



Policies of the Diocese of Kansas City ~ St. Joseph

Policy # 210.3

Policy Regarding Sexual Misconduct

Approved By: Most Reverend Raymond J. Boland, D.D.

Approved: October 15, 1996

Effective: October 15, 1996

Revised: September 10, 2003

ARTICLE 1 GENERAL PROVISIONS

1.1. Scope of Policy. This Policy shall apply to all claims of sexual abuse of minors by a priest or deacon of the Diocese of Kansas City-St. Joseph (the "Diocese"). Upon request by the Bishop, the Vicar General, the Victim Advocate, a member of the Independent Review Board or a member of the Response Team, it shall also apply to any other claim of misconduct by a priest, deacon, pastoral administrator or diocesan officer, or to any claim of sexual abuse of a minor by any employee or volunteer serving the Diocese or any of its parishes, schools or organizations. Because the Diocese has a separate policy with respect to sexual harassment by its personnel, this Policy does not apply to claims of sexual harassment.

1.2. Purpose of Policy; Conformance with Essential Norms. This policy and the procedures described herein are intended to be fair and responsive to the pastoral needs of the victim, the victim's family, the community and the accused, and to conform with the "Essential Norms for Diocesan/Eparchial Policies Dealing with Allegations of Sexual Abuse of Minors by Priests or Deacons" (hereafter, the "Norms"). This Policy and procedures shall facilitate cooperation, and avoid interference, with civil authorities responsible for investigating allegations of sexual abuse. The primary purposes of this Policy and procedures include the safety of children, the well-being of the community and the integrity of the Church. A copy of this Policy and of any revisions to this Policy shall be filed with the United States Conference of Catholic Bishops within the time period from time to time specified by the Norms.(1)

1.3. Sexual Abuse. Sexual abuse, as used in this Policy, is conduct or interaction with a minor or an adult that qualifies as an external, objectively grave violation of the Sixth Commandment. To be objectively grave, the act does not need to involve force, physical contact or a discernable harmful outcome.(2) If there is any doubt whether a specific act qualifies as an external, objectively grave violation, the writings of recognized moral theologians should be consulted, and the opinions of recognized experts should be appropriately obtained. Ultimately, it is the responsibility of the Bishop, with the advice of the Independent Review Board, to determine the gravity of the alleged act. (3)

- 1.4. Minor. A minor is a person under the age of 18 years.
- 1.5. Sexual Abuse of a Minor. Sexual abuse of a minor 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.(4)
- 1.6. Sexual Misconduct. Sexual misconduct includes sexual abuse and any other sexual conduct that is inappropriate under civil or moral law.
- 1.7. Funding, Staff and Facilities. The Diocese shall provide sufficient funding, staff and facilities to assure the effective implementation of the programs established by these provisions.
- 1.8. Education. The Diocese shall establish appropriate programs regarding the nature and effect of sexual abuse and other sexual misconduct for the continuing education of priests and other personnel of the Diocese. The Diocese shall review and augment ongoing programs for the screening and education of seminarians in matters related to sexuality and sexual abuse or misconduct.
- 1.9. Publication. The Diocese shall publish its policies and procedures relating to sexual abuse and other sexual misconduct so that those affected may readily seek and receive the assistance afforded by them. There shall be periodic public announcements of this Policy, including the procedures for filing a complaint.
- 1.10. Review and Amendment. At least once annually, and at any time directed by the Norms then in effect or by the United States Conference of Catholic Bishops, the Independent Review Board shall review these policies and procedures and may make recommendations for amendment to the Bishop. The Bishop may revise these policies and procedures at any time upon the recommendation of the Review Board or at his own initiative. A copy of any revision adopted shall be filed with the United States Conference of Catholic Bishops within three (3) months of such modification.(5)

ARTICLE 2 ASSISTANCE TO THOSE AFFECTED

- 2.1. Assistance to Those Affected. The Diocese shall make appropriate assistance available to those who may be affected by the alleged sexual abuse or other sexual misconduct by any personnel of the Diocese.
- 2.2. Assistance to Victim; Victim Advocate. The Diocese shall, through its Response Team or such person as the Response Team or the Bishop shall designate, appoint a Victim Advocate who shall be a competent person to coordinate assistance for the immediate pastoral care of persons who claim to have been sexually abused or who claim to be victims of other sexual misconduct by any personnel of the Diocese.6 The Victim Advocate shall minister to the victim, victim's family or other persons affected. This may include making available professional and other resources to aid in the care of a victim or other person.
- 2.3. Assistance to Community. The Diocese shall develop and maintain appropriate programs for outreach to communities affected by the alleged sexual abuse or other sexual misconduct by any personnel of the Diocese. The programs shall promote healing and understanding.

2.4. Assistance to Priests. The Vicar General is the representative of the Bishop who ministers to the priests of the Diocese by providing assistance, advice, support and by facilitating referrals to resource persons and other professionals.

