



DIOCESE OF DULUTH

SEXUAL MISCONDUCT POLICY BOOK
AND
CODE OF PASTORAL CONDUCT

August 2010

Dear Friends in Christ,

Since 1992, the Diocese of Duluth has had in place a sexual misconduct policy that has been conscientiously enforced. At the same time, the Diocese has regularly reviewed the policy to better ensure that it reflects the more recent findings of the behavioral sciences, sound management practices, and legal decisions.

The revision of the *Sexual Misconduct Policy* before you was completed with the assistance of legal counsel, canon lawyers, and the Diocesan Review Board. This booklet strives to bring together in one format the immediate response requirements of civil law, the *USCCB Charter for the Protection of Children and Young People*; and the *Essential Norms for Diocesan/Eparchial Policies Dealing with Allegations of Sexual Abuse of Minors by Priests or Deacons*, as approved by the Holy See.

Clergy, staff, and volunteers should and will be held accountable for their behavior. In order to maintain the highest level of accountability, there must be a prompt response to credible allegations of sexual misconduct. This *Sexual Misconduct Policy* aims to clarify and facilitate the appropriate response.

In our churches, schools, and other institutions, we share in the work and ministry of Christ. May our conduct always model that of Christ who recognized in each person the profound dignity that is theirs as sons and daughters of God.

With prayerful best wishes, I am

Sincerely yours in Christ

Most Reverend Paul D. Sirba
Bishop of Duluth

Please check the Diocesan website for further information on reporting:
[www:dioceseduluth.org](http://www.dioceseduluth.org).

PART A

SEXUAL MISCONDUCT POLICY OF THE DIOCESE OF DULUTH

This policy addresses acts of sexual misconduct by personnel of the Diocese and the resulting harm to others, and provides guidance on how to respond to accusations of sexual misconduct.

Sexual misconduct is contrary to Christian values and principles. An abuse of power, sexual misconduct diminishes or destroys the relationship of trust that is so necessary for ministry. Sexual misconduct cannot and will not be tolerated in our Church.

The Diocese is committed to addressing and responding to all allegations of sexual misconduct in an appropriate, prompt and effective manner and with due regard for the rights of all. The Diocese will comply with all applicable state and local laws regarding incidents of alleged or actual sexual misconduct, and with the following policy.

1. **DEFINITIONS:** For purposes of this policy only
 - 1.1 “**Sexual Misconduct**” means any sexual conduct of diocesan personnel which is unlawful as described by the laws of the State of Minnesota and in Section 3 of these policies, or
 - 1.2 “**Immoral Sexual Conduct**” is behavior that, while not unlawful as described by the laws of the State of Minnesota, remains contrary to the moral instructions, doctrines and canon law of the Catholic Church and causes injury to another.
 - 1.3 “**Sexual Abuse of a Child**” includes sexual molestation or sexual exploitation of a minor and other behavior by which an adult uses a minor as an object of sexual gratification. The norm to be considered in assessing an allegation of sexual abuse of a minor is whether interaction with a minor qualifies as an external, objectively grave violation of the sixth commandment of the Decalogue.
 - 1.4 “**Vulnerable persons**” means all children and all vulnerable adults as defined in Section 626.557, Subd. 1 of Minnesota Statutes as amended. Any person 18 years of age or older is considered “vulnerable” when that person, because of physical or mental disability or dependency on institutional services, is particularly vulnerable to maltreatment.
 - 1.5 “**Diocese**” or “**diocesan**” includes the Diocese of Duluth as a corporate entity, all the parish corporations, all diocesan schools and Calvary Cemetery.

- 1.6 “**Review Board**” refers to the Sexual Misconduct Review Board. (See Appendix).
- 1.7 “**Investigator**” stands for the Independent Investigator (See Appendix), the Sexual Misconduct Review Board and the Vicar General.
- 1.8 “**Assistance Coordinator**” means the individual designated to aid in the immediate pastoral care of persons who have reported sexual abuse or sexual exploitation.

