



DIOCESE OF SAN JOSE

Section 1400 – Sexual Misconduct Policy

DIOCESAN POLICY ON SEXUAL MISCONDUCT BY CLERGY

INTRODUCTION

The Diocese of San Jose recognizes that sexual misconduct by clergy constitutes one of the most serious breaches of trust in human relationships, and that it can have devastating consequences for the victim and his or her family, for the Church community at large, for the great majority of priests who serve the Church faithfully, and for the priest or deacon involved.

In situations involving accusations of sexual misconduct by a priest or deacon, the Bishop is the shepherd and advocate of all parties. He must seek the good of all. This good involves providing a full and fair hearing both for those who complain of misconduct and for clergy accused of such misconduct. The good of all demands that the Bishop appoint clergy he is certain will minister properly and will not sexually abuse those to whom he ministers. It also demands that clergy be protected against false accusations of sexual misconduct.

This policy is to be considered as an amplification of and a supplement to the *Diocesan Policy on Sexual Misconduct* (June 15, 1993, revised January 15, 1999 and June 28, 2003).

1401 POLICY

It is the policy¹ of the Diocese that sexual misconduct by clergy is a most serious abuse of trust and will not be tolerated. The Bishop has the responsibility to the people of God to

¹This policy refers to sexual abuse by clergy. Any sexual misconduct on the part of a priest or deacon involving a minor constitutes sexual abuse. When adults are involved, sexual abuse occurs when a priest or deacon takes sexual advantage of another person, when he intentionally engages in sexual contact or touching in the context of providing pastoral care, or when he is guilty of sexual harassment, such as unwanted sexual advances or suggestions. This policy does not address instances involving sexual activity

appoint priests and deacons to positions of trust only if he is certain that they will be able to serve properly the people entrusted to their pastoral care.

In dealing with issues of sexual misconduct involving clergy, the Diocese will:

- Treat all allegations of sexual misconduct seriously and never deal with a problem of sexual misconduct on the part of a priest or deacon by simply moving him to another ministerial assignment;
- Cooperate fully with civil reporting procedures governing sexual misconduct, specifically as stated in Section 4 of the *Diocesan Policy on Sexual Misconduct*;
- Comply with California State Law Article 2.5 of the Penal Code, which provides reporting requirements for child abuse whether sexual abuse, physical non-accidental injury or neglect. Diocesan personnel will comply with those requirements promptly and exactly as required by law. These reports must be made to County Welfare Department. In the case of elder abuse whether sexual abuse, physical non-accidental injury or neglect, financial abuse and/or psychological abuse, reports must be made to Adult Protective Services.
- Educate clergy and people about the problem of sexual abuse and maintain screening procedures and educational policies on this subject for those training for the ordained ministry;

The Diocese acts in the belief that a true solution to a situation involving sexual abuse can proceed only from finding healing for victims of abuse, ensuring that priests and deacons in ministry will not be a danger to minors or adults, and providing assistance to victims, as well as to those who commit abuse.

In dealing with all accusations of sexual misconduct involving any diocesan personnel, including clergy, the Diocese of San Jose has established an Office for the Protection of Children and Vulnerable Adults. Upon the completion of any criminal investigation, a thorough investigation in accord with the requirements of canons 1717-1719 of the *Code of Canon Law* and the *Essential Norms for Diocesan/Eparchial Policies Dealing with Allegations of Sexual Abuse of Minors by Priests or Deacons*, is initiated and conducted promptly and objectively. All appropriate steps shall be taken to protect the reputation of the accused during the investigation.

The Diocesan Review Board is an advisory board composed of appointed individuals not in the employ of the Diocese, except for a pastor as required by the *Essential Norms for Diocesan/Eparchial Policies Dealing with Allegations of Sexual Abuse of Minors by Priests*

on the part of a priest or deacon that violates his commitment to celibacy or of a deacon that violates his commitment to matrimony, if none of the above conditions is present.

or *Deacons*. Possessing a variety of perspectives on, and experience in, dealing with sexual abuse, the Diocesan Review Board initiates the investigation by utilizing an investigator.

