

SEXUAL MISCONDUCT POLICY OF THE CATHOLIC DIOCESE OF SIOUX FALLS

Sexual misconduct by personnel of the Diocese of Sioux Falls is contrary to Christian principles and Catholic moral teaching. All personnel of the diocese must comply with applicable federal, state and local laws regarding incidents of actual or suspected sexual misconduct, and with the following policies. In addition, this policy endorses the Charter for the Protection of Children and Young People created by the United States Bishops and approved by the Vatican.

This policy is intended to establish procedure aimed at preventing sexual misconduct and the resulting harm to others and to provide guidance to the personnel of the dioceses on how to respond to allegations of sexual misconduct if any do occur.

1. DEFINITIONS

For purposes of this policy only:

- 1.1 “Sexual Misconduct” means any sexual conduct of diocesan personnel which is:
 - 1.1.1 unlawful as described by the laws of the State of South Dakota and in Section 4 of these policies, or
 - 1.1.2 contrary to the moral instructions, doctrines and canon law of the Catholic Church, and the definition of sexual abuse found in the Charter for the Protection of Children and Young People (appendix I).
- 1.2 “Vulnerable persons” means all children and all vulnerable adults as defined in South Dakota Statutes. Any person 18 years of age or older is considered “vulnerable” when that person, because of impairment of mental or physical function or emotional status, is unable or unlikely to report abuse or neglect without assistance.
- 1.3 “Diocese” or “diocesan” includes the Diocese of Sioux Falls as a corporate entity, the Catholic Chancery Office Corporation, all of the parish corporations, all diocesan schools, Catholic Family Services, or other diocesan controlled corporations.
- 1.4 “Diocesan Review Board” is the panel appointed by the bishop to advise him on past and present misconduct situations. The six members will have five-year terms and will represent a variety of relevant fields of expertise including law, counseling, and education. All misconduct related complaints will be reviewed by this board which will then recommend a course of action for both alleged victim and alleged offender.
- 1.5 “Response Coordinator” is the first person designated to receive allegations of misconduct and to promote the well being of the person making the allegation or the victim. Initial contacts can also be made to the bishop, chancellor, vice chancellor. Information of all claims will be shared with the Review Board. All allegations of sexual abuse of a minor will be reported to the appropriate civil authority.

2. PERSONNEL

Personnel includes the following categories:

- 2.1 all incardinated clerics (including all bishops, priests, permanent deacons and transitional deacons of the Dioceses).
- 2.2 all religious priests, deacons, and brothers working in the diocese
- 2.3 all those non-ordained persons to whom a participation in the exercise of the pastoral care of a parish is entrusted according to Canon 517, Section 2, of the Code of Canon Law.
- 2.4 all clerics of other jurisdictions who are working for the diocese.
- 2.5 all women religious working for the diocese.
- 2.6 all personnel of Catholic schools of the diocese (administration, faculty and support staff).
- 2.7 all religious education directors or coordinators and teachers in the parishes and schools of the diocese.
- 2.8 all youth ministers in the parishes, schools and institutions of the diocese.
- 2.9 all personnel of diocesan campus ministries.
- 2.10 All paid personnel in the offices of the diocese, parishes of the diocese, schools of the diocese, or other diocesan controlled corporations.
- 2.11 All volunteers in the offices and institutions mentioned in 2.10 who have regular contact with vulnerable persons. (cf sec. 1.2)
- 2.12 Such other personnel as designated by the bishop of the diocese.

3. POLICY DISTRIBUTION

3.1 This policy is to be distributed to all personnel listed in Section 2 above, and to the following:

- 1) all those who seek ordination as clerics of the diocese before being admitted to candidacy;
- 2) all clerics of other jurisdictions who seek assignment for work in the diocese.

All personnel shall sign an acknowledgment of receipt, understanding and acceptance of the policy. A copy of the required receipt accompanies this policy.

- 3.2 Personnel listed in 2.1-2.4 and those additional persons noted in 3.1 are to forward this receipt to the chancellor of the diocese or his designee.
- 3.3 All other personnel are to give this receipt to their immediate supervisor, or to the head of their office/institution, or to the person hiring them.
- 3.4 Note: this receipt should be included together with the questionnaire mentioned in #6 below.

4. APPLICABLE

- 4.1 This policy is intended to address violations of civil and criminal law. A violation of the civil and criminal law can subject the perpetrator to a prison sentence and/or a monetary fine. It can also be the basis for a civil suit of monetary damages.
- 4.2 The law changes from time to time by enactment of amendments to statutes and judicial interpretations. It is not possible to set out all of the laws in this document, but assistance will be given to all personnel having questions or seeking knowledge concerning the law.
- 4.3 The South Dakota Criminal and Civil Sexual Conduct Code defines the various types of conduct that violates this law. Three of the primary areas of concern are:
 - 4.3.1 **Sexual abuse** (as it applies to adult/child or vulnerable person interactions) is the subjection of a child or vulnerable adult by any person responsible for their care, to any sexual abuse, sexual molestation or sexual exploitation, which is a violation of the South Dakota Civil and Criminal Sexual Conduct Code. (SDCL 26-8A-2)
 - 4.3.2 **Sexual exploitation** (as it applies to any formal helper relationship) is any kind of sexual use of another person for one's own profit or advantage.
 - 4.3.3 **Sexual harassment** includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact, or other verbal or physical conduct or communication of a sexual nature when:
 - (1) Submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining employment, public accommodations or public services, education or housing;

- (2) Submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's employment, public accommodations or public services, education, housing; or
- (3) That conduct or communication has the purpose or effect of substantially interfering with an individual's performance, employment, public accommodation or public services, education or housing, or creating an intimidating, hostile, or offensive employment, or housing environment; and in the case of employment, the employer knows or should have known of the existence of the harassment and fails to take timely and appropriate action.

The types of behaviors that constitute sexual harassment may include, but are not limited to:

- unwelcome sexual flirtations, advances or propositions
- derogatory, vulgar, or graphic written or oral statements regarding one's sexuality, gender or sexual experience
- unnecessary touching, patting, pinching or attention to an individual's body
- physical assault
- unwanted sexual compliments, innuendoes, suggestions or jokes
- the display of sexually suggestive pictures or objects

5. EDUCATION

Education, alone, cannot shape mature attitudes and behavior, nor will it change inappropriate sexual behavior. Each adult must be responsible for his or her sexual growth and maturity. To support this responsibility the diocese will regularly arrange programs, which include knowledge or training applicable to these areas. The following personnel must attend designated educational programs concerning sexual misconduct issue such as methods of recognizing and preventing sexual misconduct involving children or others:

5.1 All priests and deacons working in the diocese.

5.2 All pastoral administrators/workers working in the diocese.

5.3 All youth ministers working in the diocese.

5.4 All school principals, educators, staff and directors of religious education.

5.5 All volunteers who have regular contact with vulnerable persons.

5.6 Other diocesan personnel as deemed necessary by the chancellor of the diocese.

Other personnel of the diocese are encouraged to attend such educational programs. From time to time the diocese will offer education and training opportunities for parents regarding safe environments for children

6. BACKGROUND AND REFERENCE CHECKS

6.1 Background checks will be completed on all personnel listed in Section 2 and 3.1. (specifics of the policy set forth in appendix II)

6.1.1 All background check applications and authorizations which have been filled out by personnel listed in Section 2 and Section 3.1 are to be forwarded to the chancellor of the diocese for processing.

