gov/SLTC/APS/>

## **Reporting to Church Authorities**

Any cleric, church worker or volunteer (except a bishop or priest when his knowledge is obtained in the Sacrament of Penance; and a person whose knowledge is protected by legal privilege), even when not obligated by state law to report to civil authorities, who witnesses an act of abuse of a minor or vulnerable adult perpetrated by another or suspects that such an act has occurred or receives a report of such an act, must report the incident immediately to the diocesan Human Resources Director (or a delegate). If the report is not submitted in written format, the Human Resources Director shall make a written record of the oral report. The Human Resources Director may be reached at 406-389-7070 or 1-800-584-8914; or by writing to: P. O. Box 1729, Helena, MT 59624. (Should a complaint involve the Human Resources Director, it is to be made to the Bishop, who will appoint a person to take the role assigned by this Policy to the Human Resources Director.)

Any person who believes that a minor or vulnerable adult has been abused by a cleric, church worker or volunteer is encouraged to report the incident to the Human Resources Director, who will encourage the individual to report to civil authorities if that has not already been done.

The Human Resources Director will notify the Bishop about the reported incident, as well as the diocesan attorney, the insurance carrier as warranted, the Victim Assistant, and those others who need to be aware that the report has been made. If the complaint involves an individual who is a member of a religious community, or a priest or deacon from another diocese but residing in the Diocese of Helena, the complaint will also be reported immediately to that person's religious superior or bishop.

## Canonical Process

In compliance with Canonical requirements, the Bishop will take steps to assure himself that it is a credible accusation. {Norm 6} The Human Resources Director (or an individual appointed on an *ad hoc* basis by the Bishop) will conduct an initial brief investigation, aimed at determining whether the report merits more formal investigation.

A preliminary report of this investigation will be given to the Bishop.

If the initial complaint is not substantially verified, that conclusion will be communicated to the one making the complaint. The original investigation report is to be placed in a confidential file at the Chancery in keeping with the section on records below.

If the initial complaint is substantially verified, that conclusion will be communicated to the one making the complaint. The accused individual will be informed of the accusation, and will be given every opportunity to respond. He or she will be relieved of his or her duties and placed on administrative leave. During the administrative leave, regular salary and benefits will be provided. The permanent status should be resolved as soon as possible. In addition to a civil law decision of guilt, a civil law determination of probable cause that an individual has committed child abuse is cause for termination.

The steps that follow will be conducted as soon as possible:

1. It is essential that effective, immediate and compassionate care be provided to the victim and the victim's family. Initially such pastoral care ordinarily falls to those at the local level, until other care is arranged through the Human Resources Director. Whatever response is made is to be coordinated with the civil officials investigating and responding to the reported incident.
2. When the accused individual is a priest or deacon: if serious abuse of a minor or sexual abuse of a minor is reported to have occurred, the priest or deacon ordinarily will be placed under penal precept, threatening suspension from the exercise of sacred orders if he has contact with anyone under 18 pending the outcome of the investigation.

When the information concerns serious abuse of a vulnerable adult or sexual abuse of a vulnerable adult, the penal precept will threaten suspension if he has contact with any minor or vulnerable adult.

3. An accused priest or deacon may be requested by the Bishop to undergo and comply with an appropriate medical and psychological evaluation at a facility mutually acceptable to the Bishop and the accused, to determine if he is impeded by psychic cause from exercising ministry (canon 1044, §2, 2°) or from fulfilling his obligations of continence (canon 277). For a member of a religious community or cleric incardinated in another diocese, this is also a condition for remaining in the diocese. {Norm 7}

An accused seminarian may be requested to undergo and comply with such a medical and psychological evaluation as a condition for continued diocesan sponsorship. An accused woman or man religious may be requested to undergo and comply with such a medical and psychological evaluation as a condition for continued ministry in the diocese.

An accused lay employee or volunteer will be requested to undergo and comply with such a medical and psychological evaluation as a condition for continued employment or eligibility to continue providing volunteer services.



4. All appropriate steps must be taken to assure that the accused enjoys the presumption of innocence until the contrary is proven. The accused will be encouraged to retain the assistance of civil and canonical counsel as may be appropriate, and will be promptly notified of the results of the investigation.
5. All appropriate steps must be taken to protect the reputation of the accused during the investigation. However, if the matter has been reported to civil authorities, it may be better for the local church community to be advised of the accusation by the Human Resources Director (or a delegate), rather than to hear it from rumor.

If the preliminary report substantially verifies the complaint, the Bishop will authorize a more extensive investigation, normally conducted by a professional investigator. Note that the Diocese will cooperate with investigations by civil authorities in accord with applicable law. An investigation by civil authorities may delay the church investigation, which will delay a final church determination until conclusion of the civil processes.

1. Whenever possible the Canonical process is to include interviews with the person who suffered abuse, the parents of the abused person, the person making the initial report, the accused person, and any other person who may have knowledge of the situation; as well as the report from the psychological assessment.
2. Once the investigation has concluded, a report will be presented to the Bishop indicating either that the accusations appear to be unfounded and the case should be considered closed (pending the outcome of any civil investigation); or that there is sufficient evidence that abuse of a minor or vulnerable adult or sexual abuse of a minor or vulnerable adult has occurred. The conclusions will be communicated to the one bringing the complaint and the person who suffered abuse.

### **When There is Initial Evidence that Abuse Has Occurred**

If the investigation report indicates there is sufficient evidence to believe that abuse of a minor or vulnerable adult or that sexual abuse of a minor or vulnerable adult has occurred:

1. In any case where there is sufficient evidence to believe that sexual abuse of a minor or vulnerable adult has occurred, the matter will be reported to the civil authorities (if that has not already occurred) and, if it involves a priest or deacon, to the Congregation for the Doctrine of the Faith. The Human Resources Director will notify the person making the initial report that this has been done. *{Norm 11}*
2. To make a report regarding abuse by a bishop, see: <https://ReportBishopAbuse.org> or telephone (800) 276-1562. There also is information on the Diocese of Helena website: <https://diocesehelena.org> at “Report Abuse by a Bishop” within the Safe Environment tab.
3. If the accused person is a layperson and this has not already happened, the person will be placed on administrative leave.
4. If the accused person is a man or woman religious, he or she will be notified that permission to function in ministry in the Diocese is suspended, pending the outcome of the case. The appropriate religious superior will be notified.
5. If the accused person is a seminarian, his sponsorship by the Diocese will be suspended, pending the outcome of the case.

6. If the accused person is a priest or deacon, the Bishop, respecting the right of the accused person to adequate defense and in keeping with any direction from the Congregation for the Doctrine of the Faith, will determine whether to initiate a canonical process appropriate to the results of the evaluation indicated in under "Canonical process." Depending on the circumstances, this could be a process to invoke an impediment to the exercise of orders or the canonical penal process, including the possibility of restricting residence, removal from office, or restriction from celebrating Mass in public. *{Norm 8}*

If the priest or deacon is from another diocese or a member of a religious community, the appropriate bishop or superior will be notified that the individual's permission to minister in the Diocese of Helena has been suspended.

7. If the accused person is a priest or deacon, the Diocese may appoint a monitor who can effectively supervise the individual's daily activities. If the complaint involves criminal activity, a trained monitor will be appointed to assist in arranging and defining his day-to-day activities, including non-ministerial work, therapy, and living arrangements.
8. Any accused person may be required to undergo rehabilitative treatment. If the accusation involves criminal activity, the individual will be required to go to a qualified treatment facility as soon as entrance can be arranged.

### **When there is Admitted or Established Abuse of a Minor or Vulnerable Adult**

1. When abuse of a minor or vulnerable adult other than sexual abuse is admitted or established after an appropriate process in accord with canon law, the Bishop will determine a course of action based on the reports of the professional evaluators, the recommendation of the individual's supervisor, the advice of the Review Board, the advice of diocesan legal counsel, the advice of the diocesan insurance carrier, and canonical advice as warranted.
2. Sexual abuse of a minor or vulnerable adult that is admitted or established after an appropriate process in accord with canon law is deemed grounds for dismissal for any employee or volunteer; for immediate return to the diocese of incardination or religious community for a woman or man religious or priest or deacon incardinated in another diocese; and for withdrawal of diocesan sponsorship for a seminarian.
3. When even a single act of sexual abuse of a minor or vulnerable adult on the part of a priest or deacon of the Diocese of Helena is admitted or established after an appropriate process in accordance with canon law, the offending priest or deacon will be removed permanently from ecclesiastical ministry, not excluding dismissal from the clerical state, if the case so warrants. 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. *{Norm 8}*

Unless the Congregation for the Doctrine of the Faith, having been notified, calls the case to itself because of special circumstances, it will direct the Bishop how to proceed. If the case would otherwise not be allowed because the Church's statute of limitations has expired, since sexual abuse of a minor or vulnerable adult is a grave offense, the Bishop must apply to the Congregation for the Doctrine of the Faith for a dispensation from the prescription of the Church's statute of limitations, while indicating appropriate pastoral reasons. 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 must supply canonical counsel to a priest. The provisions of CIC, canon 1722, or CCEO, canon 1473, shall be implemented during the pendency of the penal process. *{Norm 8a}*

If the penalty of dismissal from the clerical state is not applied (e.g., for reasons of advanced age or infirmity), the offender ought to lead a life of prayer and penance. 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 priest. {*Norm 8b*}

At all times, the Bishop has the executive power of governance, within the parameters of the universal law of the Church, through an administrative act, to remove an offending cleric from office, to remove or restrict his faculties, and to limit his exercise of priestly ministry, and the Bishop must exercise this power of governance to ensure that any priest who has committed even one act of sexual abuse of a minor or vulnerable adult shall not continue in active ministry. {*Norm 9*}

4. A priest or deacon who has committed an act of sexual abuse of a minor or vulnerable adult may at any time request 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. {*Norm 10*}
5. No priest or deacon who has committed an act of sexual abuse of a minor or vulnerable adult may be transferred for ministerial assignment to another diocese or eparchy or religious province. Before a priest or deacon may be transferred for residence to another diocese or eparchy or religious province, the Bishop shall forward, in a confidential manner, to the local bishop or eparch or religious ordinary (if applicable) of the proposed place of residence any and all information concerning any act of sexual abuse of a minor or vulnerable adult and any other information indicating that he has been or may be a danger to minors, young people or vulnerable adults. This shall apply even if the priest or deacon will reside in the local community of an institute of consecrated life or society of apostolic life. {*Norm 12; Charter, 14*}

Before receiving any bishop, priest or deacon from outside the jurisdiction of the Diocese of Helena, in accord with *Essential Norms*, the Bishop will obtain the necessary information regarding any past act of sexual abuse of a minor or vulnerable adult by the priest or deacon in question. Additionally, the cleric will agree to a background search (see Appendix II). {*Norm 12; Charter, 14*}

## **Return to Active Ministry When a Complaint is Unfounded**

When a complaint is determined to be unfounded and the cleric, church worker or volunteer did not engage in abuse of a minor or vulnerable adult, the Bishop will determine how the accused person's good name is to be restored. Administrative leave will be terminated. Every effort will be made to return the individual to ministry or employment in the Diocese.

In the event that the circumstances and publicity associated with the accusation prevent a woman or man religious or a layperson from ministry or employment in the Diocese of Helena at least for a period of time, every effort will be made to assist the person to find employment elsewhere.

