

## DIOCESE OF NASHVILLE

### RESPONSE TO ALLEGATIONS OF SEXUAL ABUSE OF A MINOR A STATEMENT OF POLICY

#### PART 1 – GENERAL NORMS

- 1.1 This statement of policy is intended to create a prompt, reasonable process of diocesan response to all allegations of sexual abuse of a minor by any person acting on behalf of the Diocese of Nashville or any entity subject to the authority of the diocesan bishop per church law (hereafter 'entity/entities subject to the bishop') whether a cleric or a layperson (i.e., a minister, an employee, or an authorized volunteer) as defined below in Part 2. Provisions governing processes for employment or appointment of any person to a position for the Diocese and for reporting acts of sexual abuse of a minor are to be found in personnel policies of the Diocese, of the Catholic Schools Office, and of entities subject to the bishop. A brief statement of Tennessee law regarding the requirement to report sexual abuse of a minor is found below.
- 1.2 Sexual abuse of minors is both a crime and a sin and will not be tolerated by the Diocese of Nashville or any entity subject to the bishop, and any person who knows or suspects child sexual abuse shall report it to appropriate civil authorities.
- 1.3 The Diocese of Nashville supports, promotes, and requires compliance with all federal, state, and local laws including those regarding the reporting of child abuse and child sexual abuse. Tennessee Code Annotated 37-1-605 requires that any 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 [of children services] 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 [the District Attorney] of the municipality where the child resides." TCA 37-1-602 specifies that this reporting requirement applies not only to child sexual abuse as defined in the statute, but also to the commission of the same acts involving a person between the ages of 13 through 17 if the act is committed by a parent, guardian, relative, person residing in the child's home, or other person responsible for the care and custody of the child.
- 1.4 All clergy and laypersons of the Diocese of Nashville and entities subject to the bishop are bound by Tennessee law and by this policy to report all known or suspected child sexual abuse to the appropriate civil authorities as identified in Part 1, Point 1.3 above. All clergy and laypersons of the Diocese of Nashville and entities subject to the bishop are also bound by this policy to report to the Victim Assistance Coordinator (615-783-0765) all known or suspected instances of sexual abuse of a minor by a cleric or a layperson as defined in Part 2. If the Victim Assistance Coordinator cannot be reached, the report should be made to the diocesan attorney (615-390-5509). The Victim Assistance Coordinator or the diocesan attorney will immediately notify the Bishop.
- 1.5 Under the *Code of Canon Law* certain acts constitute canonical crimes separate and apart from any criminal proceeding under state law. The Church also claims the right to impose penal sanctions on its members in accordance with canon law in order to protect church community and to promote the spiritual welfare of its members. Church law provides comprehensive and equitable procedures for determining the guilt or innocence of persons accused of canonical crimes, and for imposing an appropriate sanction under canon law. The Diocese of Nashville supports and promotes compliance with these Church laws and when circumstances warrant will employ such procedures.
- 1.6 This policy addresses two different situations of sexual abuse of a minor:
  - A Allegations of sexual abuse of a minor by a cleric, and
  - B Allegations of sexual abuse of a minor by a layperson.

## PART 2 – DEFINITIONS OF TERMS AS USED IN THIS POLICY

- 2.1 **SEXUAL ABUSE OF A MINOR** for the purposes of this policy includes "child sexual abuse" as defined (a) in Tennessee state law and (b) by the United States Conference of Catholic Bishops, (c) the canonical crime identified in Catholic Church law (i.e., Canon 1395 §2 of the *Code of Canon Law*), and (d) sexual contact between a cleric or a layperson of the Diocese of Nashville or any entity subject to the bishop and a minor.
- A Tennessee Code Annotated (TCA) 37-1-602(a)(3)(A) identifies "child sexual abuse" as the commission of any act involving the unlawful abuse, molestation, fondling, or carnal knowledge of a child under the age of thirteen (13) that would constitute a criminal offense.
  - B The USCCB defines child sexual abuse as sexual molestation or sexual exploitation of a minor and other behavior by which an adult uses a minor as an object of sexual gratification (*Charter for the Protection of Children and Young People*, 2002).
  - C Catholic Church law (Canon 1395 §2) forbids a cleric having sexual contact with any person under the age of 18.
- 2.2 **MINOR** refers to anyone under the age of 18.
- 2.3 **CLERIC** refers to any man who has received the sacrament of holy orders and possesses faculties issued by the Diocese of Nashville.
- 2.4 **LAYPERSON** refers to any person who has not received the sacrament of holy orders who is an employee, an appointed minister, or an authorized volunteer of the Diocese of Nashville or entity subject to the bishop.
- 2.5 **EMPLOYEE** refers to anyone paid a wage or a salary by and controlled by the Diocese, a parish, or other entity subject to the bishop.
- 2.6 **MINISTER** refers to a member of a religious institute or to any layperson 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, or have some other appointment.