In investigating allegations of sexual misconduct by clergy, the Diocese will ensure that persons who complain of sexual abuse and the priest or deacon accused of sexual abuse receive a full and fair hearing, and that those who have been victimized will receive appropriate assistance in coping with their trauma and suffering.

II. PROCEDURES FOR INVESTIGATION AND RESPONSE TO ALLEGATIONS OF SEXUAL MISCONDUCT BY CLERGY

A. Diocesan Response to Victims

The Diocese reaches out to victims of sexual misconduct and sexual abuse and most especially to children and to their families, to assist them in a pastoral way. This pastoral response will involve working with the survivor/victim so that they will receive help that is acceptable to them and adequate to their needs.

Initial action involves receipt of a complaint of sexual misconduct and/or abuse. The Director of the Office for the Protection of Children and Vulnerable Adults verifies that a report has been filed with the police and other authorities. Where such a report has not been filed, the Diocese will contact civil authorities.

The Bishop, the Chair of the Diocesan Review Board, the Vicar General and the Diocesan Attorney are notified of the complaint.

The Director of the Office for Protection of Children and Vulnerable Adults assigns a Victim Assistance Coordinator who aids in the immediate and continuing pastoral care of the survivor/victim. The Diocese offers the survivor/victim and, as appropriate, his or her family, therapeutic intervention, spiritual direction and assistance during the investigatory process.

The right to privacy and to a good reputation of all parties associated with the incident under investigation, most especially the victim and the accused cleric, must be protected. (*Norm 6; CIC c. 1717, §2*).

B. Diocesan Action Involving Clergy against Whom an Allegation(s) Has Been Made

General Procedures

Upon completion of any criminal investigation by civil authorities, a preliminary investigation in harmony with canon law will be initiated and conducted promptly and objectively.

The Diocesan Review Board assesses the allegations of sexual abuse/misconduct in order to advise the Bishop on whether or not the allegation(s) appears to be credible.

The Diocese will review anonymous allegations to the extent that it is reasonable and practical to do so.

The Vicar for Clergy or the Vicar General will apprise the priest or deacon that an allegation of sexual abuse has been made against him. The Investigator will then schedule a meeting with the priest or deacon to review the entire matter and allow the priest or deacon the opportunity to respond to the allegation.

During the preliminary canonical investigation, the priest or deacon will be given the full report of the alleged abuse, as well as the name(s) of those making the complaint(s). The priest or deacon will be invited to ask questions, offer his response to the allegation(s), and present his version of the events in question. The results of the Preliminary Investigation will dictate further appropriate actions.

Every person who makes an allegation will be informed of the action taken by the Diocese after the priest or deacon responds.

According to the *Essential Norms for Diocesan/Eparchial Policies Dealing with Allegations of Sexual Abuse of Minors by Priests and Deacons*:

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.²

In cases of denial of the allegation(s) by the priest or deacon:

In instances where the priest or deacon denies the allegation(s) and upon canonical investigation, the allegation remains credible, he will ordinarily be asked to agree to undergo a professional psychiatric evaluation, and to release the results of the evaluation to the Bishop and the Vicar for Clergy.

Such an evaluation is not considered therapy, but rather, a professional psychological assessment through interview and testing to identify problematic areas that may be present in the priest or deacon's life and to make recommendations on how to proceed.

The Diocese will determine what professional person or institution will be entrusted with the task of conducting the evaluation. Should the priest or deacon disagree with the results of the evaluation, he has the right to consult another agreed-upon professional for a second opinion.

Once the evaluation has taken place, a full report of the allegation(s) and the priest or deacon's response will be given to the Bishop. If the truth of the allegation(s) has been established, or the case is so serious as to warrant residential treatment or resignation from office or the canonical removal of a priest or deacon from his assignment, the Bishop will meet personally with him following receipt of the evaluation report. The priest or deacon may bring a friend or advisor to this meeting.

The goal of this meeting between the Bishop and the priest or deacon is to arrive at a mutual agreement on the appropriate response and treatment.

If the priest or deacon refuses to undertake such an evaluation and the evidence is such that the Bishop must act as envisioned by canon 1718, the Bishop initiates the canonical process deemed most appropriate to protect the Christian community.

