

Diocese of Knoxville



POLICY AND PROCEDURES RELATING TO SEXUAL MISCONDUCT

To: The Christian Faithful of the Diocese of Knoxville

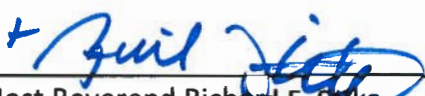
On May 5, 2006, the USCCB promulgated a revised Charter for the Protection of Children and Young People and revised Essential Norms for Diocesan/Eparchial Policies Dealing with Allegations of Sexual Abuse of Minors by Priests or Deacons. A second revision to this revised Charter was approved at the USCCB's June 2011 General meeting.

Consistent with the aforementioned USCCB revisions, the Diocese of Knoxville's Office of Child Protection has made some minor revisions to our *Policy and Procedures Relating to Sexual Misconduct for the Diocese of Knoxville (#07-01-17)*. With this letter, I accept these revisions and promulgate the enclosed Policy # 20.1 dated May 20, 2020.

I express my firm commitment to complying with Policy # 20.1 and implementing the required procedures. I further acknowledge that the Diocese of Knoxville provides safe environment training to the following individuals: priests, deacons, candidates for ordination, educators, diocesan employees, volunteers and children/youth. I approve of all of these training programs as being in accord with Catholic moral principles.

Additionally, I acknowledge that the Diocese of Knoxville requires all priests, deacons, candidates for ordination, educators, diocesan employees, and volunteers who work with (or are in proximity to) children or vulnerable adults, to undergo a criminal background check, to be repeated every 5 years and read and sign Policy # 20.1.

Promulgated By:


Most Reverend Richard F. Sika
Bishop of Knoxville

5/20/2020
Date

Attested By:


Deacon Sean K. Smith
Chancellor

5-20-2020
Date



STATEMENT OF POLICY

Any form of sexual misconduct is contrary to Christian principles. Such misconduct by those representing the Church in any capacity is outside the scope of that representation. The sexual abuse of children and young people is particularly grave, and in the words of Pope John Paul II, “by every standard wrong and rightly considered a crime by society; it is also an appalling sin in the eyes of God.” Pope Benedict XVI, too, in his address to the U.S. bishops in 2008 said of the clergy sexual abuse crisis, —It is your God-given responsibility as pastors to bind up the wounds caused by every breach of trust, to foster healing, to promote reconciliation and to reach out with loving concern to those so seriously wronged.

Reflecting the mission and example of Jesus Christ, this policy seeks, in particular, to provide for the safety and protection of children and young people in our church ministries and institutions, and indeed, to provide for the safety and protection of all members of the Church in general.¹ Accordingly, this Policy and Procedure has been updated to incorporate fully the *Charter for the Protection of Children and Young People* and corresponding *Essential Norms*² that were approved by the full body of U.S. Catholic Bishops at its June 2005 General Meeting, and received the subsequent *recognitio* by the Holy See on January 1, 2006.³ It also incorporates the second revisions to both the Charter and Norms that were approved at the June 2011 General Meeting of the U.S. Catholic Bishops.

Sexual misconduct as used in this policy refers to three related forms of misconduct: sexual abuse, sexual exploitation, and sexual harassment. All three are addressed because they have this in common: each involves an abuse of power or authority.

The Diocese of Knoxville recognizes that correcting wrongs is more important than safeguarding appearances; that care of the affected takes precedence over attempts to justify misconduct; and, that preventive education and careful research aimed at improving services to children and adults should be of equal importance with remedial and punitive treatment of offenders.

The Diocese of Knoxville and its subsidiary and affiliated organizations will maintain programs of screening, education and guidance aimed at preventing sexual misconduct by all those officially representing it.

The Diocese of Knoxville will have a competent assistance coordinator to aid in the immediate pastoral care of persons who claim to have been sexually abused as minors by clergy or other church personnel.⁴ The assistance coordinator will attend the meetings of the Review Board (see below).

¹ Cf. *Charter for the Protection of Children and Young People* [Charter] (Washington: United States Conference of Catholic Bishops, June 2005).

² *Essential Norms* [Norms] (Washington: United States Conference of Catholic Bishops, June, 2005).

³ *Essential Norms* [Norms] (Washington: United States Conference of Catholic Bishops, June, 2005).

⁴ Cf. Charter, art. 2 and Norms nn. 4, 5.

The Diocese of Knoxville will have a review board (of at least five persons of outstanding integrity and good judgment and in full communion with the Church) the majority of whose members will be lay persons not in the employ of the diocese. This board will assist the diocesan bishop in assessing allegations and fitness for ministry, and will regularly review diocesan policy and procedure for dealing with the sexual abuse of minors and other forms of sexual misconduct at least every two years. The board can act both retrospectively and prospectively on these matters and give advice on all aspects of responses required in connection with these cases.⁵

The members of the review board should represent a broad cross section of the Diocese in terms of both geography and expertise. At least one member will be a priest who is an experienced and respected pastor of the diocese, and at least one member should have particular expertise in the treatment of sexual abuse of minors. The term of appointment will be for five years, which can be renewed. All review board members will undergo a background check in accordance with Appendix F of this Policy, and will attend the Diocesan training program on CMG Connect Safe Haven. The Bishop may appoint one member of the review board to serve as Chair to coordinate meeting times and agendas, facilitate communications with board members, and assist in other administrative details.

A procedure for prompt response to alleged sexual misconduct by any of those officially representing it involving investigation, action, assistance to the affected, assistance to the accused, and assistance to the involved church community will likewise be in effect at all times. The diocese will develop a communications policy that reflects a commitment to appropriate transparency and openness. Within the confines of respect for the privacy and the reputation of the individuals involved, the diocese will deal as openly as possible with members of the community.⁶ This is especially so with regard to assisting and supporting parish communities directly affected by misconduct.

The Diocese of Knoxville obliges its clerics and religious, and likewise expects its employees, ministers and independent contractors, those of its parishes, its schools and service organizations of all kinds, and those who volunteer service to such subsidiary and affiliated organizations, to live chaste, moral and law-abiding lives.⁷ Sexual misconduct by clerics, religious, employees, ministers, regular independent contractors and volunteers abuses and discredits the pastoral nature of their positions.

⁵ Cf. Charter, art. 2 and Norms nn. 4, 5.

⁶ c. 220 “No one is permitted to damage unlawfully the good reputation which another person enjoys nor to violate the right of another person to protect his or her own privacy.” in *Code of Canon Law, Latin-English Edition* [CIC] (Washington: Canon Law Society of America, 1983). Cf. also Charter, art. 7.

⁷ CIC, c. 223, §1 “In exercising their rights the Christian faithful, both as individuals and when gathered in associations, must take account of the common good of the Church and of the rights of others as well as their own duties toward others.”

c. 277 §1. “Clerics are obliged to observe perfect and perpetual continence for the sake of the kingdom of heaven and therefore are obliged to observe celibacy, which is a special gift of God, by which sacred ministers can adhere more easily to Christ with an undivided heart and can more freely dedicate themselves to the service of God and humankind.” §2. “Clerics are to conduct themselves with due prudence in associating with persons whose company could endanger their obligation to observe continence or could cause scandal for the faithful.” §3. “The diocesan bishop has the competence to issue more specific norms concerning this matter and to pass judgment in particular cases concerning the observance of this obligation.”

c. 599 “The evangelical counsel of chastity assumed for the sake of the kingdom of heaven, as a sign of the future world and a source of more abundant fruitfulness in an undivided heart, entails the obligation of perfect continence in celibacy.”

All clerics, religious, employees, ministers, regular independent contractors and volunteers of the Diocese of Knoxville, its parishes, its schools and service organizations of all kinds must comply with applicable Church and civil laws regarding actual, alleged or suspected sexual misconduct. Cooperation with child protection agencies and the legal system is required. These requirements should not be interpreted to mandate or encourage violation of Church law recognizing the priest/penitent privilege and the seal of Confession.

The commitment of the Diocese of Knoxville is to the establishment and the maintenance of proper relationships between all those officially representing it, its members and others served, as the work of the Church throughout the Diocese is being performed.

The Diocese of Knoxville commits to work as one with our brother priests and deacons to foster reconciliation among all people in our diocese. We especially commit to work with those individuals who were themselves abused and the communities that have suffered because of the sexual abuse of minors that occurred in their midst.

The Diocese of Knoxville will not enter into confidentiality agreements except for grave and substantial reasons brought forward by a victim/survivor and noted in the text of the agreement.⁸

PROCEDURE

The following is the plan of action of the Diocese of Knoxville aimed at prevention of and response to sexual misconduct.

PREVENTION AND REPORTING

A. Present personnel, hiring personnel, accepting volunteers and supervision.

1. Each person holding a position with the Diocese at the time of the implementation of this policy which involves working with children or vulnerable adults or in proximity to either, i.e. clerics, religious, employees, ministers, regular independent contractors and volunteers, shall complete and sign a release enabling the Diocese to evaluate the person's background.⁹ Specifically, this evaluation will make use of the resources of law enforcement and other community agencies.¹⁰ These same personnel will complete and sign the applicant's certification (Appendix F). This will be retained in the person's file. Records of screening are required as otherwise provided herein. (D p. 5).

2. Each applicant for a position which includes working with children or vulnerable adults or in proximity to either shall be adequately screened by the hiring or appointing individual. Screening is to be done through references, verifying information provided by the applicant, and regular use of sources maintaining records of known abusers as described in the Appendix to this document. Each applicant for a position shall

⁸ Cf. Charter, art. 3.

⁹ The Diocese of Knoxville has retained an independent contractor to procure relevant information related to a person's background.

¹⁰ Cf. Charter, art. 13.

complete and sign the screening application, a release to conduct a background check (to be provided by the Diocese) and applicant's certification (Appendix F). The screening application in Appendix F will be retained in the person's file. Records of screening are required as otherwise provided herein. (D p. 5).

3. Each cleric, religious, employee, minister, regular independent contractor or volunteer who works with or near children or vulnerable adults shall be supervised in his/her dealings with children or vulnerable adults by the person in charge. Such supervision includes periodic observation of the person at work, periodic evaluation, and special attention to situations involving one-on-one contact with children or vulnerable adults. Any documentation related to supervision or evaluation should be kept in accord with the provisions of section D, p. 5.

