

## **Sexual Misconduct Policy**

Archdiocese of Dubuque

Effective December 27, 1993

Sexual misconduct by personnel of the Archdiocese of Dubuque is contrary to Christian principles and Catholic moral teaching. All personnel of the Archdiocese must comply with applicable state and local laws regarding incidents of actual or suspected sexual misconduct, and with the following policies. Some personnel of the Archdiocese of Dubuque, such as principals, licensed school employees, counselors, etc. are also governed by mandatory reporting laws, a violation of which subjects them to civil and penal liability. These requirements are in addition to those mentioned in the policy herein.

This policy does not address sexual misconduct in general, but only in the special circumstances described herein. It is intended to establish procedures in an effort to prevent sexual misconduct by personnel of the Archdiocese of Dubuque and the resulting harm to others, and to provide guidance to the personnel of the Archdiocese of Dubuque on how to respond to allegations of sexual misconduct if any do occur.

### **1.0 Policy**

It is the policy of the Archdiocese of Dubuque that sexual misconduct by personnel of the Archdiocese of Dubuque while performing the work of the Archdiocese of Dubuque is contrary to Christian principles and is clearly outside the scope of the duties, responsibilities, and employment of all personnel of the Archdiocese of Dubuque. Sexual misconduct is not to be tolerated and is grounds for immediate termination of employment. All personnel of the Archdiocese of Dubuque must comply with (1) this policy and (2) all applicable federal and state laws pertaining to actual or suspected sexual misconduct.

### **2.0 Definitions**

For purposes of this policy only:

**2.1** “Sexual Misconduct” means any sexual conduct of Archdiocesan personnel which is: unlawful as described by the laws of the State of Iowa and in Section 4 of these policies, or contrary to the moral instructions, doctrines and canon law of the Catholic Church and causes injury to another.

**2.2** “Vulnerable persons” means all children and all dependent adults as defined in Iowa Code (Sec. 235, B.2).

**2.3** “Personnel” includes the following categories:

2.3a all incardinated clerics (including all incardinated permanent deacons and all incardinated transitional deacons of the Archdiocese).

2.3b all religious priests and deacons who have the faculties of the Archdiocese of Dubuque and are working in an Archdiocesan assignment.

2.3c all those non-ordained persons to whom a participation in the exercise of the pastoral care of a parish is entrusted according to Canon 517, Section 2, of the Code of Canon Law.

- 2.3d all clerics of other dioceses or religious communities who are working for the Archdiocese.
- 2.3e all women religious working for the Archdiocese.
- 2.3f all personnel of Catholic schools of the Archdiocese (administration, faculty and support staff).
- 2.3g all religious education directors or coordinators and teachers in the parishes and schools of the Archdiocese.
- 2.3h all youth ministers in the parishes, schools and institutions of the Archdiocese.
- 2.3i all personnel of St. Stephen Catholic Student Center, at the University of Northern Iowa, and St. Thomas Aquinas Student Center at Iowa State University.
- 2.3j all paid personnel in the offices, parishes and the schools of the Archdiocese.
- 2.3k all volunteers in the offices and institutions mentioned in 2.3j, who work on a significant scale with vulnerable persons.
- 2.3l such other personnel as designated by the Archbishop of Dubuque.
- 2.3m all personnel of American Martyrs Retreat House.
- 2.3n Catholic corporate entities within the Archdiocese of Dubuque that are listed in the Official Catholic Directory or the Archdiocesan Directory that do not have the Archbishop of Dubuque as their President are not covered by this policy.
- 2.4** “Archdiocese” means the Archdiocese of Dubuque, an Iowa corporate entity, all parishes within the Archdiocese of Dubuque, all parochial schools/religious education/youth ministry/and other programs operated by the offices and agencies of the Archdiocese of Dubuque.