In cases of admission of the allegations by the priest or deacon:

If the priest or deacon admits to the allegation(s), he will be asked to resign from his office and to agree to limitations on or withdrawal of his faculties. In the case of sexual misconduct involving a minor (for a fuller treatment of this, see page 7, below), the priest's/deacon's

² *Essential Norms for Diocesan/Eparchial Policies Dealing with Allegations of Sexual Abuse of Minors by Priests or Deacons*, USCCB, 2002

faculties will be withdrawn and the cleric will not be allowed to function in the future. Appropriate help will be offered to him, usually in the form of therapy and spiritual direction.

A record of the complaint, the admission and other determinations made will be maintained in accord with the requirements of canon 489.

Information provided to the Parish Community and the Diocesan Presbyterate

The Diocese will provide accurate information in a timely fashion about what has happened in a particular case of alleged sexual misconduct. This is an essential element in the healing within a parish community.

In cases in which a priest or deacon had denied allegations of sexual misconduct but issues remain unresolved, appropriate Diocesan representatives may meet with the parish staff to inform them of the allegations and to advise them of the action which will be taken. If the priest or deacon has resigned from the parish, appropriate Diocesan representatives will inform the parishioners why the priest or deacon is not present and ministering in the parish. The information will be prepared in the method described below, respecting the right of confidentiality of the victims, as well as the accused, inasmuch as this is possible.

In cases in which a priest or deacon has admitted the truth of allegations of sexual misconduct, appropriate Diocesan representatives will meet with the parish staff to inform them of the circumstances. If the priest or deacon has resigned from the parish, appropriate Diocesan representatives will inform the parish staff and parishioners of the reason(s) the priest or deacon is not present in his assignment and the professional services that will be offered to assist any victims, parish staff, and the parish community. The information will be prepared in the method described:

In both of the above instances, the advisory notice to the parish staff and/or parishioners will be written out in advance, be reviewed by the priest or deacon and by legal counsel of both the Diocese and the priest or deacon (if he has retained counsel), and the agreed-upon text be read to those to whom it is directed.

The content of the notice will make every effort to reflect the circumstances of the case and will seek to be sensitive to and fully respect the rights of all parties. The notice will seek to observe the Fifth Amendment right of the priest or deacon not to incriminate himself. To respect the requirements of canon law (cf. canon 220), he will be given the opportunity to work with the Vicar General (or his delegate) in determining what information should or should not be reasonably disclosed.

If he wishes, the priest or deacon may personally compose the statement to be made, provided that the text has been approved by the Diocese. In cases of conflict between the priest or deacon and the judgment of the Diocesan authority as to what should be

disclosed, every reasonable effort will be made to resolve that conflict in a mutually satisfactory way. If the conflict is not resolved, the final decision concerning disclosure remains that of the Bishop or Vicar General. In this situation, the priest or deacon will be informed in advance of the exact nature of that disclosure.

The Diocese also recognizes the essential nature of providing the presbyterate and deacon community accurate and timely information regarding a case of alleged sexual misconduct. To this end, the information that will be shared with a parish community will also be shared with the presbyterate and the community of deacons. The Diocese will, to the extent it is reasonably possible, preserve the confidentiality of the alleged sexual misconduct, in accordance with the rights of privacy accorded an accused under Canon and Civil Law. If any information is provided to the presbyterate and deacon communities, they will be instructed to maintain such information confidential in order to preserve the privacy rights of the accused under Canon and Civil Law.

The following possibilities exist for the short and long-term future of a priest or deacon who has admitted or been found to be guilty of sexual misconduct:

1. In cases involving sexual misconduct including sexual abuse with a minor³, there is no possibility that the priest or deacon will be returned to ministry, as directed by the *Essential Norms*, 8. In these cases, canon law provides for the priest or deacon to request a dispensation from the obligation of holy orders or a request by the bishop for dismissal from the clerical state even without the consent of the priest or deacon. If the penalty of dismissal from the clerical state has not been applied, 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.