B. Education.

1. Copies of this policy shall be distributed to those serving the Diocese as follows: To each cleric, pastoral administrator, superior of each religious congregation serving in the Diocese, seminarians and deacon aspirants of the Diocese, each teacher, each employee of the Diocese, each volunteer and to each parish, school, or other service organization. Each of the identified entities shall be responsible for distribution to regular independent contractors with which it deals.

2. Each parish, school or other service organization shall periodically, in keeping with standards of a safe environment, conduct meetings and/or initiate individual contacts at which this policy will be distributed and its significant requirements discussed. In particular, the reporting mechanism shall be disseminated and explained and the *pastoral code of conduct* should be reviewed and accepted (see Appendix G). In schools, such a meeting could occur in connection with a regularly scheduled meeting of teachers, a meeting of the officers of the parent-teacher association or a teacher in service. Social agencies and service organizations might conduct such a meeting for employees and volunteers in connection with a scheduled board meeting. With regard to all affected, yearly contract signings and annual reviews of salary and job performance afford appropriate opportunities for individual review of this policy. This policy may also be disseminated in summary form in organization newsletters and to the Diocese at large through the Diocesan newspaper.

3. All personnel and volunteers are to be aware of the causes and signs of sexual abuse, steps to be taken to protect children and vulnerable adults, and procedures to follow if abuse is suspected, observed or reported. Personnel and volunteers have an obligation to be knowledgeable about the foregoing. They are expected to be trustworthy and responsible, and in their dealings with children and vulnerable adults are charged with rendering pastoral service. They have duties recognized by canon and civil law about which they must be aware. To assist with these responsibilities, the Diocese has established *safe environment* programs as described in the *Charter*¹¹, and the Diocese will continually seek to incorporate the most useful developments in the field of child protection.

4. All personnel and volunteers are to read this document and to be familiar with its contents, especially obligations for reporting suspected child sexual abuse to civil and diocesan authorities, and the consequences of failure to report (Appendix B). The personnel file of each should contain a copy of a signed acknowledgement (Appendix H) that this requirement has been fulfilled. The hiring or appointing individual is responsible for obtaining the signed acknowledgement required herein and retaining it in the personnel file of the person.

¹¹ Cf. Charter, arts. 8 and 12. The Diocese of Knoxville has retained an independent contractor to provide its safe environment program.

C. Reporting.

1. Any cleric, religious, employee, minister, regular independent contractor or any volunteer of the Diocese of Knoxville or its subsidiary or affiliated organizations who has actual knowledge of or who has reasonable cause to suspect an incident of sexual misconduct, by any cleric, religious, employee, minister, independent contractor or volunteer, shall report such to his or her pastor, principal, or other superior immediately and shall comply with any applicable reporting or other requirements of state and local laws (unless to do so would violate the priest-penitent relationship). Likewise, the Diocese of Knoxville encourages such reporting by individual parishioners and the general public at large. Reporting to civil authorities as required by state law and this policy and internal reporting as required by this policy are of equal importance and urgency. An oral report shall be made to the victims assistance coordinator or the Vicar General in charge of investigating sexual misconduct immediately by a pastor, principal or other superior receiving a report or having actual knowledge of or having reasonable cause to suspect an incident of sexual misconduct and a written report shall be prepared and submitted to the victims assistance coordinator or the Vicar General in charge of investigating sexual misconduct by the person making an oral report within forty-eight (48) hours of the initial oral report. Upon becoming aware of an allegation of sexual misconduct, the Bishop or his designated representative shall immediately verify that civil reporting requirements have been fulfilled and require other appropriate reports. (Cf. *RESPONSE*, A. 1.)

2. Should the Bishop of the Diocese of Knoxville be accused of sexual misconduct, is obliged to inform the Apostolic Nuncio. The Chancellor of the Diocese of Knoxville shall notify the Archbishop of Louisville as to the nature and details of the accusation within twenty-four (24) hours of the time the accusation becomes known. The Chancellor shall also verify that civil reporting requirements have been complied with and require other appropriate reports.

3. If the accused is a cleric and/or religious, besides the procedures in this policy, other processes and requirements in canon law may be applicable and must be observed.¹²

D. Record keeping.

When personnel or volunteer status ceases or is terminated, the following documentation regarding the involved individual is to be maintained permanently: a summary of the initial screening procedures used, including the signed screening application, certification and acknowledgement, a description of the nature of the individual's duties as they related to work with children or vulnerable adults, any documentation of on-going supervision and appropriate evaluations, and the dates of involvement and severance. If an allegation or suspicion of sexual misconduct occurs at any time, legal advice shall be obtained through the Diocesan attorney regarding the disposition of the required records.

¹²In the event that the accused is a cleric, and the offense is a delict for which dismissal from the clerical state might be appropriate, canonical norms should be followed. Cf. *Canonical Delicts Involving Sexual Misconduct and Dismissal from the Clerical State* [Delicts], United States Conference of Catholic Bishops (Washington:1993); and John Paul II, Apostolic Letter, motu proprio, *Sacramentorum sanctitatis tutela* [Sacramentorum], April 30, 2001; and Congregation for the Doctrine of the Faith, letter accompanying the motu proprio, *Ad exsequendam legem*, May 18, 2001.

E. Resources.

The Diocese will maintain a listing of experts within the Diocese who are trained and qualified to deal with the assessment and evaluation of claims of sexual misconduct and who are willing to serve as advisers to the Diocese as hereinafter provided. Such a list might include educators, psychologists, psychiatrists, medical doctors, social workers, clergy and/or religious and lawyers or other members of the legal system.

F. Review.

The Diocese shall periodically review this policy and procedure and amend it as needed. Review shall occur no less frequently than every two years. Amendments will be distributed in accord with sub-section B. above. Amendments will require continuing compliance with Section B. Education.

RESPONSE

Recognized forms of sexual misconduct are sexual abuse, sexual exploitation and sexual harassment. Response to the different forms of sexual misconduct is necessarily different. In the event that the accused is a cleric, and the offense is a delict for which dismissal from the clerical state might be appropriate, canonical norms should be followed.¹³

A. Initial Investigation.

1. When an allegation of sexual abuse of a minor or vulnerable adult is received, a preliminary investigation in accordance with canon law will be initiated and conducted promptly and objectively (Canon 1717). The Diocese of Knoxville will comply with all applicable civil laws with respect to the reporting of allegations of sexual abuse of minors to civil authorities and will cooperate in their investigation. In every instance, the Diocese of Knoxville will advise and support a person's right to make a report to public authorities.

During the investigation, the accused enjoys the presumption of innocence, and all appropriate steps shall be taken to protect his/her 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. This investigation shall include (if possible) interviews of the principals involved and a report of the product of the investigation in writing to the Bishop or his designated representative within a reasonable amount of time. The provided for investigation by the Diocese in situations which might ultimately involve criminal prosecution should be conducted in cooperation with the civil authorities.

2. In the event that the Bishop receives a report directly from a person admitting to sexual misconduct, the initial investigation may prove to be superfluous.¹⁴

¹³ Cf. Delicts; Sacramentorum; Norms.

¹⁴ Ibid.

B. Sexual Abuse.

*Sexual abuse of a minor or vulnerable adult includes sexual molestation or sexual exploitation of a minor or vulnerable adult and other behavior by which an adult uses a minor or vulnerable adult as an object of sexual gratification. Sexual abuse has been defined by different civil authorities in various ways, and this policy does not adopt any particular definition 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. Thus, the norm to be considered in assessing an allegation of sexual abuse of a minor or vulnerable adult is whether conduct or interaction with a minor or vulnerable adult qualifies as an external, objectively grave violation of the sixth commandment. The offense against the sixth commandment of the Decalogue 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.¹⁵ For purposes of this Policy, the offense of sexual abuse of a minor will be understood in accord with the provisions of *Sacramentorum sanctitatis tutela* (SST), article 6, which reads:*

§1. The more grave delicts against morals which are reserved to the Congregation for the Doctrine of the Faith are:

1^o the delict against the sixth commandment of the Decalogue committed by a cleric with a minor below the age of eighteen years; in this case, a person who habitually lacks the use of reason is to be considered equivalent to a minor.

2^o the acquisition, possession, or distribution by a cleric of pornographic images of minors under the age of eighteen, for purposes of sexual gratification, by whatever means or using whatever technology;

§2. A cleric who commits the delicts mentioned above in §1 is to be punished according to the gravity of his crime, not excluding dismissal or deposition.

1. Response team. After initial investigation, if there is sufficient evidence to conclude that an allegation does not involve sexual abuse, a report of the product of the initial investigation shall be made at the next regular meeting of the review board. After initial investigation if there is sufficient evidence to conclude that sexual abuse has occurred, the Bishop shall apply the precautionary measures mentioned in canon 1722, i.e., withdraw the accused from exercising the sacred ministry or from any ecclesiastical office or function, impose or prohibit residence in a given place or territory, and prohibit public participation in the Most Holy Eucharist pending the outcome of the process.¹⁶ The review board shall be made aware of the situation, and the Bishop or his designated representative will immediately appoint a response team consisting of a priest, and one or more other team members, who might be drawn from the following professional backgrounds: a mental health professional, a physician, and a lawyer or other member of the legal system. These team members might be selected from the membership of the Diocesan Review Board¹⁷ or other qualified experts as to sexual misconduct provided for in sub-section E. in the section on Prevention and Reporting. The coordinator of the team is the priest member, unless the Bishop or his designated representative determines otherwise in a specific case. The Bishop or his designated representative will request an update on findings and opinions from the response team as to whether there is sufficient evidence to believe that an act of sexual abuse has occurred and

¹⁵ This is the definition of sexual abuse noted in the *Charter*.

¹⁶ It is noted that these precautionary measures apply primarily to those cases involving clerics. In those cases involving lay persons, similar precautions must be applied that are in accordance with canon law.

¹⁷ Cf. Charter, art. 2.

whether there is sufficient evidence to believe the accused committed the alleged act or acts of sexual abuse and the recommendation of the response team within a specific period of time after appointment, but no more than ten (10) days from appointment of the team. The Bishop will ensure that the review board receives the findings and opinions of the response team and seek the advice of the review board on assessing the allegations. The Bishop shall then determine the probable nature of the offense and issue a decree closing the preliminary investigation. If it is determined that a delict was committed, and the accused is a cleric, the Congregation for the Doctrine of the Faith shall be notified. If it has not already occurred, the Bishop shall see to it that diocesan legal counsel, the diocesan finance officer, and the diocesan insurance provider are appropriately notified.