## PART 3 – INVESTIGATOR AND REVIEW BOARD

- 3.1 The two different situations addressed in this policy have in common the use of an Investigator and a Review Board.
- 3.2 The Investigator may be a member of the Review Board.
- 3.3 The Bishop appoints to a five-year term (renewable) and maintains an eight-member Review Board. The majority of lay members are not employed by either the Diocese of Nashville or any entities subject to the bishop and all of whom are familiar with this policy. The Review Board consists of
- § a mental health professional with expertise in the treatment of the sexual abuse of minors,
  - § a physician,
  - § a victim advocate,
  - § one who possesses financial expertise,
  - § a judge/lawyer,
  - § a sexually abused victim/victim parent,
  - § a Catholic priest appointed as a pastor, and
  - § the Moderator of the Curia of the Diocese of Nashville.
- 3.4 The Secretary of the Review Board is the Moderator of the Curia unless the Bishop determines otherwise in a given case. In addition to those things mentioned in Point 3.9 below the Board

Secretary is responsible for maintaining an accurate written record of all statements, correspondences, information gathered, and actions undertaken by the Review Board and by an other person associated in the process.

3.5 In addition to Point 3.9 below the functions of the Review Board will include the following.

- A To assess allegations of sexual abuse of a minor according to this policy in order to advise the Bishop on whether or not an allegation appears to be credible; the Review Board can act both retrospectively and prospectively;
- B To review this policy and procedures for dealing with allegations of sexual abuse of minors at least every two years in order to recommend to the Bishop any modifications, if appropriate.
- C To make recommendations concerning fitness for ministry of any individual in particular cases.
- D To review and make recommendations concerning survivor requests for monetary and other assistance from the Diocese per the provisions of the Survivor Assistance Program only regarding new survivors effective 1 May 2013.
- E To review and make recommendations concerning diocesan methods of reaching out to survivors of sexual abuse.

3.6 In response to allegations of sexual abuse of a minor as defined above the Bishop immediately will appoint an Investigator to conduct a preliminary investigation and immediately will notify the Victim Assistance Coordinator and the Secretary of the Review Board who notifies the other Review Board members that an investigation is to begin. The Investigator will immediately notify and communicate with the following persons:

- A The reporter of the allegation in order to
  - (1) offer assurance of the concern of the Diocese and its commitment to hear and respond in appropriate ways to the circumstances of the allegation;
  - (2) inform the reporter that the Victim Assistance Coordinator will be contacting the survivor to offer immediate care;
  - (3) advise the reporter of his/her duty to report the abuse to appropriate civil authorities in accordance with Tennessee law and encourage him/her to do so;
  - (4) collect information regarding the allegation;
  - (5) explain the process which follows this initial contact; and
- B The accused in order to
  - (1) present the accused with a specific listing of allegations;
  - (2) offer assurance of the concern of the Diocese and its commitment to hear and respond in appropriate ways to the circumstances of the allegation;
  - (3) inform the accused that anything he/she may say may be used against him/her in a criminal proceeding or civil lawsuit;
  - (4) invite a response from the accused regarding the allegations;
  - (5) explain the process which follows this initial contact; and
- C The Victim Assistance Coordinator who is appointed by the Bishop and is responsible for aiding in the immediate care of persons claiming to have been sexually abused.
- D The Diocesan Risk Manager who is responsible for communicating with insurers in accordance with the terms of applicable insurance policies.
- E The Diocesan Attorney who is responsible for offering legal advice to the Diocese and for making reports on behalf of the Diocese to appropriate civil authorities in accordance with the provisions of the Tennessee Code Annotated (Point 1.3 above) when allegations are communicated to the Diocese of Nashville and the allegations constitute a reasonable cause

to suspect that child sexual abuse has occurred.