ARTICLE 3 RELATIONSHIP WITH RELIGIOUS COMMUNITIES

3.1. Relationship with Religious Communities. The Diocese shall require a religious community whose priest members maintain or seek faculties to work in the Diocese to abide by Diocesan policies and procedures relating to sexual abuse and other sexual misconduct.(7)

ARTICLE 4 REVIEW PROCESS

4.1. Establishment of Process. Recommendations and determinations with respect to claims of sexual abuse or other misconduct by personnel of the Diocese, including consideration of the continuation of ministry of any priest or deacon who is the subject of an allegation of sexual abuse or other sexual misconduct or the return to ministry of a priest or deacon removed by reason of such an allegation, shall be made to the Bishop and by the Bishop according to the consultative and advisory process established in Articles 4 and 5.

4.2. Compliance and Cooperation. All persons associated with the Diocese are expected to cooperate with the civil authorities in a civil investigation, comply with legally established reporting requirements, advise and support a person's right to make a report to public authorities, and otherwise conduct themselves as good citizens.⁸ In addition, all diocesan clergy and all religious, employees and volunteers working for the Diocese shall promptly report to the Vicar General any allegations of sexual abuse by any diocesan personnel. Priests, religious and lay persons working in the Diocese are expected to cooperate with the letter and spirit of this process consistent with their particular status within the Diocese. All persons associated with the Diocese who are impacted by the process are expected to act with good will, understanding and sensitivity for the goals of this Policy.

4.3. Protection of Parties' Rights. Care must always be taken to protect the rights of all parties involved in the process, particularly those rights of the person claiming to have been the victim of sexual abuse or other sexual misconduct and of the person against whom the charge has been made.(9)

4.4. Unfounded Accusations. When an accusation has proven to be unfounded, every reasonable step shall be taken to restore the good name of the person falsely accused.(10)

4.5. Independent Review Board. The recommendations described in section 4.1 shall be made to the Bishop by an Independent Review Board (hereinafter the "Board")(11)

(a) Membership. The Board shall be comprised of at least six (6), but not more than nine (9), members appointed by the Bishop. All members shall be persons of outstanding integrity and good judgment; at least five (5) members shall be in full communion with the Catholic Church, and at least one (1) member shall be non-Catholic. One (1) member shall be a priest and an experienced, respected pastor of the Diocese, and at least one (1) member should have particular expertise in the treatment of the sexual abuse of minors. All other members shall be lay persons who are not employed by the Diocese, but this shall not be

construed to prohibit any member from receiving compensation for services rendered in connection with the implementation of this Policy.

- (b) Term. Appointments shall be for a term of five (5) years, which may be renewed.¹³ However, no member shall be appointed for more than two (2) consecutive five (5)-year terms.
- (c) Officers. The Bishop shall designate one Board member as chairperson to serve until her or his replacement is appointed by the Bishop. The chairperson will ordinarily convene and preside at meetings of the Board in accordance with the will of the Board. In the absence of the chairperson, the Board may select one of its members to serve as chairperson during such absence.
- (d) Relationship with the Bishop. The Board shall serve as a confidential consultative body to the Bishop in discharging his responsibilities concerning the matters covered by this Policy and in making the determinations and recommendations contemplated by this Policy.¹⁴ The Board is not accountable to other officials of the Diocese except as may be necessary for the efficient administration of its business.
- (e) Quorum and majority for doing business. A majority of members of the Board shall constitute a quorum, and the concurrence of a majority, but not less than four (4) members, of the Board shall be required for a determination or recommendation.
- (f) Meetings:
 - 1) Generally. The Board shall conduct its business at meetings, which it shall schedule as often as necessary to perform its duties. The Board ordinarily will meet in person, but may meet by telephone or video conference call. Except as otherwise provided by this Policy, the members of the Board shall not discuss the business of the Board or information presented to the Board outside of Board meetings or communications with counsel, except that the Response Team may communicate with Board members as required by this process or as otherwise appropriate.
 - 2) Attendance. The Bishop, the Vicar General and the Promoter of Justice may attend any meeting of the Board.¹⁵ The Response Team, the Vicar General and legal counsel will usually attend those portions of a Board meeting during which information is presented to the Board and the Board makes its recommendations. The Response Team and legal counsel may attend other portions of Board meetings subject to the discretion of the Board. Any other person may attend Board meetings only upon the invitation of, or with the consent of, the Board and subject to such limitations as the Board may require.
 - (3) Nature of Board meetings. Board meetings shall reflect the pastoral character of this process, which is consultative and advisory rather than adversarial and adjudicative. Board meetings are not hearings. Rather, they are sessions at which the Board receives and considers information, deliberates and formulates its determinations and recommendations. The Board may consider allegations in connection with which the name(s) of the perpetrators or the victim(s) or both are not disclosed to the Board. However, the Board shall be entitled to have such name(s) disclosed to it whenever the Board shall deem disclosure relevant to its deliberations. The Board may, in its discretion, further limit the information it receives or considers.