Depending upon the nature of the complaint, the accused may be suspended immediately by the Bishop or his representative from any ministry in the Diocese while the investigation is in process.

The person making the allegation ordinarily will be required to meet with the response team. Formal allegations must be reduced to writing and signed by the alleged victim, or the person making the allegation if it is not the alleged victim.

If written allegations are obtained, the response team will then meet with the accused to present the accusations. The accused will be required to respond to the allegations and the alleged victim or other accuser may be present for this meeting at the discretion of the response team.

2. Reporting. The Bishop or his designated representative will also verify that all reporting requirements of state law have been complied with as described in sub-section C. of the section on Prevention and Reporting. In every instance, when possible, the Bishop will see to it that alleged victims are advised of their right to make a report to public authorities and will support this right.¹⁸

3. Response to the victim. When sexual abuse is suspected, the victim and the victim's family often experience shock, anger and other troubling emotions. When possible, the Bishop, his representative, and/or the assistance coordinator will reach out to victims/survivors and their families and demonstrate a sincere commitment to their spiritual and emotional well-being, seeking healing and reconciliation.¹⁹ Keeping in mind the duty to cooperate with civil authorities and to avoid interaction with principals if such would or might diminish the possibility of successful prosecution of criminal conduct, the initial investigator shall immediately arrange to meet with the victim, or as is more likely, his/her parents or guardian, to offer assurance of the concern of the Diocese and its commitment to hear and respond in an appropriate way to accusations, to explain the process following the initial contact and to gather information.

If appropriate, the Bishop, his designated representative, and/or the assistance coordinator shall arrange with the victim and the victim's family, by mutual agreement, for counseling services to be provided by Catholic Charities of East Tennessee, Inc. or some other qualified agency, counselor, therapist or support group. The expense of such counseling may be paid for by the Diocese at the discretion of the Bishop.

It is recognized that the ability to respond to the alleged victim might be influenced at times by the person's wish for anonymity, by the desire of the alleged victim's family to limit access to the alleged victim, or some other such circumstance.

¹⁸ Cf. Charter, art. 4 and Norms, n. 11.

¹⁹ Cf. Charter, art. 1.

4. Response to the accused. If the Bishop determines that the allegation is deemed not substantiated, he concludes the investigation, notifies the accused and, when necessary, takes every step possible to restore his good name, should it have been harmed. In an instance in which there is sufficient evidence to substantiate allegations of sexual abuse, the Bishop shall issue a decree according to canons 50 and 51 whereby he shall decide according to canons 1718 and 1719 whether a penal process should be set in motion. In the instance that the accused is a cleric, the applicable *Essential Norms*²⁰ and other canonical norms shall be followed, and specifically, when even a single act of sexual abuse by a priest or deacon is admitted or is established after an appropriate process in accord with canon law, the offending priest or deacon will be removed permanently from ecclesiastical ministry, not excluding dismissal from the clerical state, if the case so warrants.

The alleged offender should be encouraged to retain the assistance of his or her own legal counsel as such will not be provided by the Diocese. Neither the Bishop nor any priest who may be involved in investigation or resolution should hear the confession of the accused or other persons who may be involved. If the Bishop, with the advice of the review board, determines that sexual abuse occurred, the alleged offender's employment or volunteer status shall be terminated immediately. If the accused is a cleric, the Diocese shall see that the accused is provided with proper canonical counsel, and shall see that canonical norms are followed. As appropriate, the Bishop will seek the advice of the review board on fitness for ministry.

5. Response to the local church community. Members of a parish or other church community touched by an accusation of sexual abuse will suffer shock, anger and other troubling emotions. To assist the local community in such a situation, the Bishop or his designated representative will coordinate pastoral outreach, briefing sessions to address the disturbance within the community and will provide education and resource persons for further follow-up. Special diligence should be applied to providing information to a local church community involved in an accusation of sexual abuse. In this instance, the right of a victim to maximum privacy should be guarded and the right of the accused to a good reputation and a fair trial should be protected.

6. Public Response. The Bishop or his designated representative will be in charge of public communications. Such communications shall be forthright but subject to requirements of confidentiality, privacy, and advice of legal counsel. Diocesan personnel, other than the Bishop or his designated representative, are not to participate in public communications of any nature regarding an accusation of sexual abuse. The right of the public to know information of a general nature is acknowledged. The right of a victim to maximum privacy should be guarded, the right of an accused to a good reputation and to a fair trial should be protected and the right of the state to initiate legal proceedings is recognized.

7. Transfers From The Diocese. No priest or deacon who has committed an act of sexual abuse of a minor may be temporarily or permanently transferred (released or incardinated) for ministerial assignment to another diocese/eparchy or religious province. Before a priest or deacon of the Diocese of Knoxville may be transferred for residence to another diocese/eparchy or religious province, the Bishop will forward in a confidential manner to the local bishop/eparch and religious ordinary (if applicable) of the proposed place of residence any and all information concerning any act of sexual abuse of a minor and any other information indicating that he has been or may be a danger to children or young people. This requirement applies even if the priest or deacon will reside in the local community of an institute of consecrated life or society of apostolic life (or, in the Eastern Churches, as a monk or other religious, in a society of common life according to the

²⁰ Cf. esp. Norms 6 and 9

manner of religious, in a secular institute or in another form of consecrated life or society of apostolic life.)
Note: Before the Bishop of the Diocese of Knoxville receives a priest or deacon from outside his jurisdiction, the Bishop will obtain the necessary information regarding any past act of sexual abuse of a minor by the priest or deacon in question. The Bishop of the Diocese of Knoxville must receive a signed, officially sealed “Letter of Good Standing” from the bishop/eparch and religious ordinary (if applicable) of the diocese/eparchy where a priest or deacon is coming from before he would be granted faculties to serve in the Diocese of Knoxville.

C. Sexual Exploitation of an Adult.

Sexual exploitation of an adult includes any kind of immoral sexual interaction between personnel or a volunteer functioning for the Diocese and an adult who is receiving pastoral assistance or care from such personnel or volunteer, whether initiated by one or the other.

1. Violation of trust. Sexual exploitation occurs when the trust vested by the victim in personnel or a volunteer is used by that person in sexual interaction with the victim, no matter how willing the victim may appear to be.

2. Accused. If an initial investigation²¹ indicates that sexual exploitation has occurred, the Bishop or his designated representative will immediately communicate with the accused by written notice of the allegation.

3. Admission. If, thereafter, there is an admission of sexual exploitation by the accused, such admission should be in writing and a copy should become a permanent part of the personnel file of the accused as provided in sub-section D. of the section on Prevention and Reporting. The accused will be suspended immediately from any present involvement in any ministry in the Diocese. The immediate superior of the person involved will be directed by the Bishop to place the person on leave of absence pending final resolution of the matter.

4. Denial/Response team. If the accused denies sexual exploitation or fails to respond to an allegation within forty-eight (48) hours after receipt of notice of the allegation, the Bishop or his designated representative will appoint a response team of two (2) to five (5) persons from the membership of the review board and/or the listing of experts provided for in sub-section E. of the section on Prevention and Reporting. The coordinator of the team shall be specified by the Bishop or his designated representative. The Bishop or his designated representative will request an update on the findings and opinions as to whether there is sufficient evidence to believe that an act of sexual exploitation has occurred and whether there is sufficient evidence to believe the accused committed the act or acts of sexual exploitation and the recommendation of the response team within a specific period of time after appointment, but no more than ten (10) days from the appointment of the team. The Bishop will ensure the review board is informed of the findings and opinions of the response team.

Depending upon the nature of the complaint, the accused may be suspended immediately by the Bishop or his representative from any ministry in the Diocese while the investigation is in process.

The person making the allegation ordinarily will be required to meet with the response team. Formal allegations must be reduced to writing and signed by the alleged victim, or the person making the allegation if it

²¹ If the circumstances described in canon 1395.1 are met, the Bishop shall see that the applicable norms of c. 1717ff. are followed.

is not the alleged victim.

If written allegations are obtained, the response team will then meet with the accused to present the accusations. The accused will be required to respond to the allegations and the alleged victim or other accuser may be present for this meeting at the discretion of the response team.

After meeting with the parties, the response team shall make findings, opinions and recommendations to the Bishop or his designated representative as above described.

If by finding of sufficient evidence allegations of sexual exploitation are substantiated, the Bishop will direct the accused person's supervisor to place the person on leave of absence from any present involvement in any ministry in the Diocese pending final resolution of the matter.

If the response team does not find sufficient evidence to believe that sexual exploitation has occurred or to believe that the accused committed the act or acts alleged, it shall so state in a written report signed by the team. Such a report shall be retained in accord with sub-section D. of the section above on Prevention and Reporting.

5. Response to the alleged victim. When sexual exploitation is alleged, the initial investigator and/or the assistance coordinator must immediately arrange to meet with the alleged victim to offer assurance of the concern of the Diocese and its commitment to hear and respond in an appropriate way to the accusations, to explain the process following the initial contact and to gather information. Whether the initial investigator should have contact with the alleged victim's family is within the discretion of the initial investigator, taking into account the wishes of the alleged victim and the right of privacy.

If appropriate, the Bishop, his designated representative, or the assistance coordinator shall arrange with the alleged victim and the alleged victim's family, by mutual agreement, for counseling services, if appropriate, to be provided by Catholic Charities of East Tennessee, Inc. or some other qualified agency, counselor, therapist or support group. The expense of such counseling may be paid for by the Diocese at the discretion of the Bishop.

6. Response to the accused. An accused, when sexual exploitation is alleged, should be informed that he or she may obtain his or her own legal counsel as such will not be provided by the Diocese. Neither the Bishop nor any priest who may be involved in investigation or resolution should hear the confession of the accused or other persons who may be involved.

Psychiatric/psychological evaluation by a facility or counselor approved by the Diocese may be required before consideration is given to future ministry in the Diocese. An accused may be required to bear the expense of such an evaluation.

Decisions regarding continued compensation for an accused will be made appropriate to each situation.

Only with permission of the Bishop may a person guilty of sexual exploitation of an adult be returned to future ministry in the Diocese. When an accused is permitted to return to active ministry, conditions to be followed will be set out in writing. Such conditions may include but are not limited to supervision, professional counseling, spiritual direction, penance, participation in support groups and any other form of rehabilitative activity considered appropriate under the circumstances.