2. **DIOCESAN PERSONNEL**

“**Personnel**” includes but is not limited to the following categories:

- 2.1 all incardinated clerics (including all incardinated permanent deacons and all incardinated transitional deacons of the Diocese);
- 2.2 all religious priests, deacons, and brothers working for the diocese, its institutions or offices.
- 2.3 all those non-ordained persons to whom a participation in the exercise of the pastoral care of a parish is entrusted according to Canon 517, Section 2, of the Code of Canon Law;
- 2.4 all clerics of other jurisdictions who are working for the Diocese;
- 2.5 all women religious working for the Diocese, its parishes, schools, institutions or offices;
- 2.6 all personnel of Catholic schools of the Diocese (administration, faculty, and support staff);
- 2.7 all religious education directors or coordinators and teachers in the parishes and schools of the Diocese;
- 2.8 all youth ministers in the parishes, schools and institutions of the Diocese;
- 2.9 all personnel of diocesan campus ministries;
- 2.10 all paid personnel in the offices of the Diocese, in the parishes of the Diocese, in the schools of the Diocese, and at Calvary Cemetery;
- 2.11 all volunteers in the offices and institutions mentioned in Section 2.10, who work on a significant scale with vulnerable persons (cf. Sec. 1.2);
- 2.12 such other personnel as designated by the Bishop of the Diocese.

3. APPLICABLE LAW

- 3.1 This policy is intended to address violations of Minnesota criminal law. A violation of the 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.
- 3.2 The law changes from time to time through the enactment of amendments to statutes and judicial interpretations. Because of this, it is incumbent upon all personnel of the Diocese to familiarize themselves with such changes that may occur.
- 3.3 Minnesota Statutes define various types of conduct that violate the law. Three of the primary areas of concern are:
- 3.3.1 ***Sexual abuse*** (as it applies to adult/child or vulnerable person interactions) is the subjection of a child or vulnerable adult, by any person responsible for their care, by any person who has a significant relationship to them, or by a person in a position of authority, to any sexual act which is a violation of the Minnesota Criminal Sexual Conduct Code or Minnesota prostitution offenses. “Sexual abuse” includes threatened sexual abuse.
- 3.3.2 ***Sexual exploitation*** (as it applies to any formal helper/helpee relationship) is any kind of sexual contact between an individual seeking treatment, assessment, or counseling regarding a mental or emotional illness, symptom, or condition, and an individual performing such services that causes injury.
- 3.3.3 ***Sexual harassment*** - The Minnesota Human Rights Act defines sexual harassment as follows: It "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 creating an

intimidating, hostile, or offensive employment, public accommodations, public services, educational, or housing environment.

4. **EDUCATION**

Since education alone cannot shape mature attitudes and behavior or change inappropriate sexual behavior, each adult must be responsible for his or her own sexual growth and maturity. To support this responsibility, the Diocese may, from time to time, arrange programs which include knowledge or training applicable to these areas. All personnel of the Diocese are to attend such educational programs.

The Diocese will cooperate with parents, educators, civil authorities, and community organizers to provide education and training for children, youth, parents, educators, ministers, and others about ways in which to make and maintain environments free from sexual misconduct.

5. **POLICY DISTRIBUTION**

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

5.1.1 all those who seek ordination as clerics of the Diocese before being admitted to candidacy;

5.1.2 all clerics of other jurisdictions who seek incardination in the Diocese, or who seek assignment for work in the Diocese;

5.1.3 all non-clerical personnel who present themselves for employment or volunteer service with offices and institutions mentioned in Section 2.10. All such personnel shall sign an acknowledgment of receipt, understanding and acceptance of the policy. A copy of the required receipt is attached to this policy is inserted.

5.2 Personnel listed in Sections 2.1 through 2.5, and those additional persons noted in Sections 5.1.1 and 5.1.2 are to forward this receipt directly to the Office of the Vicar General.