(4) Right to counsel. Nothing in this Policy shall be construed so as to abridge an individual's right to legal or canonical counsel. If the Board invites or permits a person to attend a meeting or a portion of a meeting, that person may appear with counsel or, in the Board's discretion which shall be exercised liberally, with such other advisors for whom the person has in advance of the meeting requested the Board's consent. The Board shall not permit the participation of counsel or other advisors to delay this process unduly.

(g) Duties. The Board shall have the duty to:

(1) Recommend to the Bishop a candidate or candidates for the Response Team.

(2) Supervise the Response Team.

(3) Review and assess all claims of alleged sexual abuse of minors by a priest or deacon of the Diocese, and any other claim of misconduct brought to the Board by the Bishop, the Vicar General, the Victim Advocate, a member of the Board or the Response Team.(16)

(4) Make recommendations to the Bishop with respect to claims of sexual abuse and misconduct brought to the Board. Such recommendations may contain advice on all aspects of the claims, whether retrospective or prospective,(17) including the future status of any priest, deacon or religious subject to the jurisdiction of the Bishop and against whom allegations of sexual abuse or misconduct have been made. Recommendations as to future status may, consistent with the provisions of Article 5, include whether a priest, deacon, religious or employee of the Diocese against whom there has been an allegation of sexual abuse or misconduct should continue in ministry, or whether any such priest, deacon or religious who has been removed from a ministerial assignment should return to ministry.(18)

(5) Recommend guidelines for the inquiries of the Response Team, the proceedings of the Board and programs for the treatment, rehabilitation and supervision of priests, deacons and religious consistent with these provisions.

(6) Recommend to the Bishop such amendments to this Policy as the Board believes are appropriate.(19)

4.6. Response Team. The Response Team shall assist the Board in the performance of its duties as described below.

(a) Appointment and Term. The members of the Response Team shall be appointed by the Bishop and shall serve at the pleasure of the Bishop. One member shall be the Vicar General or the Chancellor, or a comparable official of the Diocese. At least one (1) member shall be a licensed mental health professional, and at least one (1) member shall be a mandatory reporter of child abuse or neglect as defined by Missouri law. Any member of the Response Team may be removed at any time by the Bishop. The Response Team may act through any one or more of its members, as circumstances shall indicate.

(b) Response Team Administrator. Generally, the Vicar General shall serve as the Response Team administrator. However, the Bishop may appoint any member of the Response Team as its administrator, and such administrator shall have the duties herein set forth for the Vicar General when she or he is acting as administrator of the Response Team.

(c) Duties. The Response Team shall have the duty to:

- (1) Receive and analyze information and allegations of sexual abuse of minors by priests or deacons of the Diocese.
- (2) Comply with all civil reporting requirements related to sexual abuse of a minor. (20)
- (3) Initiate and conduct an objective preliminary investigation in compliance with the provisions of section 4.10 of this Policy of each allegation of sexual abuse or misconduct received by it. When the allegation involves a claim of sexual abuse of a minor by a priest or deacon, the investigation shall be also be conducted in harmony with Canon Law section 1717. (21, 22)
- (4) Take all appropriate steps to protect the reputation of the accused during the investigation. (23)
- (5) Offer assistance to the victim and the victim's family as set forth in section 2.2 of this Policy.
- (6) Assist the Board by preparing and submitting reports pertaining to allegations, evaluations, requests and such other information as may be appropriate.
- (7) Perform such other duties as may be prescribed by the Bishop or Board from time to time, including review, assessment and recommendations in connection with allegations of misconduct that do not constitute sexual abuse of minors by priests or deacons and are brought to the Response Team by the Bishop, Vicar General, the Victim Advocate or the Board.

4.7. Receipt of Information. The Vicar General as administrator of the Response Team will generally respond to telephone calls and any other initial communications regarding alleged sexual abuse and other sexual misconduct. In the case of any claim or other disclosure of sexual abuse or other sexual misconduct by personnel of the Diocese, the Vicar General shall report the fact to the Response Team and to the chairperson of the Independent Review Board.

4.8. Custody, Confidentiality and Disclosure of Information. Information generated in connection with the process set forth in Articles 4 and 5 shall be kept in the custody of the Vicar General as administrator of the Response Team, or, at his discretion, the attorney/advisor to the Response Team. All such information shall be maintained in a confidential manner. Neither the Response Team nor the Vicar General as administrator shall disclose such information except as follows:

- (a) The Response Team shall provide the accused with information sufficient to enable the accused to respond to the allegations.
- (b) A member of the Response Team shall provide the person making the allegations and the accused with appropriate and timely information regarding the Board's recommendations and the Bishop's determinations.
- (c) The Vicar General shall provide access to all information to the competent superior in connection with allegations regarding a member of a religious community or of another diocese.
- (d) A member of the Response Team shall make a report to the Missouri Division of Family Services under the circumstances and for the reasons set forth in section 4.10 of this Policy.
- (e) Where the victim, the victim's family or a third party has made public information otherwise

considered confidential, the Response Team or the Board may, in the interest of fairness and justice, release information concerning matters that are no longer confidential.

