

DIOCESE OF MADISON POLICY REGARDING SEXUAL MISCONDUCT INVOLVING ADULTS

INTRODUCTION

Sexual misconduct by a 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 is an abuse of his or her position, pastoral role, and responsibility.

Aware that the great majority of 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 Madison.

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, thus constitutes an external, objectively grave violation of the sixth commandment.

Additionally, 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 school principal (for school employees and volunteers), a program director (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 office director (for directors of programs which fall within that division), or the Bishop (for priests, Diocesan division heads, school principals).

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

STATEMENT OF POLICY REGARDING SEXUAL MISCONDUCT

It is the Policy of the Diocese of Madison that sexual misconduct involving adults by priests, deacons, seminarians, women or men religious, or by laypersons 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 this document.

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

PREVENTION

The priests, deacons and seminarians of the Diocese, the women and men religious serving here, and those laymen 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 ongoing part of the formation and continuing formation of priests, deacons, women and men religious, lay employees, and volunteers. The links between alcohol consumption and sexual misconduct are to be treated specifically.

RELIGIOUS AND LAYPERSONS

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 their most recent employer. 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 V 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 Madison 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 apply 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 V).

PRIESTS OR DEACONS FROM OUTSIDE THE DIOCESE

Before a priest will be accepted for ministry in the Diocese of Madison, 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 V).

RESPONSE

An adult who wishes to report that he or she has suffered sexual misconduct from a cleric, church worker, or volunteer may do so to the Chancellor (or his delegate). The initial report may be made by contacting the Victim's Assistance Coordinator at 608-

821-3016 or completion of a report form (see Appendix VI). The Chancellor will request that it be made in writing as quickly as possible. The Chancellor may be reached at 608-821-3162 or by writing to: 702 S. High Point Road, Madison, WI 53719. Should a complaint involve the Chancellor, it is to be made to the Bishop, who will appoint a person to take the role assigned by this Policy to the Chancellor.

The Chancellor will notify the Bishop about the reported incident, as well as the Diocesan attorney, the insurance carrier as required, 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 Madison, 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 Madison 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 Madison at the time the sexual misconduct occurred.

Whenever possible, the offender should be the person primarily responsible for the payment of expenses for the victim's therapy, and will be encouraged to 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 Chancellor or his delegate. (If he deems it appropriate, the Bishop on an ad-hoc basis may appoint others for this investigation). This is a preliminary investigation, aimed at determining whether the report is substantially verifiable.

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 alleged victim.

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. Provide effective and compassionate care 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. Whatever response is made is to be coordinated with the civil officials investigating and responding to the reported incident.
2. Inform the accused individual of the investigation and provide every opportunity for a response. 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 priest, a preliminary investigation will be conducted. Ordinarily the priest 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 priest or deacon 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^o) 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.

If the case warrants, 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.

If the case warrants, 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 necessary, and will be promptly notified of the results of the investigation. If the case is not already well-known, the Chancellor (or

his 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 alleged victim, the accused person, and any other person who may have knowledge of the situation, as well as a 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.

Once the investigation has concluded, a report will be presented to the Bishop and the Sexual Abuse Review Board 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 conclusion will be communicated to the one bringing the complaint and the alleged victim.

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 Madison 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, priest, or deacon 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 priest or deacon of the Diocese of Madison 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 layperson from returning to ministry or employment in the Diocese of Madison 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 Madison, 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 Madison.

WHEN A COMPLAINT IS TRUE

If a complaint of canonical sexual misconduct involving a priest, deacon, or religious is true; the Bishop will make a decision about continuing the 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 Madison. 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.