³ “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. Sexual abuse has been defined by different civil authorities in various ways, and these norms do not adopt any particular definition provided in civil law. Rather, the transgressions in question relate to obligations arising from divine commands regarding human sexual interaction as conveyed to us by the sixth commandment of the Decalogue. Thus, the norm to be considered in assessing an allegation of sexual abuse of a minor is whether conduct or interaction with a minor qualifies as an external, objectively grave violation of the sixth commandment (USCCB, *Canonical Delicts Involving Sexual Misconduct and Dismissal from the Clerical State*, 1995, p.6). A canonical offence against the sixth commandment of the Decalogue (CIC, c. 1395 §2; CCEO, c. 1453 §1) 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” (CIC, c. 1321 §3; CCEO, c. 1414 §2). Cf. CIC, canons 1322-27, and CCEO, canons 1413, 1415, and 1416.

If there is any doubt whether a specific act qualifies as an external, objectively grave violation, the writings of recognized experts should be appropriately obtained (*Canonical Delicts*, p. 6). 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.”

2. In other cases (not involving minors), the decision to permit a priest or deacon to return to active ministry must take into account the nature and seriousness of the misconduct, the progress in treatment, positive signs of continuing recovery, the need to prevent a relapse into abusive behaviors, and the danger of scandal.

In deciding whether to permit a return to active ministry, the Bishop and Vicar General will seek advice from the Diocesan Review Board and from experts in the field. There are a number of possibilities:

Return to ministry with restrictions and follow-up program.

The priest's or deacon's immediate supervisor will be fully informed of his background and present situation. Appropriate supervision will be provided all priests and deacons who are guilty of sexual misconduct.

Three to five years outside active ministry with a possibility for return.

From the very beginning, the hope of both the priest or deacon and the Diocese is that some form of ministry can be restored and efforts will be made during the leave to prepare for that possible return. Any return will likewise involve appropriate restrictions and an aftercare program. The purpose of this program is to allow the priest or deacon to demonstrate continuing and progressive signs of recovery.

Three to five years outside active ministry with the understanding that there is little chance of return.

In this situation, a new assessment is completed, should the priest or deacon in question petition for reinstatement to active ministry.

No possibility of return to ministry.

In this case (such as in all cases involving minors), the Diocese will assist the priest or deacon to petition for laicization. Should the priest or deacon be unwilling to submit such a petition, the Diocese initiates appropriate canonical procedures to preclude him from any active ministry, up to and including laicization.

III. DIOCESAN REVIEW BOARD

The Diocesan Review Board functions as a confidential consultative body to the Bishop. There are a total of nine individuals on the Diocesan Review Board. This board consists of eight individuals, "of outstanding integrity and good judgment"⁴, appointed by the Bishop, who are not employees of the Diocese of San Jose. In keeping with the *Essential Norms for Diocesan/Eparchial Policies Dealing with Allegations of Sexual Abuse of Minors by Priests or Deacons*, 2002, this Review Board also includes one pastor.

⁴ Guide to the Implementation of the U.S. Bishop's *Essential Norms for Diocesan/Eparchial Policies Dealing with Allegations of Sexual Abuse of Minors by Priests or Deacons*, Canon Law Society, 2003, p. 27.

The Diocesan Review Board assesses allegations of sexual abuse of children and vulnerable adults by priests, deacons, and other church personnel in order to advise the Bishop on whether or not the allegations appear to be credible. The Board also reviews allegations of sexual misconduct brought by adults who believe that they, as adults, may be victims of sexual misconduct by members of the clergy or other Church personnel when that sexual misconduct is a violation of a pastoral relationship.

The Diocesan Review Board will annually evaluate the effectiveness of this policy and propose revisions as indicated.

The Diocesan Review Board will meet as necessary and will provide advice concerning assistance for survivor/victim(s), treatment for abusers, contact with parish communities, and other issues involved in cases dealing with sexual misconduct by clergy.

IV. PREVENTION FOR THE FUTURE

Precautions Clergy Need to Take

Clergy can and should develop a good, appropriate, and healthy rapport with minors. However, they must also avoid the kind of contact with minors that could raise questions or lead to negative comment on the part of reasonable people. Therefore, the Bishop has established the following regulations:

Code of Pastoral Conduct with Youth⁵

Priests and deacons must be aware of their own and others' vulnerability when working alone with youth. Use a team approach to managing youth activities.