6.1.2 The appropriate supervisor/head of the office or institution of the diocese shall receive completed background check information. Upon completion a copy will be retained in the central files of the diocese.

6.2 An informational questionnaire, a copy of which accompanies this policy, is to be completed by all the personnel listed in Section 2. Copies of these questionnaires are to be forwarded to the chancellor of the diocese and they will be maintained in the central files of the diocese.

6.3 Any further investigations of diocesan personnel must be approved and coordinated by the chancellor or his designee.

6.4 With regard to personnel listed in 2.2 and 2.5, an agreement will be reached with their respective religious order/diocese which stipulates that the Diocese of Sioux Falls will be informed of any allegations of physical or sexual abuse, exploitation or harassment by such individuals that the religious order/diocese is or may become aware. On its part, the Diocese of Sioux Falls, in writing, will inform the superior of such personnel of any credible allegation of a sexual misconduct.

6.5 Failure to disclose information regarding previous allegations of physical or sexual abuse, harassment or exploitation may be grounds for immediate termination.

7. SEXUAL ABUSE, EXPLOITATION AND HARASSMENT

7.1 Obligation to Report. Any personnel of the Diocese who know or has reason to know of an incident of sexual misconduct by any personnel of the diocese shall comply with applicable reporting and other requirements of the state (see Appendix III) and local laws (unless to do so would violate priest/penitent relationship of the Sacrament of Reconciliation or the state statutes regarding confidential conversations with a spiritual advisor), and also shall report as follows:

- 7.1.1 A verbal report of the incident shall be made immediately to the appropriate staff person as determined by each diocesan or parish entity and shall be followed as soon as reasonably possible by a written report with a copy to the victim response coordinator, the chancellor or his designee. Unless otherwise determined the appropriate staff person for Catholic schools is the principal; for parishes, the pastor; and for diocesan entities, the supervisor of the pastoral office where the alleged victim is employed. If the accusation is made against “the appropriate staff person”, and that person is not a priest, the verbal and written reports shall be made, on the parish level, to the chancellor or his designee. If the accusation is made against a cleric or an ecclesiastical office holder, the report shall be made to the victim response coordinator, the chancellor or his designee.
- 7.1.2 The victim response coordinator, chancellor or his designee shall notify the bishop of the diocese, and diocesan attorney.
- 7.1.3 After being reported to civil authorities, in credible situations, the alleged perpetrator will be immediately removed from any possible contact with children or vulnerable adult, pending the resolution of the charges and the outcome of the investigation. Such action will not imply guilt or innocence.
- 7.1.4 All incidents relating to alleged child sexual abuse will be reported to the proper civil authorities.

7.2 Investigation of Reported Incidents. Each reported incident will be investigated as soon as reasonably possible. Each incident will also be reviewed by the Diocesan Review Board. Care will be taken not to interfere with any criminal investigation. The investigation will be done with a high level of Christian care, concern and confidentiality for the alleged victim, the family of the alleged victim, the person reporting the incident, and the alleged perpetrator. Unless the bishop shall indicate otherwise, the chancellor or his designee shall conduct the investigation. The investigator should consult with and seek the advice of the diocesan attorney, not only when undertaking the investigation, but also during the investigation, as deemed appropriate.

- 7.2.1 If requested, an advocate may be appointed to assist the alleged perpetrator, or counsel of his/her own choosing may represent the alleged perpetrator. In the case of a priest or ecclesiastical office holder, the advocate, if possible, should be one with canonical expertise. In any case, any expense involved is the responsibility of the alleged perpetrator.
- 7.2.2 For accusations against all personnel, the alleged perpetrator should be interviewed. The alleged perpetrator should be advised of the provision of 7.2.1 and should be informed of his/her rights, and that anything said may be used against the alleged perpetrator in a criminal proceeding or in a civil lawsuit. The alleged perpetrator should be presented with a specific listing of

allegations. The alleged perpetrator should be given an opportunity to ask any clarifying questions and should then be asked to respond to the allegations. The investigator should also review the alleged perpetrators' personnel file and should inquire of the alleged perpetrator whether there have been any other incidents of sexual misconduct, which may have gone unreported. The investigative process may include an evaluation conducted by a professional counselor or therapist.

- 7.2.3 The investigation will also ordinarily include a meeting with and an interview of complainant and/or victim, and interviews with such persons identified as witnesses or persons likely to possess information relevant to the investigation, as the investigator thinks necessary for purposes of the investigation.
- 7.2.4 When accusations of sexual misconduct are made against personnel of the diocese, contact by the appropriate diocesan staff with the alleged victim and family should, if appropriate, be promptly initiated. The bishop is always available to meet with and address the needs of victims. Contact should be made by priestly and other counselors chosen by the bishop for the purpose of offering whatever concern or solace may be needed, with no comment as to the truth of any accusation. Medical, psychological and spiritual assistance will be offered in the spirit of Christian justice and charity. This may include individual counseling, spiritual direction and support groups.
- 7.2.5 Upon completion of the investigation, a report will be provided to the bishop, outlining the findings of the investigation. The report will be either oral or written as determined by the chancellor or his designee. The standard of measure will be the Code of Ethical Behavior (appendix IV)
- 7.2.6 If the alleged claim is substantiated, or if it appears it can be substantiated, the alleged perpetrator, in accordance with canonical and other considerations, will be relieved of all responsibilities in the diocese, parish, office or institution, and be placed on administrative leave pending the outcome of the internal and any outside investigation. Such leave will be with or without pay or benefits as the bishop or his designee may decide.
- 7.2.7 The bishop or his designee will keep appropriate records of each incident reported and of the investigation and the results thereof. All records are to be reviewed by the diocesan attorney.
- 7.2.8 Notification of the incident shall be given to insurers in accordance with the terms of applicable insurance policies. The diocesan attorney should be consulted regarding such notification.
- 7.2.9 Taking into account first the needs and desires of the victim, communications concerning issues of sexual abuse will be as open as possible.

7.2.10 When the investigation shows the allegations are unfounded, all possible steps will be taken to restore the good name of the person accused.

7.3 Action Where Guilt Determined. Any personnel listed in section 2 who admits to, does not contest, or is found guilty of an incident of sexual misconduct involving a child or minor shall be immediately terminated from employment and any position of responsibility with the diocese. There will be no possibility of future employment with the diocese, its parishes, schools or other institutions. For clergy, further penal sanctions, including but not limited to, dismissal from the clerical state may be imposed.

7.3.1 If an accusation is confirmed and a cleric is permanently removed from ministry, the diocese will assist the offender in receiving a psychological evaluation and sex offender treatment. The diocese will attempt to assist the offender with a supervised living situation.