A priest or deacon has a right to remain in his appointment, and cannot be removed without an appropriate canonical process. However, if the priest or deacon concludes that the circumstances or publicity associated with the accusation prevent him from effective pastoral ministry in the place where he had been assigned, the Bishop will either provide another assignment in the Diocese of Helena, or assist him to find a pastoral assignment in another diocese with the understanding that when the circumstances have changed, the Bishop will provide him with an assignment in the Diocese of Helena. {*Norm 13*}

## **Records**

The original copy of written reports of all stages of the investigation above will be kept in a confidential file at the Chancery. All other copies of such reports as well as the personal notes of those involved will be destroyed. The originals may be destroyed upon the death of the one accused, with the Chancery retaining only a brief summary of the reports.

## **Chapter II - Sexual Misconduct Involving Adults**

### **Introduction**

Sexual misconduct by a bishop, priest, deacon, seminarian, man or woman religious, lay employee or volunteer is contrary to Catholic moral teaching and obviously outside the scope of the duties of such individuals. The Church expects clerics, church workers and volunteers to live their lives in a chaste and moral manner. Any inappropriate sexual behavior on the part of a cleric, church worker or volunteer abuses his or her position, pastoral role and responsibility.

Aware that the great majority of bishops, priests, deacons, seminarians, women and men religious, lay employees and volunteers are competent, ethical, balanced and mature; concerned that any victim of sexual misconduct be nurtured, treated and healed; concerned for the ministerial well-being of our people in general; and concerned that a perpetrator of sexual misconduct be treated justly toward whatever healing is possible; the following Policy regarding sexual misconduct involving adults is adopted for the Diocese of Helena.

### **Description of Terms**

“Adult” means a person eighteen years of age or older

“Sexual misconduct” The performance of ministry does not allow for any sexual conduct; therefore, any sexual conduct in the course of performing ministry is sexual misconduct, and thus constitutes an external, objectively grave violation of the sixth commandment

Additionally, bishops, priests and religious are bound to the obligation of perfect and perpetual continence and to celibacy (see canons 277 and 672). Deacons are bound to continence with all except their wives. Failure to comply with these obligations is a violation of this Policy.

“Offender” means an individual who has performed an act of sexual misconduct with another adult

“Victim” means a person who has suffered from the sexual misconduct of another

“Supervisor” means the person to whom an individual is directly responsible, e.g., the Superintendent or Bishop’s Liaison to Catholic Schools (for school presidents and principals), the school principal (for school employees and volunteers), a program manager (for those who are employed by or volunteer in that program), the pastor (for those who are employed by or volunteer in the parish; and for priests and permanent deacons who serve the parish), a diocesan director (for personnel who work or volunteer within that area of service), the bishop (for priests, diocesan directors, school principals).

“Clerics, church workers and volunteers” means all those to whom the policy applies, including bishops, priests, deacons, seminarians, women and men religious, lay employees and volunteers.

“Cleric” means an ordained bishop, priest, or deacon.

## **Statement of Policy**

**It is the Policy of the Diocese of Helena that sexual misconduct involving adults by bishops, priests, deacons, seminarians, women or men religious, or by lay persons employed by or volunteering services to the parishes, schools, institutions, offices or programs of the Diocese is not to be tolerated. Such activity is contrary to basic Christian ethical principles and is a violation of the ministerial relationship of trust between clerics, church workers and volunteers and those whom they serve. All clerics, church workers and volunteers must comply with applicable state and local laws regarding incidents of sexual misconduct, and with the procedures outlined in the Policy document.**

**Bishops, priests, deacons, and men and women religious also are bound by their ordination or vows to observe perfect and perpetual continence and to observe celibacy, except for permanent deacons, who are bound to continence with all except their spouse.**

## **Prevention**

The bishops, priests, deacons and seminarians of the Diocese, the women and men religious serving here, and those lay men and women employed or regularly utilized as volunteers by the parishes, schools, and other diocesan institutions, offices and programs must acknowledge the gift of their sexuality and consequently have an obligation to lead chaste lives, in accordance with their state in life. These men and women are in a position of leadership in our diocesan community and as such are perceived as special and trustworthy individuals. Thus, all are to study and accept the provisions contained in this policy statement.

## **Education**

Educational sessions on these and related matters are to be an on-going part of the continuing formation of bishops, priests and the formation and continuing formation of deacons, women and men religious, lay employees and volunteers. The links between alcohol consumption and sexual misconduct are to be treated specifically.

## **Religious and Lay Persons**

Each applicant for employment in a position in the parishes or institutions of the Diocese must agree to a background search (see Appendix II). Each applicant must supply the names of at least three references, including the most recent employer, in addition to the names of any close friends or relatives that are given as references. At the time of hiring the individual must sign the statement indicating that he or she has received and agrees to adhere to this Policy (see Appendix IV for text).

## **Seminarians and Deacon Candidates**

Part of the application process for acceptance as a student for priesthood or as a permanent deacon candidate in the Diocese of Helena is a psychological evaluation. Part of this evaluation is to consider matters relating to sexuality.

The Diocese expects that each seminary will offer sufficient training with regard to clerical continence and celibacy and the necessity of leading a chaste and moral life. This occurs in the academic setting, but more particularly in spiritual direction and pastoral formation. The Diocese will require that the seminary include this aspect of formation in its reports on seminarians.

The Diocesan Program of Formation for Permanent Deacons will offer sufficient training with regard to the necessity of leading a chaste and moral life. This occurs both in the academic setting and in spiritual direction and pastoral formation.

Prospective seminarians are to agree to a background search at the time they applying for sponsorship by the Diocese; prospective permanent deacons are to agree to a background search at the time they apply for acceptance into the program of formation (see Appendix II). At the time he is accepted, each must sign the statement indicating that he has received and agrees to adhere to this Policy (see Appendix IV).

### **Bishops, priests or deacons from outside the diocese**

Before a cleric will be accepted for ministry in the Diocese of Helena, he must request a letter of recommendation from his bishop (or religious superior). As part of the recommendation, the bishop or religious superior must indicate that there have been no founded accusations or convictions involving sexual misconduct brought against the priest or deacon. Further, the individual himself must agree to a background search (see Appendix II). Prior to beginning his assignment, the priest or deacon must sign the statement indicating that he has received and agrees to adhere to this Policy (see Appendix IV).

## **Response**

An adult who wishes to report that he or she has suffered sexual misconduct from a cleric, church worker or volunteer is to do so to the Human Resources Director (or a delegate). If the initial report is not made in writing, the Human Resources Director will request that it be made in writing as quickly as possible. The Human Resources Director may be reached at 406-389-7070 or 1-800-584-8914; or by writing to: P. O. Box 1729, Helena MT 59624. (Should a complaint involve the Human Resources Director, it is to be made to the Bishop, who will appoint a person to take the role assigned by this Policy to the Human Resources Director.)

The Human Resources Director will notify the Bishop about the reported incident, as well as the diocesan attorney, the insurance carrier as warranted, the Victim Assistant, and those others who need to be aware that the report has been made. If the complaint involves an individual who is a member of a religious community, or a priest from another diocese but residing in the Diocese of Helena, the complaint will be reported immediately to that person's religious superior or bishop.

### **Response to Victims**

The welfare of the victim is of primary concern. To that end, the Diocese of Helena (usually through the Human Resources Director) offers counseling to help the individual deal with the experience he or she has undergone.

The Diocese will provide payment for counseling when assessment determines that the offender was a priest, deacon, seminarian, woman or man religious, employee or volunteer of the Diocese of Helena at the time the sexual misconduct occurred.

Whenever possible, the offender is the person primarily responsible for the payment of expenses for the victims' therapy and will reimburse the Diocese for any expenses incurred to the extent possible.

## **Response to Parish/Institution**

When an allegation regarding sexual misconduct involving a cleric, church worker or volunteer becomes public, the response of the Diocese to the people of the area is an important pastoral concern. Working in conjunction with the pastor, institution supervisor, office or program director, and/or the Dean, the Bishop will determine how the Diocese will assist the local community to respond to such an allegation. The Bishop may consult with the Review Board, the diocesan attorney, and others before coming to a determination.

## **Preliminary Investigation**

The incident is to be investigated quickly by the Human Resources Director (or a delegate). (If he deems it appropriate, the Bishop on an ad-hoc basis may appoint others for this investigation.) This is an initial brief investigation, aimed at determining whether the report merits more formal investigation.

A preliminary report of this investigation will be given to the Bishop. If the initial complaint is determined to be unfounded, the original investigation report is to be placed in a confidential file at the Chancery in keeping with the section on records below. The conclusion that the complaint has been determined to be unfounded will be communicated to the one making the complaint and the person named by the one making the complaint.

If it is determined that there is sufficient evidence that sexual misconduct with an adult has occurred, the following steps will be conducted immediately:

1. It is essential that effective, immediate and compassionate care be provided to the victim and the victims' family. Initially such pastoral care ordinarily falls to those at the local level, until other care is arranged usually through the Human Resources Director. Whatever response is made is to be coordinated with the civil officials investigating and responding to the reported incident.
2. The accused individual will be informed of the investigation, and will be given every opportunity to respond. He or she ordinarily will be relieved of his or her duties on a temporary basis (administrative leave). During the administrative leave, regular salary and benefits are to be provided. The permanent status should be resolved as soon as possible.
3. When the accused individual is a cleric: a preliminary investigation will be conducted; the cleric ordinarily will be placed under penal precept, threatening suspension from the exercise of sacred orders if there is sexual activity with anyone pending the outcome of the investigation.
4. If the case warrants, an accused cleric will be required to undergo an appropriate psychological assessment to determine if he is impeded by a psychic cause from exercising ministry (canon 1044, §2, 2°) or from fulfilling his obligations of continence (canon 277). For a member of a religious community or cleric incardinated in another diocese, this requirement, when warranted, also is a condition for remaining in the diocese.

An accused seminarian will be required to undergo such a psychological assessment as a condition for continued diocesan sponsorship. An accused woman or man religious will be required to undergo such a psychological assessment as a condition for continued ministry in the Diocese.

An accused lay employee or volunteer will be required to undergo such a psychological assessment as a condition for continued employment.

5. If the case involves criminal accusations, the cleric, church worker or volunteer will be advised to obtain legal counsel distinct from the diocesan attorney.



6. All appropriate steps must be taken to protect the reputation of the accused during an investigation. The accused will be encouraged to retain the assistance of civil and canonical counsel as may be appropriate, and will be promptly notified of the results of the investigation. If the case is not already well known, the Human Resources Director (or a delegate), when appropriate, will notify the local church community only that the accused person has taken a leave of absence for personal reasons.
7. Whenever possible the investigation is to include interviews with the person who suffered abuse, the accused person, and any other person who may have knowledge of the situation; as well as the report of the psychological assessment.
8. The Diocese will cooperate with investigations by civil authorities in accord with applicable law. It is recognized that an investigation by civil authorities may delay the church investigation anticipated above. Only in that situation will a final church determination be delayed pending resolution of the investigation by civil authorities.
9. Once the investigation has concluded, a report will be presented to the Bishop indicating either that there appears to be no substance to the accusations and the case should be considered closed (pending the outcome of any civil action, either criminal or civil); or that there is substance to the complaint and cause for further action. The conclusions will be communicated to the one bringing the complaint and the person who suffered abuse.

### **Action When There is Sufficient Evidence that Sexual Misconduct Has Occurred**

If the investigation report indicates there is sufficient evidence to believe that sexual misconduct involving adults has occurred:

1. If the accused person is a layperson and this has not already happened, the person will be placed on administrative leave.
2. If the accused person is a man or woman religious, he or she will be notified that permission to function in ministry in the Diocese is suspended, pending the outcome of the case. The appropriate religious superior will be notified.
3. If the accused person is a seminarian, his sponsorship by the Diocese will be suspended, pending the outcome of the case.
4. If the accused person is a priest or deacon, the Bishop, respecting the right of the accused person to adequate defense, will determine whether to initiate a canonical process appropriate to the results of the evaluation indicated in number four under "preliminary investigation." Depending on the circumstances, this could be a process to invoke an impediment to the exercise of orders or the canonical penal process, including the possibility of restricting residence, removal from office, or restriction from celebrating Mass in public.

