



Catholic Diocese of Sioux Falls

Clergy Review Board (CRB)

Operational Guidelines

1. BACKGROUND AND PURPOSE

- (a) The Catholic bishops of the United States adopted the *Charter for the Protection of Children and Young People* in June 2002, revised June 2005 and June 2018 (the “Charter”). The *Essential Norms for Diocesan/Eparchial Policies Dealing with Allegations of Sexual Abuse of Minors by Priests or Deacons* was approved by the Apostolic See in December 2002, revised January 2006 (the “Essential Norms”). Together, the Charter and the Essential Norms provide that each bishop must establish a review board to function as a confidential, consultative body to the bishop on matters related to the response of the local church to issues surrounding the sexual abuse of minors by priests and deacons.¹
- (b) In accordance with the Charter and the Essential Norms, the Diocese of Sioux Falls (the “Diocese”) has established the Clergy Review Board (the “CRB”). The purpose of the CRB shall be as follows, stated in Article 2 of the Charter (emphasis added):

Dioceses/eparchies are also to have a review board that functions as a *confidential consultative body to the bishop/eparch*. The majority of its members are to be laypersons not in the employ of the diocese/eparchy (see Norm 5 in Essential Norms for Diocesan/Eparchial Policies Dealing with Allegations of Sexual Abuse of Minors by Priests or Deacons, 2002). *This board is to advise the diocesan/eparchial bishop in his assessment of allegations of sexual abuse of minors and in his determination of a cleric’s suitability for ministry. It is regularly to review diocesan/eparchial policies and procedures for dealing with sexual abuse of minors. Also, the board can review these matters both retrospectively and prospectively and give advice on all aspects of responses in connection with these cases.*

2. SCOPE OF AUTHORITY

- (a) The CRB shall advise the bishop regarding the veracity of allegations of sexual misconduct by Church personnel, as well as sexual abuse, sexual misconduct, or sexual harassment of minors and vulnerable adults by a member of the clergy, lay employees, or volunteers. (see Definitions contained under Norms for Responding: Sexual Misconduct by Clergy and Lay Ministers of the Church)

¹ Charter, Article 2

- (b) The CRB shall also advise the bishop regarding his determination of a cleric's fitness for public ministry.

3. DUTIES AND RESPONSIBILITIES

- (a) Confirm that law enforcement has been notified of allegations of criminal conduct.
- (b) The role of the CRB is not investigatory; rather it shall evaluate evidence presented by the investigator and, in turn, offer advice to the bishop.²
- (c) The duties and responsibilities of the CRB are as follows (See also 5. Board Proceedings for a description on the measures by which the CRB is to advise the Bishop):
 - (i) in those instances, where the accused has been found not guilty of criminal conduct by civil authorities or has been investigated by civil authorities without prosecution, to advise the bishop in his assessment of allegations of sexual misconduct by Church personnel to make the determination of credibility (to evaluate the validity of allegations);
 - (ii) to review the findings of the Diocesan investigation and to advise as to whether the allegation appears to be substantiated by clear and convincing evidence;
 - (iii) to advise the bishop in his determination of suitability for ministry of priests or deacons accused of sexual abuse of minors or of vulnerable adults; this form of advisement shall typically be in those instances where a cleric has been found not guilty of criminal conduct by civil authorities or has been investigated by civil authorities without prosecution;
 - (iv) to review Diocesan policies on sexual abuse of minors and vulnerable adults;
 - (v) to advise the bishop, as requested, on all aspects of these cases, whether retrospectively or prospectively; and
 - (vi) to perform such other duties consistent with its purpose and scope of authority as may be requested by the bishop.
- (d) Such counsel shall derive from the CRB participating in the following kinds of activities:
 - (i) reviewing the investigative report, physical evidence, electronic information, and other documentation as appropriate;
 - (ii) designating one member of the CRB to review the cleric's personnel file in its entirety and to provide a summary report to the full CRB;
 - (iii) consulting with the investigator; and
 - (iv) hearing the accused as appropriate.
- (e) In assessing a cleric's suitability for ministry, the CRB may consider any factors it deems appropriate to assist in the restoration of justice and the reform of the cleric, including the following:
 - (1) nature and severity of misconduct/behavior, (2) type of actual harm, (3) duration of misconduct/behavior, (4) recurrence of misconduct/behavior, (5) passage of time

² Essential Norms, 4.a.

since misconduct/behavior, (6) physical, spiritual, emotional, and/or psychological harm misconduct caused others, (7) likelihood of recurrence, (8) level of self-awareness/honesty, (9) acceptance of responsibility/remorse, (10) corrective actions taken/evidence of rehabilitation, (11) openness to changing behavior, (12) mental health/psychological evaluation, (13) physical health, (14) current support and accountability system, (15) availability of a ministry environment in which the cleric is most likely to succeed, (16) presence of multiple challenges, and/or (17) future community impact.