5.3 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, who will then forward the receipt to the Office of the Vicar General.

6. **BACKGROUND AND REFERENCE CHECKS**

6.1 A background questionnaire is to be completed by all the personnel listed in Section 2. This includes anyone who will seek future employment for

positions listed in Section 2. *The background questionnaire is enclosed with this policy.*

- 6.1.1 Completed questionnaires by personnel listed in Sections 2.1 through 2.5 and Sections 5.1.1 and 5.1.2 are to be forwarded directly to the Office of the Vicar General.
- 6.1.2 Completed questionnaires by all other personnel listed in Section 2 and Section 5.1.3 shall be received by the appropriate supervisor/head of the office or institution of the Diocese and then forwarded to the Office of the Vicar General.
- 6.1.3 If the church worker answers any question affirmatively, the Investigator will ascertain the person's suitability for continued employment or volunteering and make recommendations to the Bishop or his delegate accordingly.**
- 6.2 The Bishop will complete a statement for each incardinated cleric indicating whether or not he has ever received allegations of sexual misconduct by the cleric which would render him a danger to others in the exercise of his ministry outside the Diocese of Duluth.
- 6.3 Religious or ecclesiastical superiors will submit to the Bishop a statement for all religious and/or clerics of other jurisdictions who work for the Diocese indicating whether or not allegations of sexual misconduct have ever been made against them. If any allegations have been made, the Investigator will ascertain the suitability of that religious or cleric for continued ministry in the Diocese, and will provide a report to the Bishop.
- 6.4 All religious and/or clerics who seek employment with the Diocese or its institutions, all clerics of other jurisdictions who seek incardination in the Diocese, or who seek assignment for work in the Diocese must, before beginning ministry in the Diocese, furnish documentation to the Bishop from the diocesan bishop or religious superior indicating whether or not any allegations of sexual misconduct have ever been made against the cleric or religious. If any allegations have been made, the Investigator will ascertain the suitability of that religious or cleric for ministry in the Diocese, and will provide a report to the Bishop.
- 6.5 If any religious and/or cleric who is currently employed by the Diocese seeks or is proposed for a new assignment, transfer, or residence in another Diocese, the Bishop or religious superior must furnish documentation to the receiving Bishop or religious superior indicating whether or not any allegations of sexual misconduct have ever been made against the religious or cleric.

- 6.6 All those seeking admission to a seminary in the hope of ordination as clerics of the Diocese will undergo psychological testing as required by the Diocese. The institutions preparing candidates for ordained ministry in the Diocese of Duluth will submit reports to the Bishop outlining the candidates' suitability for ministry.
- 6.7 Any further background investigations of diocesan personnel must be approved by the Bishop and coordinated by the Vicar General or his designate.

7. **REPORTING AND INVESTIGATION OF ALLEGATIONS OF SEXUAL ABUSE, SEXUAL EXPLOITATION, IMMORAL SEXUAL CONDUCT OR SEXUAL ABUSE OF A CHILD**

- 7.1 ***Obligation to Report.*** Any personnel of the Diocese who knows or has reason to believe an incident of sexual abuse, sexual exploitation, immoral sexual conduct or sexual abuse of a child by any personnel of the Diocese has occurred 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 or other communication deemed privileged under Minnesota law) and **shall report** as follows:
- 7.1.1 A verbal report of the incident shall be made immediately to the appropriate staff person as determined by each diocesan or parish entity and shall be followed as soon as reasonably possible by a written report with a copy to the Vicar General or his designate. Unless otherwise determined, the appropriate staff person for Catholic schools is the principal; for parishes, the pastor; and for diocesan entities, the personnel director of the office where the alleged perpetrator is employed. In the case when an accusation is made against "the appropriate staff person," if not a priest, the verbal and written reports shall be made, on the parish level, to the canonical pastor, and on the diocesan level, to the Vicar General or his designate. In the case when an accusation is made against a cleric or an ecclesiastical office holder, the report shall be made to the Vicar General or his designate. [Note: At least one "appropriate staff person" should be female.]
- 7.1.2 The Vicar General or his designate shall notify the Bishop of the Diocese, the Independent Investigator and the Review Board of the alleged incident.
- 7.1.3 If not already reported, the Vicar General will report any allegation of sexual abuse, sexual exploitation or sexual abuse of a child to the

appropriate public authorities, and will support and advise all alleged victims of their right to make a report to the public authorities.

