

# **The Decree on a Pastoral Response to Issues of Sexual Misconduct by Church Personnel**

**August 3, 2003**

## **I. Introduction**

It is the intent of this Decree to build on the Bishops' directives of November, 1992, to implement the directives contained in the Bishops' 2002 "Charter for the Protection of Children and Young People," to address the issue of sexual misconduct directly, and to make clear statements regarding the Roman Catholic Diocese of Lexington's position on education, prevention, victim care and intervention with offenders. These procedures and policies are rooted in the Gospel teaching that in Jesus each of us has the dignity of a child of God, and they build on Jesus' command to love one another.

Sexual misconduct as used in this Decree refers to three related forms of misconduct: sexual harassment, sexual exploitation, and sexual abuse. All three are being addressed because they have this in common: each involves an abuse of power or authority. Each section will focus on one of these aspects of misconduct. Each will be defined and methods of prevention as well as appropriate ethical and therapeutic responses will be addressed.

The intent of all that follows is to promote a ministerial environment in which those who minister in the church and those who receive the church's services can expect to do so in safety.

**Policy 1: At the time of the promulgation of this Decree, the Chancellor is to provide all current clerics, employees and regular volunteers with a copy of this Decree. Each person is to acknowledge in writing that he/she is familiar with its contents. The original written acknowledgement is to be forwarded to the Chancellor's office, and a copy is to be filed in the local place of employment or service (cf. Appendix A).**

The Chancellor will also arrange for informational sessions to introduce this Decree to appropriate diocesan personnel within six months of its promulgation.

**Policy 2: Whenever the Diocese through a parish, school, or institution employs a person for church-related activities or allows a regular volunteer to assist in church-related activities, the hiring entity is responsible to see that all such employees/regular volunteers receive a copy of the Decree on a Pastoral Response to Issues of Sexual Misconduct by Church Personnel for the Roman Catholic Diocese of Lexington and that all employees/regular volunteers return the signed acknowledgement paper to the employer after they have become familiar with the contents of this Decree. The employer is likewise responsible to forward the original written acknowledgement to the Chancellor's office, and to file a copy in the local place of employment or service.**

**Policy 3: This entire Decree will be reviewed and revised as necessary, as determined by the Bishop or his representative.**

## **II. Sexual Harassment**

### **A. Definitions**

*Sexual Harassment*, in this Decree, means unwanted sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature between individuals in a church-related setting in which at least one person is a cleric, an employee, or a regular volunteer of the Roman Catholic Diocese of Lexington.

*Unwanted* conduct is considered to be sexual harassment when such conduct is unwanted or unwelcomed by the recipient and is clearly made known as such to the offender.

### **B. Kinds of Sexual Harassment**

Some examples of sexual harassment are:

- Threat of Loss, when the harasser threatens, explicitly or implicitly, to deny/alter some tangible employment benefit unless the victim complies or, when submission to or rejection of such conduct is the basis for employment decisions.
  
- A Hostile Environment, when unwanted sexual conduct has the purpose or effect of interfering with work performance or creating an intimidating or offensive working environment.
  
- Third Party Harassment, when the harasser is not a Diocesan employee, but the inappropriate conduct occurs at a work-related setting, and the Diocesan employee is subjected to repeated harassment.

Sexual harassment includes language (stories, jokes, remarks) with sexual implications or innuendoes; comments that make the hearer anxious or intimidate the hearer regarding her/his sexual beliefs or values; remarks made about the body or clothing or attitudes that have sexual overtones; sexual advances or requests for sexual favors.

### **C. Prevention**

We are all sexual beings. It is one of God's great gifts to us. While some words and behavior nurture human relationships, unwanted or irresponsible forms of expression harm the lives of all concerned. Ideally, a cleric, an employee or a regular volunteer of the Diocese will not engage in sexual

harassment. The provisions of this section are intended to help promote that ideal. Each person has a part to play by acting in such a manner that everyone is treated with the respect due to human persons. Persons holding a church position have a special obligation in this regard because of the power or authority such employees/volunteers hold or are perceived as holding in relation to other persons and because of the great harm caused to both the individual and the church when improper behavior occurs.

## ● Education of Clerics, Employees, and Regular Volunteers

Everyone needs to be aware of: 1) the signs of sexual harassment, 2) what steps to take to prevent sexual harassment, and 3) the procedure to follow if sexual harassment is suspected or observed. The clergy of the Diocese and those persons employed or engaged as regular volunteers by its parishes, schools, and other institutions have an obligation to be knowledgeable about these matters. Not only are they responsible for maintaining an atmosphere in which mutual respect is evident, but they should be aware that they are perceived by the community as trustworthy and respected individuals.