If the accused person is a priest, deacon or religious, the Bishop also could determine to initiate a process which would result in the imposition of penalties applicable to clerics and religious who attempt marriage or clerics who are involved in an external sin against the sixth commandment.

If the priest or deacon is from another diocese or a member of a religious community, the appropriate bishop or superior will be notified that the individual's permission to minister in the Diocese of Helena has been suspended.

5. If the case warrants, an accused person may be required to undergo rehabilitative treatment. If the accusation involves criminal activity, the individual will be required to contact the treatment facility as soon as entrance can be arranged.

### **Action When There is Admitted or Established Sexual Misconduct Involving Adults**

1. When it violates state law, sexual misconduct that is admitted or established is deemed grounds for dismissal for any employee or volunteer; for immediate return to the diocese of incardination or religious community for a woman or man religious or cleric incardinated in another diocese; and for withdrawal of diocesan sponsorship for a seminarian.
2. When sexual misconduct that is admitted or established violates only canon law, the canonical process indicated under number four in the section above will be brought to its completion.
3. When sexual misconduct on the part of a bishop, priest or deacon of the Diocese of Helena is admitted or established, the Bishop, taking into consideration his canonical obligations to the individual and respecting his right to adequate defense, will determine a course of action based on the evaluations of professionals, including the diagnosis and prognosis, and the advice of the diocesan attorney. Until advised by experts and counsel to revise these prohibitions, this decision may include prohibiting any public ministry for the individual, or limiting public ministry to certain times and places; the place of residence; the continuing appointment and responsibilities of a monitor; whether to recommend that the individual seek laicization; and whether to begin a canonical penal process for dismissal from the clerical state.

## **Return to Active Ministry**

### **When the Complaint is Determined to be Unfounded**

When the complaint is determined to be unfounded and the cleric, church worker or volunteer did not engage in sexual misconduct involving an adult, the Bishop, in collaboration with the individual involved and the person's supervisor, will determine how the accused person's good name is to be restored. Administrative leave will be terminated. Every effort will be made to return the individual to ministry or employment in the Diocese.

In the event that the circumstances and publicity associated with the accusation prevent a religious woman or man or a layperson from ministry or employment in the Diocese of Helena at least for a period of time, every effort will be made to assist the person to find employment elsewhere.

A cleric has a right to remain in his appointment and cannot be removed without an appropriate canonical process. However, if the cleric concludes that the circumstances or publicity associated with the accusation prevent him from effective pastoral ministry in the place where he had been assigned, the Bishop will either provide another assignment in the Diocese of Helena, or assist him to find a pastoral assignment in another diocese with the understanding that when the circumstances have changed, the Bishop will provide him with an assignment in the Diocese of Helena.

## **When a Complaint is True**

If a complaint of canonical sexual misconduct involving a cleric, or religious is true, the Bishop will make a decision about continuing employment or ministry assignment. In coming to that decision, he will rely on the results of any canonical penal process that had been conducted, any reports from professional evaluators, the recommendation of the individual's supervisor, the advice of the Review Board, and appropriate canonical advice. As warranted he also may obtain the advice of diocesan legal counsel and the diocesan insurance carrier.

It is unlikely that a cleric, church worker or volunteer who has been convicted in civil law of sexual misconduct with an adult or who has been diagnosed as one suffering from this proclivity will be able to function in a ministry assignment in any parish, school, institution, office or program of the Diocese of Helena. The Bishop alone is authorized to make the determination that such a cleric, church worker or volunteer may be assigned or employed by any parish, school, institution, office or program of the Diocese. In making that determination, the Bishop will rely on the reports of professional evaluators, the recommendation of the individual's supervisor including input from the community (parish, school, etc.), the advice of the Review Board, the advice of diocesan legal counsel, the advice of the diocesan insurance carrier, and canonical advice as warranted.

## **Records**

The original copy of written reports of all stages of the investigation above will be kept in a confidential file at the Chancery. All other copies of such reports as well as the personal notes of those involved will be destroyed. The originals may be destroyed upon the death of the one accused, with the Chancery retaining only a brief summary of the reports.

# Chapter III - Sexual Harassment

## Introduction

All who are associated with any parish, school, institution, office or program of the Diocese of Helena expect to be treated in a manner consistent with Catholic teaching regarding the dignity of each human being. Consequently, sexual harassment will not be tolerated. Any such harassment on the part of a cleric, church worker or volunteer is an abuse of his or her position, pastoral role and responsibility.

Aware that the great majority of bishops, priests, deacons, seminarians, women and men religious, lay employees and volunteers are competent, ethical, balanced and mature; concerned that any victim of sexual harassment be nurtured, treated and healed; concerned for the ministerial well-being of our people in general; and concerned that a perpetrator of sexual harassment be treated justly toward whatever healing is possible; the following Policy regarding sexual harassment is adopted for the Diocese of Helena.

## Description

Sexual harassment includes unwelcome verbal or physical conduct of a sexual nature when:

- submission to the conduct is explicitly or implicitly made a term or condition of employment.
- submission to or rejection of the conduct is used as the basis for an employment decision.
- the conduct has the effect of unreasonably interfering with work performance or creates an intimidating, hostile or offensive work environment.

Note that other terms described in preceding portions of the Policy also are used here.

## Statement of Policy

**It is the Policy of the Diocese of Helena that sexual harassment by bishops, priests, seminarians, deacons, women or men religious, or by lay persons employed by or volunteering services to the parishes, schools, institutions, offices, and programs of the Diocese is not to be tolerated. Such activity is contrary to basic Christian ethical principles and is a violation of the ministerial relationship of trust between clerics, church workers and volunteers and those they serve. All clerics, church workers and volunteers must comply with the procedures outlined in the Policy document.**

## Prevention

The bishops, priests, deacons and seminarians of the Diocese, the women and men religious serving here, and those lay men and women employed or regularly utilized as volunteers by the parishes, schools, and other diocesan institutions, offices and programs have a right to expect a safe environment in which to minister, an environment that is free from harassment, especially sexual harassment. These men and women are in a position of leadership in our diocesan community and as such are perceived as special and trustworthy individuals. Thus, all are to study and accept the provisions contained in this policy statement.

## **Education**

Educational sessions on these and related matters are to be an ongoing part of the continuing formation of bishops and priests and the formation and continuing formation of deacons, women and men religious, lay employees and volunteers.

## **Response**

Clerics, church workers and volunteers who consider themselves to be victims of sexual harassment or who are offended by sexual jokes, comments or other conduct in the workplace are immediately to report the behavior to their supervisor or to the person in charge of personnel.

Verified sexual or other harassment of co-workers or others contacted in the course of work by lay employees or volunteers is to be disciplined in the following manner:

First offense - oral warning

Second offense - written warning

Third offense - termination or suspension without pay (at employer's discretion)

When the one accused of harassment is a woman or man religious, the report is to be made to the pastor or institution/office/program supervisor who will act in accord with the steps outlined above for lay employees. A copy of the written warning is to be forwarded to the Human Resources Director, who will notify the Bishop of the warning. The individual will be notified that any further verified offense will result in suspension of permission to remain in ministry in the Diocese of Helena. The fact of a written warning will be reported to that person's religious superior, along with the information that a third verified offense will result in the person being denied further permission to remain in ministry in the Diocese of Helena.

When the one accused of harassment is a seminarian, the report is to be made to the Human Resources Director who will notify the Bishop and the Vocation Director. If the seminarian is at the seminary, seminary officials will be asked to conduct an appropriate investigation. If the seminarian is on assignment in the Diocese, the Human Resources Director and the Dean (or other priest from the area) will investigate the complaint. If the complaint is verified, the seminarian will be required to obtain professional counseling as a condition for continued diocesan sponsorship. Any further verified offense will result in the Diocese terminating sponsorship of the seminarian.

If the one accused of harassment is a cleric, the complaint is to be made to the Human Resources Director. Along with the Dean (or another priest of the area), the Human Resources Director will investigate the complaint. (Should a complaint involve the Human Resources Director, it is to be made to the Bishop, who will ask two persons to conduct the investigation.) If the complaint is admitted or established and involves a deacon, the Director of Deacons and the Bishop will be notified so that the Bishop may take appropriate action. If the complaint is admitted or established and involves a bishop or priest, the Bishop will be notified so that he may take appropriate action.

After a second instance of sexual harassment that is admitted or established, the Bishop will issue a penal precept, threatening suspension from the exercise of sacred orders, if there is further verified instance of sexual harassment. If the individual is a priest or deacon from another diocese but residing in the Diocese of Helena, after a second verified offense, his bishop or religious superior will be notified that his permission to minister in the Diocese has been suspended, pending the completion of appropriate therapy.

## **Return to Active Ministry**

Only with the permission of the Bishop can: 1) a lay employee or volunteer who was terminated due to sexual harassment be re-employed; 2) a woman or man religious or a cleric from another diocese whose permission to function here was suspended due to sexual harassment return to ministry in the Diocese of Helena; 3) a seminarian who lost diocesan sponsorship due to sexual harassment regain diocesan sponsorship. This will occur only if there is an affirmative evaluation from the counselor indicating the problem that led to the offense is controlled and that there is no further danger of harassment, a positive recommendation from the supervisor, and upon the advice of the Review Board (see Appendix I).

For a priest or deacon of the Diocese, lifting the suspension will depend upon an affirmative evaluation from the counselor, as well as an appropriate apology to the offended parties, and the advice of the Review Board (see Appendix I).

## **Response to Victim/Parish/Institution**

The welfare of the victim is of primary concern. To that end, the Bishop or supervisor will offer to help the individual deal with the experience he or she has undergone, including professional counseling, as warranted.

When counseling is warranted, the Diocese (usually through the Human Resources Director) will provide for such counseling when the offender was a priest, seminarian, deacon, woman or man religious, employee or volunteer of the Diocese of Helena at the time the sexual harassment occurred.

The offender is the person primarily responsible for the payment of expenses for the victims' counseling and will reimburse the Diocese for any expenses incurred to the extent possible.

When it is necessary, the Bishop or supervisor, working in conjunction with the pastor, institution supervisor, office or program director, and/or the Dean, will determine how the diocese will assist the local parish, school, institution, office or program to respond to an allegation of sexual harassment. Depending on the circumstances involved, the Bishop may consult with the Review Board, the diocesan attorney, and others before coming to a determination.

# Chapter IV – Code of Pastoral Conduct

## I. Preamble

Bishops, priests, deacons, pastoral ministers, administrators, staff, and volunteers in our parishes, religious communities/institutes, and organizations must uphold Christian values and conduct. *The Code of Pastoral Conduct for Priests, Deacons, Pastoral Ministers, Administrators, Staff, and Volunteers (Code of Pastoral Conduct)* provides a set of standards for conduct in certain pastoral situations.

## II. Responsibility

The public and private conduct of clerics, staff, and volunteers can inspire and motivate people, but it can also scandalize and undermine the people’s faith. Clerics, staff, and volunteers must, at all times, be aware of the responsibilities that accompany their work. They must also know that God’s goodness and grace supports them in their ministry.