7.2 *Investigation of Reported Incidents.*

- 7.2.1 When accusations of sexual abuse, sexual exploitation, immoral sexual conduct or sexual abuse of a child are made against personnel of the Diocese, contact by an officially designated diocesan representative (i.e. Assistance Coordinator) with the alleged victim and family will be promptly initiated. If the alleged victim is a vulnerable person (See Sec. 1.2), the representative and/or advocate will offer to meet with the parents or legal representative on behalf of the Diocese. If the alleged victim is an adult, the representative and/or advocate will initiate contact with the person in question.
- 7.2.2 The Assistance Coordinator will work with the alleged victim and/or victim's family for the purpose of offering whatever concern or solace may be needed. Such assistance will be offered as a matter of pastoral concern, and shall not be construed as an admission of legal responsibility.

Medical, psychological and spiritual assistance may be offered in the spirit of Christian justice and charity.

- 7.2.3 Upon being notified of an alleged incident of sexual abuse, sexual exploitation, immoral sexual conduct or sexual abuse of a child, the Vicar General shall promptly notify the Independent Investigator of the allegations and request that she/he conduct an investigation as to the accuracy of such allegations. Each reported incident will be investigated as soon as reasonably possible, with care taken not to interfere with any criminal investigation, and with a high level of Christian care, concern and confidentiality. The initial investigation shall be conducted by the Independent Investigator and her/his findings submitted to the Review Board and Vicar General for such further investigation as may be appropriate in accordance with the policies and procedures of the Review Board, a copy of which are attached to this policy as an Appendix.
- 7.2.4 The Review Board will assess all accusations of sexual abuse, sexual exploitation or sexual abuse of a child, and will communicate its assessment and advice to the Bishop of the Diocese, the alleged victim, and the alleged perpetrator. The Review Board will also assess all accusations of immoral sexual conduct and communicate its assessment and advice to the Bishop of the Diocese.
- 7.2.5 It is recommended that the alleged perpetrator be represented by counsel of his/her own choosing. In the case of a priest or ecclesiastical office

holder, counsel should possess canonical expertise. Any expense involved is the responsibility of the alleged perpetrator.

- 7.2.6 For accusations against all personnel, the alleged perpetrator should be interviewed in the presence of his/her counsel. The alleged perpetrator shall be advised of the provisions of Sections 7.2.3 through 7.2.5, and shall 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.
- 7.2.7 When an accusation of sexual abuse, sexual exploitation or sexual abuse of a child is substantiated or appears that it can be substantiated, the alleged perpetrator, in accordance with canonical and other considerations, will be relieved of all responsibilities in the Diocese, parish, office, or institution, and be placed on administrative leave pending the outcome of the internal and any outside investigation. When an accusation of immoral sexual conduct is substantiated or appears it can be substantiated, the Bishop of the Diocese shall determine whether the perpetrator shall be relieved of all or some of his/her duties and placed on administrative leave pending the outcome of further investigation. Such leave will be with or without pay or benefits as the Bishop or his designate may decide.
- 7.2.8 When an accusation of sexual abuse, sexual exploitation, immoral sexual conduct or sexual abuse of a child against a priest or deacon is substantiated or appears that it can be substantiated, the priest or deacon will be asked by the Bishop after consultation with the Review Board to undergo an appropriate medical and psychological evaluation.
- 7.2.9 Any media contact or inquiries regarding an incident of sexual abuse, sexual exploitation, immoral sexual conduct or sexual abuse of a child should be directed to the Diocesan Director of Communications.