**Directive 1:** Clerics, employees, and regular volunteers should continue to learn about the causes and forms of sexual harassment and the appropriate response to such harassment through reading, participation in workshops, and staff discussions.

**Directive 2:** The topic is to be addressed regularly in in-service programs offered for clerics, employees, and regular volunteers. The Diocese will establish a committee to identify curricula, programs, and in-service opportunities that can be used for updating.

## D. Response

Policies cannot guarantee that a person will refrain from offensive conduct or language. Thus, persons bear responsibility to assist one another in avoiding sexual harassment. Intervention is the basic response in sexual harassment.

The person who has been sexually harassed should draw the offender's attention to the fact that the words or conduct are unwanted. Ordinarily, this intervention is the responsibility of the person offended who may choose to be accompanied by another person. In such situations where it is not feasible to confront the offender, such as the person's supervisor, it is recommended that the victim report the harassment to the next level of local authority or the Chancellor for proper disposition.

The uninvolved person who has observed sexual harassment may be able to encourage the victim to make known to the offender that his/her behavior is unwanted and unacceptable. In some instances with the victim's approval, it may be appropriate for an observer to address the offender or legitimate authority.

When the offender has been apprised that his/her conduct is unwanted, it must stop immediately. If it does not, this sexual harassment will be reported to the legitimate authority.

**Policy 4: In a case of sexual harassment, the legitimate authority is to deal expeditiously with the situation. It should be stated clearly to the cleric/employee/volunteer that sexual harassment will not be tolerated. A summary of this conversation will be put into writing and signed by both parties. If the harassment does not cease, the legitimate authority may suspend or dismiss the offender.**

Whenever a priest, deacon, religious, or lay person dismissed for sexual harassment is permitted to return to active ministry, conditions to be followed will be defined in writing. These conditions may include but are not limited to elements such as supervision, ongoing professional counseling, spiritual direction, participation in support groups, and peer accountability.

### **III. Sexual Exploitation**

#### **A. Definitions**

*Sexual Exploitation*, in this Decree, means sexual interaction between a church professional and an adult who is receiving care from that person.

Sexual exploitation occurs in a relationship in which sexual behavior is prohibited because a person holds in trust the intimate, wounded, vulnerable, or undeveloped areas of another's life. The trust derives from the church professional's role and it creates an expectation that whatever aspects of oneself are entrusted to the church professional must be used solely to advance the interests of the care receiver and will not be used to the church professional's advantage, sexual or otherwise. Under these conditions, sexual behavior is always wrong, no matter who initiates it, no matter how willing the participants say they are.

*Church Professional*, in this Decree, refers to persons, who by their specialized training and/or leadership roles, hold a position of privilege and trust in the Roman Catholic Community.

*Power and Trust*, in this Decree, “power and trust” means the church professional is entrusted with the special responsibility to respect and not to take advantage of the dependent elements that are inevitably present in such a relationship. Because of the factors of power, trust, and dependence, the person who is receiving care is not free to give full consent to sexual contact.

*Sexual Interaction*, in this Decree, means any sexual or psychosexual boundary violations whether or not occurring with the apparent consent of a person. Physical contact that expresses amorous or erotic feelings is inappropriate as is any other type of deliberate behavior that leads to an interpersonal sexual atmosphere.

*Investigative Team*, in this section, refers to the team formed to carry out the initial and ongoing investigation of an allegation of sexual exploitation when the person accused maintains his/her innocence. The team will be composed of diocesan personnel as well as persons not employed by the Diocese.

## **B. Prevention**

Church professionals need to be aware that in any relationship in which a special trust is placed in them there is also the possibility of an abuse of that trust. When one person holds power over another in such a relationship of trust, the burden of responsibility for appropriate conduct always rests with the professional.

Because much of the ministry with the church involves a relational interaction, church professionals have an obligation to be clear to themselves and to others about the boundaries of the specific ministry in which they engage. Care must always be taken to adhere strictly to the boundaries of professional conduct. Every professional should assess the factors involved in his/her particular ministry. These may include the place, time, length of the meeting, procedures, conduct, and attire appropriate to the ministry in which one is engaged and clear distinctions between the role of professional and friend.