- F The Diocesan Director of Communications who is responsible for providing the communications media and the public with appropriate information concerning this policy and its implementation in particular cases.
- 3.7 Pursuant to this policy, this investigation will cooperate with any investigation undertaken by the Department of Children Services and/or local law enforcement agencies.
- 3.8 The Investigator, having prudent regard for the appropriate distinctions between fact, opinion, and rumor, will maintain a written record of all actions taken, interviews conducted, and information gathered.
- 3.9 Having completed as much of the investigation as feasible, the Investigator meets as soon as possible with the members of the Review Board who discuss the record accumulated and determine whether the allegation will be considered substantiated or not substantiated. The Review Board Secretary will prepare a written report for the Bishop within twenty-four (24) hours of its determination. This report will include the determination of the Review Board that the allegation is substantiated or not substantiated, the reasons which justify this determination, and, as judged appropriate, recommendations concerning pastoral care and/or assistance to the survivor and his/her family, communications with the community, and immediate response to the accused.
- 3.10 In order to ensure the integrity of this process every effort to safeguard the personal privacy of all persons, proceedings, and files will be made.

#### **PART 4 – RESPONSE TO ALLEGATIONS OF SEXUAL ABUSE OF A MINOR BY A CLERIC**

- 4.1 In response to an allegation of sexual abuse of a minor by a cleric, the Bishop immediately will appoint an Investigator, will notify the Victim Assistance Coordinator, will notify the Secretary of the Review Board as set forth in Part 3 above, and will instruct the diocesan attorney to report the allegation to the appropriate civil authorities in accordance with the provisions of the Tennessee law (Point 1.3 above).
- 4.2 If the accused cleric is a member of a religious order or institute, the Bishop initiates ongoing contact with the cleric's major superior explaining the substance of the allegation and the procedure provided in this document. If the accused cleric is incardinated in another diocese, the proper Bishop shall be notified in the same manner.
- 4.3 If there is a reasonable cause to believe that a canonical crime may have occurred, the Bishop will notify the accused cleric that a preliminary investigation will begin in accord with the provisions of this policy as well as canon law and will offer to appoint for him a priest-procurator with canonical expertise. If there is a reasonable cause to believe that a civil crime may have occurred, the Bishop will advise the accused cleric of his right to obtain legal counsel.
- 4.4 The diocesan attorney may not represent or advise the accused, nor will the Diocese assist the accused in procuring legal representation in the civil forum or in paying for legal expenses.
- 4.5 If the Bishop accepts a determination of the Review Board that the allegation is substantiated, then the Bishop will immediately execute the following measures with respect to the accused cleric:
  - A Communicate to the accused that the allegation appears to be substantiated;
  - B Exclude the accused from all assignments, functions, and ministries;
  - C Prohibit the accused from public participation in Eucharistic liturgy;
  - D Relocate the accused to a suitable supportive environment;

- E Request appropriate medical and psychological evaluation and intervention of the accused so long as this does not interfere with a possible concurrent civil authority investigation; and
- F Forward the preliminary investigative report to the Congregation for the Doctrine of the Faith in accordance with Church law (cf. Appendix 1).

4.6 With respect to the survivor and his/her family the Bishop will

- A Communicate that the allegation appears to be substantiated;
- B Express sincere commitment to the spiritual and emotional well-being, healing, and reconciliation of the survivor and his/her family; and
- C Offer assistance regarding the provision of counseling, spiritual assistance, support groups, and/or other social services agreed upon by the survivor and the Diocese.

4.7 If the Bishop accepts a determination of the Review Board that the allegation is not substantiated, the Bishop will communicate to the reporter, the survivor, and the accused that the allegation appears not to be substantiated and will take every step to restore the good name of the accused.

4.8 If a cleric admits an allegation of sexual abuse of a minor or the abuse is established by a judicial penal procedure, the cleric will be permanently removed from ministry. If the penalty of dismissal from the clerical state is not applied, the cleric

- A Will not be permitted to present himself publicly as a priest;
- B Will not be permitted to wear clerical garb;
- C Will not be permitted to celebrate Mass publicly; and
- D Will be required to lead a life of prayer and penance.

#### **PART 5 – RESPONSE TO ALLEGATIONS OF SEXUAL ABUSE OF A MINOR BY A LAYPERSON**

5.1 In response to an allegation of sexual abuse of a minor by a layperson, the Bishop immediately will appoint an Investigator, will notify the Victim Assistance Coordinator, will notify the Secretary of the Review Board as set forth in Part 3 above, and will instruct the diocesan attorney to report the allegation to the appropriate civil authorities in accordance with the provisions of the Tennessee law (Point 1.3 above).