The Diocese is committed to open communication with respect to the issues of sexual abuse and exploitation. The Diocese will respect the privacy and reputation of the individuals involved, but will deal with members of the community as openly as possible.

- 7.3 ***Action Where Guilt Determined - Non-Cleric:*** Any non-cleric personnel of the Diocese who admits to, does not contest, or is found guilty of an incident of sexual misconduct or sexual abuse of a child following an investigation under this policy, shall be immediately terminated from employment and any position of responsibility with the Diocese in accordance with diocesan policy. Only following diagnosis, evaluation, treatment and successful after-care may the individual employee be

considered for re-employment with the Diocese, and then only under such conditions and limitations as deemed appropriate by the Diocese. The Bishop of the Diocese shall determine the appropriate course of action in regard to any non-clergy personnel of the Diocese who admits to, does not contest or is determined to have committed an incident constituting immoral sexual conduct.

- 7.4 ***Action Where Guilt Determined - Cleric:*** Any cleric, ecclesiastical office holder, non-incardinated priests or deacons and religious personnel who admits to, does not contest, or is found guilty of **even a single act or incident of sexual abuse of a child** following an investigation under this policy will be **permanently removed** from ministry.

Further penal sanctions, including but not limited to dismissal from the clerical state, may be imposed pending the outcome of any civil/criminal actions. If the perpetrator is not dismissed from the clerical state, he must lead a life of prayer and penance, and must not celebrate Mass publicly, wear clerical garb, or present himself publically as a cleric.

Any cleric, ecclesiastic office holder, non-incardinated priest or deacons and religious personnel who admits to, does not contest, or is found guilty of an incident of sexual misconduct or sexual exploitation of an individual **other than a child** following an investigation under this policy, will be placed on administrative leave from ministry. Further penal sanctions, including but not limited to dismissal from the clerical state, may be imposed pending the outcome of any civil/criminal actions or thereafter.

The Bishop of the Diocese shall determine the appropriate course of conduct in regard to any cleric, ecclesiastic office holder, non-incardinated priest or deacon, and religious personnel who admits to, does not contest, or is determined to have committed an incident of immoral sexual conduct.

The perpetrator will be offered professional assistance.

- 7.5 ***Outreach Services for Victims.*** In cases where a cleric admits to, does not contest, or is found guilty of sexual abuse, sexual exploitation, immoral sexual conduct or sexual abuse of a child either the Bishop or one of his representatives will offer to meet with the injured party, victim and/or the victim's family. In addition, the Diocese will provide the victim with counseling, spiritual assistance, a support group, or other similar outreach services where appropriate.

8. **REPORTING AND INVESTIGATION OF ALLEGATIONS OF SEXUAL HARASSMENT**

8.1 ***Obligation to Report.*** Any personnel of the Diocese who knows or has reason to believe an incident of sexual harassment by any personnel of the Diocese has occurred 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 or other communication deemed privileged under Minnesota law), and **shall report** as follows:

8.1.1 A verbal report of the incident shall be made immediately to the appropriate staff person as determined by each diocesan or parish entity and shall be followed as soon as reasonably possible by a written report with a copy to the Vicar General or his designate. Unless otherwise determined, the appropriate staff person for Catholic schools is the principal; for parishes, the pastor; and for diocesan entities, the personnel director of the office where the alleged perpetrator is employed. In the case when an accusation is made against "the appropriate staff person," if not a priest, the verbal and written reports shall be made, on the parish level, to the canonical pastor, and on the diocesan level, to the Vicar General or his designate. In the case when an accusation is made against a cleric or an ecclesiastical office holder, the report shall be made to the Vicar General or his designate.

[Note: At least one "Appropriate staff person" should be female.]

8.1.2 The Vicar General or his designate shall notify the Bishop of the Diocese, the Review Board and the Independent Investigator.