### **3.0 Policy Distribution**

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

- 1) all those who seek ordination as clerics of the Archdiocese before being admitted to candidacy;
  - 2) all clerics of other jurisdictions who seek assignment for work in the Archdiocese.
- All personnel shall sign an acknowledgment/verification of receipt, understanding and acceptance of the policy. A copy of the required receipt accompanies this policy.

**3.2** Personnel listed in 2.3a-2.3d and those additional persons noted in 3.1 are to forward this receipt to the Vicar General of the Archdiocese or his designee.

**3.3** All other personnel are to give this receipt to their immediate supervisor, or to the head of their office/institution, or to the person hiring them.

### **4.0 Applicable Law**

**4.1** This policy is intended to address violations of civil and criminal law. A violation of the civil and criminal law can subject the perpetrator to a prison sentence and/or a monetary fine. It can also be the basis for a civil suit for monetary damages.

**4.2** The law changes from time to time by enactment of amendments to statutes and judicial interpretations. It is not possible to set out all of the laws in this document, but assistance will be given to all personnel having questions or seeking knowledge concerning the law.

**4.3** The Iowa Criminal Code defines the various types of conduct that violate this law. Three of the primary areas of concern are: sexual abuse, sexual exploitation and sexual harassment.

4.3a Sexual abuse is the subjection of a child or dependent adult by any person responsible for their care, to any sexual offense which is defined as a violation in the Iowa Criminal Code.

4.3b Sexual exploitation is any kind of sexual conduct, whether verbal or physical, between counselor and client; or in any other relationship which involves an imbalance of authority between the parties.

4.3c Sexual harassment includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact, or other verbal or physical conduct or communication of a sexual nature when:

- 1) submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining employment, public accommodations or public services, education or housing;
- 2) submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's employment, public accommodations or public services, education, housing; or
- 3) that conduct or communication has the purpose or effect of substantially interfering with an individual's employment, public accommodations or public services, education, or housing, or of creating an intimidating, hostile, or offensive employment or housing environment.

## **5.0 Education**

Education alone cannot shape mature attitudes and behavior, nor will it change inappropriate sexual behavior. Each adult must be responsible for his or her sexual growth and maturity. To aid this growth, the Archdiocese will attempt to provide programs which include knowledge or training applicable to these areas. Some personnel of the Archdiocese of Dubuque, such as principals, licensed school employees, counselors, etc. are governed by special training requirements (e.g. mandatory reporting laws). The following personnel must attend designated educational programs concerning sexual misconduct issues such as methods of recognizing and preventing sexual misconduct involving children or others:

**5.1** all priests and deacons working in the Archdiocese.

**5.2** all pastoral administrators/workers working in the Archdiocese.

**5.3** all youth ministers working in the Archdiocese.

**5.4** all school principals and directors of religious education.

**5.5** all teachers, catechists, volunteers and other staff.

**5.6** other Archdiocesan personnel as deemed necessary by the Archbishop.

Other personnel of the Archdiocese are encouraged to attend such educational programs.

## **6.0 Background and Reference Checks**

**6.1** An informational questionnaire, a copy of which accompanies this policy, is to be completed by all the personnel listed in Section 2, unless an alternative form is specified by state law.

6.1a Completed questionnaires by personnel listed in Section 2.3a-2.3d and Section 3.1 are to be forwarded to the Vicar General of the Archdiocese or his designee.

6.1b Completed questionnaires by all other personnel listed in Section 2 shall be received by the appropriate supervisor/head of the office or institution of the Archdiocese.

**6.2** Any further investigations will be coordinated by the head of the office, parish or institution responsible for hiring.

**6.3** With regard to personnel listed in 2.3b and 2.3e, an agreement will be reached with their respective religious order/diocese to inform the Archdiocese of Dubuque of any allegations of physical or sexual abuse, exploitation or harassment by such individuals of which the religious order/diocese is or may become aware. On its part, the Archdiocese of Dubuque, in writing, will inform the superior of such personnel of any credible allegation of a sexual misconduct.