5.2 If the Bishop accepts a determination of the Review Board that the allegation is substantiated,

- A With respect to the accused the Bishop will instruct the individual having authority over the accused
  - (1) to communicate the determination of the Review Board,
  - (2) to terminate immediately the employment of the accused and the services of an unpaid minister, and
  - (3) to advise the accused of his/her right to obtain legal counsel. The diocesan attorney may not represent or advise the accused, nor will the Diocese assist the accused in procuring legal representation in the civil forum or in paying for legal expenses.
- B With respect to the survivor and their family the Bishop will
  - (1) Communicate that the allegation appears to be substantiated;
  - (2) Express sincere commitment to their spiritual and emotional well-being, healing, and reconciliation; and
  - (3) Offer assistance regarding the provision of counseling, spiritual assistance, support groups, and/or other social services agreed upon by the survivor and the Diocese.

5.3 If the Bishop accepts a determination of the Review Board that the allegation is not substantiated, the Bishop will communicate to the reporter and the survivor that the allegation appears not to be substantiated and will instruct the individual having authority over the accused to communicate

the same to the accused. If it is not the opinion of the Review Board that the accused presents a real and present danger and the accused is neither convicted of a crime nor held civilly liable, the Review Board will reconvene to make written recommendations to the Bishop concerning the final resolution of the case. The Bishop will consult with the appropriate administrators and will decide the appropriate action and take every step to restore the good name of the layperson.

## **PART 6 PROMULGATION**

This policy is hereby promulgated by the Bishop of Nashville as diocesan law. It will be strictly enforced so that justice may be served, victims may be protected, and offenders may be reformed.

Originally given the fourteenth day of September in the Year of Our Lord 1992 from the Chancery of the Diocese of Nashville by James D. Niedergeses, Bishop of Nashville, and witnessed and attested to by J. Patrick Connor, Chancellor. Continuance with revisions extended on the twenty-fourth day of February in the year of our Lord 2009 and again on the seventeenth day of March 2016 at the Chancery of the Diocese of Nashville by David R. Choby, Bishop of Nashville, and witnessed and attested to by Hans M. Toecker, Chancellor.

Most Reverend J. Mark Spalding  
Bishop of Nashville

Reverend Mr. Hans M. Toecker  
Chancellor

## **APPENDIX 1 CANONICAL PROCESSES REGARDING SEXUAL ABUSE OF A MINOR BY A CLERIC**

- 1.1 In accordance with the law of the Catholic Church the Congregation for the Doctrine of the Faith alone examines ecclesiastical crimes against the faith as well as certain more grave ecclesiastical crimes both against morals and committed in the celebration of the sacraments which have been reported to it and, if necessary, proceeds to declare or impose canonical sanctions. Among these more grave crimes against morals are sexual abuse of a minor by a cleric involving a minor below the age of eighteen years, a cleric's sacramental absolution of his accomplice in a sex act, and a cleric's solicitation of a penitent on the occasion or under the pretext of confession.
- 1.2 In accordance with the law of the Catholic Church as often as a bishop has at least probable knowledge of an ecclesiastical crime reserved to the Congregation for the Doctrine of the Faith, after he has carried out a preliminary investigation, he is to indicate it to the Congregation for the Doctrine of the Faith. The Congregation will either proceed to process the case itself or return the case to the Bishop to be processed locally. If the case is returned to the Bishop, it will be processed in accord with the norms of canon law and any other norms provided by the Congregation.
- 1.3 Action regarding ecclesiastical crimes reserved to the Congregation for the Doctrine of the Faith is permitted only during the ten year period immediately following the crime; however, regarding the crime of sexual abuse of a minor by a cleric involving a minor, action is permitted at any time until the minor has completed the twenty-eighth year of age.
- 1.4 Whenever sexual abuse of a minor by a priest or deacon is either admitted or established by an appropriate canonical investigation, the offending priest or deacon will be permanently excluded from ministry and offered professional assistance for his own healing and well-being, as well as for the purpose of prevention. If the penalty of dismissal from the clerical state is not applied, the offender is to lead a life of prayer and penance. He will not be permitted to celebrate Mass publicly, to wear clerical garb, or to present himself publicly as a priest.