7. **Public Response.** The Bishop or his designated representative will determine whether public response is warranted considering the facts of each separate case of sexual exploitation. The Bishop and his designated representative will be in charge of public communications. Diocesan personnel or volunteers, other than the Bishop and his designated representative, are not to participate in public communications of any nature regarding an accusation of sexual exploitation. Such communication, if any, shall be forthright but subject to requirements of confidentiality, privacy and advice of counsel. The privacy of a victim shall be honored, but the rights of the accused shall not be ignored. The right of the public in certain situations to know information of general nature is acknowledged. The right of a victim to maximum privacy should be guarded, the right of an accused to a fair trial and a good reputation should be protected and the right of the state to initiate legal proceedings is recognized.

D. **Sexual Harassment.**

Sexual Harassment includes the continuing unwanted sexual advances by personnel or a volunteer for the Diocese in the context of Diocesan service.

1. **Definition.** Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature. This conduct constitutes prohibited sexual harassment when (1) submission to such conduct is either explicitly or implicitly made a term or condition of an individual's employment; (2) submission to or rejection of such conduct is used as the basis for an employment decision; or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment. Where sexual harassment usually involves members of the opposite sex, it also includes "same sex harassment" (i.e. males harassing males or females harassing females *because* of the victim's sex).

2. **Examples.** Sexual harassment does not refer to behavior or occasional compliments of a socially acceptable nature. It refers to behavior that is not welcome, that makes one feel uncomfortable, that is embarrassing, humiliating, or personally offensive, that fails to respect the rights of others. One specific form is the demand for sexual favors. Sexual harassment can also include sexual innuendoes, suggestive comments, jokes of a sexual nature, sexual propositions, threats, offensive or obscene language, sexually suggestive objects, graffiti, cartoons, calendars, suggestive or insulting sounds, stalking, staring, making obscene gestures and unwanted or unwelcome physical contact.

3. **Unwanted Conduct/Reporting.** Victims of said harassment are encouraged, and in fact, have the responsibility to bring any form of sexual harassment to the immediate attention of one of the following individuals: the employee's supervisor, the employee's supervisor's immediate supervisor, the Pastor or Principal (where applicable), or the Diocesan Chancellor, who is the Bishop's designated representative to receive such reports. It is recommended that the victim make the accused aware that his/her conduct is unwanted or unwelcome, but that is not a requirement. Moreover, the victim does not have to complain first to the offending person before using this complaint procedure. The report should be in writing and specifically describe the acts of harassment, including the name of individual being charged, the identity of any witnesses, the time and location of the harassment, and the nature of the working relationship between the complainant and the alleged offender. If the victim is uncomfortable submitting a written report, the complaint will nevertheless be investigated.

4. Reports and Response. Upon receipt of a complaint, the individual receiving the complaint shall immediately make a report to the Bishop according to the terms of sub-section C. of the section on Prevention and Reporting.

Upon receipt of such a report, the Bishop, depending upon the facts of each such case, will require a prompt investigation by an individual with prior experience or training to conduct such an investigation. Such an investigation will be confidential to the extent practical and appropriate under the circumstances. Such an investigation will consist of interviews with the complaining party, the accused and any witnesses and a review of any relevant documents. The investigator will summarize his or her findings in a written report to the Bishop within the time required by the Bishop. The Bishop will share this report with the review board.

If there is sufficient evidence to believe that sexual harassment occurred as reported, the Diocese will take a prompt remedial action designed to see that the harassment ceases. The accused will be subject to appropriate disciplinary measures including, but not limited to, a verbal warning, a written warning, counseling, probation, suspension, demotion and/or termination depending upon the severity of the harassing conduct. A written record of any such disciplinary measure shall be included in the personnel records of the accused in accord with the terms of sub-section D. of the section on Prevention and Reporting.

In situations involving a finding of sufficient evidence, the Bishop or his designated representative may provide appropriate counseling to the victim by a duly qualified counselor approved by the Diocese. Public communications, if any, shall be the prerogative of the Bishop or his designated representative. The rights of the victim and the accused to privacy and a good reputation will be respected.

If investigation reveals that sexual harassment did not occur, such a finding will be disclosed to the complaining party and the accused and a written report of alleged harassment will not become a part of either employee's personnel file. If after investigation it cannot be determined whether sexual harassment occurred, such a finding will be communicated to the complaining party and the accused and such report shall be included in the personnel files of both parties.

Allegations of sexual harassment by a volunteer will be processed and dealt with according to rules established as to personnel.

APPENDIX A

1. DEFINITIONS. As used in this document, the following terms have the stated meaning:

A. Adult—A person who is eighteen years of age or older, whether impaired (lacks the use of reason) or unimpaired.

B. Minor—A person who is under eighteen years of age. The word child is used as a synonym for minor herein.

C. Cleric—A man who has been ordained for the service of the Diocese and who remains incardinated therein, or an ordained minister who has received an official assignment in the diocese from the Bishop, or an ordained minister who has been permitted to periodically exercise his ministry on behalf of the Diocese by the Bishop.

D. Delict—(canonical term) an ecclesial offense which warrants a penalty.

E. Diocese of Knoxville—The Bishop and his representatives, all parishes within the Diocese, and all subsidiary and affiliated or approved organizations including, but not limited to schools, social agencies, and other Diocesan organizations.

F. Employee—Anyone paid a wage or a salary by the Diocese, a parish or other subsidiary or affiliated organization of the Diocese.

G. Independent Contractor—A person engaged to accomplish a specific result without direction from the other party to the contract as to the methods used to accomplish the result. When the term independent contractor is used herein, it contemplates those independent contractors with the Diocese who undertake pastoral service or who perform their work in the proximity of minors and/or vulnerable adults *on a regular basis*.

H. Minister—Refers to a member of a religious institute or any lay person appointed by the Bishop or by the Pastor of a parish to serve the religious needs of others; such persons may be catechists, pastoral assistants, youth ministers, family ministers, music ministers, or others serving by appointment.

I. Pastoral Service—Rendering care and assistance as a representative of the Diocese.

J. Personnel—Those officially representing the Diocese including clerics, religious, employees, ministers and independent contractors.

K. Religious—A member of an Institute of Consecrated Life or a Society of Apostolic Life.

L. Service Organizations—Subsidiary and affiliated organizations of the Diocese such as schools, social agencies, scout troops, youth groups, athletic teams, etc.

M. Sexual Abuse—Sexual abuse of a minor or vulnerable adult includes sexual molestation or sexual exploitation of a minor or vulnerable adult and other behavior by which an adult uses a minor or vulnerable adult as an object of sexual gratification. Sexual abuse has been defined by different civil authorities in various ways, and this policy does not adopt any particular definition 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. Thus, the norm to be considered in assessing an allegation of sexual abuse of a minor or vulnerable adult is whether conduct or interaction with a minor or vulnerable adult qualifies as an external, objectively grave violation of the sixth commandment. The offense against the sixth commandment of the Decalogue 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. For purposes of this *Policy*, the offense of sexual abuse of a minor will be understood in accord with the provisions of *Sacramentorum sanctitatis tutela* (SST), article 6, which reads:

§1. The more grave delicts against morals which are reserved to the Congregation for the Doctrine of the Faith are:

1° the delict against the sixth commandment of the Decalogue committed by a cleric with a minor below the age of eighteen years; in this case, a person who habitually lacks the use of reason is to be considered equivalent to a minor.

2° the acquisition, possession, or distribution by a cleric of pornographic images of minors under the age of eighteen, for purposes of sexual gratification, by whatever means or using whatever technology;

§2. A cleric who commits the delicts mentioned above in §1 is to be punished according to the gravity of his crime, not excluding dismissal or deposition.

N. Sexual Exploitation—Any kind of immoral sexual interaction between personnel or a regular volunteer functioning for the Diocese and an adult who is receiving pastoral assistance or care from such personnel or volunteer, whether initiated by one or the other.

O. Sexual Harassment—Continuing unwanted sexual advances by personnel or a regular volunteer functioning for the Diocese in the context of Diocesan service.

P. Sexual Misconduct—Any form of sexual conduct of Diocesan personnel or regular volunteers while performing the work of the Diocese which is unlawful or contrary to moral instruction, doctrines and canon law of the Roman Catholic Church. Recognized forms of sexual misconduct are sexual abuse, sexual exploitation, and sexual harassment.

Q. Sufficient Evidence—An admission, or the existence of such facts and circumstances as would cause a cautious, prudent and reasonable mind to believe that an accusation is likely to be true, realistic or probable.

R. Supervision—Observation and direction by a superior as required in this Statement of Policy.

S. TCA—*Tennessee Code Annotated*

T. Victim—The person who is the object of some form of sexual misconduct.

U. Volunteer—A person other than personnel who will have contact with children or vulnerable adults with the approval of the Bishop, a pastor or another person exercising authority. Included within this category of volunteers are catechists, scout leaders, coaches, youth ministers, coordinators, interns, students, teachers, chaperones, drivers and others in similar capacities.

V. Vulnerable Adult—A person eighteen (18) years of age or older who is impaired by reason of physical, mental or emotional handicap and who is unable or unlikely to report sexual misconduct without assistance.

APPENDIX B

1. APPLICABLE STATE LAWS *

(A) 37-1-601. Prevention of child sexual abuse deemed priority of state -- Comprehensive approach -- Purpose and construction of part.

(a) The incidence of child sexual abuse has a tremendous impact on the victimized child, siblings, family structure, and inevitably on all citizens of this state, and has caused the general assembly to determine that the prevention of child sexual abuse shall be a priority of this state. To further this end, it is the intent of the general assembly that a comprehensive approach for the detection, intervention, prevention and treatment of child sexual abuse be developed for the state and that this planned, comprehensive approach be used as a basis for funding.

(b) The purpose of this part shall be the same as that of part 4 of this chapter, and, except as may be expressly herein provided, the provisions of this part shall not be construed as repealing any provisions of part 4 of this chapter or of any other statute, but shall be supplementary thereto and cumulative thereof.