7.3.2 A member of the diocesan clergy may be required to undergo treatment. Cost of such treatment and release of information from the treatment center will be negotiated between the cleric and the diocese.

7.3.3 When the member of the diocesan clergy has completed treatment, he may be required to take part in an appropriate supervised after-care program approved by the bishop, having received the recommendations of the professional treatment center.

7.3.4 Faith communities affected by an incident of misconduct will receive appropriate outreach from the diocese

8. SEXUAL HARASSMENT

8.1 Obligation to Report. Any personnel of the Diocese who knows or has reason to know of an incident of sexual harassment by any personnel of the diocese shall comply with any applicable reporting or to her requirements of state and local laws (unless to do so would violate priest/penitent relationship of the Sacrament of Reconciliation), and shall also report as follows:

8.1.1 A verbal report of the incident shall be made immediately to the appropriate staff person as determined by each diocesan or parish entity and shall be followed as soon as reasonably possible by a written report. In the case when an accusation is made against “the appropriate staff person”, if not a priest, the verbal and written reports shall be made, on the parish level, to the canonical pastor, and on the diocesan level, to the chancellor or his designee. In the case when an accusation is made against a cleric or an ecclesiastical office holder, the report shall be made to the chancellor or his designee.

8.1.2 A copy of the written report shall be sent to the chancellor or his designee and the diocesan attorney. The chancellor or his designee shall in all such cases, notify the bishop of the diocese.

8.1.3 Reasonable care will be taken to separate the complainant or victim and the alleged perpetrator until the investigation is completed.

8.2 Investigation of Reported Incidents. Each reported incident shall be investigated as soon as reasonable possible by the appropriate staff person as determined by each diocesan or parish entity. Unless otherwise determined, the appropriate staff person for Catholic schools is the principal; for parishes, the pastor; and for diocesan entities, the supervisor of the pastoral office where the alleged victim is employed. In the case when an accusation is made against a cleric or an ecclesiastical office holder, the chancellor or his designee shall conduct the investigation. In the case when an accusation is made against “the appropriate staff person”, if not a priest, the investigation will be conducted on the parish level by the canonical pastor, and on the diocesan level by the chancellor or his designee. Each incident will be investigated with care taken not to interfere with any criminal investigation and with a high level of Christian care, concern and confidentiality for the alleged victim, the person reporting the incident, and the alleged perpetrator. All allegations will also be reviewed by the Diocesan Review Board.

8.2.1 An advocate may be appointed to assist the alleged perpetrator, or the alleged perpetrator may be represented by counsel of his/her own choosing. In the case of a priest or ecclesiastical office holder, the advocate, if possible should be one with canonical expertise. In any case, any expense involved is the responsibility of the alleged perpetrator.

8.2.2 For accusations against all personnel, the alleged perpetrator should be interviewed. The alleged perpetrator should be advised of the provision of 8.2.1 and should be informed that anything said may be used against the alleged perpetrator in a criminal proceeding or in a civil lawsuit. The alleged perpetrator should be presented with a specific listing of allegations. The alleged perpetrator should be given an opportunity to ask any clarifying questions and should then be asked to respond to the allegations. The investigator should also review the alleged perpetrator’s personnel file and should inquire of the alleged perpetrator and of others when appropriate, whether there have been any other incidents of sexual harassment, which may have gone unreported.

8.2.3 The investigation will also ordinarily include a meeting with and interview of complainant and/or victim, and interviews with such persons identified as witnesses or persons likely to possess information relevant to the investigation, as the investigator thinks necessary for purposes of the investigation.

8.2.4 Appropriate records, including reports of misconduct, results of investigations, final determination and disposition, shall be made by the investigator for each investigation and these reports shall be filed in the alleged perpetrator's personnel file.

8.2.5 In any case, when it appears that criminal or civil action may be taken by one or more of the parties involved notification of the incident shall be given to insurers in accordance with the terms of applicable insurance policies. The diocesan attorney should be consulted regarding such notification.

8.3 Action Where Guilt Determined, Non-Clergy. If the alleged claim is substantiated, the following action shall be taken:

8.3.1 If the incident is of a significantly offensive nature, in the judgment of the investigator or bishop, or if repeated offenses by this same perpetrator have been documented, the procedure detailed in Section 7.3 shall be followed.

8.3.2 In all other cases, the investigator shall inform the perpetrator in writing, of the result of the investigation. Moreover, the investigator shall inform the perpetrator that another incident can result in termination of employment, and that the report regarding the incident shall be placed in the individual's personnel file. Psychological or professional counseling may be required for the perpetrator.

8.4 Action Where Guilt Determined, Clergy. If the alleged claim is substantiated, a report outlining the findings on the investigation will be sent to the bishop for determination. If deemed appropriate by the bishop, the procedures outlined in Section 7.3, may be followed. If the bishop determines that circumstances do not warrant the procedures outlined in Section 7.3, he may so advise the investigator, and instruct the investigator to proceed as outlined in Section 8.3.2.

9. SERVICES PROVIDED TO VICTIMS

9.1 The Diocese of Sioux Falls will provide counseling and spiritual guidance (direction, retreats, etc) for victims of clergy sexual abuse. As needed, these services will extend to members of victims immediate family.

9.2 Response coordinators will be appropriately trained to handle their responsibilities.

9.3 The diocese will make available support groups as needed for victims of sexual abuse.

9.4 Counseling and support groups availability extends to victims who were sexually abused by former or deceased clergy.

9.5 The diocese will continue to solicit those who have been harmed by abuse through periodic notices in diocesan communication venues.

9.5.1 When the claim involves another diocese, religious community, or some other institution (whether in South Dakota or not), the diocese will assist the victim in contacting and working with the other institution.

10. FALSE ACCUSATIONS AND UNSUBSTANTIATED CLAIMS.

There is always the possibility of false accusations or unsubstantiated claims made for whatever reasons. It is important for all diocesan personnel to know that both civil law and canon law (cc.1390-1391) provide penalties for the crime of falsehood in which individuals become victims of false denunciation and calumny.

11. CONFIDENTIALITY

All information related to an incident in which a complaint is made of sexual abuse, physical abuse, sexual exploitation or sexual harassment must be assembled and retained in a written form in a manner which best protects the needs and legitimate requests or desires of the victim. The diocese will not enter into confidentiality agreements in settlement situations unless requested by the victim.

12. ACTS OF RETALIATION

The Diocese of Sioux Falls will not condone retaliatory acts of any nature against persons making reports and providing information in implementing these policies. Such retaliatory acts may be grounds for immediate termination.

THIS POLICY IS ISSUED BY THE CHANCERY OF THE DIOCESE OF SIOUX FALLS AND IS EFFECTIVE SEPTEMBER 1, 2003.

Most Rev. Robert J. Carlson
Bishop of Sioux Falls

Jerome Klein
Chancellor

Background questionnaire concerning sexual abuse

Acknowledgement of receipt and understanding of the sexual misconduct policy and code of ethical conduct

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

Yes _____ No _____

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

Yes _____ No _____

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

Yes _____ No _____

4. Have you ever received any medical or psychological treatment, including counseling, involving your sexual abuse, physical abuse, sexual harassment, or sexual exploitation of other persons?