4.9. Initiating an Allegation. Allegations that a priest, deacon, religious, lay teacher or other personnel of the Diocese engaged in sexual abuse or other sexual misconduct may be reported to the Diocese either by telephoning, writing or meeting in person with the Vicar General or any other member of the Response Team.

- (a) To the extent possible, the person making the report should provide the Response Team with the name of the person who is the subject of the allegation, the name or names of the victim or victims, a description of the abuse or other misconduct including the relevant dates, times and circumstances in which the abuse or other misconduct occurred, and the names, addresses and telephone numbers of other persons who may have knowledge of the abuse or other misconduct.
- (b) If a member of the Response Team learns of an allegation through the media or in some other fashion, the Response Team shall make appropriate inquiries and proceed substantially in the same manner as it would in connection with any other allegation.
- (c) The Response Team ordinarily will not review and assess anonymous allegations or allegations that do not contain enough information to permit reasonable inquiry. The Response Team shall report all such allegations to the Board at its next regularly scheduled meeting, and the Board shall review the Response Team's action.

4.10. Preliminary Action and Inquiry by Response Team. Upon receipt of the allegation, the Response Team shall:

- (a) Comply with all civil reporting requirements relating to sexual abuse of a minor. Missouri law presently requires reporting to the Missouri Division of Family Services of actual or suspected sexual abuse of a minor under the age of 18 . The Division of Family Services has advised legal counsel for the Diocese that reporting by the Diocese is required only where the alleged victim is under the age of 18 at the time knowledge or suspicion of the sexual abuse is first obtained by the Diocese. All allegations of sexual abuse of a minor who is under the age of 18 at the time the allegation is reported to the Diocese will therefore be reported to the Division of Family Services, unless those allegations appear to be baseless. The Response Team shall also make available to the person making the allegation a written statement concerning the reporting of such allegations to public authorities.(24)
- (b) Communicate through one or more of its members in an appropriate manner with the alleged victim or person making an allegation, with the alleged perpetrator, and with the Bishop, the Board and such other persons as the Bishop or Board may designate. Whenever feasible, the Vicar General as administrator of the Response Team, the Victim Advocate and the mental health professional on the Response Team shall conduct the initial interview with the victim or the victim's family; thereafter, whenever feasible, at least two (2) members of the Response Team shall conduct any meetings with the victim or the victim's family.
- (c) Advise the victim or the victim's family or both in its initial meeting with them that sexual abuse is a crime, that the county prosecuting attorney is prepared to prosecute such crimes, and that the victim or the victim's family has the right to seek a criminal prosecution

without any interference from the Diocese. If the victim is a minor at the time the Response Team first receives a report of sexual abuse that the Response Team deems to be credible, the Response Team shall advise the victim, or the victim's family, or both, that a member of the Response Team will report the alleged abuse to the Missouri Division of Family Services. In addition, the Response Team shall advise them that they may wish to consult legal counsel in order to determine whether they may have a civil damage claim against the accused, the Diocese or both. (25)

- (d) Inform the accused of the allegations, advise the accused in its initial meeting with the accused that sexual abuse is a crime and that he or she has a Constitutional right not to incriminate himself or herself, and encourage the accused to retain the assistance of criminal, civil and/or canonical counsel. (26,27)
- (e) Inform the victim and the victim's family of the Church's concern for them, of its sorrow and apology for whatever harm has been done to them, of the Church's continuing interest in his, her and their welfare, and of its intention to fully and fairly investigate the matter unless precluded from doing so by pending litigation or by law. The Response Team shall also advise the victim and the victim's family that, even though the Diocese has a policy of confidentiality, the victim and the victim's family are not required to maintain confidentiality and may "go public" at any time, in which event the Diocese may also choose to reveal information that might otherwise have been treated as confidential.
- (f) Report the allegation to the Bishop, his delegate and other persons the Bishop may designate.
- (g) Evaluate whether the safety of children or other potential victims requires the immediate removal of an accused from his assignment and promptly communicate a recommendation to the Bishop. In making this evaluation and recommendation, the Response Team may consult with the Bishop, his delegate and persons designated by the Bishop.
- (h) Make a preliminary assessment of the credibility of the allegations.
- (i) As soon as practical after a preliminary assessment has been made by the Response Team, the administrator of the Response Team shall notify the chairperson of the Review Board, who shall schedule a prompt initial Board meeting.
- (j) The Response Team shall make appropriate inquiries regarding the allegation and prepare a report of all available information for presentation to the Board in writing at the initial Board meeting.

4.11. Initial Board Review. The Board shall meet to conduct an initial review as soon as practical after an allegation has been received and a preliminary assessment made by the Response Team.