**6.4** Failure to disclose information or failure to complete the appropriate questionnaire, regarding previous allegations of physical or sexual abuse, harassment or exploitation may be a grounds for immediate termination.

## **7.0 Sexual Abuse and Exploitation**

**7.1** Obligation to Report. Iowa Code Section 232.69 defines mandatory reporters. Iowa Code Section 232.70 requires mandatory reporters to file a report with the Department of Human Services if they reasonably believe a child has suffered abuse. Iowa Code 232.70 requires those who are mandatory reporters to make an oral report to the Department of Human Services to be followed by a written report within forty-eight hours if they reasonably believe a child has suffered abuse.

7.1a Any personnel of the Archdiocese governed by this policy who know or has reason to know of an incident of sexual abuse ( as defined in Section 4.3a) or of sexual exploitation (as defined in section 4.3b) shall comply with applicable reporting and other requirements of the state and local laws (unless to do so would violate priest/penitent relationship of the Sacrament of Reconciliation) and shall also make a verbal report of the incident to the appropriate staff person immediately, as determined by each Archdiocesan or parish entity. The verbal report shall be followed, as soon as reasonably possible, by a written report to the appropriate person with a copy to the Archbishop or his designee. Unless otherwise determined, the appropriate staff person for Catholic schools is the principal, who shall complete the prescribed Level I Investigation; for parishes, the pastor; and for Archdiocesan entities, the supervisor of the pastoral office where the alleged perpetrator is employed. If the accusation is made against “the appropriate staff person” and that person is not a priest, the verbal and written reports shall be made, on the parish level, to the canonical pastor, and on the Archdiocesan level, to the Vicar General or his designee. If the accusation is made against a cleric or an ecclesiastical office holder, the report shall be made to the Archbishop or his designee.

7.1b The alleged perpetrator will be immediately removed from any possible contact with children or vulnerable adults, pending the resolution of the charges and the outcome of the investigation. Such action will not imply guilt or innocence.

7.1c When accusations of sexual misconduct are made against personnel of the Archdiocese, contact by the appropriate Archdiocesan staff with the alleged victim and family should, if appropriate, be promptly initiated. Contact should be made by priestly

and other counselors chosen by the Archbishop for the purpose of offering whatever concern or solace may be needed, with no comment as to the truth of any accusation. Medical, psychological and spiritual assistance may be offered in the spirit of Christian justice and charity.

**7.2 Investigation of Reported Incidents.** Each reported incident will be investigated as soon as reasonably possible. Care will be taken not to interfere with any criminal investigation. The investigation will be done with a high level of Christian care, concern and confidentiality for the alleged victim, the family of the alleged victim, the person reporting the incident, and the alleged perpetrator. The Archbishop/designee shall investigate each reported incident and this shall be done as soon as reasonably possible. Those doing the investigation may consult with and seek the advice of the Archdiocesan attorney, not only when undertaking the investigation, but also during the investigation, as deemed appropriate.

**7.2a** The alleged perpetrator may be represented by counsel of his/her own choosing. In the case of a priest or ecclesiastical office holder, the counsel, if possible, should be one with canonical expertise. In any case, any expense involved is the responsibility of the alleged perpetrator. The Archdiocese will not assume the legal fees for the accused. The Archdiocesan legal counsel shall not act as counsel for the accused. No further contact shall occur by the alleged perpetrator with the alleged victim after the initial charges have been made.

**7.2b** For accusations against all personnel, the alleged perpetrator should be interviewed by the Archbishop/designee. The alleged perpetrator should be advised of the provision of 7.2a and should be informed of his/her rights, and that anything said may be used against the alleged perpetrator in a criminal proceeding or in a civil lawsuit. The alleged perpetrator should be presented with a specific listing of allegations. The alleged perpetrator should be given an opportunity to ask any clarifying questions and should then be asked to respond to the allegations after consultation with his/her counsel. The investigator should also review the alleged perpetrator's personnel file and should inquire of the alleged perpetrator whether there have been any other incidents of sexual misconduct which may have gone unreported. The investigative process may include an evaluation conducted by a professional counselor or therapist.