4. **BOARD COMPOSITION**³

- (a) The CRB shall be comprised of a minimum of five but no more than nine voting members.
- (i) At least five CRB members shall be laypersons who are not in the employ of the Diocese. These five members are to be known by others to have outstanding integrity and good judgment. Each of the five members are to be in full communion with the Church.
 - (ii) The remaining members of the CRB may be employed by or ordained for the Diocese. The bishop may appoint other participants in a non-voting capacity on the CRB. In appointing others as participants, the bishop should designate the role of the person in relation to the CRB.
- (b) Each member is appointed for a five-year period, which may be renewed. Upon adoption of these Guidelines, staggered terms shall be assigned to existing CRB members.
- (c) At least one CRB member shall be an experienced pastor of the Diocese, and at least one member shall be an expert in the treatment of child sexual abuse. Additional professional skills desired among members of the CRB include:
- law enforcement
 - judiciary/attorney
 - health care providers
 - mental health practitioners or sex abuse prevention counselors
 - teachers
 - corporate executives
 - victims or relatives of victims of sexual abuse

All members of the CRB should be attentive to the necessity of providing the bishop with objective judgments regarding the matters brought before the board. At all times the CRB should be free to carry out its responsibilities within the authority granted it and in accordance with the Charter and Essential Norms. The process for offering advice and determining its recommendations should be free from intimidation, undue influence, or any appearance thereof.

- (d) All members of the board are asked to review and agree to uphold the accompanying **Code of Ethics Agreement** (Appendix A).
- (e) Any vacancy on the board shall be filled as soon as is feasibly possible by the bishop. The

³ Essential Norms, 5

bishop shall solicit input on potential new members from existing CRB members before making any appointment.

5. BOARD PROCEEDINGS

- (a) **Resource Panel.** The diocesan Chancellor, Victim Assistance Coordinator, Safe Environment Coordinator, Vicar for Clergy, Promoter of Justice, and/or the diocesan attorney, including varying combinations thereof, shall serve as a resource panel for the CRB. The panel may, from time to time, participate in the meetings of the CRB. Their presence shall be announced to any persons asked to come before the CRB and their role as non-voting members explained.
- (b) **Confidentiality and Ethics.** The information received by the Review Board, unless independently made public, is to be held as strictly confidential. The discussions that occur at meetings of the Review Board are confidential, except that they may be shared with the Bishop or his delegates at the request of the Bishop. Confidentiality is an essential element of service on the Review Board. See Chapter 6 for more information.
- (c) **Interactions with Alleged Victims/Accused Clerics.** No member of the Review Board will speak with or interact individually with an alleged victim or an accused cleric, except within the scope of the member's work with the Review Board.
- (d) **Recusal.** Members shall recuse themselves from a matter in accordance with the circumstances enumerated in canons 492 §3, 1298 & 1448.⁴ See Chapter 7 for more information.
- (e) **Clergy File Review.** Any time a case involving a cleric is referred to the CRB, a member of the CRB is selected by the CRB to review the personnel file. The file review is coordinated with the Chancellor and completed at the diocesan Chancery. Upon the completion of the file review, the CRB member authors a summary of the file's contents to the entire CRB. The summary is typically provided in preparation for a meeting to be held between the CRB and the clergy.