- (a) Questions for review. At this meeting, the Board shall determine:
 - (1) Whether the recommendations of the Response Team regarding withdrawal of the accused from his ministerial or other assignment adequately provide for the safety of children or other potential victims;

- (2) Whether any preliminary actions taken by the Response Team were appropriate; and
 - (3) What further action should be taken with respect to the allegations.
- (b) Information to be considered. The Board shall consider the Response Team's report, information provided by the Bishop's delegate or other persons identified by the Bishop, and any other available information which the Board believes is appropriate.
 - (c) Determination and recommendations. The Board shall make an initial determination as to whether there is sufficient evidence that the accused engaged in sexual abuse or misconduct, and on the basis of this determination shall make recommendations to the Bishop concerning the following:
 - (1) If the accused is not a priest or deacon, the Board may make such recommendations to the Bishop or take such action as the Board deems to be appropriate and not in violation of canon or civil law.
 - (2) If an accused priest or deacon has been removed from ministry or other assignment pending inquiry, whether such removal should continue; or if the priest or deacon should be returned to ministry or other assignment, whether any restrictions should be imposed upon him.
 - (3) If an accused priest or deacon has not been removed from ministry or other assignment pending inquiry, whether he should be removed; or if he should continue in his assignment, whether any restrictions should be imposed upon him.
 - (4) Whether the preliminary actions taken by the Response Team were appropriate and whether further action by the Response Team is required.
 - (5) Whether the review process should be concluded at this stage of the proceedings or held open pending action by public bodies, further inquiry by the Response Team or further action by the Board.
 - (6) If the Board finds that there was misconduct, but not sexual abuse involving a minor, whether and what further action is warranted.
 - (d) The Board may recommend that an accused priest or deacon seek, and may urge the accused priest or deacon voluntarily to obtain, an appropriate medical and psychological evaluation at a facility mutually acceptable to the Board and to the accused priest or deacon.(28)

4.12. Additional Inquiry and Action by Response Team Following the Initial Board Review. After the initial Board review, the Response Team shall conduct such additional inquiry as the Response Team believes appropriate or as may be directed by the Board, including interviews of witnesses, review of documents including documents reflecting action taken by public bodies and documents regarding a medical or psychological evaluation of the accused. The Vicar General as administrator of the Response Team shall prepare one or more summary reports of these inquiries for the Board. These reports may, but need not, be in writing, and should include descriptions of actions taken by the Response Team, additional inquiry that may be required, identification of information that was not available to the Response Team, and the rea-

sons why that information was not available.

4.13. Supplementary Reviews. The Board may conduct such supplementary reviews as may be necessary or appropriate to discharge its duties.

- (a) Initiation. A supplementary review may be initiated by the Board, the Response Team, the Bishop or the Bishop's delegate. In addition, an accused, a person who has made an allegation, a victim or the family of a victim may apply to the Board in writing for such a review. The applicant shall include in the application a statement of the question or point for review, the applicant's position with respect to the matter and any supporting explanation or information.
- (b) Information to be considered. The Board may consider new information about a determination or recommendation made in connection with a prior review, the Response Team's reports, information provided by the Bishop, the Bishop's delegate or other persons identified by the Bishop, and any other information which the Board believes appropriate. The Board may also review the work of the Response Team, the Victim Advocate, and any supervision and therapy program for the accused or the alleged victim.
- (c) Determinations and recommendations. If the accused is a priest or deacon, the Board, bearing in mind and observing the requirements of section 5.2 of this Policy, shall determine whether it is reasonable to return an accused priest or deacon to ministry, or retain the priest or deacon in ministry, in view of all the facts and circumstances, giving appropriate consideration to the safety of children and the rights of the priest or deacon. The Board shall make a similar determination as to the assignment or retention of an accused person who is not a priest or deacon. The Board shall make appropriate recommendations to the Bishop regarding the following:
 - (1) If the accused has been removed from ministry or other assignment pending inquiry, whether such removal should continue; or if the accused should be returned to ministry or other assignment, whether any restrictions should be imposed upon him.
 - (2) If the accused has not been removed from ministry or other assignment pending inquiry, whether he should be removed; or if he should continue in his assignment, whether any restrictions should be imposed on him.
 - (3) Whether the review process should be concluded at this stage of the proceedings, or held open for some reason.
 - (4) If the accused's conduct does not constitute sexual abuse of a minor but does constitute other misconduct, whether and what further action should be taken.
 - (5) Such other matters as the Board deems appropriate.

ARTICLE 5 ACTIONS BY THE BISHOP

5.1. Report to the Congregation for the Doctrine of the Faith. When there is sufficient evidence that sexual abuse of a minor by a priest or a deacon has occurred, the Bishop or his delegate shall notify the Congregation for the Doctrine of the Faith, after which the following actions set

forth in this Article may be taken.(29)

5.2. Single Act of Sexual Abuse. When even a single act of sexual abuse of a minor by a priest or deacon is admitted or is established after an appropriate process in accord with canon law, the offending priest or deacon will be removed permanently from ecclesiastical ministry.