**7.2c** The investigator will ordinarily meet with and interview the complainant and persons identified as witnesses or persons likely to possess information relevant to the investigation, as the investigator thinks necessary for purposes of the investigation.

**7.2d** Upon completion of the investigation, if done by his designee, a report will be provided to the Archbishop, outlining the findings of the investigation.

**7.2e** If the alleged claim is substantiated, or if it appears it can be substantiated, the alleged perpetrator, in accordance with canonical and other considerations, will be relieved of all responsibilities in the Archdiocese, parish, office or institution, and be placed on administrative leave pending the outcome of the internal and any outside investigation. Such leave will be with or without pay or benefits as the Archbishop or his designee may decide.

**7.2f** Appropriate records of each incident reported and of the investigation and the results thereof will be kept by the Archbishop or his designee, and may be reviewed by the Archdiocesan attorney.

7.2g Notification of the incident shall be given to insurers in accordance with the terms of applicable insurance policies. The Archdiocesan attorney should be consulted regarding such notification.

7.2h Any media contact or inquiries regarding an incident of sexual misconduct should be directed to the Vicar General.

**7.3 Action Where Guilt Is Determined.** Any non-cleric personnel of the Archdiocese who admits to, does not contest, or is found guilty of an incident of sexual misconduct following an investigation under this policy, shall be immediately terminated from employment and any position of responsibility with the Archdiocese. Only following diagnosis, evaluation, treatment and successful after-care may the individual employee be considered for re-employment with the Archdiocese, and then only under such conditions and limitations as deemed appropriate by the Archdiocese. Any cleric, ecclesiastical office holder, nonincardinated priests or deacons, and religious personnel in similar circumstances will be placed on administrative leave from ministry. Further penal sanctions, including, but not limited to, dismissal from the clerical state, may be considered.

7.3a A cleric shall receive diagnostic evaluation, if required, at the expense of the Archdiocese. The cleric shall provide the Archbishop, or his designee, with an authorization for the release of diagnostic information to carry out the purposes of this policy. This release is limited to the purposes of this policy and is not a waiver of any statutory privilege of confidentiality.

7.3b A member of the Archdiocesan clergy may be required to undergo treatment if he wishes to be considered for future service in the Archdiocese. Cost of such treatment and release of information from the treatment center will be negotiated between the cleric and the Archbishop.

7.3c When the member of the Archdiocesan clergy has completed treatment, he may be required to take part in an appropriate supervised after-care program approved by the Archbishop, having received the recommendations of the professional treatment center.

7.3d Following diagnostic evaluation, treatment and successful after-care, the individual cleric may, unless professional advice indicates otherwise, be eligible for consideration of a contractual assignment, with such limitations (e.g., excluding ministry to minors or others at risk) as are deemed appropriate after consultation with diagnostic and treatment professionals. He will be expected to participate in a regular program of support and will report to a supervisor assigned by the Archbishop.

## **8.0 Sexual Harassment**

**8.1 Obligation to Report.** Any personnel of the Archdiocese who knows or has reason to know of an incident of sexual harassment (as defined in 4.3a) by any personnel of the Archdiocese shall comply with any applicable reporting or other requirements of state and local laws (unless to do so would violate priest/penitent relationship of the Sacrament of Reconciliation), and shall also report as follows:

8.1a A verbal report of the incident shall be made immediately to the appropriate staff person as determined by each Archdiocesan or parish entity and shall be followed as soon as reasonably possible by a written report. Reports of incidents in educational programs governed by the Archdiocesan Board of Education shall follow policy 4116.1. found in the Archdiocesan Board of Education Policy Book. If the accusation is made against a

person defined as “the appropriate staff person”, the verbal and written reports shall be made, on the parish level, to the canonical pastor, and on the Archdiocesan level, to the Vicar General or his designee. In the case when an accusation is made against a cleric or an ecclesiastical office holder, the report shall be made to the Archbishop or his designee.