Physical contact with youth can be misconstrued and should occur (a) only when completely nonsexual and otherwise appropriate, and (b) never in private.

Priests may not have minors in their rooms nor spend their days off alone with minors, nor may minors stay overnight at a rectory, subject to the provisions of the diocesan *Clergy Personnel Policy*, section 602, 2(h).

⁵ Adapted from the *Model Code of Pastoral Conduct*, VIRTUS, The National Catholic Risk Retention Group, Inc., 2003.

Priests may not go on vacation with minors unless parents or other adults are present. On field trips or other outings involving minors, at least one other adult must be present.

Priests and deacons should not provide shared, private, overnight accommodations 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.

In rare, emergency situations, when accommodation is necessary for the health and well-being of the youth, the priest or deacon should take extraordinary care to protect all parties from the appearance of impropriety and from all risk of harm.

Use a team approach to managing emergency situations.

Both married and celibate deacons will follow similar norms adapted to their family and living situations.

Sexual Conduct⁶

Priests and deacons who are committed to a celibate lifestyle are called to be an example of celibate chastity in all relationships at all times.

Priests or deacons who provide pastoral counseling or spiritual direction services must avoid developing inappropriately intimate relationships with minors, other staff, or parishioners. Priests and deacons must behave in a professional manner at all times.

No priest or deacon may exploit another person for sexual purposes.

Allegations of sexual misconduct will be taken seriously and must be reported to the Office for the Protection of Children and Vulnerable Adults and to civil authorities if the situation involves a minor.

For its part, the Diocese of San Jose will report all previously unreported allegations to civil authorities.

⁶ *Ibid.*

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

Priests and deacons should review and know the contents of the child abuse regulations and reporting requirements for the state of California and must follow those mandates.

Sexual Harassment⁷

Priests and deacons shall provide a professional work environment that is free from sexual harassment.

Harassment encompasses a broad range of physical, written, or verbal behavior, including, but not limited to, the following:

- 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 compensations.

- Display of offensive materials.

Harassment can be a single severe incident or a persistent pattern of behavior.

Allegations of sexual harassment will be taken seriously and must be reported immediately to the Office for the Protection of Children and Vulnerable Adults.

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

Given the seriousness of the consequences of sexual misconduct, especially when minors are involved, clergy have a responsibility to be their brother's keepers in these matters. While they must avoid undue suspicion or unhealthy interference in others' lives, they need to be aware of danger signs in a brother cleric's activities.

Such danger signs are clear violations of the guidelines presented above. In addition, they also need to be aware of the danger to those who, without doing anything wrong, seek the company of children and look to them for the emotional support only normal adult relationships appropriately provide.

When a priest or deacon fears that another priest or deacon may be involved in such behaviors, he should normally speak first to him and also bring his concerns to the Vicar for Clergy. Furthermore, it is important to recognize that the abuse of alcohol or other

⁷ *Ibid.*

substances can lead to a breakdown of inhibitions that would normally keep someone from acting inappropriately.

If a priest or deacon himself discovers or determines that he currently is struggling or in the past has struggled with tendencies toward sexual abuse, he is strongly encouraged to bring this to the attention of the Bishop or Vicar for Clergy.

V. SCREENING PROCEDURES

The Diocese of San Jose will comply fully with the *Charter for the Protection of Children and Young People* in the screening of seminarians and clergy as noted in the particular articles from the *Charter*:

Article 13

Dioceses/eparchies will evaluate the background of all diocesan/eparchial and parish personnel who have regular contact with minors. Specifically, they will utilize the resources of law enforcement and other community agencies. In addition, they will employ adequate screening and evaluative techniques in deciding the fitness of candidates for ordination (cf. National Conference of Catholic Bishops, *Program of Priestly Formation*, 1993, no. 513).⁸

It is the policy of the Diocese that all clergy on diocesan assignment will submit to fingerprinting as part of the regular background check, as provided by California State law. The office of the Vicar for Clergy and Personnel Office will assist in this process.

Priests who intend to work in the Diocese of San Jose must also undergo psychological testing, as prescribed by the Diocese.