(30) If the penalty of dismissal from the clerical state has not been applied (e.g., for reasons of advanced age or infirmity), the offender will be encouraged to lead a life of prayer and penance. He shall not be permitted to celebrate Mass publicly or to administer the sacraments, and he shall be instructed not to wear clerical garb, or to present himself publicly as a priest.
(31)

5.3. Cases Involving Canonical Penalties. In every case involving canonical penalties, the processes provided for in canon law must be observed, and the various provisions of canon law must be considered. If the case would otherwise be barred by prescription, that is, a canonical statute of limitations, the Bishop shall apply to the Congregation for the Doctrine of the Faith for a dispensation from the prescription, indicating in his application appropriate pastoral reasons for such dispensation. The accused shall be encouraged to retain the assistance of civil and canonical counsel, and, where necessary, the Diocese shall supply canonical counsel to a priest.(32)

5.4. Precautionary Acts by the Bishop. Whenever in the course of the process set forth in this Policy the Bishop is satisfied that there is sufficient evidence that there has been sexual abuse of a minor by a priest or deacon, the Bishop shall apply the precautionary measures mentioned in canon 1722, that is, he may remove the accused from the sacred ministry or from any ecclesiastical office or function, impose or prohibit residence in a given place or territory, and prohibit public participation in the Most Holy Eucharist pending the outcome of the process.(33)

5.5. Administrative Acts by the Bishop. At all times the Bishop may in the exercise of his executive power remove an offending cleric from office, remove or restrict his faculties, and limit his exercise of priestly ministry.(34) The Bishop shall exercise his power of governance to ensure that any priest or deacon who has committed even one act of sexual abuse of a minor shall not continue in active ministry.³⁵ Specifically, the Bishop may exercise his executive power of governance to take one or more of the following administrative actions:

(a) He may request that the accused freely resign from any currently held ecclesiastical office.

(b) Should the accused decline to resign and should the Bishop judge the accused to be truly not suitable at this time for holding an office previously freely conferred, then he may remove that person from office observing the required canonical procedures.

(c) For a cleric who holds no office in the Diocese, any previously delegated faculties may be administratively removed, while any de jure faculties may be removed or restricted by the competent authority as provided in canon law.

(d) The Bishop may also determine that circumstances surrounding a particular case constitute the just and reasonable cause for a priest to celebrate the Eucharist with no member of the faithful present.

(e) The Bishop may forbid the priest to celebrate the Eucharist publicly and to administer the sacraments, for the good of the Church and for his own good.

(f) Depending on the gravity of the case, the Bishop may also dispense the cleric from the obligation of wearing clerical attire and may urge that he not do so, for the good of the Church and for his own good.(36)

(g) In exceptional cases, the Bishop may request of the Holy Father the dismissal of a priest or deacon from the clerical state ex officio, even without the consent of the priest or deacon.(37)

5.6. Transfers of Priests or Deacons to Another Diocese. No priest or deacon who has committed an act of sexual abuse of a minor may be transferred for ministerial assignment to another Diocese, Eparch or religious province. Before a priest or deacon may be transferred for residence to another Diocese, Eparch or religious province, his Bishop, Eparch or religious ordinary shall forward, in a confidential manner, to the applicable local Bishop, Eparch or religious ordinary of the proposed place of residence, any and all information concerning any act of sexual abuse of a minor and any other information indicating that the priest or deacon has been or may be a danger to children or young people. This shall apply even if the priest or deacon will reside in the local community of an institute of consecrated life or society of apostolic life (or, in the Eastern Churches, as a monk or other religious, in a society of common life according to the manner of religious, in a secular institute, or in another form of consecrated life or society of apostolic life).(38)

5.7. Receiving a Priest or Deacon From Another Jurisdiction. Prior to receiving a priest or deacon from outside his jurisdiction, the Bishop will obtain the necessary information regarding any past act of sexual abuse of a minor, or any other past act of sexual misconduct, by the priest or deacon in question.(39)

ARTICLE 6 MISCELLANEOUS

6.1. Effect. This Policy supersedes and replaces the prior Policy of the Diocese with respect to sexual misconduct.

Approved and adopted this 10th day of September, 2003.

Most Reverend Raymond J. Boland
Bishop of the Catholic Diocese of Kansas City-St. Joseph

1 Norms 2: "A copy of this policy will be filed with the United States Conference of Catholic Bishops within three months of the effective date of these norms. Copies of any eventual revisions of the written diocesan/eparchial policy are also to be filed with the United States Conference of Catholic Bishops within three months of such modifications."

2 Cf. Norms, Preamble: "Thus, the norm to be considered in assessing an allegation of sexual abuse of a minor is whether conduct or interaction with a minor qualifies as an external, objectively grave violation of the sixth commandment... A canonical offense against the sixth commandment of the Decalogue... need not be a complete act of intercourse. Nor, to be objectively grave, does an act need to involve force, physical contact, or a discernible harmful outcome. Moreover, 'imputability [moral responsibility] for a canonical offense is presumed upon external violation... unless it is otherwise apparent.'"

