



SEXUAL MISCONDUCT POLICY
OF THE DIOCESE OF EL PASO
INCLUDING ESSENTIAL NORMS

Revised

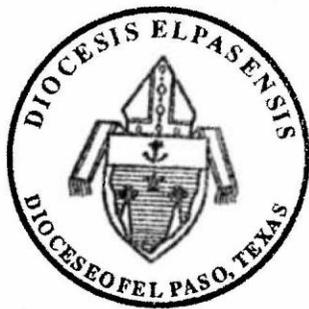
11 September 2014

PROMULGATION

Date of Revision and Adoption

The revised SEXUAL MISCONDUCT POLICY OF THE DIOCESE OF EL PASO INCLUDING THE ESSENTIAL NORMS are promulgated on the 11th day of September, 2014 and shall become effective on the 2nd of October, 2014.

The Diocese



By *Mark J. Seltz*
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Bishop of El Paso

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SEXUAL MISCONDUCT POLICY OF THE DIOCESE OF EL PASO INCLUDING THE ESSENTIAL NORMS

PREAMBLE

All persons are called to live a chaste life, in accordance with their particular state in life. Sexual misconduct by diocesan personnel can be a source of great scandal to Catholic and non Catholic alike. **The Roman Catholic Diocese of El Paso (Diocese) will not tolerate sexual misconduct by clergy, religious, or any other diocesan personnel.** The Diocese commits itself to responsible hiring, training and supervision of diocesan personnel. In order to clearly define its position regarding sexual misconduct, to promote healing for the victims, and to provide appropriate disciplinary action for the perpetrators, the Diocese has promulgated the following policy.

STATEMENT OF POLICY

1.1. The Diocese declares that sexual misconduct by diocesan personnel is contrary to Christian principles and is prohibited. Sexual misconduct against a minor is a particularly grievous offense. Many forms of sexual misconduct violate not only civil and canon law, but also criminal law. All diocesan personnel must comply with the Essential Norms and applicable federal, state, and local laws regarding the reporting of sexual misconduct. The Diocese expects all diocesan personnel to live moral and ethical lives in all respects, in order to fulfill the mission of the Church. Sexual misconduct is clearly forbidden.

The Diocese declares that sexual misconduct by clerics is not only a violation of civil law but is also a violation of canon law and will not be tolerated. The Bishop will not knowingly appoint a cleric to the ministry or knowingly permit a cleric to continue in his ministry if the Bishop has reason to believe that the cleric has committed or will commit sexual misconduct with a minor or will not follow the policy of the Diocese regarding sexual misconduct.

The Diocese declares that sexual misconduct by non-clerical diocesan personnel will not be tolerated. The Bishop will not knowingly employ, appoint, retain, or otherwise permit a religious or a lay person to serve in a paid or volunteer capacity if the Bishop has reason to believe that such a person will not follow the policy of the Diocese regarding sexual misconduct. The Bishop is the shepherd and protector of all and will seek the good of all.

This policy is intended to define and prohibit sexual misconduct, especially against minors, and to define means to provide pastoral care for victims. The policy is also intended to provide guidance to diocesan personnel on how to respond to reports of sexual misconduct by diocesan personnel.

- 1.2. All diocesan personnel shall strictly comply with the procedures set forth in this policy, with the Essential Norms for Diocesan/Eparchial Policies Dealing with Allegations of Sexual Abuse of Minors by Priests and Deacons, and with all applicable Canon Law, federal and state laws, and city ordinances proscribing sexual misconduct.
- 1.3. In dealing with issues of sexual misconduct involving diocesan personnel, the Diocese will exercise reasonable diligence to:
- 1.3.1. Educate the clergy and the laity about the problem of sexual misconduct.
 - 1.3.2. Treat all allegations of sexual misconduct by diocesan personnel seriously.
 - 1.3.3. Insure compliance with civil law reporting requirements involving the sexual abuse of minors and also with Essential Norms reporting requirements.
 - 1.3.4. Never respond to a problem of sexual misconduct by a cleric by simply moving him to another ministerial assignment.
 - 1.3.5. Utilize appropriate screening procedures to evaluate the suitability of candidates for the seminary, diaconate, and priesthood. Conduct educational programs on the subject of the ethical and moral obligations of clerics and seminarians with regard to sexual misconduct.
 - 1.3.6. Utilize appropriate screening procedures to evaluate the suitability of employee and volunteer applicants, especially those whose duties will bring them into regular contact with minors.

ARTICLE II

DEFINITIONS

- 2.1. Diocesan personnel are the following classifications of individuals:
- 2.1.1. Clerics (priests and deacons) which means:
 - (1) Priests incardinated in the Diocese of El Paso.
 - (2) Priests not incardinated in the Diocese, who are members of religious orders or incardinated in other dioceses, but who have been given faculties and an assignment in the Diocese by the Bishop.
 - (3) Permanent and transitional deacons incardinated in the Diocese.
 - (4) Transitional deacons not incardinated in the Diocese but working in the Diocese with the permission of the Bishop.