(B) "Child sexual abuse" also means the commission of any act involving the unlawful sexual abuse, molestation, fondling or carnal knowledge of a child under thirteen (13) years of age that on or after November 1, 1989, constituted the criminal offense of:

- (i) Aggravated rape under § 39-13-502;
- (ii) Aggravated sexual battery under § 39-13-504;
- (iii) Aggravated sexual exploitation of a minor under § 39-17-1004;
- (iv) Criminal attempt as provided in § 39-12-101 for any of the offenses in (a)(3)(B)(i)-(iii);
- (v) Especially aggravated sexual exploitation of a minor under § 39-17-1005;
- (vi) Incest under § 39-15-302;
- (vii) Rape under § 39-13-503;
- (viii) Sexual battery under § 39-13-505; or
- (ix) Sexual exploitation of a minor under § 39-17-1003;

(C) "Child sexual abuse" also means one (1) or more of the following acts:

(i) Any penetration, however slight, of the vagina or anal opening of one (1) person by the penis of another person, whether or not there is the emission of semen;

(ii) Any contact between the genitals or anal opening of one (1) person and the mouth or tongue of another person;

(iii) Any intrusion by one (1) person into the genitals or anal opening of another person, including the use of any object for this purpose, except that it shall not include acts intended for a valid medical purpose;

(iv) The intentional touching of the genitals or intimate parts, including the breasts, genital area, groin, inner thighs, and buttocks, or the clothing covering them, of either the child or the perpetrator, except that it shall not include:

(a) Acts that may reasonably be construed to be normal caretaker responsibilities, interactions with, or affection for a child; or

(b) Acts intended for a valid medical purpose;

(v) The intentional exposure of the perpetrator's genitals in the presence of a child, or any other sexual act intentionally perpetrated in the presence of a child, if such exposure or sexual act is for the purpose of sexual arousal or gratification, aggression, degradation, or other similar purpose;

(vi) The sexual exploitation of a child, which includes allowing, encouraging, or forcing a child to:

(a) Solicit for or engage in prostitution; or

(b) Engage in an act prohibited by § 39-17-1003; and

(D) For the purposes of the reporting, investigation, and treatment provisions of §§ 37-1-603 -- 37-1-615 "child sexual abuse" also means the commission of any act specified in subdivisions (a)(3)(A)-(C) against a child thirteen (13) years of age through seventeen (17) years of age if such act is committed against the child by a parent, guardian, relative, person residing in the child's home, or other person responsible for the care and custody of the child;

(4) "Department" means the department of children's services;

(5) "Guardian ad litem" means a responsible adult who is appointed by the court to represent the best interests of a child in a proceeding as provided for by law, who shall be a party to any judicial proceeding as a representative of the child, and who shall serve until discharged by the court;

(6) "Institutional child sexual abuse" means situations of known or suspected child sexual abuse in which the person allegedly perpetrating the child sexual abuse is an employee of a public or private child care agency, public or private school, or any other person responsible for the child's care;

(7) "Mental injury" means an injury to the intellectual or psychological capacity of a child as evidenced by a discernible 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; and

(8) "Other person responsible for a child's care or welfare" includes, but is not limited to, the child's legal guardian, legal custodian, or foster parent; an employee of a public or private child care agency, public or private school; or any other person legally responsible for the child's welfare in a residential setting.

(b) Harm to a child's health or welfare can occur when the parent or other person responsible for the child's welfare:

(1) Commits, or allows to be committed, child sexual abuse as defined in subdivisions (a)(3)(A)-(C); or

(2) Exploits a child under eighteen (18) years of age, or allows such child to be exploited, as provided in §§ 39-17-1003 -- 39-17-1005.

37-1-605. Reports of known or suspected child sexual abuse -- Investigations -- Notification to parents of abuse on school grounds or while under school supervision -- Confidentiality of records.

(a) Any person including, but not limited to, any:

(1) Physician, osteopathic physician, medical examiner, chiropractor, nurse or hospital personnel engaged in the admission, examination, care or treatment of persons;

(2) Health or mental health professional other than one listed in subdivision (1);

(3) Practitioner who relies solely on spiritual means for healing;

(4) School teacher or other school official or personnel;

(5) Judge of any court of the state;

(6) Social worker, day care center worker, or other professional child care, foster care, residential or institutional worker;

(7) Law enforcement officer; or

(8) Neighbor, relative, friend or any other person who knows or has reasonable cause to suspect that a child has been sexually abused; shall report such knowledge or suspicion to the department in the manner prescribed in subsection (b).

(b) (1) Each report of known or suspected child sexual abuse pursuant to this section shall be made immediately to the local office of the department responsible for the investigation of reports made pursuant to this section or to the judge having juvenile jurisdiction or to the office of the sheriff or the chief law enforcement official of the municipality where the child resides. Each report of known or suspected child sexual abuse occurring in a facility licensed by the department of mental health, as defined in § 33-2-403, or any hospital, shall also be made to the local law enforcement agency in the jurisdiction where such offense occurred. In addition to those procedures provided by this part, the provisions of § 37-1-405 shall also apply to all cases reported hereunder.

(2) If a law enforcement official or judge becomes aware of known or suspected child sexual abuse, (not applicable to this document)

(3) Reports involving known or suspected institutional child sexual abuse shall be

made and received in the same manner as all other reports made pursuant to this section.

(c) Any person required to report or investigate cases of suspected child sexual abuse who has reasonable cause to suspect that a child died as a result of child sexual abuse shall report such suspicion to the appropriate medical examiner. The medical examiner shall accept the report for investigation and shall report the medical examiner's findings, in writing, to the local law enforcement agency, the appropriate district attorney general, and the department. Autopsy reports maintained by the medical examiner shall not be subject to the confidentiality requirements provided for in § 37-1-612.

(d) (1) Notwithstanding § 37-5-107 or § 37-1-612 or any other law to the contrary, if a school teacher, school official or any other school personnel has knowledge or reasonable cause to suspect that a child who attends such school may be a victim of child abuse or child sexual abuse sufficient to require reporting pursuant to this section and that the abuse occurred on school grounds or while the child was under the supervision or care of the school, then the principal or other person designated by the school shall verbally notify the parent or legal guardian of the child that a report pursuant to this section has been made and shall provide other information relevant to the future well-being of the child while under the supervision or care of the school. The verbal notice shall be made in coordination with the department of children's services to the parent or legal guardian within twenty-four (24) hours from the time the school, school teacher, school official or other school personnel reports the abuse to the department of children's services; provided, that in no event may the notice be later than twenty-four (24) hours from the time the report was made. The notice shall not be given to any parent or legal guardian if there is reasonable cause to believe that the parent or legal guardian may be the perpetrator or in any way responsible for the child abuse or child sexual abuse.

(2) Once notice is given pursuant to subdivision (d)(1), the principal or other designated person shall provide to the parent or legal guardian all school information and records relevant to the alleged abuse or sexual abuse, if requested by the parent or legal guardian; provided, that the information is edited to protect the confidentiality of the identity of the person who made the report, any other person whose life or safety may be endangered by the disclosure, and any information made confidential pursuant to federal law or § 10-7-504(a)(4). The information and records described in this subdivision (d)(2) shall not include records of other agencies or departments.

(3) For purposes of this subsection (d), "school" means any public or privately operated child care agency, as defined in § 71-3-501, preschool, nursery school, kindergarten, elementary school or secondary school.

40-39-201. Short title -- Legislative findings.

(a) This part shall be known as and may be cited as the "Tennessee Sexual Offender and Violent Sexual Offender Registration, Verification and Tracking Act of 2004."

(b) The general assembly finds and declares that:

(1) Repeat sexual offenders, sexual offenders who use physical violence and sexual offenders who prey on children are violent sexual offenders who present an extreme threat to the public safety. Sexual offenders pose a high risk of engaging in further offenses after release from incarceration or commitment and protection of the public from these offenders is of paramount public interest;

- (2) It is a compelling and necessary public interest that the public have information concerning persons convicted of sexual offenses collected pursuant to this part, to allow members of the public to adequately protect themselves and their children from these persons;
- (3) Persons convicted of these sexual offenses have a reduced expectation of privacy because of the public's interest in public safety;
- (4) In balancing the sexual offender's and violent sexual offender's due process and other rights against the interests of public security, the general assembly finds that releasing information about offenders under the circumstances specified in this part will further the primary governmental interest of protecting vulnerable populations from potential harm;
- (5) The registration of offenders, utilizing complete and accurate information, along with the public release of specified information concerning offenders, will further the governmental interests of public safety and public scrutiny of the criminal and mental health systems that deal with these offenders;
- (6) To protect the safety and general welfare of the people of this state, it is necessary to provide for continued registration of offenders and for the public release of specified information regarding offenders. This policy of authorizing the release of necessary and relevant information about offenders to members of the general public is a means of assuring public protection and shall not be construed as punitive;
- (7) The offender is subject to specified terms and conditions that are implemented at sentencing or, at the time of release from incarceration, that require that those who are financially able must pay specified administrative costs to the appropriate registering agency, which shall retain one hundred dollars (\$100) of these costs for the administration of this part and shall be reserved for the purposes authorized by this part at the end of each fiscal year, with the remaining fifty dollars (\$50.00) of fees to be remitted to the Tennessee bureau of investigation's sex offender registry; provided, that a juvenile offender required to register under this part shall not be required to pay the administrative fee until the offender reaches eighteen (18) years of age; and
- (8) The general assembly also declares, however, that in making information about certain offenders available to the public, the general assembly does not intend that the information be used to inflict retribution or additional punishment on those offenders..

37-1-613. Immunity from civil or criminal liability.

Any person making a report of child sexual abuse shall be afforded the same immunity and shall have the same remedies as provided by § 37-1-410 for other persons reporting harm to a child. Any other person, official or institution participating in good faith in any act authorized or required by this part shall be immune from any civil or criminal liability that might otherwise result by reason of such action.

37-1-615: Violation/Penalties.

(a) Any person required to report known or suspected child sexual abuse who knowingly and willfully fails to do so, or who knowingly and willfully prevents another person from doing so, commits a Class A misdemeanor.

(b) Any person who knowingly and willfully makes public or discloses any confidential information contained in the abuse registry or in the records of any child sexual abuse case, except as provided in this part, commits a Class A misdemeanor.

37-1-403. Reporting of brutality, abuse, neglect or child sexual abuse -- Notification to parents of abuse on school grounds or under school supervision -- Confidentiality of records.