Yes _____ No _____

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

Yes _____ No _____

In addition to this self report, unless you are a minor, a background check will be conducted unless you can provide a copy of results of an acceptable completed background check.

I hereby acknowledge that I have received a copy of the Sexual Misconduct Policy of the Diocese of Sioux Falls and the Code of Ethical Conduct and that I have read both, understand their meaning, and agree to conduct myself in accordance with the Policy and the Code. I have personally read and completed the above background questionnaire.

Date _____

Signed _____

Print Name _____

Parent's Signature (if under 18) _____

DIOCESE OF SIOUX FALLS, SOUTH DAKOTA

**CODE OF ETHICAL STANDARDS FOR CLERGY AND OTHER
CHURCH PERSONNEL**

I. PREAMBLE

Those who minister within our parishes and institutions must always seek to uphold Christian values and conduct and to act properly at all times. Each in their various roles and capacities are leaders in some way in the Church founded by Jesus Christ. This Code of Ethics sets forth general ethical standards for their lives and ministry. This is a general standard and guideline and is not intended to answer all of the ethical questions facing clergy and other church personnel today. In addition, it is intended that this code can be further refined through ongoing discussion toward improvement of these stated standards of practice. It will demand accountability from clergy and other church personnel according to the ethical standards of this code. This Code of Ethics is written for and applies to all bishops, priests, deacons, administrators, staff, teachers, employees and volunteers in the Diocese of Sioux Falls. Herein after the term clergy and other church personnel includes the list above. This code is not to supersede canon or civil law.

Responsibility for adherence to this Code of Ethical Standards rests individually with the clergy and other church personnel themselves. Willful disregard of this Code by clergy and other church personnel will be dealt with appropriately by that individual's superior or representative. Remedial action may take one of several approaches from counseling to removal from a leadership position or ministry itself. The conduct of clergy and other church personnel in both public and private life can and should inspire and motivate people, but inappropriate conduct can scandalize and tear down the faith. With this awareness and responsibility, however, clergy and other church personnel striving to do good must know that God's goodness and grace support them in their ministry.

II. GENERAL PRINCIPLES

The ethical clergy and other church personnel are individuals who embrace the principles of 1) ecclesial commitment, 2) integrity, 3) respect for others, 4) well-being, and 5) competence.

1) Ecclesial Commitment

Clergy and other church personnel embrace the teachings of the Roman Catholic Church. They know and continually study the Scriptures and magisterial teachings. They exhibit loyalty to the traditions of the Church, are attentive to the realities and needs of the present, and constantly preparing themselves for the challenges of the future. They nurture and build up the body of Christ in the Church and actively embrace its sacramental life. They work to build up both their local parish community and the larger diocesan and worldwide Church. They strive to show a special care and concern for the needs of the unborn, poor, disabled, and the oppressed of society. They work to develop an ecumenical spirit as well, working on common causes with other church bodies.

2) Integrity

Clergy and other church personnel are expected to conduct themselves in an honest and open manner, free from deception or manipulation. In other words, they are to be men and women of integrity.

3) Respect for Others

Clergy and other church personnel are to respect the rights, dignity and worth of each member of the Church community and all persons with whom they are in contact. They are to respect each individual as a creation of God regardless of their status in the community or the Church. They strive to be aware of cultural and human diversity.

4) Human Well-Being

Clergy and other church personnel are to attend to their human, spiritual, intellectual, and pastoral well-being. In the area of their human well-being, they have a duty to be attuned to good physical, mental and emotional health. They should be aware of warning signs in moods or behavior which they can address early and seek help before a condition becomes detrimental to their own health or to others. Inappropriate use of alcohol or misuse of prescription drugs are examples in this area.

Clergy and other church personnel should be supportive of one another, affirming one another yet holding one another accountable for physical and emotional well-being. They should determine healthy limits in their work, make use of vacation time, and enjoy opportunities for human growth both inside and outside their work environment.

Clergy and other church personnel have a duty toward their own spiritual health and well-being. They are to maintain and nurture their prayer lives, addressing spiritual needs in order to remain focused and zealous in their faith. A regular meeting with a confessor or spiritual director is highly recommended. They should take advantage of opportunities for days of renewal, reflection, or retreat.

Clergy and other church personnel are to attend to their ongoing intellectual development by reading and by participating in seminars and workshops relevant to their current ministry. They should make use of the time and funding provided for ongoing formation. They should likewise participate in a regular process of evaluation.

Clergy and other church personnel are responsible for their own and others' pastoral well-being. They are to nurture the life of the parish and diocesan community. They should work to know and always respect the people to whom they have been given in ministry. According to their office, charism, or ministry, they should celebrate the sacraments with decorum, and in fidelity to the official rites of the Roman Catholic Church. They should also know and follow the policies and procedures of the Diocese of Sioux Falls.

5) Competence

Clergy and other church personnel are to maintain a high level of professional competence in their particular ministry. Training, education and experience contribute to this competence and credibility in their respective areas of expertise. As competence also means knowing one's self limitations, clergy and other church personnel will know when to refer people and when not to attempt service in areas in which they lack competence.

III. ETHICAL STANDARDS IN PROFESSIONAL RELATIONSHIPS

1. ADMINISTRATION AND JUST TREATMENT OF EMPLOYEES AND VOLUNTEERS

1.1 Clergy and other church personnel shall treat all people with respect and dignity. They are to seek to work in ways that respect the different talents people bring to the Church. Meetings should be conducted with patience and courtesy toward the views of others, in an environment where it is safe for others to offer constructive criticism.

1.2 Clergy and other church personnel exercise responsible stewardship of all parish resources. They must also ensure that in their areas of ministry, there is a clear accounting of all parish funds. There should never be any commingling of personal and church funds. Care should be taken so that even the appearance of inappropriate use of funds is avoided.

1.3 Clergy and other church personnel are to ensure that systems are in place to protect both the Church and the individual from financial mismanagement. Diocesan policies are to be followed in regard to financial audits, annual reports and full disclosure. Canon Law and South Dakota Codified Law is to be followed in all cases as well as basic conformity to Catholic social teachings.

1.4 Clergy and other church personnel cannot receive dual reimbursement for work which ordinarily falls under the scope of their pastoral assignment or ministry (e.g. a pastor's salary plus the religious education director's salary for taking care of that ministry, or a diocesan salary and independent consulting fees for work done within the scope and time of the original job description).

1.5 Clergy and other church personnel understand that employment is at will, unless otherwise contractually agreed to, and the church employer retains the right to hire and fire in accord with Church teachings, Diocesan Personnel Policy and South Dakota Codified Law.

2. CONDUCT IN HELPING RELATIONSHIPS RESPECTS THE RIGHTS OF OTHERS AND PROMOTES THEIR WELFARE

2.1 Clergy and other church personnel should not proceed beyond their competence or training in professional helping situations. They are to indicate early in any helping relationship the difference between professional counseling and informal helping situations. The nature and parameters of confidentiality and what might require reporting to legal authorities should also be explained. If the helping situation involves more than one person, that is, a family situation or group dynamics, the mutual respect and welfare of each is to be honored and full disclosure given to each participant.