- 2.1.2. Seminarians of the Diocese.
- 2.1.3. Women and men religious working under written contract for the Diocese.
- 2.1.4. Lay employees of the Diocese or of a parish while acting in the course and scope of their employment. (Persons employed by non-profit corporations affiliated with the Diocese of El Paso are not diocesan personnel. However, the non-profit corporations have a similar Sexual Misconduct Policy and will arrange with the diocese to investigate reports of sexual misconduct.)
- 2.1.5. Lay persons appointed by the Bishop or a Pastor to participate in pastoral work or programs of the Diocese or a parish. Pastoral programs include, but are not limited to: teaching catechism, preparing couples for marriage, organizing and operating parish youth programs, organizing and operating scouting programs, and organizing and operating UTEP campus ministry programs.
- 2.2. Sexual misconduct means any one or more of the following acts.
 - 2.2.1. Sexual contact which is criminal or tortious (in violation of a duty prescribed by civil law) under federal or state laws.
 - 2.2.2. Sexual conduct which is a serious breach of the moral teachings, doctrines, and canon law of the Roman Catholic Church, which shall include any offense by a cleric against the Sixth commandment of the Decalogue with a minor as understood in CIC, c.1395 §2
 - 2.2.3. The acquisition, possession, or distribution of pornographic images of minors.
 - 2.2.4. Unwelcome verbal or physical conduct of a sexual nature which constitutes sexual harassment under applicable federal or state laws.
- 2.3. Agreement means the Agreement Regarding the Resolution of a Request for Relief, the form of which is attached hereto as Exhibit A.
- 2.4. Claim means the written statement on the Request for Relief Form of the claimant alleging that a person classified as diocesan personnel committed sexual misconduct and that such sexual misconduct caused the claimant to suffer Injury. The Request for Relief Form contains a request for monetary, health care, or other form of relief.
- 2.5. Claimant means the person who signs and submits the Request for Relief Form, or in the case of a minor claimant, his or her parent or legal guardian.
- 2.6. Complainant means the person who makes an initial report. The complainant may or may not be a victim of sexual misconduct.

- 2.7. Essential Norms for Diocesan/Eparchial Policies Dealing with Allegations of Sexual Abuse of Minors by Priests and Deacons (Essential Norms) means the document that was approved by the US Conference of Catholic Bishops on May 5, 2006.
- 2.8. Initial report means the first verbal or written notice received by the Bishop, Chancellor, or Moderator of the Curia of sexual misconduct by a person within the classification of diocesan personnel.
- 2.9. Injury means reasonably demonstrable physical or psychological harm suffered by a person.
- 2.10. Minor means any person under the age of eighteen. A person who habitually lacks the use of reason is to be considered equivalent to a minor.
- 2.11. Pastoral Response Committee (PRC) means the group of individuals appointed by the Bishop to investigate claims of sexual misconduct and to determine the relief, if any, to be provided to the claimant.
- 2.12. Report Form means the form on which an individual makes a report of alleged sexual misconduct by a person within the classification of diocesan personnel.
- 2.13. Request for Relief Form means the form on which an individual makes a request for monetary, health care, or other form of relief as a result of having been injured by the sexual misconduct of a diocesan personnel.
- 2.14. Review Board means the group of individuals appointed by the Bishop to act as a consultative body to the Bishop on matters of sexual abuse of minors.
- 2.15. Victims Assistance Coordinator (VAC) means the person designated by the Bishop to coordinate immediate pastoral care of persons who claim to have been abused by clergy.
Norm 3

ARTICLE III

PASTORAL RESPONSE COMMITTEE

- 3.1. The Pastoral Response Committee is hereby established as a permanent committee to assist with the investigation of allegations of sexual misconduct by diocesan personnel and to determine what, if any, relief is to be provided to the claimant.
- 3.2. The PRC shall consist of not less than seven or more than fifteen members. Two of the members shall be priests of the Diocese. The other members shall be individuals who have substantial training and experience in the fields of Psychiatry, Psychology, Social Work, or Counseling.

- 3.3. The Bishop shall appoint the members of the PRC to serve for a term of five years. A member may be reappointed to as many successive terms as the Bishop deems desirable. The Bishop shall have the right to remove any member without cause.
- 3.4. The PRC shall be advised by the Diocesan Attorney and the Judicial Vicar.
- 3.5. The PRC shall prepare and adopt its own internal rules for the conduct of its meetings. There shall be a chairperson. The PRC shall meet as often as is necessary to carry out its duties at a place and time designated by the chairperson.
- 3.6. The Vicar for the Clergy shall participate in the meetings as needed.
- 3.7. **All proceedings of the PRC shall be confidential.** No member of the PRC or others appointed by the Bishop to participate in the PRC process shall disclose or release to any third party any communication (written or oral) to and from the PRC without the prior written consent of the Bishop.