6. AREAS OF CONSULTATION: MEASURES

The CRB shall use the Diocesan Sexual Misconduct Policy as its guide and reference when responding to referrals it receives. In doing so, the CRB relies on the Chancery to ensure the policy is consistent with any revisions made to Church law (including normative procedures promulgated by the Holy See), the *Charter*, and other applicable resources. The CRB will, in turn, be asked to advise on the following areas:

- (a) **Fitness for Ministry.** Any minister entrusted with the sacred privilege of ministering in the name of the Catholic Church within the Diocese bears the responsibility of conducting

⁴ Can. 1448 §1 The judge is not to undertake the hearing of a case in which any personal interest may be involved by reason of consanguinity or affinity in any degree of the direct line and up to the fourth degree of the collateral line, or by reason of guardianship or tutelage, or of close acquaintanceship or marked hostility or possible financial profit or loss.

himself in accord with the Code of Conduct. When concerns over conduct are brought forward pastoral approaches to promote the minister's sense of personal responsibility for the inappropriate acts are provided to him. The pastoral approach may also involve clinical assessment and/or therapy in an effort to rehabilitate the minister. Drawing on the professional expertise of the CRB's membership, the CRB advises on the fitness of a minister for public ministry. Determinations are based on the information gathered in the personnel file and through its direct interaction made with the accused minister (See also 3(c)(iii) determination of suitability and 3(e) criteria for fitness).

(b) Cooperation with Law Enforcement. The Diocese of Sioux Falls cooperates with law enforcement regarding all allegations of sexual abuse of a minor. Before an allegation is referred to the Review Board, the diocesan attorney shall have referred the allegation to the appropriate local prosecutor and/or to the Attorney General of South Dakota; likewise, the Victim Assistance Coordinator encourages victims to report directly to law enforcement. Should law enforcement request the Diocese to defer an investigation of the allegation until the applicable law enforcement investigation is complete, the Diocese and its Clergy Review Board shall cooperate with such a request.⁵ The CRB advises on whether the full cooperation with law enforcement set forth in Diocesan policy has been carried out effectively and in a timely manner.

(c) Review of Investigative Findings. Before an allegation of sexual misconduct by Church personnel is referred to the CRB, the Diocese will appoint an investigator to investigate the allegation. If the allegation is more appropriately investigated by another diocese or religious order, the Diocese will coordinate with that diocese or religious order to ensure that the allegation is investigated. At the next scheduled meeting of the CRB, the diocesan attorney will update the CRB regarding any pending investigations. Upon completion of the investigation, the Diocese will refer the allegation, including the investigative report and supporting exhibits, to the CRB for its review. The CRB advises on the completeness of the investigative report.

(d) Provision for Preliminary Investigation. On rare occasions the CRB may be asked to advise on the credibility of an allegation that has been received by the Diocese. This consultation would be given before the results of a formal investigation are known and only when certain, specific conditions have both been met:

- (i) law enforcement has been notified of the allegation and determined that no further investigation would be made by it at that time, and
- (ii) the accused cleric has not been notified of the allegation.

The CRB would, in this rare scenario, be asked whether the allegation is credible (*see Sexual Misconduct by Clergy and Lay Ministers of the Church: Norms for Responding*,

⁵ Essential Norms, 11

Chapter III, Definitions). This provision is set forth in light of Article 5 of the *Charter for the Protection of Children and Young People*.

- 1) Should the CRB advise that the allegation is credible based on the information provided by the person making the allegation, an investigator shall be appointed in accord with the Norms for Reporting: Sexual Misconduct by Clergy and Lay Persons. At which point, the individual against whom the credible allegation has been made will be notified of the allegation and placed on a leave of absence pending the results of the resulting investigation.
- 2) Should the CRB advise that the allegation is not credible, the CRB shall advise the Bishop and, in turn, any individuals functioning in supervisory roles applicable to the situation, as to whether or not it is appropriate to inform the individual who has been accused. Protection of the reputation of the accused and protection of the reputation of any who brought the allegation, presuming it was made in good faith, shall be the principle considerations of the CRB when it makes its recommendation. See also 3(c)(i). in instances where criminal investigations by law enforcement did not resolve questions.

(e) Presumption of Innocence. “During the investigation the accused enjoys the presumption of innocence, and all appropriate steps shall be taken to protect his reputation. The accused will be encouraged to retain the assistance of civil and canonical counsel and will be promptly notified of the results of the investigation.”⁶ Thus, the CRB would be asked to advise on whether this presumption has been upheld during any investigations, Diocesan administration of concerns brought forward, and/or canonical proceedings that were decreed by the Bishop.