(a) (1) Any person who has knowledge of or is called upon to render aid to any child who is suffering from or has sustained any wound, injury, disability, or physical or mental condition shall report such harm immediately if the harm is of such a nature as to reasonably indicate that it has been caused by brutality, abuse or neglect or that, on the basis of available information, reasonably appears to have been caused by brutality, abuse or neglect.

(2) Any such person with knowledge of the type of harm described in this subsection (a) shall report it, by telephone or otherwise, to the:

(A) Judge having juvenile jurisdiction over the child;

(B) Department, in a manner specified by the department, either by contacting a local representative of the department or by utilizing the department's centralized intake procedure, where applicable;

(C) Sheriff of the county where the child resides; or

(D) Chief law enforcement official of the municipality where the child resides.

(3) If any such person knows or has reasonable cause to suspect that a child has been sexually abused, the person shall report such information in accordance with § 37-1-605, relative to the sexual abuse of children, regardless of whether such person knows or believes that the child has sustained any apparent injury as a result of such abuse.

(b) The report shall include, to the extent known by the reporter, the name, address, telephone number and age of the child, the name, address, and telephone number of the person responsible for the care of the child, and the facts requiring the report. The report may include any other pertinent information.

(i) (1) Any school official, personnel, employee or member of the board of education who is aware of a report or investigation of employee misconduct on the part of any employee of the school system that in any way involves known or alleged child abuse, including, but not limited to, child physical or sexual abuse or neglect, shall immediately upon knowledge of such information notify the department of children's services or anyone listed in subdivision (a)(2) of the abuse or alleged abuse.

(2) Notwithstanding § 37-5-107 or § 37-1-612 or any other law to the contrary, if a school teacher, school official or any other school personnel has knowledge or reasonable cause to suspect that a child who attends such school may be a victim of child abuse or child sexual abuse sufficient to require reporting pursuant to this section and that the abuse occurred on school grounds or while the child was under the supervision or care of the school, then the principal or other person designated by the school shall verbally notify the parent or legal guardian of the child that a report pursuant to this section has been made and

shall provide other information relevant to the future wellbeing of the child while under the supervision or care of the school. The verbal notice shall be made in coordination with the department of children's services to the parent or legal guardian within twenty-four (24) hours from the time the school, school teacher, school official or other school personnel reports the abuse to the department of children's services, judge or law enforcement; provided, that in no event may the notice be later than twenty-four (24) hours from the time the report was made. The notice shall not be given to any parent or legal guardian if there is reasonable cause to believe that the parent or legal guardian may be the perpetrator or in any way responsible for the child abuse or child sexual abuse.

(3) Once notice is given pursuant to subdivision (i)(2), the principal or other designated person shall provide to the parent or legal guardian all school information and records relevant to the alleged abuse or sexual abuse, if requested by the parent or legal guardian; provided, that the information is edited to protect the confidentiality of the identity of the person who made the report, any other person whose life or safety may be endangered by the disclosure and any information made confidential pursuant to federal law or § 10-7-504(a)(4). The information and records described in this subdivision (i)(3) shall not include records of other agencies or departments.

(4) For purposes of this subsection (i), "school" means any public or privately operated child care agency, as defined in § 71-3-501, preschool, nursery school, kindergarten, elementary school or secondary school.

37-1-412. Violation of duty to report -- Power of juvenile court -- Penalty.

(a) Any person who knowingly fails to make a report required by § 37-1-403 commits a Class A misdemeanor.

(b) A juvenile court having reasonable cause to believe that a person is guilty of violating this section may have the person brought before the court either by summons or by warrant. If the defendant pleads not guilty, the juvenile court judge shall bind the defendant over to the grand jury. If the defendant pleads guilty and waives, in writing, indictment, presentment, grand jury investigation, and trial by jury, the juvenile court judge shall sentence the defendant under this section with a fine not to exceed two thousand five hundred dollars (\$2,500).

37-1-413. False reporting of child sexual abuse or false accusation that a child has sustained any wound, injury, disability or physical or mental condition caused by brutality, abuse or neglect -- Penalty.

Any person who either verbally or by written or printed communication knowingly and maliciously reports, or causes, encourages, aids, counsels or procures another to report, a false accusation of child sexual abuse or false accusation that a child has sustained any wound, injury, disability or physical or mental condition caused by brutality, abuse or neglect commits a Class E felony.

37-1-414. Persons working with children -- Fingerprinting -- Release of investigative and criminal records.

(a) A religious, charitable, scientific, educational, athletic or youth service institution or organization may require any person, who applies to work with children as a volunteer or as a paid employee, to do one (1) or more of the following:

(1) Agree to the release of all investigative records to such religious, charitable, scientific, educational, athletic, or youth service institution or organization for examination for the purpose of verifying the accuracy of criminal violation information contained on an application to work for such institution or organization;

(2) Supply fingerprint samples and submit to a criminal history records check to be conducted by the Tennessee bureau of investigation and the federal bureau of investigation; or

(3) Attend a comprehensive youth protection training program that includes adult training on recognition, disclosure, reporting and prevention of abuse and submit to character, employment, education and reference checks.

(b) Any costs incurred by the Tennessee bureau of investigation or the federal bureau of investigation in conducting such investigation of applicants shall be paid by the religious, charitable, scientific, educational, or athletic institution or organization requesting such investigation and information. Payment of such costs are to be made in accordance with the provisions of § 38-6-103.

38-6-109. Verification of criminal violation information.

(a) The Tennessee bureau of investigation shall process requests for criminal background checks from any authorized persons, organizations or entities permitted by law to seek criminal history background checks on certain persons, pursuant to a format and under procedures as it may require.

(d) The fees for fingerprint searches shall be the same for a Tennessee search as for a federal bureau of investigation search and shall be according to the fee schedule established by the federal bureau of investigation.

38-6-110. Central registry for sexual offenders.

(a) The Tennessee bureau of investigation shall establish a central registry of sexual offenders modeled after statutes enacted in other states. The registry shall include all validated offenders from files maintained by the department of children's services, all persons who have been arrested for the commission of a sexual offense, and all persons who have been convicted of a sexual offense.

(b) The departments of correction and children's services and local law enforcement agencies shall cooperate fully in the creation and updating of the central registry.

40-39-201. Short title -- Legislative findings.

(a) This part shall be known as and may be cited as the "Tennessee Sexual Offender and Violent Sexual Offender Registration, Verification and Tracking Act of 2004."

(b) The general assembly finds and declares that:

(1) Repeat sexual offenders, sexual offenders who use physical violence and sexual offenders who prey on children are violent sexual offenders who present an extreme threat to the public safety. Sexual offenders pose a high risk of engaging in further offenses after release from incarceration or

commitment and protection of the public from these offenders is of paramount public interest;

(2) It is a compelling and necessary public interest that the public have information concerning persons convicted of sexual offenses collected pursuant to this part, to allow members of the public to adequately protect themselves and their children from these persons;

(3) Persons convicted of these sexual offenses have a reduced expectation of privacy because of the public's interest in public safety;

(4) In balancing the sexual offender's and violent sexual offender's due process and other rights against the interests of public security, the general assembly finds that releasing information about offenders under the circumstances specified in this part will further the primary governmental interest of protecting vulnerable populations from potential harm;

(5) The registration of offenders, utilizing complete and accurate information, along with the public release of specified information concerning offenders, will further the governmental interests of public safety and public scrutiny of the criminal and mental health systems that deal with these offenders;

(6) To protect the safety and general welfare of the people of this state, it is necessary to provide for continued registration of offenders and for the public release of specified information regarding offenders. This policy of authorizing the release of necessary and relevant information about offenders to members of the general public is a means of assuring public protection and shall not be construed as punitive;

(7) The offender is subject to specified terms and conditions that are implemented at sentencing or, at the time of release from incarceration, that require that those who are financially able must pay specified administrative costs to the appropriate registering agency, which shall retain one hundred dollars (\$100) of these costs for the administration of this part and shall be reserved for the purposes authorized by this part at the end of each fiscal year, with the remaining fifty dollars (\$50.00) of fees to be remitted to the Tennessee bureau of investigation's sex offender registry; provided, that a juvenile offender required to register under this part shall not be required to pay the administrative fee until the offender reaches eighteen (18) years of age; and

(8) The general assembly also declares, however, that in making information about certain offenders available to the public, the general assembly does not intend that the information be used to inflict retribution or additional punishment on those offenders.

40-39-211. Residential and work restrictions.

(a) While mandated to comply with the requirements of this chapter, no sexual offender, as defined in § 40-39-202, or violent sexual offender, as defined in § 40-39-202, whose victim was a minor, shall knowingly establish a primary or secondary residence or any other living accommodation, knowingly obtain sexual offender treatment or attend a sexual offender treatment program or knowingly accept employment within one thousand feet (1,000') of the property line of any public school, private or parochial school, licensed day care center, other child care facility, public park, playground, recreation center or public athletic field available for use by the general public.

(b) No sexual offender, violent sexual offender, or violent juvenile sexual offender, as those terms are defined in § 40-39-202, shall knowingly:

(1) Reside within one thousand feet (1,000') of the property line on which the offender's former victims or the victims' immediate family members reside;

(2) Come within one hundred feet (100') of any of the offender's former victims, except as otherwise authorized by law; or

(3) Contact any of the offender's former victims or the victims' immediate family members without the consent of the victim or consent of the victim's parent or guardian if the victim is a minor being contacted by telephone, in writing, by electronic mail, Internet services or any other form of electronic communication, unless otherwise authorized by law.

(c) While mandated to comply with the requirements of this part, no sexual offender, as defined in § 40-39-202, or violent sexual offender, as defined in § 40-39-202, whose victim was a minor, shall knowingly reside with a minor. Notwithstanding this subsection (c), the offender may reside with a minor if the offender is the parent of the minor, unless one (1) of the following conditions applies:

(1) The offender's parental rights have been or are in the process of being terminated as provided by law; or

(2) Any minor or adult child of the offender was a victim of a sexual offense or violent sexual offense committed by the offender.