ARTICLE IV

REVIEW BOARD *Norms 4 & 5*

- 4.1. **The Review Board is hereby established to function as a confidential consultative body to the Bishop in discharging his responsibilities.**
- 4.2. The Review Board shall consist of at least five persons of outstanding integrity and good judgment in full communion with the Church. The majority of the review board members shall be lay persons who are not in the employ of the Diocese. The lay members of the PRC shall be included as members of the Review Board, thereby providing expertise in the areas of sexual abuse and the treatment of victims of sexual abuse. At least one member shall be a priest who is an experienced and respected pastor. The members shall be appointed for a term of five years. A member may be reappointed to as many successive terms as the Bishop deems desirable. The Bishop shall have the right to remove any member without cause. The Promoter of Justice shall participate in the meetings of the Review Board whenever possible.
- 4.3. **The Review Board's functions are:**
 - 4.3.1. **to advise the Bishop in the assessment of allegations of sexual abuse of minors and others in all cases where the accused cleric is alive and to advise in the determination of suitability for ministry. The Review Board will be engaged following the determination phase of the PRC's investigation. The bishop or the PRC may request additional input from the Review Board on other cases.**

- 4.3.2. to be informed of all the determinations of the PRC regarding clergy and religious and to offer advice on all sexual misconduct cases, whether retrospectively or prospectively.
 - 4.3.3. to review diocesan policies dealing with sexual misconduct and with sexual abuse of minors.
 - 4.3.4. to recommend ways of addressing the sexual abuse consequences in order to better protect and inform the faithful.
 - 4.3.5. to suggest to the bishop ways of preventing sexual misconduct, especially among future clergy.
- 4.4. All proceedings of the Review Board shall be confidential. No member of the Board or others appointed by the Bishop to participate in the Review Board process shall disclose or release to any third party any communication (written or oral) to and from the board without the prior written consent of the Bishop.

ARTICLE V

THE PASTORAL RESPONSE PROCESS

Initial Phase

- 5.1. When the Bishop, Chancellor, or Moderator of the Curia receives an initial report of sexual misconduct by a person who is a diocesan personnel, the person making the report will be requested to complete a Request for Relief Form if he or she desires to become a claimant or will be requested to complete a Report Form if he or she desires only to report an incident of sexual misconduct. If the person making the report fails or refuses to complete at least the Report Form, then the person receiving the report shall fill out Report Form. Care will be taken to protect the rights of all parties involved, particularly the person claiming to have been sexually abused and the person against whom the charge has been made. *Norm 13*
- 5.2. If the allegation is one of sexual abuse of a minor, within 48 hours the Diocese will make a report to Child Protective Services (1-800-252-5400) or the Police as provided in the Texas statute. Written notification will also be provided to CPS. The Diocese will cooperate with civil authorities in their investigation. In every instance, the Diocese will advise and support a person's right to make a report to public authorities. *Norm 11*
- 5.3. The Victim Assistance Coordinator (VAC) shall be notified of the allegation and shall make contact with the victim to assess what, if any, immediate assistance is needed. If immediate assistance is needed, the VAC will assist in making arrangements for its provision.

- 5.4. All persons desiring to become claimants shall complete the Request for Relief Form and the Agreement Regarding the Resolution of a Request for Relief and then sign and return them to the Chancellor of the Diocese.
- 5.5. When a person who is classified as a diocesan personnel receives a report of sexual misconduct, he or she shall promptly inform the Bishop or the Chancellor.
- 5.6. The Bishop shall make an initial assessment to determine if the allegations in the Request for Relief Form or the Report Form have substance to merit further investigation or are clearly frivolous.

CLERICS

In the Church, because of clerics' special rights, duties, and privileges, canon law singles them out and allows their misconduct to be punished canonically. Adherence to canonical procedures is required so that the rights and reputations of all parties are protected. In canon law, as in civil law, a person is presumed innocent until the contrary is proved. *Norm 13* When there is an allegation of sexual abuse of a minor by a cleric, a preliminary investigation will be initiated and conducted promptly and objectively. When there is sufficient evidence that sexual abuse of a minor has occurred, the Congregation for Doctrine of the Faith shall be notified. Then the Bishop shall apply the precautionary measures mentioned in CIC, canon 1722, i.e. withdraw the accused from exercising the sacred ministry or any ecclesiastical office or function, impose or prohibit residence in a given place or territory, and prohibit public participation in the Most Holy Eucharist pending the outcome of the process. *Norm 6*

Because of the unique status of clerics, sections 5.7 to 5.25 in this document apply only to clerics.

Canonical Preliminary Investigation Phase

- 5.7. If the Bishop determines that the allegations in the Request for Relief Form or the Report Form have substance and the accused is a cleric, the Bishop shall initiate a formal preliminary investigation by decree, as required by canon 1717. The primary purpose of the canonical preliminary investigation is to investigate whether an offense was committed, if the accused cleric committed the offense, and if the cleric acted with imputability.
- 5.8. The accused cleric may be requested to seek, and may be urged to voluntarily to comply with, an appropriate medical and psychological evaluation at a facility mutually acceptable to the diocese and to the accused. *Norm 7*
- 5.9. If the accused is a cleric, the Bishop shall appoint another cleric to investigate. This cleric shall be known as the Investigator and will be assisted by the Pastoral Response Committee and especially by the two PRC members appointed by the chairperson to assist. These three persons shall comprise the investigating team.