Responsibility for adherence to the *Code of Pastoral Conduct* rests with the individual. Clerics, staff, and volunteers who disregard this *Code of Pastoral Conduct* will be subject to remedial action by the parish, the religious community/institute, the school, and/or the Diocese of Helena. Corrective action may take various forms—from a verbal reproach to removal from the ministry – depending on the specific nature and circumstances of the offense and the extent of the harm.

## III. Pastoral Standards

### 1. Conduct for Pastoral Counselors and Spiritual Directors<sup>1</sup>

*Pastoral Counselors and Spiritual Directors must respect the rights and advance the welfare of each person.*

- 1.1 Pastoral Counselors and Spiritual Directors shall not step beyond their competence in counseling situations and shall refer clients to other professionals when appropriate.
- 1.2 Pastoral Counselors and Spiritual Directors should carefully consider the possible consequences before entering into a counseling relationship with someone with whom they have a pre-existing relationship (i.e., employee, professional colleague, friend, or other pre-existing relationship). [See Section 7.2.2]
- 1.3 Pastoral Counselors and Spiritual Directors should not audiotape or videotape sessions.
- 1.4 Pastoral Counselors and Spiritual Directors must never engage in sexual intimacies with the persons they counsel. This includes consensual and nonconsensual contact, forced physical contact, and inappropriate sexual comments.

---

<sup>1</sup> Pastoral Counselors and Spiritual Directors: Clergy, staff, and volunteers who provide pastoral, spiritual, and/or therapeutic counseling services to individuals, families, or other groups.

- 1.5 Pastoral Counselors and Spiritual Directors shall not engage in sexual intimacies with individuals who are close to the client – such as relatives or friends of the client – when there is a risk of exploitation or potential harm to the client. Pastoral Counselors and Spiritual Directors should presume that the potential for exploitation or harm exists in such intimate relationships.
- 1.6 Pastoral Counselors and Spiritual Directors assume the full burden of responsibility for establishing and maintaining clear, appropriate boundaries in all counseling and counseling-related relationships.
- 1.7 Physical contact of any kind (i.e., touching, hugging, holding) between Pastoral Counselors or Spiritual Directors and the persons they counsel can be misconstrued and is to be avoided.
- 1.8 Sessions should be conducted in appropriate settings at appropriate times.
  - 1.8.1 No sessions should be conducted in private living quarters.
  - 1.8.2 Sessions should not be held at places or times that would tend to cause confusion about the nature of the relationship for the person being counseled.
- 1.9 Pastoral Counselors and Spiritual Directors shall maintain a log of the times and places of sessions with each person being counseled.

## **2. Confidentiality**

*Information disclosed to a Pastoral Counselor or Spiritual Director during the course of counseling, advising, or spiritual direction shall be held in the strictest confidence possible.*

- 2.1 Information obtained in the course of sessions shall be confidential, except for compelling professional reasons or as required by law.
  - 2.1.1 If there is clear and imminent danger to the client or to others, the Pastoral Counselor or Spiritual Director may disclose only the information necessary to protect the parties affected and to prevent harm.
  - 2.1.2 Before disclosure is made, if feasible, the Pastoral Counselor or Spiritual Director should inform the person being counseled about the disclosure and the potential consequences.
- 2.2 Pastoral Counselors and Spiritual Directors should discuss the nature of confidentiality and its limitations with each person in counseling.
- 2.3 Pastoral Counselors and Spiritual Directors should keep minimal records of the content of sessions.
- 2.4 Knowledge that arises from professional contact may be used in teaching, writing, homilies, or other public presentations only when effective measures are taken to absolutely safeguard both the individual's identity and the confidentiality of the disclosures.
- 2.5 While counseling a minor, if a Pastoral Counselor or Spiritual Director discovers that there is a serious threat to the welfare of the minor and that communication of



confidential information to a parent or legal guardian is essential to the child's health and well-being, the Counselor or Spiritual Director should:

- Attempt to secure written consent from the minor for the specific disclosure.
- If consent is not given, disclose only the information necessary to protect the health and well-being of the minor.

Consultation with the appropriate Church supervisory person is required before disclosure.

**2.6 These obligations are independent of the confidentiality of the confessional. Under no circumstances whatsoever can there be any disclosure – even indirect disclosure – of information received through the confessional.**

### **3. Conduct With Youth**

*Clerics, staff, and volunteers working with youth shall maintain an open and trustworthy relationship between youth and adult supervisors.*

- 3.1 Clerics, staff, and volunteers must be aware of their own and others' vulnerability when working alone with youth. Use a team approach to managing youth activities.
- 3.2 Physical contact with youth can be misconstrued and should occur (a) only when completely nonsexual and otherwise appropriate, and (b) never in private.
- 3.3 Clerics, staff, and volunteers should refrain from (a) the illegal possession and/or illegal use of drugs and/or alcohol at all times, and (b) the use of alcohol when working with youth.
- 3.4 Clerics should not allow individual young people to stay overnight in the cleric's private accommodations or residence.
- 3.5 Staff and volunteers should not provide shared, private, overnight accommodations for individual young people including, but not limited to, accommodations in any Church-owned facility, private residence, hotel room, or any other place where there is no other adult supervision present.
  - 3.5.1 In rare, emergency situations, when accommodation is necessary for the health and well-being of the youth, the clerics, staff, or volunteer should take extraordinary care to protect all parties from the appearance of impropriety and from all risk of harm.
  - 3.5.2 Use a team approach to managing emergency situations.

### **4. Sexual Conduct**

*Clerics, staff, and volunteers must not, for sexual gain or intimacy, exploit the trust placed in them by the faith community.*

- 4.1 Clerics, religious, staff, and volunteers who are committed to a celibate lifestyle are called to be an example of celibate chastity in all relationships at all times.

- 4.2 Staff and volunteers who provide pastoral counseling or spiritual direction services must avoid developing inappropriately intimate relationships with minors or vulnerable adults, other staff, or parishioners. Staff and volunteers must behave in a professional manner at all times.
- 4.3 No clerics, staff, or volunteer may exploit another person for sexual purposes.
- 4.4 Allegations of sexual misconduct should be taken seriously and reported to the Diocese of Helena and to civil authorities if the situation involves a minor or vulnerable adult.
- The Diocese of Helena procedures will be followed to protect the rights of all involved.
- 4.5 Clerics, staff, and volunteers should review and know the contents of the child abuse regulations and reporting requirements for the State of Montana and should follow those mandates.

## 5. Harassment

*Clerics, staff, and volunteers must not engage in physical, psychological, written, or verbal harassment of staff, volunteers, or parishioners and must not tolerate such harassment by other Church staff or volunteers.*

- 5.1 Clerics, staff, and volunteers shall provide a professional work environment that is free from physical, psychological, written, or verbal intimidation or harassment.
- 5.2 Harassment encompasses a broad range of physical, written, or verbal behavior, including without limitation the following:
- Physical or mental abuse.
  - Racial insults.
  - Derogatory ethnic slurs.
  - Unwelcome sexual advances or touching.
  - Sexual comments or sexual jokes.
  - Requests for sexual favors used as:
    - a condition of employment, or
    - to affect other personnel decisions, such as promotion or compensation.
  - Display of offensive materials.
- 5.3 Harassment can be a single severe incident or a persistent pattern of behavior where the purpose or the effect is to create a hostile, offensive, or intimidating work environment.

- 5.4 Allegations of harassment should be taken seriously and reported immediately to the Diocese of Helena.

The Diocese of Helena procedures will be followed to protect the rights of all involved.

## **6. Parish, Religious Community/Institute, and Organizational Records and Information**

Confidentiality will be maintained in creating, storing, accessing, transferring, and disposing of parish, religious community/institute, or organizational records.

- 6.1 Sacramental records shall be regarded as confidential. When compiling and publishing parish, religious community/institute, or organization statistical information from these records, great care must be taken to preserve the anonymity of individuals.
- 6.2 Most sacramental records older than 70 years are open to the public.
- 6.2.1 Information regarding adoption and legitimacy remains confidential, regardless of age.
- 6.2.2 Only staff members who are authorized to access the records and supervise their use shall handle requests for more recent records.
- 6.3 Parish, religious community/institute, or organization financial records are confidential unless the diocese or an appropriate government agency requires review. Contact the Director of Financial Services of the diocese or the chief financial officer of the supervising institution upon receipt of any request for release of financial records.
- 6.4 Individual contribution records of the parish, religious community/institute, or organization shall be regarded as private and shall be maintained in strictest confidence.

## **7. Conflicts of Interest**

*Clerics, staff, and volunteers should avoid situations that might present a conflict of interest. Even the appearance of a conflict of interest can call integrity and professional conduct into question.*

- 7.1 Clerics, staff, and volunteers should disclose all relevant factors that potentially could create a conflict of interest.
- 7.2 Clerics, staff, and volunteers should inform all parties when a real or potential conflict of interest arises. Resolution of the issues must protect the person receiving ministry services.
- 7.2.1 No clerics, staff, or volunteer should take advantage of anyone to whom they are providing services in order to further their personal, religious, political, or business interests.
- 7.2.2 Pastoral counselors should not provide counseling services to anyone with whom they have a business, professional, or social relationship. When this is unavoidable, the client must be protected. The counselor must establish and maintain clear, appropriate boundaries.

- 7.2.3 When pastoral counseling or spiritual direction services are provided to two or more people who have a relationship with each other, the Pastoral Counselor or Spiritual Director must:
- Clarify with all parties the nature of each relationship,
  - Anticipate any conflict of interest,
  - Take appropriate actions to eliminate the conflict, and
  - Obtain from all parties written consent to continue services.
- 7.3 Conflicts of interest may also arise when a Pastoral Counselor's or Spiritual Director's independent judgment is impaired by:
- Prior dealings,
  - Becoming personally involved, or
  - Becoming an advocate for one (person) against another.

In these circumstances, the Pastoral Counselor or Spiritual Director shall advise the parties that he or she can no longer provide services and refer them to another Pastoral Counselor or Spiritual Director.

## **8. Reporting Ethical or Professional Misconduct**

*Clerics, staff, and volunteers have a duty to report their own ethical or professional misconduct and the misconduct of others.*

- 8.1 Clerics, staff, and volunteers must hold each other accountable for maintaining the highest ethical and professional standards. When there is an indication of illegal actions by clerics, staff, or volunteers, you should notify the proper civil authorities immediately. Also notify the Diocese of Helena, Human Resources Director.
- 8.2 When an uncertainty exists about whether a situation or course of conduct violates this *Code of Pastoral Conduct* or other religious, moral, or ethical principles, consult with:
- Peers,
  - Others knowledgeable about ethical issues, or
  - The Chancery office
- 8.3 When it appears that a member of clerics, a staff member, or a volunteer has violated this *Code of Pastoral Conduct* or other religious, moral, or ethical principles:
- Report the issue to a supervisor or next higher authority, or
  - Refer the matter directly to the Chancery office.

- 8.4 The obligation of Pastoral Counselors and Spiritual Directors to report client misconduct is subject to the duty of confidentiality. However, any agreement or duty to maintain confidentiality must yield to the need to report misconduct that threatens the safety, health, or well-being of any of the persons involved except as provided for in Section 2.6

## **9. Administration**

Employers and supervisors shall treat clerics, staff, and volunteers justly in the day-to-day administrative operations of their ministries.

- 9.1 Personnel and other administrative decisions made by clerics, staff, and volunteers shall meet civil and canon law obligations and also reflect Catholic social teachings and this *Code of Pastoral Conduct*.
- 9.2 No clerics, staff, or volunteer shall use his or her position to exercise unreasonable or inappropriate power and authority.
- 9.3 Each volunteer providing services to children and youth must read and sign the Policy Statement including the *Volunteer Code of Conduct* before providing services.