7. NORMATIVE PROCEDURES

Chair of the Review Board. The Review Board will select a Chair from among its members. The Chair presides at meetings and, in coordination with the diocesan chancellor, sets the agenda for the meetings. When the Chair is unavailable for a meeting, the Review Board will select another member to preside at that meeting. Where appropriate, the Chair serves as the public representative of the Review Board in the rare instance this would be needed. At least annually, the Chair will meet personally with the Bishop to report on recent activities of the Review Board.

Board Orientation. Before a CRB member attends his or her first board meeting, the board chair shall speak with the new board member to familiarize him or her with the responsibilities and tasks of the position. Specifically, the board chair shall inform the new board member of the process used by the CRB to assess allegations and the expectations of confidentiality. The new member shall also be provided with a copy of these Guidelines and the Diocesan Sexual Misconduct Policy. The bishop and/or his designate, at his discretion and in his determination, meets with new CRB members to acknowledge the importance of their service and the significance of their work in the life

⁶ Essential Norms, 6

of the diocese.

Confidentiality. The CRB is established as a confidential, consultative body. Each board member shall, at the beginning of his or her five-year term of service (and at the beginning of each renewed term thereafter, if applicable), shall sign a pledge to maintain confidence about CRB deliberations in the form set forth in Appendix A of these Guidelines. Confidentiality shall be maintained as to any third parties not a member or staff participant in the CRB. CRB members may discuss CRB matters among themselves outside the confines of a regular meeting, provided precautions are taken to guard against accidental disclosure of the information. The confidentiality obligations of each CRB member continue in perpetuity, even after the member is no longer serving on the CRB. (Appendix A)

Meeting Frequency and Quorum. The CRB meets at least once annually. A majority of the members constitute a quorum.

Decision-making process. The process of arriving at recommendations of the CRB shall be by consensus of the members. If consensus around a specific advisement to the bishop cannot be reached, by voice vote of the majority of board members serving, a mixed advisement shall be advanced to the bishop for his consideration.

Communication with the Media. As members of a confidential, consultative body, CRB members shall not speak to the media regarding CRB matters unless expressly authorized by the bishop. Generally, the Diocesan Director of Communications or, if specifically authorized, the board chair of the CRB, will be the media contact.

Role of Diocesan Staff. The bishop may designate certain members of the Diocesan staff to serve as liaisons to the CRB. Normally the purpose of such staff will be for purposes of scheduling meetings, preparing meeting agendas, and taking meeting minutes. Diocesan staff liaisons serve in a non-voting capacity on the CRB (see also 5(a), Resource Panel).

8. CONFLICTS OF INTEREST

- (a) CRB members have a duty to conduct themselves without conflict to the interests of the CRB. While acting in their capacity as board members, they must put the duties and responsibilities of the CRB ahead of their personal interests, individual business interests, and third-party interests, including those of the individual schools, organizations, and churches to which they belong.
- (b) A “conflict of interest” is a transaction or a relationship, which presents, or may present, a conflict between a CRB member’s obligations to the CRB, and the member’s personal, business, or other interests.
- (c) Each CRB member is responsible for disclosing any potential or actual conflict of interest during their tenure on the CRB.
- (d) Not all conflicts of interest are prohibited or harmful. However, CRB members

are required to make full disclosure of all actual and potential conflicts when they arise. Upon such disclosure, the disinterested CRB members will determine by majority vote whether a conflict exists and what subsequent action is appropriate, if any. The disinterested members will also determine whether a candid discussion and vote on a matter can occur in the interested member's presence. If not, the CRB board chair will ask the interested member(s) to excuse themselves from participating in the meeting during discussion and voting on the matter. The disclosure of the conflict (and member recusal, if applicable) shall be noted in the CRB meeting minutes.

- (e) The bishop may or may not attend CRB meetings. If the bishop attends and a majority of CRB members determine a candid discussion and vote on a matter cannot occur in the bishop's presence, the CRB board chair will ask the bishop to excuse himself from the meeting during the discussion and voting on that matter.