- 5.10. The investigating team shall make contact with the claimant or the person making an allegation to establish a date, time, and place for his/her interview. If the person is making a claim, he/she must have signed the Request for Relief Form and the Agreement Regarding the Resolution of a Request for Relief.
- 5.11. The Investigator shall not meet alone with either the claimant or the person making an allegation. He shall be accompanied by a member of the PRC.
- 5.12. The investigating team shall make every reasonable effort promptly to secure and review all documents, reports, or other written information which are relevant to the claim. They shall also make every reasonable effort promptly to identify and interview all witnesses who have knowledge of the claim. Care will be exercised not to compromise those canonical principles which govern the inadmissibility of certain types of evidence (e.g. that associated with the sacrament of penance).
 - 5.12.1. If, during the course of the investigation, a person is identified and preliminarily determined to be a probable victim of alleged sexual misconduct by the accused, the investigating team shall make reasonable efforts to contact such person to determine if he/she contends that he/she was the victim of sexual misconduct by the accused. If the person does contend that he/she is the victim of sexual misconduct by the accused, then this shall be treated as a report of sexual misconduct and the person shall be informed of his/her right to file a Request for Relief Form or a Report Form. Regardless of whether a Request for Relief Form or a Report Form is filed, the allegations of sexual misconduct shall be considered an initial report and shall be investigated as provided for in this policy.
- 5.13. Once the investigating team has a firm grasp of the essential elements of the case, the Bishop will inform the accused cleric of the allegation. If the cleric is not incardinated in the Diocese of El Paso, his proper Bishop or Major Superior will be notified immediately. The cleric will be informed of the allegation of sexual misconduct. A copy of the Diocesan Policy on Sexual Misconduct which explains the process will also be provided.
 - 5.13.1. The cleric will be directed not to contact the claimant or person who made the allegation.
 - 5.13.2. The cleric will be informed that, at the appropriate time, the investigator will contact him to set a time, date, and place for an interview. The cleric will be given a full and complete opportunity to respond during his interview with the investigating team. An oath may not be administered to the accused. Care will be exercised not to compromise the right of defense. (C.1728.2)
 - 5.13.3. The cleric will be advised that he may seek the advice and/or services of a canonical advocate, not the judicial vicar. If the allegation has been reported to civil authorities and if there is the possibility of civil or criminal charges, the cleric will be urged to retain an attorney, excluding the diocesan attorney.

Norm 6

- 5.13.4. If the cleric spontaneously confesses, and depending on the nature of the allegation, the Bishop may ask him voluntarily to resign any office he holds and to accept administrative leave. Evaluation and/or treatment will be arranged if the cleric is willing to cooperate.

Determination Phase for Clerics

- 5.14. After the investigation has been completed, the Investigator shall prepare a report of the findings of fact, sign it, and deliver it to the Bishop.
- 5.15. After reviewing the report, the Bishop may request that the Review Board advise him regarding the assessment and outcomes of the case and the suitability of the cleric for ministry. The Bishop shall have the sole and absolute discretion to accept the report in whole, in part, or not at all. The Bishop's determination shall not be subject to judicial review.
- 5.16. 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. Because sexual abuse of a minor by a cleric is a crime in the universal law of the Church and is a crime in all civil jurisdictions in the United States, for the sake of the common good and observing the provisions of canon law, the Bishop shall exercise his power of governance to ensure that any priest who has committed even one act of sexual abuse of a minor as described above shall not continue in active ministry. *Norm 9*
- 5.17. If the Bishop finds that it is likely that a cleric sexually abused a minor, the Bishop shall notify the Congregation for the Doctrine of Faith, which alone is competent to direct the Bishop how to proceed. The Bishop shall then apply precautionary measures mentioned in CIC, canon 1722. i.e., withdraw the accused from exercising the sacred ministry, or any ecclesiastical office or function, impose or prohibit residence in a given place or territory, and prohibit public participation in the Most Holy Eucharist pending the outcome of the process. *Norm 6*
- 5.18. The cleric may at any time request a dispensation from the obligations of the clerical state. In exceptional cases, the bishop may request of the Holy Father the dismissal of the cleric from the clerical state ex officio, even without the consent of the cleric. *Norm 10*
- 5.19. A copy of the report shall be sent to the cleric's proper Bishop or Major Superior if the cleric is not incardinated in the Diocese of El Paso.