## **10. Staff or Volunteer Well-being**

*Clerics, staff, and volunteers have the duty to be responsible for their own spiritual, physical, mental, and emotional health.*

- 10.1 Clerics, staff, and volunteers should be aware of warning signs that indicate potential problems with their own spiritual, physical, mental, and/or emotional health.
- 10.2 Clerics, staff, and volunteers should seek help immediately whenever they notice behavioral or emotional warning signs in their own professional and/or personal lives.
- 10.3 Clerics, staff, and volunteers must address their own spiritual needs. Support from a Spiritual Director is highly recommended.
- 10.4 Inappropriate or illegal use of alcohol and drugs is prohibited.

## IV. Volunteer's Code of Conduct

Our children are the most important gifts God has entrusted to us. As a volunteer, I promise to strictly follow the rules and guidelines in this Volunteer's Code of Conduct as a condition of my providing services to the children, youth or vulnerable adults of our parish, school or diocese.

### **As a volunteer, I will:**

- Treat everyone with respect, loyalty, patience, integrity, courtesy, dignity, and consideration.
- Avoid situations where I am alone with children and/or youth at Church activities.
- Use positive reinforcement rather than criticism, competition, or comparison when working with children and/or youth and/or vulnerable adults.
- Refuse to accept expensive gifts from children and/or youth or their parents or from vulnerable adults without prior written approval from the pastor or administrator.
- Refrain from giving expensive gifts to children and/or youth and/or vulnerable adults without prior written approval from the parents or guardian and the pastor or administrator.
- Report suspected abuse to the pastor, administrator, or appropriate supervisor and the local Child Protection Services agency. I understand that failure to report suspected abuse to civil authorities is, according to the law, a misdemeanor.
- Observe the social media code of conduct (Appendix VII)
- Cooperate fully in any investigation of abuse of children and/or youth and/or vulnerable adults.

### **As a volunteer, I will not:**

- Smoke or use tobacco products in the presence of children and/or youth.
- Use, possess, or be under the influence of alcohol at any time while volunteering.
- Use, possess, or be under the influence of illegal drugs at any time.
- Pose any health risk to children and/or youth (i.e., no fevers or other contagious situations).
- Strike, spank, shake, or slap children and/or youth and/or vulnerable adults.
- Humiliate, ridicule, threaten, or degrade children and/or youth and/or vulnerable adults.
- Touch a child and/or youth and/or vulnerable adult in a sexual or other inappropriate manner.
- Use any discipline that frightens or humiliates children and/or youth and/or vulnerable adults.
- Use profanity in the presence of children and/or youth.

I understand that as a volunteer working with children and/or youth and/or vulnerable adults, I am subject to a thorough background check including criminal history. I understand that any action inconsistent with this Code of Conduct or failure to take action mandated by this Code of Conduct may result in my removal as a volunteer with children and/or youth and/or vulnerable adults.

## Appendix I

### **Review Board**

{*Norms 4 and 5; Charter, 2*}

As outlined in *Essential Norms*, 4 and 5, the Review Board is a group of at least five qualified women and men who agree to serve in this capacity. The Bishop will appoint each member of the Review Board for a five-year term, which can be renewed. It is desirable that the Promoter of Justice participates in meetings of the Review Board. There is one Review Board for all areas covered by this policy statement.

The Review Board functions as a confidential consultative body to the Bishop in discharging his responsibilities. The functions of this Board may include:

- A. advising the bishop in his assessment of allegations of abuse of a minor or vulnerable adult, sexual misconduct and sexual harassment and in his determination of suitability for ministry, employment or volunteering services to the parishes, schools, institutions, offices and programs of the Diocese;
- B. reviewing Diocesan policies for dealing with abuse, sexual misconduct and sexual harassment; and
- C. offering advice on all aspects of matters governed by this policy, whether retrospectively or prospectively.

The Review Board will be composed of at least five persons of outstanding integrity and good judgment in full communion with the Church. The majority of Review Board members at any time will be laypersons who are not in the employ of the diocese. Members will include:

- A priest who is an experienced and respected pastor of the Diocese.
- An attorney-at-law, licensed, in good standing.
- A parent of a minor.
- A parish pastoral council member.
- A person with particular expertise in the treatment of sexual abuse of minors.

Those participating ex-officio at meetings of the Review Board, include:

- The Victim Assistant
- The Promoter of Justice
- The Human Resources Director
- The Diocesan Attorney
- The Judicial Vicar
- The Chancellor (who is responsible for maintaining Minutes and other archival materials)
- A person who is not Catholic may participate ex-officio

The entire Review Board will meet twice each year and when called together by the Bishop or the Human Resources Director. When necessary, members may participate in meetings through electronic means.

Individual members of the Review Board may be called upon to assist in any investigations provided for by this policy.

All work of the Review Board is to be kept confidential. Members will return any written information given them about particular individuals and cases.

From time to time and at least every three years, the Review Board will review this policy and advise or make recommendations to the Bishop regarding any potential modification of this policy.

Expenses for the work of the Review Board will be covered through the diocesan budget.

## Appendix II

### **Policy on Background Searches**

Effective August 20, 2002

Updated 2022

It is mandatory that all people (paid and unpaid) employed by or volunteering at the Diocese of Helena in its Chancery, schools, parishes, or ministries will have a background search completed before they are employed, begin as a volunteer, or transfer into this Diocese; and every five years thereafter. The background search must be clear of disqualifying activities before a person may be hired as an employee or accepted as a volunteer.

Systematically over the next three years (by June 30, 2025) a new background check will be conducted for all priests and deacons incardinated in the Diocese of Helena, all seminarians affiliated with the Diocese of Helena; lay men and women, employed by or utilized as volunteers by the Diocese of Helena, its parishes, schools, institutions, offices, or programs; and for all priests and deacons incardinated in a diocese other than the Diocese of Helena serving in any capacity here, and for women and men religious serving in any capacity within the Diocese of Helena, whose current background search was conducted prior to June 30, 2020.

An individual who has left his/her position and desires to reengage in ministry (either as an employee or volunteer) must have a new background search prior to reengaging in ministry.

This policy is in response to Article 13 of the *Charter for the Protection of Children and Young People*, United States Conference of Catholic Bishops. This article, as revised in 2018, states: “The diocesan/eparchial bishop is to evaluate the background of all incardinated priests and deacons. When a priest or deacon, not incardinated in the diocese/eparchy, is to engage in ministry in the diocese/eparchy, regardless of the length of time, the evaluation of his background may be satisfied through a written attestation of suitability for ministry supplied by his proper ordinary/major superior to the diocese/eparchy. Dioceses/eparchies are to evaluate the background of all their respective diocesan/eparchial and parish/school or other paid personnel and volunteers whose duties include contact with minors. Specifically they are to utilize the resources of law enforcement and other community agencies. Each diocese/eparchy is to determine the application/renewal of background checks according to local practice. In addition, they are to employ adequate screening and evaluative techniques in deciding the fitness of candidates for ordination.”



## Appendix III

### **Montana Law** Updated May 2022

*The following information is drawn from pertinent sections of the Montana Code Annotated. The first section (numbers beginning with 41) summarizes items from the Montana civil code; the second section (numbers beginning with 45) summarizes items from the Montana criminal code.*

#### **Child Abuse and Neglect**

41-3-102(2). Defines “a person responsible for a child’s welfare” as:

- (a) the child’s parent, guardian, foster parent or an adult who resides in the same home in which the child resides;
- (b) a person providing care in a day-care facility;
- (c) an employee or a public or private residential institution, facility, home or agency; or
- (d) any other person responsible for a child’s welfare in a residential setting.

41-3-102(3). Defines "abused or neglected" as: "the state or condition of a child who has suffered abuse or neglect."

41-3-102(5). Defines “best interests of the child” as “the physical, mental, and psychological conditions and needs of the child and any other factor considered by the court to be relevant to the child.”

41-3-102(6). A "child" or "youth" is anyone under 18 years of age.

41-3-102(7). Defines “child abuse or neglect” as “actual physical or psychological harm to a child,” “substantial risk of physical or psychological harm to a child,” or abandonment, including “exposing a child to the criminal manufacture of dangerous drugs” and “any form of child sex trafficking or human trafficking.”

41-3-102(20). Defines "physical abuse" as “an intentional act, an intentional omission, or gross negligence resulting in substantial skin bruising, internal bleeding, substantial injury to skin, subdural hematoma, burns, bone fractures, extreme pain, permanent or temporary disfigurement, impairment of any bodily organ or function, or death.”

41-3-102(21). Defines "physical neglect" as "either failure to provide basic necessities, including but not limited to appropriate and adequate nutrition, protective shelter from the elements, and appropriate clothing related to weather conditions, or failure to provide cleanliness and general supervision, or both, or exposing or allowing the child to be exposed to an unreasonable physical or psychological risk to the child.”

41-3-102(22). Subsection (a) defines "physical or psychological harm to a child" means “the harm that occurs whenever the parent or other person responsible for the child’s welfare:

- (i) inflicts or allows to be inflicted upon the child physical abuse, physical neglect, or psychological abuse or neglect;
- (ii) commits or allows sexual abuse or exploitation of the child;
- (iii) induces or attempts to induce a child to give untrue testimony that the child or another child was abused or neglected by a parent or other person responsible for the child's welfare;
- (iv) causes malnutrition or a failure to thrive or otherwise fails to supply the child with adequate food or fails to supply clothing, shelter, education, or adequate health care, though financially able to do so or offered financial or other reasonable means to do so;
- (v) exposes or allows the child to be exposed to an unreasonable risk to the child's health or welfare by failing to intervene or eliminate the risk; or
- (vi) abandons the child.

Subsection (b) provides that the term “does not include a youth not receiving supervision solely because of parental inability to control the youth’s behavior.”

41-3-102(24). Subsection (a) defines “psychological abuse or neglect” as “severe maltreatment through acts or omissions that are injurious to the child’s emotional, intellectual, or psychological capacity to function, including acts of violence against another person residing in the child’s home. Subsection (b) provides that the term “may not be construed to hold a victim responsible for failing to prevent a crime against the victim.”

41-3-102(27). Defines "reasonable cause to suspect" as “cause that would lead a reasonable person to believe that child abuse or neglect may have occurred or is occurring, based on all the facts and circumstances known to the person.”

41-3-102(30). Subsection (a) defines "sexual abuse" as "the commission of sexual assault, sexual intercourse without consent, indecent exposure, sexual abuse, ritual abuse of a minor or incest, as described in Title 45, chapter 5, part 5 (Montana's criminal code)." Subsection (b) provides that: “Sexual abuse does not include any necessary touching of an infant’s or toddler’s genital area while attending to the sanitary or health needs of that infant or toddler by a parent or other person responsible for the child’s welfare.

41-3-102(31). Defines "sexual exploitation" as "allowing, permitting, or encouraging a child to engage in a prostitution offense . . . or allowing, permitting, or encouraging sexual abuse of children as described in 45-5-625."

41-3-201. Reports.

(1) When the professionals and officials listed in subsection (2) know or have reasonable cause to suspect, as a result of information they receive in their professional or official capacity, that a child is abused or neglected by anyone regardless of whether the person suspected of causing the abuse or neglect is a parent or other person responsible for the child's welfare, they shall report the matter promptly to the department of public health and human services.