3 Norms, footnote 2: "If there is any doubt whether a specific act qualifies as an external, objectively grave violation, the writings of recognized moral theologians should be consulted, and the opinions of recognized experts should be appropriately obtained....Ultimately, it is the responsibility of the diocesan bishop/eparch, with the advice of a qualified review board, to determine the gravity of the alleged act."

4 Norms, Preamble: "Sexual abuse of a minor 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."

5 Norms 2: "Copies of any eventual revisions of the written diocesan/eparchial policy are also to be filed with the United States Conference of Catholic Bishops within three months of such modifications."

6 Norms 3: "Each diocese/eparchy will designate a competent person to coordinate assistance for the immediate pastoral care of persons who claim to have been sexually abused when they were minors by priests or deacons."

7 Cf. Norms, footnote 1: "In applying these Norms to religious priests and deacons, the term 'religious ordinary' shall be substituted for the term bishop/eparch' mutatis mutandis."

8 Norms 11: "The diocese/eparchy will comply with all applicable civil laws with respect to the reporting of allegations sexual abuse of minors to civil authorities and will cooperate in their investigation. In every instance, the diocese/eparch will advise and support a person's right to make a report to public authorities."

9 Norms 13: "Care will always be taken to protect the rights of all parties involved, particularly those of the person claiming to have been sexually abused and of the person against whom the charge has been made."

10 Norms 13: "When an accusation has proved to be unfounded, every step possible will be taken to restore the good name of the person falsely accused."

11 Norms 4: "To assist diocesan/eparchial bishops, each diocese/eparch will also have a review board which will function as a confidential consultative body to the bishop/eparch in discharging his responsibilities."

12 Norms 5: "The review board, established by the Diocesan/eparchial bishop, will be composed of at least five persons of outstanding integrity and good judgment in full communion with the Church. The majority of the review board members will be lay persons who are not in the employ of the diocese/eparchy; but at least one member should be a priest who is an experience and respected past of the diocese/eparch in question, and at least one member should have particular expertise in the treatment of the sexual abuse of minors."

13 Norms 5: "The members will be appointed for a term of five years, which can be renewed."

14 Norms 4: "To assist diocesan/eparchial bishops, each diocese/eparchy will also have a review board which will function as a confidential consultative body to the bishop/eparch in discharging his responsibilities."

15 Norms 5: "It is desirable that the Promoter of Justice participate in the meetings of the review board."

16 Norms 4.A: "[The functions of this board may include] A. advising the diocesan bishop/eparch in his assessment of allegations of sexual abuse of minors ..."

17 Norms 4.C: "[The functions of this board may include] C. offering advice on all aspects of these cases, whether retrospectively or prospectively."

18 Norms 4.A: "[The functions of this board may include] A. advising the diocesan bishop/eparch...in his determination of suitability for ministry;..."

19 Norms 4.B: "[The functions of this board may include] B. reviewing diocesan/eparchial policies for dealing with sexual of minors;..."

20 Norms 11: "The diocese/eparch will comply with all applicable civil laws with respect to the reporting of allegations of sexual abuse of minors to civil authorities and will cooperate in their investigation. In every instance, the diocese/eparch will advise and support a person's right to make a report to public authorities." See also section 4.2 of this Policy.

21 Canon 1717: "§1. Whenever the ordinary [bishop] receives information which at least seems to be true of an offense, he shall cautiously inquire personally or through another suitable person about the facts and circumstances and about imputability unless this investigation appears to be entirely superfluous. §2. Care must be taken lest anyone's good name be endangered by this investigation. §3. The one who conducts the investigation has the same powers and obligations as an auditor in the process; this person cannot act as a judge in the matter, if a judicial process is set in motion later."

22 Norms 6: "When an allegation of sexual abuse of a minor by a priest or deacon is received, a preliminary investigation in harmony with canon law will be initiated and conducted promptly and objectively."

23 Norms 6: "All appropriate steps shall be taken to protect the reputation of the accused during the investigation."

24 Norms 11: "The diocese/eparchy will comply with all applicable civil laws with respect to the reporting of allegations of sexual abuse of minors to civil authorities and will cooperate in their investigation. In every instance, the diocese/eparchy will advise and support a person's right to make a report to public authorities."

25 Ibid.

26 Norms 6: "The accused will be encouraged to retain the assistance of civil and canonical counsel..."

27 Norms 6: "The accused will be encouraged to retain the assistance of civil and canonical counsel and will be promptly notified of the results of the investigation."

28 Norms 7: "The alleged offender may be requested to seek, and be urged voluntarily to comply with, an appropriate medical and psychological evaluation at a facility mutually acceptable to the diocese/eparchy and to the accused."