Article 14

No priest or deacon who has committed an act of sexual abuse of a minor may be transferred for ministerial assignment to another diocese/eparchy or religious province. Before a priest or deacon can be transferred for residence to another diocese/eparchy 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 that he has been or may be a danger to children or young people. (cf. National Conference of Catholic

⁸ *Charter for the Protection of Children and Young People*, 2002.

Bishops and Conference of Major Superiors of Men, *Proposed Guidelines on the Transfer or Assignment of Clergy and Religious*, 1993).⁹

Clergy from Elsewhere Who Seek a Diocesan Assignment

When a priest or deacon applies for an assignment in the Diocese, he is asked to fill out an application. As part of that application, he is asked to state that he has not been involved in situations involving sexual abuse. His completed application is then sent to his bishop or proper superior, who is asked to affirm in writing that the answers given in the application are true.

In addition, the superior is asked to recommend him for ministry in this Diocese. The steps of this screening procedure are explained in advance so that he can submit his application with full understanding.

Religious Order Priests Recommended for Ministry in this Diocese by Their Religious Provincial

Before a priest or deacon can be transferred for residence to this Diocese, his bishop or religious ordinary shall forward, in a confidential manner, to the Bishop of San Jose, 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 only reside in the local community of an institute of consecrated life or society of apostolic life.

The Bishop of San Jose 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.

Priests Seeking Hospitality or Permission to Assist on a Temporary Basis

Priests may seek hospitality or permission to assist temporarily in a parish for up to two months. Before offering hospitality to **any** priest, the pastor or administrator must contact the Vicar for Clergy, who will contact the priest's proper superior in order to get a written recommendation for him.

In no case may the priest stay beyond two months without written permission from the Vicar for Clergy and his Superior. Temporary faculties for priests in hospitality or assisting temporarily must be requested from the Vicar for Clergy before the priest begins residence in a parish.

⁹ *Ibid.*

VI. SCREENING CANDIDATES FOR HOLY ORDERS

The Seminary will continue to offer courses dealing with human sexuality, with celibacy and with the responsibility of ministers in dealing with both children and adults. The Seminary and the Diocese will continue to seek ways of screening out persons with tendencies towards child abuse. The diaconate program will implement similar programs.

When a priest or deacon is ordained, the Seminary or Diaconate Formation Office will send copies of all relevant materials from his file to the Office of the Vicar for Clergy.

VII. PRECAUTIONS TO BE TAKEN WHEN AN ACCUSED PRIEST OR DEACON TAKES UP RESIDENCE OUTSIDE THE DIOCESE OF SAN JOSE

In the event of the transfer of residence (temporary or permanent) of a priest or deacon against whom any credible allegation of sexual misconduct has been made, the following procedure will be followed:

The Vicar General or Vicar for Clergy will contact the Bishop, Vicar General or Vicar for Clergy of the diocese in which the accused priest or deacon will reside to inform the appropriate diocesan official of the fact that the priest will be in residence and the address of this residence, of the nature of the allegation against him, and of his canonical status.

This notification will be conveyed to the diocese of residence both in writing and verbally.

At the same time, the accused will be informed that should he fail to observe the restrictions that have been placed on his ministry, the sustenance provided him by the Diocese of San Jose will be withdrawn insofar as this is possible. (In cases in which the accused is vested in the retirement plan of the Diocese, it will not be possible to withhold his pension payment, but any Supplemental Plan benefit will be withheld).

VIII. FINANCIAL RESPONSIBILITY

It is the policy of the Diocese that no person who has been a victim of sexual misconduct as a minor, living within the diocese, will be denied treatment even if the alleged abuse took place outside the Diocese of San Jose.

There will be limits to the treatment that is offered, depending upon the diagnosis and prognosis that is put forth by the therapist, and the financial ability of the Diocese.

The Diocese will seek reimbursement from the responsible diocese or religious order for expenses related to treatment for victims who were abused outside the Diocese of San Jose.

A cleric is responsible for the expenses related to his own defense in civil proceedings.

Enacted March 8, 2001

Revised June 28, 2003

Revised September 22, 2004