2.2 Clergy and other church personnel do not disclose information learned from helping sessions. However, clergy and other church personnel shall inform the person being helped that confidentiality is limited when there is clear and imminent danger to the person and/or to others. Necessary authorities or professionals are to be contacted by clergy and other church personnel when disclosure of abuse happens or danger is evident and this is to be done in accordance with South Dakota Codified Law and diocesan policy.

2.3 Clergy and other church personnel's first responsibility with individuals in their charge is spiritual assistance. In other areas of human or psychological or physical health needs, the usual recommended course is referral to more competent agencies. If the person is already under the care of another professional then clergy and other church personnel do not duplicate services in areas that are better left to the competency of another.

2.4 Before moving to a new assignment, clergy and other church personnel should refer counselees under their professional care to another competency or bring closure in some other way to the counseling relationship.

2.5 Clergy and other church personnel do not ordinarily begin a professional counseling relationship with someone with whom they have a preexisting relationship (i.e., employee, professional colleague).

2.6 Clergy and other church personnel do not engage in sexual contact or intimacies with those in their charge and those with whom they work. They are always to be mindful that a wide variety of physical contact with those in their charge or with whom they work can be misconstrued and thus should be avoided.

2.7 Any helping relationship should be conducted in a professional and appropriate setting (e.g. parish office) and at appropriate times. Clergy and all diocesan staff and the person(s) being helped should all understand that they are in a helping relationship and are cognizant of the importance and significance of appropriate boundaries.

2.8 Clergy and other church personnel should keep and preserve indefinitely a personal calendar of appointments and helping sessions. They should hold themselves accountable in that activity and in their professional competence such as engaging in professional consultation, etc.

2.9 When clergy and other church personnel's independent judgment is impaired or they sense they are becoming too personally involved, then such clergy and other church personnel should advise the party/parties that they can no longer provide professional help and refer the person(s) to another competency.

3. CONDUCT WITH MINORS ALWAYS DEMANDS PROFESSIONAL AND PERSONAL INTEGRITY TO ENSURE A TRUSTING RELATIONSHIP

3.1 Clergy and other church personnel must be aware of their vulnerability and that of any minor with whom they work or to whom they minister. A team approach to youth ministry activities should generally be chosen. Clergy and other church personnel should avoid establishing any exclusive relationship with a minor, and avoid any physical contact which might be misconstrued or misunderstood.

3.2 Clergy and other church personnel shall not use or supply alcohol and/or illegal drugs when working with minors, nor show or provide any sexually explicit or inappropriate material to minors.

3.3 Providing overnight accommodations for minors in rectories or other personal residences should be avoided unless the minors being housed are part of the clergy's or diocesan staff member's immediate family, or are part of an official Church program, in which case accompanying adults or guardian supervisors are also to be present.

3.4 Clergy and other church personnel shall know, understand, and follow all diocesan policies and procedures concerning allegations of sexual misconduct involving minors and the developmentally disabled.

4. SEXUAL CONDUCT IN RELATION TO THE WIDER COMMUNITY

4.1 Clergy and other church personnel shall not exploit persons for sexual purposes nor exploit the trust of the parish or assigned community for sexual gain or intimacy.

4.2 Clergy and other church personnel are to be knowledgeable about what constitutes sexual abuse or exploitation of another and be familiar with the laws of the State of South Dakota on what constitutes abuse.

4.3 Clergy and other church personnel who have a commitment to celibacy will honor chastity and appropriate conduct in that commitment as those who are married will witness chastity and fidelity to that commitment in their conduct.

4.4 Allegations of sexual misconduct and abuse shall be taken seriously and reported to the Victim Response Coordinator for the diocese (the acting Director of Catholic Family Services #1-800-700-7867) and the Bishop of the Diocese of Sioux Falls, or the acting Chancellor or Vice Chancellor (#605-334-9861). The Diocesan Misconduct Review Board will be informed and the appropriate legal agencies will be apprised of allegations.

4.5 Priests and Bishops will respect and hold sacred the seal of confession. They are responsible in all canonical regulations concerning the Sacrament of Penance.

5. PROFESSIONAL BEHAVIOR MEANS AVOIDING ANY FORM OF HARASSMENT

5.1 Clergy and other church personnel are to provide a professional work environment for their employees and volunteers which is free from physical, psychological, or verbal harassment. Harassment encompasses a broad range of physical and verbal behavior, which is not limited to the following:

- physical or mental abuse
- racial insults or derogatory ethnic slurs or derogatory gender remarks
- unwelcome sexual advances, touching, comments or jokes
- display of offensive materials (this includes possession of offensive materials in a Church facility)
- requests for sexual favors used as a condition of employment or affecting any personnel decision such as hiring, promotion, or compensation.

5.2 Harassment often results from the creation of a hostile, offensive, or intimidating work environment.

5.3 Clergy and other church personnel are to insure that there is a clear policy on reporting harassment for both employees and volunteers, and are to follow established procedure for reporting any harassment. They are to ensure that no retaliation for bringing forward a claim of harassment will be tolerated.

6. CONFIDENTIALITY MEANS STRICTEST CONFIDENCE IN SPIRITUAL DIRECTION, ADVISING, AND OTHER PROFESSIONAL CONTACTS.

6.1 Parishioners and other persons who come to clergy and other church personnel should feel they are entering a relationship marked by respect, trust, and confidentiality.

6.2 Clergy and other church personnel are bound to safeguard the confidentiality of any notes, files, or computer records pertaining to professional contact with individuals. Normally counseling files are destroyed after seven years.

6.3 If consultation with another professional becomes necessary, utmost care should be taken to do so only by using non-identifying information. When this is not possible, and after the appropriate disclosure and consent of the consulted, the other professional must be bound to the same degree of confidentiality as the clergy and other church personnel. If the other professional is not so bound, the disclosure should not be made.

6.4 When consultation is necessary, the clergy and other church personnel must exercise great care to limit the content of the information to be shared. He or she must first determine what is the precise information that needs to be shared, with whom the information is to be shared, and why it is necessary to do so.

6.5 Knowledge that arises from professional contact may be used in teaching, writing and preaching or other public presentations only when effective measures have been taken to absolutely safeguard individual identity and confidentiality.

6.6 Except as provided above (2.2, 6.3-6.5) with respect to consultation, confidential information can be disclosed only with the written, informed consent of the individual. This must be done on a form that has been approved by Diocesan officials. In legal proceedings in which the clergy or other church personnel is a party and the allegations stem from a professional contact, the disclosure of confidential information gained in that contact is permitted only to that which is necessary and according to advice given by diocesan legal counsel, canonical and civil.

6.7 When entering into a counseling or pastoral relationship with a minor, clergy and other church personnel should instruct the minor from the outset regarding exceptions to the ordinary rights to confidentiality. Threats of self-harm or harm to others, suicidal ideation, or matters which pose a grave risk for the minor's welfare or the welfare of others would be examples requiring communication of information to a parent, legal guardian and/or to the civil authorities. The clergy and other church personnel must exercise great care and judgment in determining the appropriateness of this kind of disclosure in relation to the welfare of the minor being counseled. The confidentiality of the confessional is always a separate matter and remains untouched by these obligations.