8.1b A written report shall be sent to the Archbishop.

8.1c Reasonable care will be taken to separate the complainant and the alleged perpetrator until the investigation is completed.

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

8.2a An alleged perpetrator may be represented by counsel of his/her own choosing. In the case of a priest or ecclesiastical office holder, the counsel, if possible, should be one with canonical expertise. In any case, any expense involved is the responsibility of the alleged perpetrator.

8.2b For accusations against all personnel, the alleged perpetrator should be interviewed. The alleged perpetrator should be advised of the provisions of 8.2a and should be informed that anything said may be used against the alleged perpetrator in a criminal proceeding or in a civil lawsuit. The alleged perpetrator should be presented with a specific listing of allegations. The alleged perpetrator should be given an opportunity to ask any clarifying questions and should then be asked to respond to the allegations after consultation with his/her counsel. The investigator should also review the alleged perpetrator’s personnel file and should inquire of the alleged perpetrator whether there have been any other incidents of sexual harassment which may have gone unreported.

8.2c The investigation will also ordinarily include a meeting with and interview of complainant, and interviews with such persons identified as witnesses or persons likely to possess information relevant to the investigation, as the investigator thinks necessary for purposes of the investigation.

8.2d Appropriate records, including reports of misconduct, results of investigations, final determination and disposition, shall be made by the investigator for each investigation and these reports shall be filed in the alleged perpetrator’s personnel file.

8.2e In any case, when it appears that criminal or civil action may be taken by one or more of the parties involved, notification of the incident shall be given to insurers in accordance with the terms of applicable insurance policies. The Archdiocesan attorney should be consulted regarding such notification.

8.2f To the extent possible, all information pertaining to the investigation will be kept confidential.

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

8.3a If the incident is of a significantly offensive nature, in the judgment of the investigator, or if repeated offenses by this same perpetrator have been documented, the procedure detailed in Section 7.3 shall be followed.

8.3b In all other cases, the investigator will inform the perpetrator, in writing, of the result of the investigation. Moreover, the investigator shall inform the perpetrator that another incident will result in termination of employment, and that the report regarding the incident shall be placed in the individual's personnel file. Psychological or professional counseling may be required for the perpetrator.

**8.4** Action Where Guilt Determined, Clergy. If the alleged claim is substantiated, a report outlining the findings of the investigation will be sent to the Archbishop for determination. If deemed appropriate by the Archbishop, the procedures outlined in Section 7.3 may be followed. If the Archbishop determines that circumstances do not warrant the procedures outlined in Section 7.3, he may so advise the investigator, and instruct the investigator to proceed as outlined in Section 8.3b.

## **9.0 Confidentiality**

All information related to an incident in which a complaint is made of sexual abuse, sexual exploitation or sexual harassment must be assembled and retained in a written form in a confidential manner. Such information should be safeguarded from unauthorized disclosure.

## **10.0 Acts of Retaliation**

The Archdiocese of Dubuque will not tolerate retaliatory acts of any nature against persons who in good faith make reports and provide information implementing these policies.

## **11.0 Pastoral Responses**

**11.1** Pastoral care for victims should include concrete and direct offers of assistance. For example financial aid may be provided for counseling.

**11.2** Appropriate and sensitive responses should be extended to the suffering parish community.

**11.3** While recognizing the limitations of psychological screening, the Archdiocese of Dubuque remains committed to an intensive and extensive screening of all candidates for the priesthood and permanent diaconate.

This Policy is issued at the Archdiocesan Center of the Archdiocese of Dubuque, and is effective December 27, 1993.

Most Rev. Jerome Hanus, O.S.B.  
Archbishop of Dubuque