Outcomes for Clerics

- 5.20. If the cleric is found not to have committed acts of sexual misconduct or if there is insufficient proof, the Bishop shall inform the cleric, as well as the claimant or the person

making the allegation. The Bishop will decree the close of the investigation and his final determination. When an accusation has been shown to be unfounded, every step will be taken to restore the good name of the person falsely accused. *Norm 13*

5.21. When even a single act of sexual abuse of a minor by a cleric is admitted or is established after an appropriate process in accord with canon law, the offending cleric will be removed permanently from ecclesiastical ministry, not excluding dismissal from the clerical state, if the case so warrants. (Canon 1395 §2) No cleric who has committed an act of sexual abuse against a minor may be transferred for ministerial assignment to another diocese/eparchy. *Norm 8*

5.21.1. 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. Unless the Congregation for the Doctrine of the Faith (CDF), 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 be barred by prescription, because sexual abuse of a minor is a grave offense, the Bishop may apply to the CDF for a derogation from the prescription, while indicating relevant grave reasons. For the sake of canonical due process, the accused is to be encouraged to retain the assistance of civil and canonical counsel. When necessary, the diocese will supply canonical counsel to a priest. The provisions of CIC, c.1722, shall be implemented during the pendency of the penal process. *Norm 8A*

5.21.2. If the penalty of dismissal from the clerical state has not been 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 will be instructed not to wear clerical garb, or to present himself publicly as a priest. *Norm 8 B*

5.22.1 No cleric who has committed an act of sexual abuse of a minor may be transferred for ministerial assignment to another diocese/eparchy. Before such a diocesan cleric can be transferred for residence in another diocese/eparchy, the Bishop shall forward, in a confidential manner, to the bishop of the proposed place of residence, any and all information concerning any act of sexual abuse of a minor, information concerning any sexual misconduct and any other information indicating that he has been or may be a danger to children or young people. This shall apply even if the cleric will reside in the local community of an institute of consecrated life or society of apostolic life. The bishop who receives a cleric from outside his jurisdiction will obtain the necessary information regarding any past act of sexual abuse of a minor by the cleric in question. *Norm 12*

5.22.2 In the case of the assignment for residence of a clerical member of a religious institute or a society into a local community with the diocese, who has been found to have committed an act of sexual abuse of a minor, the major superior shall inform the diocesan bishop and share with him in a manner respecting the limitation of confidentiality found

in canon and civil law all information concerning any act of sexual abuse of a minor and any other information indicating that he has been or may be a danger to children or young people so that the bishop can make an informed judgment that suitable safeguards are in place for the protection of children or young people. This will be done with due recognition of the legitimate authority of the bishop; of the provisions of CIC, c. 678 and c. 679; and of the autonomy of the religious life (CIC, c. 586). *Norm 12*

- 5.23. If a cleric is found to have committed sexual misconduct with an adult and is repentant and cooperative, the Bishop and the cleric shall attempt to arrive at a mutual agreement on the appropriate response and treatment. The cleric may be requested to seek, and may be urged voluntarily to comply with, an appropriate medical and psychological evaluation at a facility mutually acceptable to the diocese and to the cleric. The Diocese will see that the cleric receives the personal support he needs.
- 5.24. If mutual agreement is not reached in the case of sexual misconduct with an adult and the cleric is uncooperative, the Bishop may utilize those canonical remedies and/or processes which he deems appropriate to repair the harm caused by scandal, restore justice, and reform the accused cleric.
- 5.24.1. Only when the three pastoral goals of reparation, restoration, and reformation cannot be attained in any other way, will the Bishop issue a decree closing the preliminary investigation and initiating the appropriate canonical penal process. (C.1341)
- 5.24.2. If a canonical penal process, either administrative or judicial, is initiated, the accused cleric has the right to seek an advocate with training in canon law. (C.1481)
- 5.25. If a cleric is determined to have committed sexual misconduct which caused injury, he will be informed that it is his responsibility to provide for proper medical treatment for the claimant, and that if the Diocese pays for the past, present, or future treatment of the claimant, the Diocese may seek reimbursement from the cleric. Notwithstanding the foregoing, the Diocese will independently offer a victim participating in the process such treatment as is recommended by the PRC, VAC, or Review Board and approved by the Bishop.

RELIGIOUS OR LAY DIOCESAN PERSONNEL

(Sections 5.26 to 5.43)

Investigation Phase

- 5.26. Religious or lay diocesan personnel who are accused of sexual misconduct in a Request for Relief or Report Form, which is clearly not frivolous, will be placed immediately on administrative leave with pay and benefits during the investigation of the allegation. In

the case of a member of a religious institute, his/her major superior/provincial will be contacted immediately.