(d)

(1) No sexual offender, as defined in § 40-39-202, or violent sexual offender, as defined in § 40-39-202, shall knowingly:

(A) Be upon or remain on the premises of any building or grounds of any public school, private or parochial school, licensed day care center, other child care facility, public park, playground, recreation center or public athletic field available for use by the general public in this state when the offender has reason to believe children under eighteen (18) years of age are present;

(B) Stand, sit idly, whether or not the offender is in a vehicle, or remain within one thousand feet (1,000') of the property line of any building owned or operated by any public school, private or parochial school, licensed day care center, other child care facility, public park, playground, recreation center or public athletic field available for use by the general public in this state when children under eighteen (18) years of age are present, while not having a reason or relationship involving custody of or responsibility for a child or any other specific or legitimate reason for being there; or

(C) Be in any conveyance owned, leased or contracted by a school, licensed day care center, other child care facility or recreation center to transport students to or from school, day care, child care, or a recreation center or any related activity thereof when children under eighteen (18) years of age are present in the conveyance.

(2) Subdivision (d)(1) shall not apply when the offender:

(A) Is a student in attendance at the school;

(B) Is attending a conference with school, day care, child care, park, playground or recreation center officials as a parent or legal guardian of a child who is enrolled in the school, day care center, other child care center or of a child who is a participant at the park, playground or recreation center and has received written permission or a request from the school's principal or the facility's administrator;

(C) Resides at a state licensed or certified facility for incarceration, health or convalescent care; or

(D) Is dropping off or picking up a child or children and the person is the child or children's parent or legal guardian who has provided written notice of the parent's offender status to the school's principal or a school administrator upon enrollment.

(3) The exemption provided in subdivision (d)(2)(B) shall not apply if the victim of the offender's sexual offense or violent sexual offense was a minor at the time of the offense and the victim is enrolled in the school, day care center, recreation center or other child care center that is participating in the conference or other scheduled event.

(e) Changes in the ownership or use of property within one thousand feet (1,000') of the property line of an offender's primary or secondary residence or place of employment that occur after an offender establishes residence or accepts employment shall not form the basis for finding that an offender is in violation of the residence restrictions of this section.

(f) A violation of this part is a Class E felony. No person violating this part shall be eligible for suspension of sentence, diversion or probation until the minimum sentence is served in its entirety.

(g) (1) The first violation of this part is punishable by a fine of not less than three hundred fifty dollars (\$350) and imprisonment for not less than ninety (90) days.

(2) A second violation of this part is punishable by a fine of not less than six hundred dollars (\$600) and imprisonment for not less than one hundred eighty (180) days.

(3) A third or subsequent violation of this part is punishable by a fine of not less than one thousand one hundred dollars (\$1,100) and imprisonment for not less than one (1) year.

(4) A violation of this part due solely to a lack of the written permission required pursuant to subdivision (d) (2) shall be punishable by fine only.

(h) (1)

(A) While mandated to comply with the requirements of this part, it is an offense for three (3) or more sexual offenders, as defined in § 40-39-202, or violent sexual offenders, as defined in § 40-39-202, or a combination thereof, to establish a primary or secondary residence together or inhabit the same primary or secondary residence at the same time.

(B) Each sexual offender or violent sexual offender who establishes or inhabits a primary or secondary residence in violation of subdivision (h)(1)(A) commits a violation of this section.

(C) Subdivision (h)(1)(A) shall not apply if the residence is located on property that is, according to the relevant local, county, or municipal zoning law, zoned for a use other than residential or mixed-use.

(2) (A) No person, corporation, or other entity shall knowingly permit three (3) or more sexual offenders, as defined in § 40-39-202, violent sexual offenders, as defined in § 40-39-202, or a combination thereof, while such offenders are mandated to comply with the requirements of this part, to establish a primary or secondary residence in any house, apartment or other habitation, as defined by § 39-14-401(1)(A), owned or under the control of such person, corporation, or entity.

(B) Subdivision (h)(2)(A) shall not apply if the residence is located on property that is, according to the relevant local, county, or municipal zoning law, zoned for a use other than residential or mixed-use.

(3) The provisions of this subsection (h) shall not apply to any residential treatment facility in which more than three (3) sexual offenders, as defined in § 40-39-202, violent sexual offenders, as defined in § 40-39-202, or combination thereof, reside following sentencing to such facility by a court or placement in such facility by the board of probation and parole for the purpose of in-house sexual offender treatment; provided, the treatment facility complies with the guidelines and standards for the treatment of sexual offenders established by the sex offender treatment board pursuant to § 39-13-704.

(i) The restrictions set out in subsections (a)-(d) shall not apply to a violent juvenile sexual offender required to register under this part unless otherwise ordered by a court of competent jurisdiction.

(j) Notwithstanding any law to the contrary, a violent juvenile sexual offender who knowingly violates this section commits a delinquent act as defined by the juvenile code.

N. TCA § 40-39-301, et seq.: Tennessee Serious and Violent Sex Offender Monitoring Pilot Project Act. These statutes outline the guidelines and provisions established by the board of probation and parole for its serious offender and violent sexual offender monitoring program.

O. TCA § 29-26-201, et seq.: Therapist Sexual Misconduct Victims Compensation Act. These statutes expressly include marital counseling, substance abuse treatment and family counseling in the definition of therapy. It imposes liability upon employers of individuals who commit sexual misconduct in certain situations.

P. TCA § 24-1-206: Clergy - Communications Confidential - Waiver - (a) (1). No minister of the gospel, no priest of the Catholic Church, no rector of the Episcopal Church, no ordained Rabbi, no regular minister or religion of any religious organization or denomination usually referred to as a church, over 18 years of age, shall be allowed or required in giving testimony as a witness in any litigation, to disclose any information communicated to that person in a confidential manner, properly entrusted to that person in that person's professional capacity, and necessary to enable that person to discharge the functions of such office according to the usual course of that person's practice or discipline, wherein such person so communicating such information about such person or another is seeking spiritual counsel and advice relative to and growing out of the information so imparted.

(b) The prohibition of this section shall not apply to cases where the communicating party, or parties, waives the right so conferred by personal appearance in open court so declaring, or by an affidavit properly sworn to by such a one or ones, before some person authorized to administer oaths, and filed with the Court wherein litigation is pending.

(c)

(d) Any minister of the gospel, priest of the Catholic Church, rector of the Episcopal Church, ordained Rabbi, and any regular minister of religion of any religious organization or denomination usually referred to as a church, who violates the provisions of this section commits a Class C misdemeanor.

Q. TCA § 37-1-614: Evidentiary privileges inapplicable in child sexual abuse cases. The privileged quality of communication between husband and wife and between any professional person and his patient or client, and any other privileged communication except between attorney and client, as such communication relates both to the competency of the witness and to the exclusion of confidential communications, shall not apply to any situation involving known or suspected child sexual abuse and shall not constitute grounds for failure to report as required by this part, failure to cooperate with the department in its activities pursuant to this part, or failure to give evidence in any judicial proceeding relating to child sexual abuse.

*N.B. In some instances the described statutes are summarized and are incomplete and are provided for informational purposes only. The Church reserves the right to uphold the seal of Confession.

APPENDIX C

DIOCESE OF KNOXVILLE
Supervisor Checklist for Implementing
The Policy and Procedure Relating
To Sexual Misconduct

Provide each person to whom the policy and procedure applies (e.g., clerics, religious, pastoral administrators, ministers, employees, regular independent contractors, and volunteers) with a copy of the policy and procedure so that they may read and understand the policy and procedure and their obligations _____.

Obtain from each person to whom the policy applies the following forms (this applies to new personnel; those persons already affiliated with the diocese must complete all forms except Appendices D and E):

Background check release form (provided by the Diocese) _____

(Appendix D) Screening application completed and signed _____

(Appendix E) Record of reference contact(s) for new employees _____

(Appendix F) Signed copy of applicant's certification _____

(Appendix H) Signed copy of applicant's acknowledgement _____

(N.B. — the signed copy(s) of these documents should be retained in the person's file.

All personnel forms mentioned above are to be marked "CONFIDENTIAL" and are to be kept securely in the person's file. Access to this information is to be limited to the person's supervisor/evaluator, the Chancellor, the Bishop, and the delegate of the Bishop. These documents will be kept in electronically in a confidential file.

Periodic supervision and evaluation can be incorporated in any supervision and evaluation mechanisms already in use; however, a regular element of this process should always include attention to the person's duties as they relate to work with children or vulnerable adults.

Provide annual occasions wherein the policy is distributed and its significant requirements discussed. These occasions can be incorporated in other annual events, e.g., annual contract signings, teacher meetings, parish staff meetings, job performance evaluation, etc. Special attention should be given to reviewing the reporting mechanism in the policy and the pastoral code of conduct (Appendix G).

Supervisors should periodically review the policy to maintain familiarity with its requirements and their responsibilities.

CHURCH ACTIVITY

Appendix D (p. 2 of 2)

Name of church of which you are a member: _____

List (name and address) other churches you have attended regularly during the past five years.

List all previous church work involving youth (identify church and type of work) or any other youth work.

List any gifts, callings, training, education or other factors that have prepared you for children/youth work.

PERSONAL REFERENCES

(not former employers or relatives)

Name: _____

Name: _____

Address: _____

Address: _____

Telephone: _____

Telephone: _____

APPLICANT'S STATEMENT

The information contained in this application is correct to the best of my knowledge. I authorize any references or churches listed in this application to give you any information they may have regarding my character and fitness for children/youth work. I release all such references from liability for any damage that may result from furnishing such evaluations to you, and I waive any right that I may have to inspect references provided on my behalf.

Should my application be accepted, I agree to be bound by the policies of the Roman Catholic Diocese of Knoxville, and to refrain from conduct which is contrary to Catholic moral teaching in the performance of my services on behalf of the church.

Applicant's signature _____

Date: _____

Witness _____

Date: _____

APPENDIX E
CONFIDENTIAL

DIOCESE OF KNOXVILLE
Record of Contact with a Reference or Church
Identified by an Applicant for Youth or Children's Work

1. Name of Applicant _____
2. Reference or church contacted (if a church, identify both the church and person/minister contacted) _____

3. Date and time of contact _____
4. Person contacting the reference or church _____
5. Method of contact (e.g., telephone, letter, personal conversation) _____

6. Summary of conversation (summarize the reference's or minister's remarks concerning the applicant's fitness and suitability for youth or children's work) _____

SIGNATURE

PRINTED NAME

DATE: _____

APPENDIX F

DIOCESE OF KNOXVILLE
Applicant's Certification

As an applicant to become an employee or volunteer with the Diocese of Knoxville, I hereby attest and certify that I have never been accused of, convicted of, or plead guilty to: sexual abuse, molestation, fondling or carnal knowledge of a child under the age of 18, gross sexual imposition, voyeurism, public indecency, rape or attempted rape, or any existing or former offense of any municipal corporation, the State of Tennessee, or any other State of the United States that is substantially equivalent to any of the above offenses or involves criminal sexual activity of any nature. (If you have been accused of, convicted of or plead guilty to any of the above offenses and wish to explain the circumstances thereof, please do so on a separate sheet). I further certify that I have never been discharged from employment or a volunteer position because of any activity above described.