7. PARISH AND INSTITUTIONAL RECORDS AND INFORMATION ARE TO BE APPROPRIATELY CONFIDENTIAL

7.1 Sacramental records are regarded as confidential. For valid canonical or sacramental requests or by request of the Bishop, or his representatives, or for parish statistical purposes, information can be shared from these records.

7.2 Parish financial records are confidential except for the required annual report as designed for the parishes by the diocese of Sioux Falls. Legal or government requests for information can be honored after first consulting the Bishop or the Chancery. The records of individual contributions are to be treated in the same manner.

8. CLERGY AND OTHER CHURCH PERSONNEL SHOULD AVOID CONFLICTS OF INTEREST

8.1 Examples of potential conflicts of interest include but are not exclusive to the following: conducting private business or other dealings with the Church or any of its members; accepting substantial gifts for services or favors (anything over \$250 needs to be reported to the Chancellor of the Diocese of Sioux Falls); acting with obvious partiality toward employees or Church members, or violating a confidence of another for personal gain.

9. THE RESPONSIBILITY TO REPORT ETHICAL MISCONDUCT OF OTHER CLERGY AND OTHER CHURCH PERSONNEL

9.1 In cases where there are clear indications of illegal actions by clergy or other church personnel, notification shall be made to the proper Church authorities and the appropriate legal authorities will be contacted.

9.2 In cases where there are clear indicators of unethical, but not illegal actions by clergy or other church personnel, notification should be made to the proper Church authorities.

9.3 When there is ambiguity but clergy and other church personnel believes that one of his/her colleagues may have violated this Code of Ethical Standards, the matter should be brought to the attention of the individual. In addition, clergy and other church personnel shall take further action by reporting such event to the supervisor or next higher authority, or by referral to the Chancery Office.

9.4 All accusations and concerns, either past or present, involving the sexual abuse of a minor, as defined by South Dakota law, must be reported to the Victim Response Coordinator for the diocese (the acting Director of Catholic Family Services #1-800-700-7867) and the Bishop of the Diocese of Sioux Falls, or the acting Chancellor or Vice Chancellor (#605-334-9861). The Diocesan Misconduct Review Board will be informed and the Department of Criminal Investigation will be apprised of allegations.

9.5 When clergy and other church personnel are uncertain whether what they suspect or know violates this Code of Ethical Standards, they should consult with the same agencies as mentioned in 9.4.

Sexual Misconduct Policy of the Catholic Diocese of Sioux Falls Appendix III

South Dakota Codified Law

Chapter 26-8A. *MINORS: PROTECTION FROM ABUSE OR NEGLECT

26-8A-1. *Abused/neglected children - Purpose of chapter.

It is the purpose of this chapter, in conjunction with chapter 26-7A, to establish an effective state and local system for protection of children from abuse or neglect. Adjudication of a child as an abused or neglected child is an adjudication of the status or condition of the child who is the subject of the proceedings and is not necessarily an adjudication against or in favor of any particular parent, guardian or custodian of the child.

Source:

26-8A-2. *Abused/neglected children - Definition - "Abused or neglected child."

In this chapter and chapter 26-7A, the term, abused or neglected child, means a child:

- (1) Whose parent, guardian, or custodian, has abandoned the child or has subjected the child to mistreatment or abuse;
- (2) Who lacks proper parental care through the actions or omissions of the child's parent, guardian or custodian;
- (3) Whose environment is injurious to the child's welfare;
- (4) Whose parent, guardian, or custodian fails or refuses to provide proper or necessary subsistence, supervision, education, medical care, or any other care necessary for the child's health, guidance, or well-being;
- (5) Who is homeless, without proper care, or not domiciled with the child's parent, guardian, or custodian through no fault of the child's parent, guardian, or custodian;
- (6) Who is threatened with substantial harm;
- (7) Who has sustained emotional harm or mental injury as indicated by an injury to the child's intellectual or psychological capacity evidenced by an observable and substantial impairment in the child's ability to function within the child's normal range of performance and behavior, with due regard to the child's culture;
- (8) Who is subject to sexual abuse, sexual molestation, or sexual exploitation by the child's parent, guardian, custodian, or any other person responsible for the child's care; or
- (9) Who was subject to prenatal exposure to abusive use of alcohol or any controlled drug or substance not lawfully prescribed by a practitioner as authorized by chapters 22-42 and 34-20B.

Source:

Amendments - 1998:

26-8A-3. *Abused/neglected children - Persons required to report child abuse or neglected child - Intentional failure as misdemeanor.

Any physician, dentist, doctor of osteopathy, chiropractor, optometrist, mental health professional or counselor, podiatrist, psychologist, religious healing practitioner, social worker, hospital intern or resident, parole or court services officer, law enforcement officer, teacher, school counselor, school official, nurse, licensed or registered child welfare provider, employee or volunteer of a domestic abuse shelter, chemical dependency

counselor, coroner, or any safety-sensitive position as defined in subdivision 23-3-64(2), who have reasonable cause to suspect that a child under the age of eighteen has been abused or neglected as defined in § 26-8A-2 shall report that information in accordance with §§ 26-8A-6, 26-8A-7 and 26-8A-8. Any person who intentionally fails to make the required report is guilty of a Class 1 misdemeanor. Any person who knows or has reason to suspect that a child has been abused or neglected as defined in § 26-8A-2 may report that information as provided in § 26-8A-8.

Source:

Amendments - 2000:

26-8A-4. *Abused/neglected children - Additional persons to report death resulting from abuse or neglect - Intentional failure as misdemeanor.

In addition to the report required under 26-8A-3, any person who has reasonable cause to suspect that a child has died as a result of child abuse or neglect as defined in § 26-8A-2 shall report that information to the medical examiner or coroner. Upon receipt of the report, the medical examiner or coroner shall cause an investigation to be made and submit written findings to the state's attorney and the department of social services. Any person required to report under this section who knowingly and intentionally fails to make a report is guilty of a Class 1 misdemeanor.

Source:

26-8A-5. *Abused/neglected children - Application of terms.

As used in §§ 26-8A-3 and 26-8A-7, the terms "teacher," "school counselor," "school official," "school administrator," "school principal," and "school superintendent" apply to any person substantially performing the respective duties of any such position in a public or private school, whether accredited or unaccredited, and to any person providing instruction pursuant to § 13-27-3.

Source:

26-8A-6. *Abused/neglected children - Report of abuse or neglect by hospital personnel - Failure as misdemeanor - Written policy required.

Any person who has contact with a child through the performance of services as a member of a staff of a hospital or similar institution shall immediately notify the person in charge of the institution or his designee of suspected abuse or neglect. The person in charge shall report the information in accordance with the provisions of § 26-8A-8. Any person required by this section to report shall also promptly submit to the state's attorney complete copies of all medical examination, treatment and hospital records regarding the child. Any person who knowingly and intentionally fails to make a required report and to submit copies of records is guilty of a Class 1 misdemeanor. Each hospital or similar institution shall have a written policy on reporting of child abuse and neglect and submission of copies of medical examination, treatment and hospital records to the state's attorney.