- 5.26.1. The supervisor of the person accused of sexual misconduct or the Chancellor shall inform him/her of the allegation, and he/she will be provided with a copy of the Diocesan Policy on Sexual Misconduct.
 - 5.26.2. The person accused of sexual misconduct will be directed not to contact the claimant or person who made the allegation.
 - 5.26.3. The accused person will be informed that, at the appropriate time, the investigating team will contact him/her to set a time, place, and date for an interview. The accused person will be given a full and complete opportunity to respond during his/her interview with the investigating team.
- 5.27. If there is a completed Report Form or Request for Relief Form, the forms shall be sent to the PRC for investigation.
- 5.28. The chairperson shall appoint two members of the PRC to investigate the allegation.
- 5.29. The investigating team shall make contact with the claimant or the complainant to establish a date, time, and place for his/her interview. All claimants shall sign the Request for Relief Form and the Agreement Regarding the Resolution of a Request for Relief. If he/she refuses to do so, the chairperson will notify the claimant that the claim will not be processed, even though the allegations will be investigated.
- 5.30. The investigating team shall make every reasonable effort promptly to secure and review all documents, reports, or other written information which is relevant to the claim. They shall also make every reasonable effort promptly to identify and interview all the witnesses who have knowledge of the claim and of the person accused of sexual misconduct. Care will be taken to protect the good reputation of all parties.
- 5.30.1. If, during the course of the investigation, a person is identified and preliminarily determined to be a probable victim of alleged sexual misconduct by the accused, the investigating team shall make reasonable efforts to contact such person to determine if he/she contends that he/she was the victim of sexual misconduct by the accused. If the person does contend that he/she is the victim of sexual misconduct by the accused, then this shall be treated as a report of sexual misconduct and the person shall be informed of his/her right to file a Request for Relief Form or a Report Form. Regardless of whether a Request for Relief Form or a Report Form is filed, the allegations of sexual misconduct shall be considered an initial report and shall be investigated as provided for in this policy.

Determination and Reporting Phase

- 5.31. After the investigation has been completed, the investigating members shall write a Letter of Determination stating their proposed findings of fact. Then the chairperson of the PRC shall be notified.
- 5.32. The chairperson shall convene the PRC as soon as possible. The PRC shall review the findings of fact. The PRC may accept the Letter of Determination, or may recommend changes in it, including the gathering of additional information.
- 5.33. When the PRC reaches a decision with respect to the findings of fact, the chairperson shall transmit a Letter of Determination, signed by the members, to the Bishop.
- 5.34. After reviewing the Letter of Determination, the Bishop shall have the sole and absolute discretion to accept the Letter in whole, in part, or not at all. The Bishop's determination shall not be subject to civil judicial review.

Outcomes for the Religious or Lay Diocesan Personnel

- 5.35. If the person accused of sexual misconduct is a religious or lay diocesan personnel and is found not to have committed sexual misconduct or if there is insufficient evidence, he/she may be returned to his/her position of employment, at the discretion of the Bishop. When an accusation has been proven to be unfounded, every step will be taken to restore the good name of the person falsely accused.
- 5.36. If the person accused of sexual misconduct is a religious or lay diocesan personnel and is found to have committed acts of sexual misconduct, his/her employment with the Diocese will be terminated.

PROVISIONS REGARDING RELIEF

- 5.37. No grant of relief shall be recommended unless the findings of fact reasonably support the following conclusions:
 - 5.37.1. The sexual misconduct was committed by a person classified as diocesan personnel. In the case of a religious or lay person, it must have been committed while such a person was acting in the course and scope of his/her employment or volunteer pastoral work.
 - 5.37.2. The sexual misconduct occurred during a non-consensual encounter. Sexual misconduct involving a minor shall always be deemed to be non-consensual.
 - 5.37.3. The sexual misconduct caused the claimant to suffer injury.

- 5.37.4. The claimant has answered all relevant questions propounded by the investigating team, produced all relevant evidence within his/her possession, and released all third parties to produce relevant evidence within their possession or control.
- 5.38. If there is a finding of sexual misconduct, the PRC shall adopt a recommendation for appropriate relief. The PRC may recommend any one or more of the following forms of relief:
 - 5.38.1. Partial or complete reimbursement of expenses actually incurred by the claimant to treat the injury.
 - 5.38.2. An appropriate course of treatment for the claimant to be rendered by a specific type of health care professional to be chosen by the claimant.
 - 5.38.3. An explanation to the claimant regarding the steps that have been taken by the Diocese to prevent the person who committed the sexual misconduct from repeating such behavior.
 - 5.38.4. Treatment for family members who may be secondary victims of the sexual misconduct.
- 5.39. When the PRC members reach a consensus on what relief to provide, a letter stating the recommendations for relief shall be transmitted without delay to the Bishop by the chairperson. If the accused is a religious or a lay person, the recommendations for relief shall be included in the Letter of Determination.
- 5.40. After reviewing the recommendations, the Bishop shall have the sole and absolute discretion to accept the recommendations in whole, in part, or not at all. The Bishop's determination shall not be subject to judicial review.
- 5.41. Upon making his determination, the Bishop shall transmit his decision to the person making the claim.
- 5.42. The claimant shall be advised that if he/she accepts the Bishop's decision he/she shall be required to sign and deliver to the Chancellor of the Diocese a release. Upon receipt of such release, the Diocese shall promptly implement the Bishop's decision. If the claimant refuses to accept the Bishop's decision, the PRC chairperson shall be so notified, and the case shall be closed.
- 5.43. If the person is a religious, a copy of the findings of fact and conclusions shall be sent to the Major Superior/Provincial.