(2) Professionals and officials required to report are:

(a) a physician, resident, intern, or member of a hospital's staff engaged in the admission, examination, care, or treatment of persons;

(b) a nurse, osteopath, chiropractor, podiatrist, medical examiner, coroner, dentist, optometrist, or any other health or mental health professional;

(c) religious healers;

(d) school teachers, other school officials, and employees who work during regular school hours;

(e) a licensed social worker, operator or employee of any registered or licensed day-care or substitute care facility, staff of a resource and referral grant program organized under 52-2-711 or of a child and adult food care program, or an operator or employee of a child-care facility;

(f) a foster care, residential, or institutional worker;

(g) a peace officer or other law enforcement official;

(h) a member of the clergy, as defined in 15-6-201(2)(b);

(i) a guardian ad litem or a court-appointed advocate who is authorized to investigate a report of alleged abuse or neglect; or

(j) an employee of an entity that contracts with the department to provide direct services to children.

(3) A professional listed in subsection (2)(a) or (2)(b) involved in the delivery or care of an infant shall report to the department any infant known to the professional to be affected by a dangerous drug, as defined in 50-32-101.

(4) Any person may make a report under this section if the person knows or has reasonable cause to suspect that a child is abused or neglected.

(5) (a) When a professional or official required to report under subsection (2) makes a report, the department may share information with:

(i) that professional or official; or

(ii) other individuals with whom the professional or official works in an official capacity if the individuals are part of a team that responds to matters involving the child or the person about whom the report was made and the professional or official has asked that the information be shared with the individuals.

(b) The department may provide information in accordance with 41-3-202(8) and also share information about the investigation, limited to its outcome and any subsequent action that will be taken on behalf of the child who is the subject of the report.

(c) Individuals who receive information pursuant to this subsection (5) shall maintain the confidentiality of the information as required by 41-3-205.

(6) (a) Except as provided in subsection (6)(b) or (6)(c), a person listed in subsection (2) may not refuse to make a report as required in this section on the grounds of a physician-patient or similar privilege.

(b) A member of the clergy or a priest is not required to make a report under this section if:

(i) the knowledge or suspicion of the abuse or neglect came from a statement or confession made to the member of the clergy or the priest in that person's capacity as a member of the clergy or as a priest;

(ii) the statement was intended to be a part of a confidential communication between the member of the clergy or the priest and a member of the church or congregation; and

(iii) the person who made the statement or confession does not consent to the disclosure by the member of the clergy or the priest.

(c) A member of the clergy or a priest is not required to make a report under this section if the communication is required to be confidential by canon law, church doctrine, or established church practice.

(7) The reports referred to under this section must contain:

(a) the names and addresses of the child and the child's parents or other persons responsible for the child's care;

(b) to the extent known, the child's age and the nature and extent of the child's injuries, including any evidence of previous injuries;

(c) any other information that the maker of the report believes might be helpful in establishing the cause of the injuries or showing the willful neglect and the identity of the person or persons responsible for the injury or neglect; and

(d) the facts that led the person reporting to believe that the child has suffered injury or injuries or willful neglect, within the meaning of this chapter.

41-3-202. Outlines the procedure to be followed by DPHHS when a report is made.

41-3-203. Immunity from liability. Anyone investigating or reporting any incident of child abuse or neglect, participating in resulting judicial proceedings, or furnishing hospital or medical records as required by 41-3-202 is immune from any liability, civil or criminal, that might otherwise be incurred or imposed, unless the person acted in bad faith or with malicious purpose or provided information knowing the information to be false. In addition, anyone who provides information in response to an investigation, and anyone who uses information resulting from an investigation

to refuse to hire or to discharge a prospective or current employee who may have unsupervised contact with or pose a risk to children is immune from liability.

#### 41-3-204. Admissibility and preservation of evidence.

- (1) Indicates that reports or proceedings resulting from reports or other evidence "shall not be excluded on the grounds that the matter is or may be the subject of a privilege related to the examination or treatment of the child" except the attorney-client privilege.
- (2) Any person or official required to report under 41-3-201 may take or cause to be taken photographs of the area of trauma visible on a child who is the subject of a report. The cost of photographs taken under this section shall be paid by the department.
- (3) When any person required to report under 41-3-201 finds visible evidence that a child has suffered abuse or neglect, he must include in his report either a written description or photographs of the evidence.
- (4) Governs when X-rays may be taken by a physician.
- (5) All written, photographic, or radiological evidence gathered under this section shall be sent to the local affiliate of the department at the time the written confirmation report is sent or as soon thereafter as is possible.

#### 41-3-205. Confidentiality - disclosure exceptions.

- (1) The case records of the department of social and rehabilitation services, the department of public health and human services and its local affiliate, the county welfare department, the county attorney, and the court concerning actions taken under this chapter and all records concerning reports of child abuse and neglect must be kept confidential except as provided by this section. Any person who permits or encourages the unauthorized dissemination of their contents is guilty of a misdemeanor.

Subsection (2) indicates that records may be disclosed to a court, if relevant, and when public disclosure may be permitted by a court.

#### 41-3-207. Penalty for failure to report.

- (1) Any person, official, or institution required by law to report known or suspected child abuse or neglect who fails to do so or who prevents another person from reasonably doing so is civilly liable for the damages proximately caused by such failure or prevention.
- (2) Any person or official required by law to report known or suspected child abuse or neglect who purposely or knowingly fails to report known child abuse or neglect or purposely or knowingly prevents another person from doing so is guilty of a misdemeanor.
- (3) Any person or official required by law to report known or suspected sexual abuse or sexual exploitation who purposely or knowing fails to report it, or knowingly prevents another person from making a report is guilty of a felony and subject to imprisonment up to 5 years and a fine up to \$10,000.

45-2-106(6). Defines “child” or “children” to mean “any individual or individuals under 18 years of age, unless a different age is specified.”

45-2-101(67). Defines “sexual contact” for criminal law purposes as “touching of the sexual or other intimate parts of the person of another, directly or through clothing” in order to knowingly or purposely “cause bodily injury to or humiliate, harass, or degrade another,” or to “arouse or gratify the sexual response or desire of either party.”

45-2-101(68). Defines “sexual intercourse” for criminal law purposes as broadly including situations involving “penetration” of a person’s intimate parts in order to knowingly or purposely “cause bodily injury to or humiliate, harass, or degrade another,” or to “arouse or gratify the sexual response or desire of either party.”

45-5-501. Defines “consent” as used in 45-5-502, -503, and -508 as meaning “words or overt actions indicating freely given agreement to have sexual intercourse or sexual contact,” subject to restrictions recognizing that consent may be withdrawn; that “a current or previous dating relationship by itself of the manner of dress of the person involved does not constitute consent; that lack of consent may be inferred based on the surrounding circumstances and must be considered in determining whether consent was given; that a victim who is “mentally disordered or incapacitated” or “physically helpless,” or “less than 16 years old, or “overcome by deception, coercion, or surprise” is “incapable of consent.”

45-5-502(1). Defines criminal “sexual assault” as any situation where one person “knowingly subjects another person to any sexual contact without consent, with incarceration up to 6 months and a fine up to \$500.

45-5-502(3). Defines criminal “sexual assault” to include any situation where “the victim is less than 16 years old and the offender is 3 or more years older than the victim,” or if the offender “inflicts bodily injury upon anyone in the course of committing sexual assault, with incarceration up to life in prison and a fine up to \$50,000.

45-5-503(1). Defines criminal “sexual intercourse without consent” to include any situation where one person “knowingly has sexual intercourse without consent of another person” other than their spouse, with incarceration up to life in prison and a fine up to \$50,000.

45-3-503(3). Defines criminal “sexual intercourse without consent” to include any situation where “the victim is less than 16 years old and the offender is 3 or more years older than the victim,” or if the offender “inflicts bodily injury upon anyone in the course of committing sexual assault, with incarceration up to life in prison and a fine up to \$50,000.

45-5-504. Defines criminal “indecent exposure” as any situation where a person “knowingly or purposely exposes the person’s genitals by any means including electronically under circumstances in which the person knows the conduct is likely to cause affront or alarm” or to “abuse, humiliate, harass, or degrade another,” or to “arouse or gratify the person’s own sexual response or desire of the sexual response or desire of any person,” with incarceration up to 10 years and a fine up to \$50,000.

45-5-508. Defines “aggravated sexual intercourse without consent” as the use of force while knowingly having sexual intercourse with another person without that person’s consent or with

another person who is incapable of consent, with incarceration not less than 10 or more than 100 years and a fine up to \$50,000.

### **Montana Criminal Code**

45-5-511(4). Provides that “failure to make a timely complaint or immediate outcry does not raise any presumption as to the credibility of the victim” in a criminal prosecution of a sex crime case.

45-5-511(5). Provides that resistance by the victim is not required to show lack of consent in a criminal prosecution of a sex crime case. “Force, fear, or threat is sufficient alone to show lack of consent.”

45-5-513. Provides for geographic restrictions applicable to high-risk sexual offenders.

45-5-622(1). Defines criminal “endangering the welfare of children” to include any situation where a parent, guardian or other person supervising the welfare of a child less than 18 years old “knowingly endangers the child’s welfare by violating a duty of care, protection and support.”

45-5-622(2). Defines criminal “endangering the welfare of children” to include most situations where a parent, guardian or other person over the age of 18 supervising the welfare of a child knowingly contributes to the delinquency of a child by supplying or encouraging the use of an intoxicating substance by a child under the age of 18; assisting, promoting, or encouraging a child under the age of 18 to enter a place of prostitution; assisting, promoting or encouraging a child under the age of 16 to abandon the child’s place of residence without the consent of the child’s parents or guardian, or to engage in sexual conduct, with incarceration up to six months and a fine up to \$1,000.

45-5-623. Defines criminal “unlawful transactions with children” to include selling or giving a child under the age of 18 any explosives or intoxicating substances, or selling or giving any alcoholic beverage to a person under the age of 21, with incarceration up to six months and a fine up to \$1,000.

45-5-625. Defines “sexual abuse of children” to include the knowing use or employment of a child in an exhibition of sexual conduct, actual or simulated; knowingly photographing, filming, videotaping, or developing or duplicating any such works, involving a child engaging in sexual conduct; knowingly persuading, enticing, counseling or procuring a child to engage in sexual conduct; knowingly processing, developing, printing, publishing any print medium in which children are engaged in sexual conduct; knowingly possessing any visual or print or electronic medium in which children are engaged in sexual conduct; or finances any such prohibited activities; or knowingly travels within, to, or from Montana intending of meeting a child under 16 to engage in sexual contact; or knowingly coercing, enticing, persuading, arranging or otherwise facilitating a child under 16 to travel within, to or from Montana to engage in sexual contact; with incarceration up to life and a fine up to \$50,000; when the abuse is with a victim under 16, imprisonment generally is for at least four years.

45-5-627. Defines “ritual abuse of a minor” to include, as part of any ceremony, rite or ritual or of any training for any such ceremony, rite or ritual, sexual intercourse with victims under 16 years old; torture, murder or sacrifice, mutilation or various other acts in the presence of the minor. First offense: imprisonment for at least two years and up to twenty years, and a fine up to \$50,000.

Second or subsequent offense: imprisonment for at least four years and up to 40 years, and a fine up to \$50,000.

45-5-628. Defines “criminal child endangerment” as purposely, knowingly, or negligently causing substantial risk of death or serious bodily injury to a child under 14 years of age – by failing to seek reasonable medical care for a child suffering from an apparent acute life-threatening condition; by placing a child in the physical custody of another whom the person knows has previously purposely or knowingly caused bodily injury to a child; by placing the child in the physical custody of another whom the person knows has previously committed sexual assault or sexual intercourse without consent against a child; by manufacturing or distributing dangerous drugs in a place where a child is present; by operating a motor vehicle under the influence of alcohol or dangerous drugs with a child in the vehicle; or by failing to provide proper nutrition for a child resulting in a medical diagnosis of nonorganic failure to thrive , subject to incarceration up to 10 years and a fine up to \$50,000.