Source:

26-8A-7. *Abused/neglected children - Child abuse or neglect reports by school personnel - Failure as misdemeanor - Written policy required.

Any person who has contact with a child through the performance of services in any public or private school, whether accredited or unaccredited, as a teacher, school nurse, school counselor, school official or administrator, or any person providing services pursuant to § 13-27-3 shall notify the school principal or school superintendent or designee of suspected abuse or neglect. The school principal or superintendent shall report the information in accordance with the provisions of § 26-8A-8. Any person who knowingly and intentionally fails to make a required report is guilty of a Class 1 misdemeanor. Each school district shall have a written policy on reporting of child abuse and neglect.

Source:

26-8A-8. *Abused/neglected children - Oral report of abuse or neglect - To whom made - Response report.

The reports required by §§ 26-8A-3, 26-8A-6 and 26-8A-7 and by other sections of this chapter shall be made orally and immediately by telephone or otherwise to the state's attorney of the county in which the child resides or is present, to the department of social services or to law enforcement officers. The state's attorney or law enforcement officers, upon receiving a report, shall immediately notify the department of social services. Any person receiving a report of suspected child abuse or child neglect shall keep the report confidential as provided in § 26-8A-13, except as otherwise provided in chapter 26-7A or this chapter.

The person receiving a report alleging child abuse or neglect shall ask whether or not the reporting party desires a response report. If requested by the reporting person, the department of social services or the concerned law enforcement officer shall issue within thirty days, a written acknowledgement of receipt of the report and a response stating whether or not the report will be investigated.

Source:

26-8A-9. *Abused/neglected children - Investigation of oral report - Other action permitted - Appointment of attorney - Compensation.

Upon receipt of a report pursuant to § 26-8A-8, the department of social services or law enforcement officers shall investigate. Investigating personnel may personally interview a child out of the presence of the child's parents, guardian or custodian without advance notice or consent. The investigation does not prohibit any other lawful action. If the investigation and report indicate that child abuse or neglect has occurred, the state's attorney shall take appropriate action immediately. The court may appoint an attorney, guardian ad litem or special advocate to assist in representing the best interests of the child. Compensation and expense allowances for the child's attorney, guardian ad litem or special advocate shall be determined and paid according to § 26-7A-31.

Source:

26-8A-10. *Abused/neglected children - Report to social services - Content.

A report made pursuant to § 26-8A-8 to the department of social services shall include the name, address, date and place of birth of the child, the name and address of the child's parents, guardian, custodian or responsible persons, the date of the report, and the suspected or proven instances of child abuse or neglect as defined in § 26-8A-2. The department of social services shall be the central registry for such information.

Source:

26-8A-11. *Abused/neglected children - Request to amend, expunge information or remove record of report - Administrative hearing - Decision.

Within thirty days after notice of a substantiated investigation by the Department of Social Services, a subject of a report of abuse or neglect may request the department to amend, expunge identifying information from, or remove the record of the report from the register. The request shall be in writing and directed to the person designated by the department in the notice. If the department refuses to do so or does not act within thirty days after receipt of the written request, the subject may request an administrative hearing within thirty days to determine whether the record of the report should be amended, expunged, or removed on the grounds that it is inaccurate or it is being maintained in a manner inconsistent with this chapter. However, if there has been a court finding of child abuse or neglect, the report's accuracy is conclusively presumed and the subject has no right to an administrative hearing on the ground of inaccuracy. The hearing shall be held within a reasonable time after the subject's request and at a reasonable place and hour. The appropriate local office of the Department of Social Services shall be given notice of the hearing. In the hearing, the burden of proving the accuracy and consistency of the record is on the department. The hearing examiner may order the amendment, expunction, or removal of the record to make it accurate and consistent with this chapter. However, under no circumstances, may the hearing examiner order or may the department carry out any amendment, expunction, or removal of any portion of the record that proves, affirms, corroborates, or supports the innocence of the subject of the report without the express written authority of the subject. The decision shall be made in writing within ninety days after the date of receipt of the request for a hearing and shall state the reasons upon which it is based. Decisions of the department under this section are administrative decisions subject to judicial review under chapter 1-26. In any case where there has been no substantiated report of child abuse and neglect, the department may not maintain a record or other information of unsubstantiated child abuse and neglect for longer than three years if there has been no further report within that three-year period.

Source:

Amendments - 1997:

Amendments - 1996:

26-8A-11.1. *Abused/neglected children - Request for a hearing to release name of complainant in unsubstantiated investigation.

Within thirty days after the notice of the determination of an unsubstantiated investigation by the Department of Social Services, the person who is the subject of the investigation may request an administrative hearing to determine whether the report was made with malice and without reasonable foundation and whether the name of the complainant should be released to the subject of the investigation. Within twenty days of receiving the request, an administrative hearing officer shall notify the complainant by mail that a request to release the complainant's name has been made and set a time and date for a hearing. The complainant shall be afforded the opportunity to be heard prior to any determination by the hearing officer to release the name. The complainant may appear at the hearing in person or through counsel or may submit written objections to the request in

lieu of appearance. Any written objections or other information that may reveal the name of the complainant shall be sealed and available only to the administrative hearing officer. The administrative hearing officer shall determine within ninety days of the final date of the hearing whether the report was made maliciously and without reasonable foundation and whether release of the complainant's name would be likely to endanger the complainant's life or safety. The administrative hearing officer shall issue such a finding in a written report. The report may not disclose the name of the complainant or other identifying information. If the administrative hearing officer determines that the report was made with malice and without reasonable foundation and that release of the complainant's name is not likely to endanger the complainant's life or safety, the officer shall order the department to release the name of the complainant thirty days after issuing such finding. If the administrative hearing officer determines that the report was not made with malice or that the report was made with reasonable foundation or that release of the complainant's name is likely to endanger the life or safety of the complainant, the name of the complainant may not be disclosed. Decisions of the department under this section are administrative decisions subject to review under chapter 1-26. If a decision of the department under this section is appealed under chapter 1-26, the identity of the complainant shall remain confidential until a final court order requiring the release of the complainant's name.

Source:

26-8A-12. *Abused/neglected children - Operation of central registry for abuse and neglect - Adoption of rules.

The secretary of social services may adopt reasonable and necessary rules for the operation of the central registry for abuse and neglect, including the following:

- (1) Filing of reports;
- (2) Procedures for provision of notice to the subject of a report;
- (3) Amendment and expunction;
- (4) Release of information from the registry;
- (5) Statistical information; and
- (6) Provisions for the keeping and maintenance of records and the type of information placed into the central registry.

However, the secretary may not adopt any rule which would permit the removal from the central registry for abuse and neglect of any person who has been convicted of any violation of chapter 22-22 or § 26-10-1 if the victim of such crime was a child.

Source:

26-8A-12.1. *Abused/neglected children - Limited access to central registry by head start program directors.