ARTICLE VI

CLERGY'S REPORTING OF SEXUAL MISCONDUCT

- 6.1. If a cleric has committed acts of sexual misconduct in the past or present, and/or is prone to commit such acts or other scandalous and prohibited behavior, he shall bring this to the attention of the Bishop, the Chancellor, Moderator of the Curia, or the Vicar for the Clergy in order to seek help.
- 6.2. In a situation where a cleric comes forward, the Diocese of El Paso will provide him with appropriate treatment and support.
- 6.3. When a cleric fears that another cleric may be engaged in inappropriate behavior, he may speak to the other cleric, and he shall relay his concerns to the Bishop, Moderator of the Curia, Chancellor, or Vicar for Clergy.
- 6.4. **If a cleric has knowledge of or suspects that sexual abuse has occurred by another cleric, he must report it to the Bishop, Chancellor, Moderator of the Curia, or Vicar for Clergy.** Additionally, the cleric is legally obliged to report sexual misconduct involving a minor to the civil authorities, either Child Protective Services (Department of Protective and Regulatory Services) or the Police (or local or state law enforcement agency). The Diocese will also make a report, including one in written form.
 - 6.4.1. **Specifically, Section 261.101 of the Texas Family Code provides that any person having cause to believe that a child's physical or mental health or welfare has been adversely affected by abuse or neglect by any person shall immediately make a report as provided in the statute. The reporting requirement applies even if the information would otherwise be privileged under the law.**

ARTICLE VII

VISITING EXTERN PRIESTS

- 7.1. Visiting extern priests must receive written permission from the Bishop or his delegate prior to exercising ministry within the Diocese of El Paso. The protocol for obtaining this written permission will be determined by the Bishop. Clergy of the Diocese must verify that this permission has been granted before allowing a visiting extern priest to exercise ministry in a parish.

ARTICLE VIII

CONCLUSION

The Diocese makes every effort to reach out to victims of sexual misconduct by diocesan personnel to assist them in a pastoral way in order that they may receive adequate and appropriate help. The Diocese offers to assist victims and/or their families in finding support from professionals or groups which have expertise in dealing with the issues of victims of sexual misconduct. The Diocese also offers spiritual guidance to the victims and, as appropriate, their families. The goal of the Diocese is to prevent any sexual misconduct and to provide healing for the victims in cases where such misconduct has occurred.

SAFE ENVIRONMENT PROGRAM FOR THE DIOCESE OF EL PASO

The Diocese of El Paso (Diocese) has developed a Safe Environment Program in order to ensure that children and youth, who worship, study or participate in activities sponsored by the Diocese, parishes, and parish schools will do so in the safest environment possible. As part of the Program, the Diocese has developed a Code of Conduct for all who serve the Church within the Diocese of El Paso. The Diocese has developed programs which will educate Diocesan personnel (as defined in the Sexual Misconduct Policies), and parents, children, and youth. These programs will be presented throughout the Diocese. The Diocese will conduct background checks on all those who work with children and youth.

CODE OF CONDUCT

In ministry there are several practical guidelines which enable church personnel to be pastoral while ensuring both the safety of minors and protecting the church personnel from allegations.

Church personnel must be aware of their own vulnerability and that of any individual minor with whom they may be working. Church personnel should avoid establishing any exclusive relationship with a minor and exercise due caution when they become aware of a minor desiring such a relationship. Both the participants and members of the church community can misunderstand such relationships. If you recognize inappropriate personal or physical attraction developing between yourself and a minor, maintain clear professional boundaries between yourself and the minor or refer the minor to another adult supervisor.

All clergy, staff and volunteers of the Diocese will observe the following guidelines for dealing with minors:

- In every instance possible, a team approach to youth activities should be considered. There should always be a good ratio of adults to young people. More adults are usually necessary for overnight events or field trips. Most often this would be 8 youth to 1 adult and, in the case of 4K to 3rd grade a ratio of 5 to 1.
- Physical contact with minors can be misconstrued by both minors and adults and should only occur under appropriate public circumstances.
- Church personnel should never use or supply alcohol, drugs, or cigarettes when working with minors.
- Church personnel should never obtain or possess sexually explicit, pornographic, or morally inappropriate materials, nor should they participate in the distribution or receipt or pornographic materials through any medium.
- Sexually explicit or pornographic topics of conversation, vocabulary, recordings, films, games or the use of computer software or any other form or personal interaction or entertainment should never be shared with minors.