Adopted by the Clergy Review Board of the Diocese of Sioux Falls as appointed by the Bishop of Sioux Falls effective _____

Clergy Review Board Chair

Approved:

Most Rev. Donald E. DeGrood
Bishop of Sioux Falls



APPENDIX A
Clergy REVIEW BOARD
CODE OF ETHICS

The Code of Ethics and accompanying Agreement to adhere to it as follows:

1.1 Board members will not, at any time, display favoritism or preferential treatment of one case, case individual, or group of case individuals over any other, with the goal of impacting the result of such matter through favoritism or preferential treatment. Notwithstanding the forgoing, preference may be given to a particular case, case individual or group of case individuals, based on the significance of the facts surrounding the same. A case individual is defined as anyone directly or indirectly named in a case or anyone who has a material relationship with anyone directly or indirectly named in a case.

1.2 No member may maintain a relationship with a case individual that could, as determined by the Chairperson in his/her reasonable discretion, materially:

1.2.1 Conflict with the performance of the member's duties and responsibilities on the Board;
or,

1.2.2 Affect the member's independence or judgement.

1.3 Board members will not interact with any case individual except in a professional manner in accordance with the diocesan Safe Environment Policies, as the same may be amended from time to time.

1.4 Board members will never accept for themselves, any member of their family living in the same household as such member, or close associates, any personal (tangible or intangible) gifts, favors, or services from a case individual; from a member of a case individual's family living in the same household as such case individual; or close associate; no matter how trivial the gift or service may seem. No board member will give any gifts, favors, or services to case individuals, their family members living in the same household as such case individual, or close associates.

1.5 Board members will not knowingly enter into any direct business relationship with case individuals or their family members living in the same household as such case individual (i.e. selling, buying, or trading personal property) while such matter is pending before the Board.

1.6 No Board member will have outside contact (other than incidental contact) with a case individual, his/her family, or close associates while said case is under review, except for those activities which are an approved, integral part of the process of the Board.

1.7 Board members shall disclose any material relationship with case individuals to the Chairperson that would contravene the terms of this Agreement. The Chairperson shall determine, with reasonable discretion, if a personal conflict exists. If the Chairperson determines that a personal conflict does exist, the Chairperson shall notify such Board member. Upon receipt of such notification, the Board member must immediately remove him/herself from all further proceedings in a given case.

1.8 Board members will abstain from voting in any case, in which he/she has not heard or examined substantially all the evidence made available to all other Board members.

1.9 Subject to other Diocesan policies and applicable law, all information and documents received during the review of cases is confidential. Subject to other Diocesan policies and applicable law, case information will not be disclosed or repeated to non-members of the Board. Subject to other Diocesan policies and applicable law, all files, records and other documents containing confidential information shall be returned to the Chancellor upon the conclusion of the meeting.

1.10 Subject to other Diocesan policies and applicable law, the remarks of other Board members made during formal discussions or deliberations are confidential and shall not be repeated outside formal meetings unless permitted by the Bishop of Sioux Falls.

1.11 Subject to other Diocesan policies and applicable law, Board members shall not make any public statements or remarks concerning diocesan business without the permission of the Bishop of Sioux Falls.

1.12 The exercise of care and confidentiality will continue after members complete their term(s) on the Board.

1.13 Board members will not engage in any conduct which is criminal in nature or which would bring discredit upon the Diocese of Sioux Falls.

1.14 Board members will avoid misconduct, and/or the appearance of misconduct, which is morally reprehensible in accordance with the teaching of the Catholic Church and that would inhibit (or have the appearance of inhibiting) such member's ability to fully perform their obligations to the Board.

1.15 Board members are required to immediately report any violation of these restrictions to the Chairperson and to the Diocesan Chancellor. Any violation or attempted violation of this Code of Ethics Agreement may result in removal of such members from the Clergy Review Board.

Clergy Review Board members are bound by this Code of Ethics, and may not perform any of the prohibited actions directly or indirectly.

I, _____ ("Board member"), hereby acknowledge and accept the appointment to serve on the Clergy Review Board ("Board") of the Diocese of Sioux Falls ("Diocese"). I understand and am aware that my service as a Board member will be a matter of public record and shall be subject to and governed by the terms of this Agreement.

Review Board Member

Witness

Name: _____

Name: _____

Signature: _____

Signature: _____

Date: _____

Date: _____

*All copies of the signed Code of Ethics acknowledgment shall be kept on file at the
Chancery for the Diocese of Sioux Falls.
Office of the Chancellor
Rev. 03.16.2022*