I hereby authorize any present or former employer or person, firm, corporation, physician or government agency to answer all questions and to release or provide any information within their knowledge or records dealing with the above named areas of conduct, and I agree to hold any and all of them harmless and free of any liability for releasing any information that is within their knowledge and records. I authorize the Diocese of Knoxville to conduct a check of my police and criminal records in accordance with the law of Tennessee.

I hereby attest and certify that the above information provided by me is true and correct to the best of my knowledge. I understand that misrepresentations or omissions may disqualify my application or result in my immediate dismissal if I am already employed.

I further agree to notify the Diocese of Knoxville, if I become employed or appointed, of any sexual misconduct I am charged with or convicted of in the future.

PRINTED NAME

APPLICANT SIGNATURE

DATE _____

Diocese of Knoxville
Code of Pastoral Conduct
For Priests, Deacons, Pastoral Ministers,
Administrators, Staff, and Volunteers

APPENDIX G

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APPENDIX G

Diocese of Knoxville
Code of Pastoral Conduct
For Priests, Deacons, Pastoral Ministers,
Administrators, Staff, and Volunteers

I. Preamble

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

II. Responsibility

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

Responsibility for adherence to the *Code of Pastoral Conduct* rests with the individual. Clergy, staff, and volunteers who disregard this *Code of Pastoral Conduct* will be subject to remedial action by the bishop, the pastor, or other person in charge. Corrective action may take various forms—from a verbal reproach to removal from the ministry—depending on the specific nature and circumstances of the offense and the extent of the harm.

Diocese of Knoxville
Code of Pastoral Conduct
For Priests, Deacons, Pastoral Ministers,
Administrators, Staff, and Volunteers

APPENDIX G

III. Pastoral Standards

1. Conduct for Pastoral Counselors and Spiritual Directors³

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

- 1.1 Pastoral Counselors and Spiritual Directors shall not step beyond their competence in counseling situations and shall refer clients to other professionals when appropriate.
- 1.2 Pastoral Counselors and Spiritual Directors should carefully consider the possible consequences before entering into a counseling relationship with someone with whom they have a pre-existing relationship (i.e., employee, professional colleague, friend, or other pre-existing relationship). [See Section 7.2.2]
- 1.3 Pastoral Counselors and Spiritual Directors should not audiotape or videotape sessions.
- 1.4 Pastoral Counselors and Spiritual Directors must never engage in sexual intimacies with the persons they counsel. This includes consensual and nonconsensual contact, forced physical contact, and inappropriate sexual comments.
- 1.5 Pastoral Counselors and Spiritual Directors shall not engage in sexual intimacies with individuals who are close to the client—such as relatives or friends of the client—when there is a risk of exploitation or potential harm to the client. Pastoral Counselors and Spiritual Directors should presume that the potential for exploitation or harm exists in such intimate relationships.
- 1.6 Pastoral Counselors and Spiritual Directors assume the full burden of responsibility for establishing and maintaining clear, appropriate boundaries in all counseling and counseling-related relationships.
- 1.7 Physical contact of any kind (i.e., touching, hugging, holding) between Pastoral Counselors or Spiritual Directors and the persons they counsel can be misconstrued and should be avoided.
- 1.8 Sessions should be conducted in appropriate settings at appropriate times.
 - 1.8.1 No sessions should be conducted in private living quarters.
 - 1.8.2 Sessions should not be held at places or times that would tend to cause confusion about the nature of the relationship for the person being counseled.
- 1.9 Pastoral Counselors and Spiritual Directors shall maintain a log of the times and places of sessions with each person being counseled.

³ Pastoral Counselors and Spiritual Directors: Clergy, staff, and volunteers who provide pastoral, spiritual, and/or therapeutic counseling services to individuals, families, or other groups.

APPENDIX G

2. Confidentiality

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

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

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

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

APPENDIX G

3. Conduct With Youth

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

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

APPENDIX G

4. Sexual Conduct

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

- 4.1 Clergy, religious, staff, and volunteers who are committed to a celibate lifestyle are called to be an example of celibate chastity in all relationships at all times.
- 4.2 Staff and volunteers who provide pastoral counseling or spiritual direction services must avoid developing inappropriately intimate relationships with minors, other staff, or parishioners. Staff and volunteers must behave in a professional manner at all times.
- 4.3 No clergy, staff, or volunteer may exploit another person for sexual purposes.
- 4.4 Allegations of sexual misconduct should be taken seriously and reported to the appropriate person in charge, e.g., the pastor, principal, or the bishop, and to civil authorities if the situation involves a minor.

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

- 4.5 Clergy, staff, and volunteers should review and know the contents of the child abuse regulations and reporting requirements for the state of Tennessee and should follow those mandates.
- 4.6 Clergy, staff and volunteers may never acquire, possess, or distribute pornographic images of minors under the age of eighteen, for purposes of sexual gratification, by whatever means or using whatever technology.

APPENDIX G

5. Harassment

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

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

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

APPENDIX G

6. Parish, Institute and Organizational Records and Information

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

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

Diocese of Knoxville
Code of Pastoral Conduct
For Priests, Deacons, Pastoral Ministers,
Administrators, Staff, and Volunteers

APPENDIX G

7. Conflicts of Interest

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

- 7.1 Clergy, staff, and volunteers should disclose all relevant factors that potentially could create a conflict of interest.
- 7.2 Clergy, staff, and volunteers should inform all parties when a real or potential conflict of interest arises. Resolution of the issues must protect the person receiving ministry services.
- 7.2.1 No clergy, staff, or volunteer should take advantage of anyone to whom they are providing services in order to further their personal, religious, political, or business interests.
- 7.2.2 Pastoral counselors should not provide counseling services to anyone with whom they have a business, professional, or social relationship. When this is unavoidable, the client must be protected. The counselor must establish and maintain clear, appropriate boundaries.
- 7.2.3 When pastoral counseling or spiritual direction services are provided to two or more people who have a relationship with each other, the Pastoral Counselor or Spiritual Director must:
- Clarify with all parties the nature of each relationship,
 - Anticipate any conflict of interest,
 - Take appropriate actions to eliminate the conflict, and
 - Obtain from all parties written consent to continue services.
- 7.3 Conflicts of interest may also arise when a Pastoral Counselor's or Spiritual Director's independent judgment is impaired by:
- Prior dealings,
 - Becoming personally involved, or
 - Becoming an advocate for one (person) against another.

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

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8. Reporting Ethical or Professional Misconduct

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

- 8.1 Clergy, staff, and volunteers must hold each other accountable for maintaining the highest ethical and professional standards. When there is an indication of illegal actions by clergy, staff, or volunteers, you should notify the proper civil authorities immediately. Also notify the diocese, parish, or institute.
- 8.2 When an uncertainty exists about whether a situation or course of conduct violates this *Code of Pastoral Conduct* or other religious, moral, or ethical principles, consult with:
- Peers,
 - Others knowledgeable about ethical issues, or
 - The Chancery office or responsible administrative authority for the parish or institute.
- 8.3 When it appears that a member of clergy, a staff member, or a volunteer has violated this *Code of Pastoral Conduct* or other religious, moral, or ethical principles:
- Report the issue to a supervisor or next higher authority, or
 - Refer the matter directly to the Chancery office.
- 8.4 The obligation of Pastoral Counselors and Spiritual Directors to report client misconduct is subject to the duty of confidentiality. However, any agreement or duty to maintain confidentiality must yield to the need to report misconduct that threatens the safety, health, or well-being of any of the persons involved except as provided for in Section 2.6

APPENDIX G

9. Administration

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

- 9.1 Personnel and other administrative decisions made by clergy, staff, and volunteers shall meet civil and canon law obligations and also reflect Catholic social teachings and this *Code of Pastoral Conduct*.
- 9.2 No clergy, staff, or volunteer shall use his or her position to exercise unreasonable or inappropriate power and authority.
- 9.3 Each volunteer providing services to children and youth must read and sign the Volunteer Code of Conduct before providing services. (See section IV, p. G-11)

10. Staff or Volunteer Well-being

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

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

IV. Volunteer's Code of Conduct

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

As a volunteer, I will:

- Treat everyone with respect, loyalty, patience, integrity, courtesy, dignity, and consideration.
- Avoid situations where I am alone with children and/or youth at Church activities.
- Refuse to accept expensive gifts from children and/or youth or their parents without prior written approval from the pastor or administrator.
- Refrain from giving expensive gifts to children and/or youth without prior written approval from the parents or guardian and the pastor or administrator.
- Report suspected abuse to the pastor, administrator, or appropriate supervisor and *[the local Child Protection Services agency]*. I understand that failure to report suspected abuse to civil authorities is, according to the law, a misdemeanor.
- Cooperate fully in any investigation of abuse of children and/or youth.

As a volunteer, I will not:

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

I understand that as a volunteer working with children, youth and/or vulnerable adults, I am subject to a thorough background check including criminal history, to be repeated every 5 years. I understand that any action inconsistent with this Code of Conduct or failure to take action mandated by this Code of Conduct may result in my removal as a volunteer with children, youth and/or vulnerable adults.

Volunteer's Printed Name

Volunteer's Signature

Date

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APPENDIX H

DIOCESE OF KNOXVILLE
Employee Certification of Review

I, _____, SSN: _____ acknowledge that, as personnel or a volunteer officially representing the Diocese of Knoxville, I have read the STATEMENT OF POLICY AND PROCEDURE of the Diocese of Knoxville relating to sexual misconduct and am familiar with its content, obligations and consequences. In particular I understand the reporting requirements contained in the STATEMENT OF POLICY. Furthermore, I have read the Diocese of Knoxville CODE OF PASTORAL CONDUCT and agree to follow it while in the employment or service of the Diocese of Knoxville.

This the _____ day of _____, 20_____.

SIGNATURE

PRINTED NAME

Name of Church Institution (e.g., parish, school, etc)