29 Norms 6: “Where there is sufficient evidence that sexual abuse of a minor has occurred, the Congregation for the Doctrine of the Faith shall be notified.

30 Norms ¶8: “When even a single act of sexual abuse by a priest or deacon is admitted or is established after an appropriate process in accord with canon law, the offending priest or deacon will be removed permanently from ecclesiastical ministry, not excluding dismissal from the clerical state, if the case so warrants.”; see also Canon § 1395.

31 Norms ¶8.B: “If the penalty of dismissal from the clerical state has not been applied (e.g., for reasons of advanced age or infirmity), the offender ought to lead a life of prayer and penance. He will not be permitted to celebrate Mass publicly or to administer the sacraments. He is to be instructed not to wear clerical garb, or to present himself publicly as a priest.”

32 Norms ¶8.A: “In every case involving canonical penalties, the processes provided for in canon law must be observed, and the various provisions of canon law must be considered (cf. Canonical Delicts Involving Sexual Misconduct and Dismissal from the Clerical State, 1995; Letter from the Congregation for the Doctrine of the Faith, May 18, 2001). Unless the Congregation for the Doctrine of the Faith, having been notified, calls the case to itself because of special circumstances, it will direct the diocesan bishop/eparch how to proceed (Article 13, ‘Procedural Norms’ for Motu proprio Sacramentorum sanctitatis tutela, AAS, 93, 2001, p. 787). If the case would otherwise be barred by prescription, because sexual abuse of a minor is a grave offense, the bishop/eparch shall apply to the Congregation for the Doctrine of the Faith for a dispensation from the prescription, while indicating appropriate pastoral reasons. For the sake of due process, the accused is to be encouraged to retain the assistance of civil and canonical counsel. When necessary, the diocese/eparchy will supply canonical counsel to a priest. The provisions of CIC, canon 1722, or CCEO, canon 1473, shall be implemented during the pendency of the penal process.”

33 Norms ¶6: “Where there is sufficient evidence that sexual abuse of a minor has occurred,.... [t]he bishop/eparch shall then apply the precautionary measures mentioned in ...canon 1722...-i.e., remove the accused from the sacred ministry or from any ecclesiastical office or function, impose or prohibit residence in a given place or territory, and prohibit public participation in the Most Holy Eucharist pending the outcome of the process.”

34 Norms ¶9: “At all times, the diocesan bishop/eparch has the executive power of governance, through an administrative act, to remove an offending cleric from office, to remove or restrict his faculties, and to limit his exercise of priestly ministry.”

35 Norms ¶9: “[T]he diocesan bishop/eparch shall exercise this power of governance to ensure that any priest who has committed even one act of sexual abuse of a minor as described above shall not continue in active ministry.”

36 Norms, footnote 6: “The diocesan bishop/eparch may exercise his executive power of governance to take on or more of the following administrative actions:

(a) He may request that the accused freely resign from any currently held ecclesiastical office.

(b) Should the accused decline to resign and should the bishop judge the accused to be truly not suitable at this time for holding an office previously freely conferred, then he may remove that person from office observing the required canonical procedures.

(c) For a cleric who holds no office in the diocese, any previously delegated faculties may be administratively removed, while any de jure faculties may be removed or restricted by the com-

petent authority as provided in law.

(d) The diocesan bishop/eparch may also determine that circumstances surrounding a particular case constitute the just and reasonable cause for a priest to celebrate the Eucharist with no member of the faithful present. The bishop may forbid the priest to celebrate the Eucharist publicly and to administer the sacraments, for the good of the Church and for his own good.

(e) Depending on the gravity of the case, the bishop may also dispense the cleric from the obligation of wearing clerical attire and may urge that he not do so, for the good of the Church and for his own good.”

37 Norms ¶10: “The priest or deacon may at any time request a dispensation from the obligations of the clerical state. In exceptional cases, the bishop/eparch may request of the Holy Father the dismissal of the priest or deacon from the clerical state ex officio, even without the consent of the priest or deacon.”

38 Norms ¶12: “No priest or deacon who has committed an act of sexual abuse of a minor maybe transferred for ministerial assignment to another diocese/eparch or religious province. Before a priest or deacon can be transferred for residence to another diocese/eparch or religious province, his bishop/eparch or religious ordinary shall forward, in a confidential manner, to the local bishop/eparch and religious ordinary (if applicable) of the proposed place of residence any and all information concerning any act of sexual abuse of a minor and any other information indicating that he has been or may be a danger to children or young people. This shall apply even if the priest or deacon will reside in the local community of an institute of consecrated life or society of apostolic life (or, in the Eastern Churches, as a monk or other religious, in a society of common life according to the manner of religious, in a secular institute, or in another form of consecrated life or society of apostolic life).”

39 Norms ¶12: “Every bishop/eparch or religious ordinary who receives a priest or deacon from outside his jurisdiction will obtain the necessary information regarding any past act of sexual abuse of a minor by the priest or deacon in question.”