### ● Education of Clerics, Employees and Regular Volunteers

Everyone needs to be aware of: 1) the nature of sexual exploitation, 2) what steps to take to prevent sexual exploitation, and 3) the procedure to follow if sexual exploitation has taken place. The clerics of the Diocese and those professional persons employed or engaged as regular volunteers by its parishes, schools and other institutions have an obligation to be knowledgeable about these matters. Because of their positions as representatives of the Church, they must maintain the highest standards in their actions. Not only are they responsible for maintaining an atmosphere in which mutual respect is evident, but they should be aware that they are perceived by the community as trustworthy and respected individuals.

## C. Response

An individual who believes that he/she has been the victim of sexual exploitation by a church professional is urged to report such behavior to the Chancellor of the Diocese. It is expected that an allegation ordinarily be brought by the one directly involved, that it be based on fact, and that it be an honest representation of the truth.

In responding to victims, it is important for church professionals to be sensitive to the needs and feelings of those who allege sexual exploitation.

**Policy 5: Upon receipt of such an allegation, the Chancellor will interview the complainant, and prepare a written summary of the allegation that the complainant will sign. The Chancellor will then inform the professional involved. The presumption of innocence prevails until the allegation is substantiated. The accused may be asked to refrain from all pastoral ministry while the matter is investigated.**

### 1. Admission of an Act of Sexual Exploitation

If there is an admission of sexual exploitation, such admission should be in writing. The following procedures are enacted:

**a.** If the person who admits to sexual exploitation is a diocesan priest or deacon, he will be suspended immediately from any present involvement in ministry. Because of the canonical relationship with the Diocese resulting from his ordination, a diocesan priest or deacon will be required to undergo a psychiatric/psychological evaluation before any consideration would be given to future pastoral ministry in the Diocese. Such evaluation shall be done by a facility or counselor approved by the Diocese. The psychiatric/psychological evaluation will be a significant factor in determining the nature of possible future ministry. The final decision regarding any disciplinary action or the possibility of future ministry lies with the Bishop.

**b.** If the person who admits to sexual exploitation is a religious, lay employee or volunteer, he/she will be suspended immediately from any ministry in the Diocese. A decision regarding compensation for this person will be made appropriate to each situation.

The immediate superior of the person involved will be notified of the action taken by the Diocese. In case of a religious, the Chancellor will also notify the major superior. Further investigation into the nature of the exploitation could result in dismissal or other disciplinary action. Only in rare circumstances and with the explicit permission of the Bishop could a person who has been dismissed for sexual exploitation be considered for future ministry in the Diocese.

Whenever a priest, deacon, religious, or lay person is permitted to return to active ministry, conditions to be followed will be defined in writing. These conditions may include but are not limited to elements such as supervision, ongoing professional counseling, spiritual direction, participation in support groups, and peer accountability.

## **2. Denial of Sexual Exploitation or Lack of Response to an Allegation of Sexual Exploitation**

If the accused denies sexual exploitation or fails to respond to an allegation

within ten days after receipt of notice of the allegation, the following

procedures are enacted:

**a.** The Chancellor will initiate an investigative process immediately by forming an Investigative Team of from two to five persons from an approved list. The team will follow the Investigative Process established by the Diocese. Prior to beginning the investigation, both the complainant and the accused will be informed that this team of persons, with assistance from appropriate professionals, will make the final decision concerning the accusation.

**b.** If the investigative team determines that the complaint involving a diocesan priest or deacon is substantiated, the offender will be suspended immediately from any present involvement in ministry. Because of the canonical relationship with the Diocese resulting from his ordination, a diocesan priest or deacon will be required to undergo a psychiatric/psychological evaluation before any consideration would be given to future pastoral ministry in the diocese. Such evaluation shall be done by a facility or counselor approved by the diocese. The psychiatric/psychological evaluation will be a significant factor in determining the nature of possible future ministry. The final decision regarding any disciplinary action or the possibility of future ministry lies with the Bishop.

**c.** If the investigative team determines the complaint against a religious, lay employee or volunteer is substantiated, the offender will be suspended immediately from any pastoral ministry in the diocese. The immediate superior of the person involved will be notified of the action taken by the Diocese. In case of a religious, the major superior will also be notified by the Chancellor. Further investigation into the nature of the exploitation could result in dismissal or other disciplinary action. Only in rare circumstances and with the explicit permission of the Bishop could anyone consider a person dismissed for sexual exploitation for future ministry in the Diocese.