8.2 ***Investigation of Reported Incidents.*** All allegations of sexual harassment shall be initially investigated by the Independent Investigator. Each reported incident will be investigated as soon as reasonably possible with a high level of Christian care, concern and confidentiality. The investigation shall be conducted by the Independent Investigator in accordance with the policies and procedures of the Review Board and her/his findings submitted to the Review Board and Vicar General for such further investigation as may be appropriate. A copy of the policies and procedures is attached to this policy as an Appendix.

8.2.1 It is recommended that the alleged perpetrator be represented by counsel of his/her own choosing. In the case of a priest or ecclesiastical office holder, counsel should possess canonical expertise. Any expense involved is the responsibility of the alleged perpetrator.

8.2.2 For accusations against all personnel, the alleged perpetrator should be interviewed in the presence of his/her counsel. The alleged perpetrator

should be advised of the provisions of Sections 8.2 and 8.2.1, and should be informed that anything said may be used against the alleged perpetrator 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.

- 8.3 *Action Where Guilt Determined.* If the allegations are substantiated, the Investigator shall inform the perpetrator of the results of the investigation, and the Investigator shall make recommendations regarding appropriate disciplinary action, up to and including termination of employment.

9. **FALSE ACCUSATIONS AND UNSUBSTANTIATED CLAIMS**

There is always the possibility of false accusations or unsubstantiated claims made for whatever reason. It is important for all diocesan personnel to know that both civil law and canon law (cc. 1390-1391) provide penalties for the crime of falsehood in which individuals become victims of false denunciation and calumny. Where false accusations or unsubstantiated claims were made, the Diocese will take every reasonable step to restore the good name of the person who was falsely accused.

Promulgated at the Chancery of the Diocese of Duluth this 24th day of August 2010.

Most Reverend Paul D. Sirba
Bishop of Duluth

Reverend James B. Bissonette
Vicar-General

Revised August 2010.

PART B

MODEL CODE OF PASTORAL CONDUCT

For Priests, Deacons, Pastoral Ministers, Administrators, Staff, and Volunteers

Preface

With the assistance of the National Catholic Risk Retention Group, Inc., the Diocese of Duluth has developed this *Model Code of Pastoral Conduct for Priests, Deacons, Pastoral Ministers, Administrators, Employees, and Volunteers (Code of Pastoral Conduct)*. The purpose of the *Code of Pastoral Conduct* is to assist in developing and implementing uniform guidelines for appropriate behavior in situations of pastoral counseling and spiritual direction. The *Code of Pastoral Conduct* is not intended to address all situations that may arise in pastoral counseling relationships. It is intended to create a structure for addressing a variety of circumstances that, if not appropriately addressed, may create a risk of incidents, allegations, claims and/or lawsuits.

The Church must be exemplary. Clergy, staff, and volunteers should and will be held accountable for their behavior. In order to maintain the highest level of accountability, there must be a clear and unambiguous blueprint of appropriate and inappropriate behavior. The *Code of Pastoral Conduct* provides a basic structure for identifying limits. It is intended as a “continuous improvement document.” Therefore, your suggestions and recommendations for additions and revisions are encouraged.

I. Preamble

Priests, deacons, pastoral ministers, administrators, staff, and volunteers in our parishes and organizations must uphold Christian values and conduct. The *Model 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 appropriate church supervisor. 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.

III. Pastoral Standards

1. Conduct for Pastoral Counselors and Spiritual Directors

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, unless permission has been granted by person(s) being counseled. Pastoral Counselors and Spiritual Directors do not provide counseling to persons with whom they have engaged in past sexual intimacies.
- 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. Pastoral Counselors and Spiritual Directors do not terminate counseling to circumvent this standard.
- 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) between Pastoral Counselors or Spiritual Directors and the persons they counsel can be misconstrued and should be avoided. Physical conduct within the realm of accepted common courtesy (e.g. handshake) is allowed, with permission.
- 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.