Upon receipt of a list of names of current or potential employees from a head start program director or the name of any person being considered as an adoptive or foster parent from a certified social worker eligible to engage in private independent practice as defined in § 36-26-17, the secretary of the Department of Social Services shall compare the list to the central registry for abuse and neglect and report any findings to the requesting program director or social worker.

Source:

Amendments - 2002:

26-8A-12.2. Abused/neglected children - Abuse and neglect screening required of certain Department of Human Services employees - Prior written consent required.

Upon receipt of names of current or potential employees or volunteers from the Juvenile Division of the Department of Corrections or any adolescent treatment program operated by the Department of Human Services, the Department of Social Services shall compare the names to the central registry for abuse and neglect and report any findings to the requesting program director or to the Bureau of Personnel human resource manager. Any potential employee or volunteer under this section shall give written consent prior to completion of the abuse and neglect screening. Failure to submit to abuse and neglect screening disqualifies an applicant from employment.

Source:

26-8A-13. Abused/neglected children - Confidentiality of abuse or neglect information - Violation as misdemeanor - Release to certain parties.

All investigative case records and files relating to reports of child abuse or neglect are confidential, and no disclosure of any such records, files, or other information may be made except as authorized in chapter 26-7A or this chapter. Any person who knowingly violates the confidential nature of the records, files, or information is guilty of a Class 1 misdemeanor. The Department of Social Services may release records, files, or other information to the following parties upon the receipt by the department of a request showing that it is necessary for the parties to have such information in the performance of official functions relating to child abuse or neglect:

- (1) The attorney general, the state's attorneys, law enforcement agencies, protective services workers, and judges of the courts investigating reports of known or suspected child abuse or neglect;
- (2) The attorney or guardian ad litem of the child who is the subject of the information;
- (3) Public officials or their authorized representatives who require the information in connection with the discharge of official duties;
- (4) Institutions and agencies that have legal responsibility or authorization to care for, treat, or supervise a child who is the subject of the information or report;
- (5) An adoptive parent of the child who is the subject of the information or report and a licensed child welfare agency, a tribal agency which the Department of Social Services has an agreement with to provide child welfare agency services which would otherwise require licensure by the department or any private child welfare agency whose licensure has been waived pursuant to § 26-6-9, for screening of applicants;
- (6) A state, regional, or national registry of child abuse and neglect cases and courts of record of other states;
- (7) A validly appointed and registered child protection team under § 26-8A-17;
- (8) A physician who is caring for a child whom the physician reasonably suspects may be abused or neglected;
- (9) State hearing examiners and any person who is the subject of the report for purposes directly related to review under § 26-8A-11; and

(10) A person eligible to submit an adoptive home study report under § 25-6-9.1 or 26-4-15. However, the information may only be released for the purpose of screening applicants.

Information received by an authorized receiving party shall be held confidential by the receiving party.

However, the court may order the release of the information or any portion of it necessary for determination of an issue before the court.

However, the Department of Social Services may release information and findings to the media regarding the abuse or neglect of a child that resulted in a fatality or near fatality of the child if the release of the information has been approved by the prosecutor who has commenced or who has authority to commence legal action, and, if such disclosure has been authorized by the court and is not contrary to the best interests of the child, the child's siblings, or other children in the household. The information to be released shall relate to the acts of child abuse or neglect that caused the fatality or near fatality of the child. However, the identity of the child may never be released. For the purpose of this chapter, near fatality means an act that, as certified by a physician, places the child in serious or critical condition.

Source:

Amendments - 1999:

Amendments - 1998:

Amendments - 1995:

26-8A-14. *Abused/neglected children - Immunity from liability.

Any person or party participating in good faith in the making of a report or the submitting of copies of medical examination, treatment or hospitalization records pursuant to §§ 26-8A-3 to 26-8A-8, inclusive, or pursuant to any other provisions of this chapter, is immune from any liability, civil or criminal, that might otherwise be incurred or imposed, and has the same immunity for participation in any judicial proceeding resulting from the report. Immunity also extends in the same manner to persons requesting the taking of photographs and X rays pursuant to § 26-8A-16, to persons taking the photographs and X rays, to child protection teams established by the secretary of social services, to public officials or employees involved in the investigation and treatment of child abuse or neglect or making a temporary placement of the child pursuant to this chapter, or to any person who in good faith cooperates with a child protection team or the department of social services in investigation, placement or a treatment plan. The provisions of this section or any other section granting or allowing the grant of immunity do not extend to any person alleged to have committed an act or acts of child abuse or neglect.

Source:

APPENDIX I

Sexual abuse definition from the Charter for the Protection of Children and Young People:

Sexual abuse of a minor includes sexual molestation or sexual exploitation of a minor and other behavior by which an adult uses a minor as an object of sexual gratification. Sexual abuse has been defined by different civil authorities in various ways, and these norms do not adopt any particular definition provided in civil law. Rather, the transgressions in question relate to obligations arising from divine commands regarding human sexual interaction as conveyed to us by the sixth commandment of the Decalogue (CIC, c. 1395 §2, CCEO, c. 1453 §1.) Thus, the norm to be considered in assessing an allegation of sexual abuse of a minor is whether conduct or interaction with a minor qualifies as an external, objectively grave violation of the sixth commandment (USCCB, *Canonical Delicts Involving Sexual Misconduct and Dismissal from the Clerical State*, 1995, p.6). A canonical offense against the sixth commandment of the Decalogue (CIC, c. 1395 §2; CCEO, c. 1453 §1) need not be a complete act of intercourse. Nor, to be objectively grave, does an act need to involve force, physical contact, or a discernible harmful outcome. Moreover, “imputability [moral responsibility] for a canonical offense is presumed upon external violation . . . unless it is otherwise apparent” (CIC, c. 1321 §3, CCEO, c. 1414 §2). Cf. CIC, cc. 1322-1327, and CCEO, cc. 1413, 1415, and 1416. If there is any doubt about whether a specific act fulfills this definition, the writings of recognized moral theologians should be consulted and the opinion of a recognized expert be obtained (*Canonical Delicts*, p. 6). Ultimately, it is the responsibility of the diocesan bishop/eparch, with the advice of a qualified review board, to determine the gravity of the alleged act.

Background questionnaire concerning sexual abuse

Acknowledgement of receipt and understanding of the sexual misconduct policy and code of ethical conduct

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

Yes _____ No _____

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

Yes _____ No _____

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

Yes _____ No _____

4. Have you ever received any medical or psychological treatment, including counseling, involving your sexual abuse, physical abuse, sexual harassment, or sexual exploitation of other persons?

Yes _____ No _____

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

Yes _____ No _____

In addition to this self report, unless you are a minor, a background check will be conducted unless you can provide a copy of results of an acceptable completed background check.

I hereby acknowledge that I have received a copy of the Sexual Misconduct Policy of the Diocese of Sioux Falls and the Code of Ethical Conduct and that I have read both, understand their meaning, and agree to conduct myself in accordance with the Policy and the Code. I have personally read and completed the above background questionnaire.

Date _____

Signed _____

Print Name _____

Parent's Signature (if under 18) _____