45-8-218. Defines “deviate sexual conduct” as any situation where a person knowingly engages in deviate sexual relations or causes another to do so, with incarceration up to 10 years and a fine up to \$50,000.

45-8-221. Prohibits “predatory loitering” by a person who “was previously convicted of a predatory sexual offense or sexual abuse of children ... knowingly or purposely loitering” in areas frequented by minors and as previously been requested by a person in authority to leave the area, with incarceration up to 6 months and a fine up to \$1,000.

### **Montana Elder and Persons with Developmental Disabilities Abuse Prevention Act**

The “Montana Elder and Persons with Developmental Disabilities Abuse Prevention Act” Montana Code, Title 52, Chapter 3, Part 8, was adopted in 1999 for the purpose of “preventing the abuse, sexual abuse, neglect, and exploitation of Montana's elderly persons and persons with developmental disabilities through the identification, reporting, and prosecution of acts of abuse, sexual abuse, neglect, and exploitation.”

52-3-803(1). Defines “abuse” to mean:

- (a) the infliction of physical or mental injury;
- (b) the deprivation of food, shelter, clothing, or services necessary to maintain the physical or mental health of an older person or a person with a developmental disability without lawful authority; or
- (c) the causing of personal degradation of an older person or a person with a developmental disability in a place where the older person or person with a development disability has a reasonable expectation of privacy.

52-3-803(3). Defines “exploitation” to mean:

- (a) the unreasonable use of an older person or a person with a developmental disability or of a power of attorney, conservatorship, or guardianship with regard to an older person or a person with a developmental disability in order to obtain control of or to divert to the advantage of another the ownership, use, benefit, or



possession of or interest in the person's money, assets, or property by means of deception, duress, menace, fraud, undue influence, or intimidation with the intent or result of permanently depriving the older person or person with a developmental disability of the ownership, use, benefit, or possession of or interest in the person's money, assets, or property;

(b) an act taken by a person who has the trust and confidence of an older person or a person with a developmental disability to obtain control of or to divert to the advantage of another the ownership, use, benefit, or possession of or interest in the person's money, assets, or property by means of deception, duress, menace, fraud, undue influence, or intimidation with the intent or result of permanently depriving the older person or person with a developmental disability of the ownership, use, benefit, or possession of or interest in the person's money, assets, or property; or

(c) the unreasonable use of an older person or a person with a developmental disability or of a power of attorney, conservatorship, or guardianship with regard to an older person or a person with a developmental disability done in the course of an offer or sale of insurance or securities in order to obtain control of or to divert to the advantage of another the ownership, use, benefit, or possession of the person's money, assets, or property by means of deception, duress, menace, fraud, undue influence, or intimidation with the intent or result of permanently depriving the older person or person with a developmental disability of the ownership, use, benefit, or possession of the person's money, assets, or property.

52-3-803(4). Defines “incapacitated person to mean “any person who is impaired by reason of mental illness, mental deficiency, physical illness or disability, chronic use of drugs, chronic intoxication, or other cause, except minority, to the extent that the person lacks sufficient understanding or capacity to make or communicate responsible decisions concerning the person or which cause has so impaired the person's judgment that the person is incapable of realizing and making a rational decision with respect to the person's need for treatment.”

52-3-803(6). Defines “mental injury” to mean “an identifiable and substantial impairment of a person's intellectual or psychological functioning or well-being.”

52-3-803(7). Defines “neglect” to mean “the failure of a person who has assumed legal responsibility or a contractual obligation for caring for an older person or a person with a developmental disability or who has voluntarily assumed responsibility for the person's care, including an employee of a public or private residential institution, facility, home, or agency, to provide food, shelter, clothing, or services necessary to maintain the physical or mental health of the older person or the person with a developmental disability.”

52-3-803(8). Defines “older person” to mean “a person who is at least 60 years of age.”

52-3-803(8). Defines “person with a developmental disability” to mean a person 18 years of age or older who has a developmental disability meaning a disability that (a) “is attributable to intellectual disability, cerebral palsy, epilepsy, autism, or any other neurologically disabling condition closely related to intellectual disability;” (b) “requires treatment similar to that required by intellectually disabled individuals; (c) “originated before the individual attained age 18;” (d) has continued or can be expected to continue indefinitely; and (e) “results in the person having a substantial disability.”

52-3-803(10). Defines “personal degradation” to mean “publication or distribution of a printed or electronic photograph or video of an older person or a person with a developmental disability when the person publishing or distributing intends to demean or humiliate the older person or person with a developmental disability or knows or reasonably should know that the publication or distribution would demean or humiliate a reasonable person. Personal degradation does not include the recording and dissemination of images or video for treatment, diagnosis, regulatory compliance, or law enforcement purposes, as part of an investigation, or in accordance with a facility or program's confidentiality policy and release of information or consent policy.”

52-8-803(11). Defines “physical injury” to mean “death, permanent or temporary disfigurement, or impairment of any bodily organ or function.”

52-8-803(12). Defines “sexual abuse” to mean “the commission of sexual assault, sexual intercourse without consent, indecent exposure, deviate sexual conduct, incest, or sexual abuse of children” as described in the Montana criminal code, Title 45, chapter 5, part 5 and chapter 8, part 2.

52-3-811(1). Requires that when the professionals and other persons listed in subsection (3) know or have reasonable cause to suspect that an older person or a person with a developmental disability known to them in their professional or official capacities has been subjected to abuse, sexual abuse, neglect, or exploitation, they must report to the department of public health and human services or the county attorney; and if the person is a resident of a long-term care facility to report to the department of public health and human services and the long-term care ombudsman at the long-term care facility.

52-3-811(3). Provides that professionals and other persons required to report include:

- (a) a physician, resident, intern, professional or practical nurse, physician assistant, or member of a hospital staff engaged in the admission, examination, care, or treatment of persons;
- (b) an osteopath, dentist, denturist, chiropractor, optometrist, podiatrist, medical examiner, coroner, or any other health or mental health professional;
- (c) an ambulance attendant;
- (d) a social worker or other employee of the state, a county, or a municipality assisting an older person or a person with a developmental disability in the application for or receipt of public assistance payments or services;
- (e) a person who maintains or is employed by a rooming house, retirement home or complex, nursing home, group home, adult foster care home, adult day-care center, or assisted living facility or an agency or individual that provides home health services or personal care in the home;
- (f) an attorney, unless the attorney acquired knowledge of the facts required to be reported from a client and the attorney-client privilege applies;
- (g) a peace officer or other law enforcement official;

(h) a person providing services to an older person or a person with a developmental disability pursuant to a contract with a state or federal agency; and

(i) an employee of the department while in the conduct of the employee's duties.

52-3-811(4). Provides that “Any other persons or entities may, but are not required to submit a report in accordance with subsection 52-3-811(1).”

52-3-812(1). Provides that a report required by 52-3-811 to “be made in writing or orally, by telephone or in person. A person who receives an oral report shall prepare it in writing as soon as possible.”

52-3-812(2). Requires a report to contain:

(a) the names and addresses of the older person or the person with a developmental disability and the person, if any, responsible for that person's care;

(b) the name and address, if available, of the person who is alleged to have abused, sexually abused, neglected, or exploited the older person or the person with a developmental disability.

(c) to the extent known, the person's age and the nature and extent of the abuse, sexual abuse, neglect, or exploitation, including any evidence of previous injuries, abuse, sexual abuse, neglect, or exploitation sustained by the older person or the person with a developmental disability and any evidence of prior instances of abuse, sexual abuse, neglect, or exploitation of other older persons or persons with developmental disabilities committed by the person alleged to have committed abuse, sexual abuse, neglect, or exploitation; and

(d) the name and address of the person making the report.

52-3-814 (1). Provides that “A person who makes a report required or authorized to be made under 52-3-811 is immune from civil or criminal liability that might otherwise be incurred or imposed as a result of the report unless the report is false in any material respect and the person acted in bad faith or with malicious purpose.”

52-3-814(2). Provides that “A person who provides information or who uses information obtained pursuant to 52-3-813(2) to refuse to hire or to discharge an employee, volunteer, or other person who through their employment or volunteer activities may have unsupervised contact with an older person or a person with a developmental disability is immune from civil liability unless the person providing or using the information acts in bad faith or with malicious purpose.”

## Appendix IV

### Statement of Receipt and Agreement

*Following is the text of the "Statement of Receipt and Agreement" which lay employees and volunteers are to sign. There are similar statements to be signed by bishops, priests and deacons, women and men religious, and those applying for diocesan sponsorship as a seminarian or for the permanent deacon formation program, which acknowledge the particular status in the Church of those individuals.*

By signing this statement, I acknowledge that I have received (electronically or in printed form) the ***Diocese of Helena Policy Regarding Abuse of Minors and Vulnerable Adults, Sexual Misconduct, and Sexual Harassment*** (hereafter: **Policy**) revised and reissued in 2022. I understand that the printed text is available at the Diocese of Helena, on the diocesan website, and at all parish offices. I have been given the opportunity to read and ask questions about the **Policy**.

Further, by signing this statement, I agree to abide by all the provisions contained in the **Policy**. I understand that this agreement is required for me to serve in any capacity of ministry, or to be employed by or volunteer for the Diocese of Helena, its parishes, schools, institutions, offices, or programs.

I understand that failure to comply with the **Policy** subjects me to the responses outlined there, including termination.

I hereby acknowledge receipt of the printed or electronic version of the ***Diocese of Helena Policy Regarding Abuse of Minors and Vulnerable Adults, Sexual Misconduct, and Sexual Harassment and Code of Pastoral Conduct***, including the Social Media Code of Conduct; I agree to abide by the provisions of the **Policy** and the **Codes**.

Each individual is to legibly print their name, sign and date the Agreement; a witness also signs.

*Note that individual sheets are provided, based on the status of the person involved.*

## Appendix V

### Communicating the Policy

The Diocese of Helena is committed to the mandates, norms and intent of the *Charter for the Protection of Children and Young People*. In 1993 Bishop Elden F. Curtiss promulgated the first diocesan policy regarding *Abuse of Minors, Sexual Misconduct and Sexual Harassment*. In 2003 Bishop Robert C. Morlino approved and promulgated a revised diocesan policy that incorporated the changes mandated by the USCCB's *Charter and Essential Norms*. In 2007 Bishop George Leo Thomas re-issued the Policy with adaptations resulting from the 2005 revision of the *Charter and Norms*. In 2015, Bishop George Leo Thomas issued an amended Policy, including adaptations from the 2011 USCCB revision of the *Charter and Norms*. In 2022, Bishop Austin A. Vetter revised and reissued the Policy, now titled *Policy Regarding Abuse of Minors and Vulnerable Adults, Sexual Misconduct, and Sexual Harassment and Code of Pastoral Conduct*, which is available on the diocesan website: [www.diocesehelena.org](http://www.diocesehelena.org). The Diocese wishes to respect the privacy and the reputation of all who might be involved in these sad situations; at the same time, we wish to be as open and transparent as possible, especially to assist those directly affected by ministerial misconduct {*Charter, 7*}.

#### Concern for Victims

Pastoral outreach to the victims and those affected in the faith communities is critical. Pastoral concern for the reputation of the good name of clerics and laity is also critical. Reaching out to the victims is crucial in all that is done.

A complaint form for allegations is available to parishes, missions, volunteers, staff members, parishioners and all others who need it. It is available on the diocesan website [www.diocesehelena.org](http://www.diocesehelena.org) and at the diocesan Chancery, as well as in parishes. A copy of the document concludes this appendix.