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, at the outset of 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:
 - Attempt to secure written consent from the minor for the specific disclosure.
 - If consent is not given, disclose only the information necessary to protect the health and well-being of the minor.
 - Consultation with the appropriate Church supervisor personnel is required before disclosure.
 - In cases where the parent or legal guardian is considered to be a serious threat to the welfare of the minor, then disclose information

to appropriate legal authorities after consultation with appropriate Church personnel.

These obligations are independent of the confidentiality required by the seal of confession and by law. Under no circumstances whatsoever can there be any disclosure—even indirect disclosure—of information received through the confessional.

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.

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 responsible person as outlined in the Diocese's Sexual Misconduct Policy (2003 revision) and to civil authorities if the situation involves a minor.
- The Sexual Misconduct Policy of the Diocese of Duluth 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 Minnesota and should follow those mandates.

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 responsible person as outlined in the Diocese's Sexual Misconduct Policy (2003 revision).

The Sexual Misconduct Policy of the Diocese of Duluth procedures will be followed to protect the rights of all involved.

6. Parish, Religious Community/Institute, and Organizational Records and Information

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

- 6.1 Sacramental records shall be regarded as confidential. When compiling and publishing parish 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 or organization financial records are confidential unless review is required by the Diocese of Duluth. Contact the Diocese upon receipt of any request for release of financial records.
- 6.4 Individual contribution records of the parish, religious community/institute, or organization shall be regarded as private and shall be maintained in strictest confidence.

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.

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 of Duluth.
- 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 Vicar General at the Chancery Office of the Diocese of Duluth.
- 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 Vicar General at the Chancery Office of the Diocese of Duluth.
- 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

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.

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 and youth 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 and school activities.
- Use positive reinforcement rather than criticism, competition, or comparison when working with children and/or youth.

- 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.
- Pose any health risk to children and/or youth (i.e., no fevers or other contagious situations).
- Strike, spank, shake, or slap children and/or youth.
- 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 and/or youth, I am subject to a thorough background check including criminal history. 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 and/or youth.

APPENDIX

POLICIES AND PROCEDURES OF THE DIOCESAN REVIEW BOARD

The Independent Investigator (“**Independent Investigator**”) will be an individual of outstanding integrity, good judgment, experienced in conducting investigations and knowledgeable in the areas of sexual abuse, exploitation or harassment. The Independent Investigator shall not be an employee of the Diocese. At the request of the Vicar General, the Independent Investigator shall conduct the initial investigation into the accuracy of the allegations of sexual misconduct and report her/his findings to the Review Board and the Vicar General in writing.

The Diocesan Review Board (“**Review Board**”) will be composed of at least five (5) members of outstanding integrity and good judgment. The majority of the Review Board members will be lay persons who are not in the employ of the Diocese. At least one member should be a priest, at least one member should be a lawyer or other person experienced in legal matters or law enforcement, and at least one member should have particular expertise in the area of sexual abuse or exploitation of minors and others. The members will be appointed for a five (5) -year term, which can be renewed.

The functions of the Review Board include the following:

1. In conjunction with the Independent Investigator and Vicar General, assessing allegations of sexual abuse, sexual exploitation, immoral sexual conduct, sexual abuse of a child or sexual harassment by any personnel of the Diocese, and providing advice to the Bishop of the Diocese as to whether or not the allegations appear to be credible. The Independent Investigator’s, Vicar General’s and the Review Board’s assessment and advice will be communicated to the Bishop, the alleged victim, and the alleged perpetrator.

In assessing allegations of sexual abuse, sexual exploitation, immoral sexual conduct, sexual abuse of a child or sexual harassment, the Independent Investigator, and if appropriate the Vicar General and the Review Board, will interview the alleged victim, the alleged perpetrator, the reporting party, and any other witnesses, and should review the alleged perpetrator’s personnel file.

2. Reviewing the Sexual Misconduct Policy of the Diocese of Duluth at least once every two (2) years, and making recommendations concerning any modifications of the policy.
3. Making recommendations regarding fitness for continued ministry in particular cases.