- A “buddy system of a young person with another young person on trips is a good safety requirement, especially when using public restroom facilities.
- Church personnel are prohibited from sleeping in the same beds, sleeping bags, or small tents with minors unless the adult is an immediate family member of the minor. If an adult supervisor stays in a hotel or other sleeping room with a group of minors, the supervisor should sleep in his or her own bed using a roll away or cot if necessary.
- Church personnel should not be alone in locker rooms or other dressing rooms with a single minor without another adult present.
- Clergy are not to provide overnight accommodations in rectories or other personal residences for minors, with the exception of occasional visits from immediate family members. Minors are not permitted in the private living quarters of the rectories.
- If a young person is uncomfortable with a hug, then adults should not hug or ridicule that young person.
- Always meet with young people in areas that are visible and accessible. One-on-one meetings with a young person are best held in a public area, or if that is not appropriate, then the door to the room is left open, and if possible someone on the parish staff is notified about the meeting.
- It is always a safe practice to have two adults in the area where minors are present.
- Driving alone with a young person should be avoided.
- Generally young people should not be invited into your home.
- Minors should be told that information which is confidential will not be kept confidential if legally it must be reported or if the minor may harm themselves or others.
- Be proactive in identifying children and youth who may be vulnerable or at risk for unhealthy relationships.

BEHAVIORAL GUIDELINES

Touching should be age appropriate and based on the need of the minor and not on the need of the adult. Avoid physical contact when alone with a minor. If a minor initiates physical contact, an appropriate, limited response is proper.

1. Some positive and appropriate forms of affection are listed below:
 - Brief hugs.
 - Pats on the shoulder or back.
 - Hand-shakes

- “High-fives” and hand slapping.
 - Verbal praise.
 - Touching hands, shoulders and arms of minors.
 - Arms around shoulders.
 - Holding hands while walking with small children.
 - Sitting beside small children.
 - Holding hands during prayer.
 - Pats on the head when culturally appropriate. (For example, this gesture should typically be avoided in some Asian communities.)
2. Some forms of physical affection have been used by adults to initiate inappropriate contact with minors. The following **are not** appropriate:
- Inappropriate or lengthy embraces when a brief hug is customary behavior
 - Kisses on the mouth.
 - Holding minors over three years old on the lap.
 - Showing affection in isolated areas of the program such as bedrooms, closets, staff only areas or other private rooms.
 - Touching bottoms, chests, genital areas, knees or legs of minors.
 - Wrestling with minors.
 - Tickling minors.
 - Giving piggyback rides.
 - Any type of massage given by minor to adult.
 - Any type of massage given by adult to minor
 - Compliments that relate to physique or body development
 - Any form of unwanted affection

All clergy, staff and volunteers of the Diocese will observe the following guidelines for dealing with minors:

Do not engage in the physical discipline of a minor. Discipline problems should be handled in coordination with your supervisor and/or the parents of the minor.

Do not take an overnight trip alone with a minor who is not a member of your immediate family.

Do not administer medication of any kind without written parental permission.

If one-on-one pastoral care of a minor should be necessary, avoid meeting in isolated environments. Schedule meetings at times and use locations that create accountability. Limit both the length and number of sessions, and make appropriate referrals. Notify parents of the meetings.

Do not drive a church or school vehicle unless you have received prior authorization and have the appropriate license and/or certification.

Do not permit children to cross a road by themselves while they are in your custodial care.

Do not take photographs of minors while they are unclothed or dressing (e.g., in a locker room or bathing facility).

No minor child may reside in any church rectory or other living quarters of priests.

Only immediate family members, visiting priests, or seminarians may be overnight guests in rectories.

It is the policy of the Diocese to investigate thoroughly all reports of any violation of these standards, to make any required reports to civil authorities, and to appropriately discipline or terminate the responsible person.

BACKGROUND CHECKS

All diocesan personnel whether, clergy, religious, or lay employees or volunteers who have regular contact with minors will be required to have their backgrounds checked, including a criminal background check. All such diocesan personnel who refuse to submit to a criminal background check will not be permitted to be employed or to serve in the Diocese. No person who has abused a minor will be appointed, employed, or permitted to volunteer for the Diocese. The Diocese, its parishes, missions, schools, and other church entities shall strictly comply with the policies and procedures for hiring staff and selecting volunteers and shall complete all elements of the screening and selection process before the applicant is hired or the volunteer begins volunteering. The information received from the background check process will be retained.

Requirements for Incardination

Priests and deacons seeking incardination with the Diocese will submit an application for a background check six months prior to the anticipated date of incardination. Satisfactory completion of the background check is a condition of incardination.

Requirements for Ordination

Those seeking ordination to the priesthood or diaconate will submit an application for a background check six months prior to the anticipated date of ordination. Satisfactory completion of the background check is a condition of ordination.

Requirements for Seminarians

Those seeking to enter the diocesan seminary will submit an application for a background check. Satisfactory completion of the background check is a condition for entry into the seminary.

SAFE ENVIRONMENT PROGRAM TRAINING

The Diocese of El Paso has developed a Safe Environment training program for diocesan personnel who work with minors, parents, and children and youth. The diocesan program for adults contains information describing appropriate and inappropriate behaviors, what abuse is, how to identify behaviors which may be used by those seeking to abuse, and possible signs of abuse. There is emphasis on the legal requirement to report suspected abuse to the appropriate authorities. The program for youth and children is designed to help them understand what appropriate behavior and inappropriate behavior are. It also provides information on how to recognize common methods of luring minors into dangerous situations. There will be an emphasis on telling an appropriate adult if abuse or inappropriate behavior should occur.