The Safe Environment Program called for by the *Charter* (Article 12) is established throughout the Diocese by means of the VIRTUS® Program. Training sessions and information about the program is available online. Awareness of the program is published through the diocesan Newsletter, General Mailings, the Diocesan website, and special mailings. Awareness of services provided to victims is available from the Human Resources Director or Victim Assistant. These services are provided on a case-by-case basis. For more information please contact our Victim Assistant at 406-459-0513, by mail at P.O. Box 1729, Helena, MT 59624, or email at [victimassistant@diocesehelena.org](mailto:victimassistant@diocesehelena.org).

When appropriate, the Human Resources Director (or a delegate), with approval of the Bishop and in collaboration with the Human Resources Director, prepares a statement for presentation to the affected parish community expressing support for the victims and those in need of healing. The Human Resources Director presents the statement at a designated gathering. The statement addresses the services of healing and reconciliation that will be made available, as well as other supportive services that can assist the community's needs. These services might be healing and prayer experiences, liturgies, and awareness of counseling and other support services.

#### Communication

The Diocese strongly encourages people to report allegations of sexual abuse and/or harassment to the Victim Assistant at 406-459-0513, or by mail at P.O. Box 1729, Helena, MT 59624 or e-mail [victimassistant@diocesehelena.org](mailto:victimassistant@diocesehelena.org). The allegations will be conveyed promptly to the Bishop and the Human Services Director and will be promptly investigated. Confidentiality and concern for the well-being of all parties involved will be honored. Retaliation of any sort is prohibited against a person who makes a report in good faith. The Diocese will report instances of abuse to civil authorities (unless already reported).

Ordinarily the Communications Services Director serves as the official spokesperson for the Diocese. S/he along with the Human Resources Director initiates any secular press releases. The Bishop may delegate this role if extraordinary circumstances arise. The Communications Services Director, with approval of the Bishop, oversees the diocesan website, periodic bulletin inserts and contact with the media.

The Bishop reserves the right to agree to interviews and serve as spokesperson in situations requiring his presence. The Bishop grants radio, television and press interviews when appropriate.

## **Pastoral Care**

In all areas of communication, concern for the victims, healing for those affected and the well-being and reputation of all involved is conducted with Christian pastoral sensitivity and care. Our Communications efforts adhere to the *Charter for the Protection of Children and Young People, Essential Norms*, the diocesan *Policy Regarding Abuse of Minors, Sexual Misconduct and Sexual Harassment*, and other relevant programs, services, and documents.

The below listed numbers are private and can be used with the understanding of strictest confidentiality at any hour.  
Please make certain you leave your name and call back number with your message.

Human Resources Director  
P O Box 1729  
Helena MT 59624-1729  
406-389-7070  
**Fax:** 406-442-5191

**Victim Assistant Phone** with Voice Mail Options:  
**406-459-0513**

**E-Mail:** [victimassistant@diocesehelena.org](mailto:victimassistant@diocesehelena.org)

## **Diocesan Website**

[www.diocesehelena.org](http://www.diocesehelena.org)

**Complaint Form: Sexual Abuse, Sexual Misconduct or Sexual Harassment**

by Clerics, Church Ministers, or Volunteers

*Diocese of Helena*

**Information about Complainant:**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone(s): \_\_\_\_\_

E-mail: \_\_\_\_\_

**Information about the Sexual Abuse:**

Date of abuse: \_\_\_\_\_

Name of victim: \_\_\_\_\_

Age of victim at time of abuse: \_\_\_\_\_

Name of abuser: \_\_\_\_\_

Description of abuse: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Signature of Complainant** \_\_\_\_\_ **Date** \_\_\_\_\_

Upon completion, this form should be sent to:

**Victim Assistant**

**Diocese of Helena**

**PO Box 1729; Helena, MT 59624-1729**

If you have any questions or concerns about how to complete this form to present an allegation, please contact the Human Resources Director in writing at the above address, or at:

**E-mail: [victimassitant@diocesehelena.org](mailto:victimassitant@diocesehelena.org)**

**406-459-0513**

**Fax 406-442-5191**

(all above numbers are private and confidential)

Go to the diocesan website at [www.diocesehelena.org](http://www.diocesehelena.org) for policies.

All complaints of sexual abuse involving priests, religious, employees and volunteers serving the Diocese of Helena will be investigated, following the policy.

For exact process, please refer to the back of this form

*All information received will be treated confidentially.*

*All victims are advised of their right to report the abuse to public authorities.*

**Diocese of Helena**  
**Procedures for Action with Regard to an Allegation of Sexual Abuse,**  
**Sexual Misconduct or Sexual Harassment**  
**The Five Step Process to Deal with Allegations of Abuse**

1. The Victim Assistant or Human Services Director receives in writing an allegation of sexual abuse, misconduct or harassment involving a bishop, priest, deacon, religious order priest, religious brother or sister, employee or volunteer of the Diocese of Helena. The Human Resources Director will immediately inform the Bishop that an allegation has been received.
2. The Bishop or his designee then:
  - a. Offers to meet personally with the person suffering abuse;
  - b. Assigns in writing the Human Resources Director to provide immediate care and support
  - c. Assigns in writing the Human Services Director or a delegate and at least one other person, to conduct a preliminary investigation of the allegation. *(This process is further defined in the Diocese of Helena Policy Regarding Abuse of Minors and Vulnerable Adults, Sexual Misconduct and Sexual Harassment pgs. 16-17 and 24-25).*
3. The results of the preliminary investigations are reported in writing to the Bishop.
  - a. If there is no evidence of wrongdoing the investigation is closed. The person claiming abuse is notified and reminded of his/her rights to pursue legal or civil remedy. The Bishop and the Human Resources Director may continue to provide the individual with care and support including psychological counseling, spiritual direction or other such support as may be deemed beneficial to the person.
  - b. If there is evidence of wrongdoing...
    - i. The Bishop will revoke the faculties of the priest or deacon accused of abuse; if the allegation is made against a lay employee or volunteer they will be placed on administrative leave. For religious order priests or religious brothers or sisters ministering in the diocese, the Bishop will inform the Superior of their community and suspend his permission to minister in the diocese. *(This process is further defined in the Diocese of Helena Policy Regarding Abuse of Minors and Vulnerable Adults, Sexual Misconduct and Sexual Harassment, pgs. 17-19 and 25-26).*
    - ii. The Bishop works with the Human Resources Director to provide for the care and support of the person suffering abuse. This care could encompass both pastoral and psychological dimensions but is open to the needs of the individual and will involve his/her input.
    - iii. The Bishop reviews the allegation and the results of the investigation with the Diocesan Review Board and seeks their advice on how to proceed.
  - c. If the preliminary investigation finds the allegation “credible” the Bishop convenes a formal investigation to determine the truth of the allegation. If appropriate the Bishop will notify civil authorities.
4. The Review Board will deliberate the results of the preliminary investigation. They will advise the Bishop on how to proceed with regard to legal, civil and pastoral actions to be taken;
  - a. The appropriate actions to take in dealing with the one who is accused.  
*(In matters dealing with the sexual abuse of a minor or vulnerable adult, The Charter for the Protection of Children and Young People will define the appropriate course of action.)*
  - b. The appropriate actions to take in providing care for the victim of abuse.
5. The Bishop will respond to the Chairperson of the Review Board that he has received their recommendations and outline what specific steps he is prepared to take.



## **Rights and Obligations of an Accused Person**

### **Rights of an Accused Person**

The rights of the accused during the investigation include:

1. The right to know the nature of the allegations
2. The right to defend against the allegations.
3. The right to due process.
4. The right not to incriminate her/himself.
5. The right to civil and in the case of clerics, canonical counsel.
6. The right to discretion in the conduct of the investigation and to have her/his good name protected during the investigation.
7. The right to know the results of the investigation.

### **Obligations of an Accused Person**

The obligations of the accused during the investigation include:

1. The obligation not to interfere with the investigative process.
2. The obligation not to have contact with the complainant during the investigative process.
3. The obligation to observe any special provisions or restrictions imposed by the Bishop or his designee.

*At the time an accusation is brought forward, the person accused will be asked to sign an acknowledgement that he/she has read and understands this statement of rights and obligations.*

## Social Media/Electronic Communication

May 2022

---

### Introduction

Social media, when used effectively, can be an excellent component for evangelization and the engagement of young disciples. To reap the benefits of using social media, we have a responsibility to guard against risk. As part of our commitment to always provide a safe environment, we must seek to be beyond reproach and transparent in all our social media interactions with minors and vulnerable adults.

### General Guidelines for Social Media/Networking Sites

- Do not use social media sites upon which the parents/guardian of a minor cannot access the content that is posted. This especially includes any site that deliberately deletes messages, such as Snapchat.
- Ministry leaders utilizing social media, either for ministerial or personal use, must be vigilant in representing themselves as ministers of the Catholic Church. Anything that could harm the ministry, or the Church should be avoided. Examples of this could be the mention of alcohol or drug use, the advocacy of inappropriate music/movies, inappropriate language, photos, or the promotion of opinions that are contrary to the teachings of the Catholic Church.

### Best Practices for Social Media/Networking Sites

- Do not use a personal account to interact with minors or vulnerable adults.
- Create a social media account that is identified with the organization (parish, school, etc.) to network with young people.
- Set up full administrative access for a minimum of two adults who function in an official organizational capacity. The parish/school/ministry administrator should always have administrative access as well.
- Both account administrators should receive notifications regarding messages, posts and other activities. This allows quicker response to urgent requests, provides better oversight as to post content and ensures accountability.
- Parents should be notified at the start of each school/ministry year that social media will be utilized by the parish/school/ministry. Parents should know which social media account(s) will be used and be able to view them if they wish.
- Social media account(s) should be monitored frequently in case of a time sensitive issue or crisis. A plea for help that goes unanswered can be dangerous for teens and their families and/or be legally damaging to an organization and its personnel.
- Communicate publicly (avoid private messaging) with young people on sites whenever possible.
- Avoid engaging in any postings/communications that could be misconstrued or misinterpreted as inappropriate.
- Set clear guidelines about the time-of-day adults will use the platform with young people. While young people may be messaging/posting in the late evening hours, those who minister with young people should pre-determine a timeframe when it is inappropriate for professional interaction.

## **Social Media and Electronic Communication**

There can be no compromise regarding the use of social media and contact through the Internet and other electronic means such as text messaging, social media sites and smart phone applications (e.g., Instagram or Facebook). Specifically, no one may use social media or electronic communication to seduce young people or vulnerable adults, share pornography and initiate contact that may lead to alcohol and drug use, and sexual assault.

The following points apply to adults who work with young people, and/or with venerable adults:

- No private contact with any young people involved in youth ministry (other than the volunteer/employee's own children and family) or with vulnerable adults. Private means completely outside of the sight and hearing of others, without any oversight.
- No "friending" of any parish young people or vulnerable adults other than through group/organization sponsored platforms that have parental approval and keep everyone informed. This means that it isn't appropriate to "friend" a child using your own personal account for any social media platform.
- Be extremely careful of how and when you text young people or vulnerable adults using your own personal phone. All communication with young people (with prior parental approval) or vulnerable adults should have oversight from a supervisor.
- Do not exchange pictures/videos with young people or vulnerable adults
- Parents should always be aware of communication with youth.

If young people or vulnerable adults initiate electronic one-on-one contact with you, inform them that you'd be happy to communicate during your normal working hours (if applicable), in a place that is conducive to your ministry. Invite them to come visit you in a location where others can see and hear you. And, in the meantime, notify a supervisor regarding when and where the meeting will occur.