Whenever a priest, deacon, religious, or lay person is permitted to return , conditions to be followed will be defined in writing. These conditions may include but are not limited to elements such as supervision, ongoing professional counseling, spiritual direction, participation in support groups, and peer accountability.

**d.** If the Investigative Team determines an allegation against any person is unsubstantiated, the written report of the Investigative Team will state this fact. The report will be signed by the Team, submitted to the Bishop, and kept on file in the Chancery. Publication of the finding will be determined by the individual case.

**Directive 3:** Throughout the investigation and after its conclusion, the Diocese will do its best to offer care to all persons involved, as deemed appropriate.

## **IV. Sexual Abuse**

### **A. Definitions**

*Sexual Abuse*, in this Decree, means sexual contact between a cleric, an employee, or a regular volunteer of the Roman Catholic Diocese of Lexington

and a minor. Sexual abuse refers to acts described in KRS 620.020 (37), part 4. (cf. Appendix B-1) as well as those described in the Charter for the Protection of Children and Young People. (Promise to Protect, Pledge to Heal) (cf. Appendix B-2)

*A Minor*, in this Decree, means a person under the age of 18 years or an adult who is uniquely vulnerable to abuse because of physical or mental disabilities.

In this Decree, the term “minor” may be used interchangeably with the term “child”.

*Victim Assistance Coordinator*, in this section, refers to the person designated by the Bishop to aid in the immediate pastoral care of persons who claim to have been sexually abused as minors by clergy or other church personnel.

*Investigative Team*, in this section, means the team formed to investigate the initial report of an allegation of sexual abuse. The team will be composed of diocesan and non-diocesan personnel.

*Review Board* “Dioceses/eparchies will ...have a review board that functions as a confidential consultative body to the bishop/eparch. The majority of its members will be lay persons not in the

employ of the diocese/eparchy. This board will advise the diocesan/eparchial bishop in his assessment of allegations of sexual abuse of minors and in his determination of suitability for ministry. The board will regularly review diocesan/eparchial policies and procedures for dealing with sexual abuse of minors. Also, the board can review these matters both retrospectively and prospectively on these matters and give advice on all aspects of responses required in connection with these cases.”

(Appendix B-2:Charter...Article 2)

## **B. Prevention**

The church community has a special obligation to children that it carries out with seriousness. In the church’s ordinary life, children are educated in the faith and initiated into the church’s sacramental life. Parishes devote significant energy and resources to the development of their young members, and countless individuals have dedicated themselves to ministering to youth.

Everyone in the community has a responsibility to protect children- parents, clerics, educators, youth ministers, volunteers working with youth, even youths themselves, and adults who are not directly involved in work with children.

### **1. Education**

#### **a. Education of Clerics, Employees and Regular Volunteers**

Everyone needs to be aware of: 1) the causes and signs of sexual abuse, 2) what steps to take to protect children, and 3) what procedures to follow if abuse is suspected or observed.

The clergy of the Roman Catholic Diocese of Lexington and those persons employed or engaged as regular volunteers by its parishes, schools, and other institutions have an obligation to be knowledgeable about these matters. Not only are they responsible for the well-being of children, but they are perceived by the community and children as special and trustworthy individuals. Such persons must be aware of their duties as mandated by civil law with regard to child abuse.

**Policy 6: All clerics, employees, and regular volunteers are to read this Decree and to be familiar with its contents, especially the obligations for reporting suspected child sexual abuse to civil and church authorities and the consequences of failure to report (cf. Appendix B-1).**

Clerics, employees, and regular volunteers should be well informed about the causes, forms, and symptoms of sexual abuse through reading, participation in workshops, and staff discussions.

#### **b. Education of Parents and Guardians**

Parents and guardians have the primary responsibility to protect their children from abuse. An understanding of the causes and effects of sexual abuse will assist parents to make sound decisions with regard to their children and to recognize symptoms of abuse that might be exhibited by their children.

**Directive 4:** Parishes are to offer programs regarding sexual abuse to assist parents in the education of their children.

## **2. Screening Those Who Work with Children**

Due precautions must be taken in choosing persons who are to work with children.

**Policy 7:** All clerics, candidates for ordination, as well as each applicant for employment in a position with regular, significant contact with children in the parishes and institutions of the Diocese, must supply to the hiring agent personal information adequate to assess his or her suitability for contact with children. This information shall consist of: the Applicant's Certification (cf. Appendix C) which includes a record of police check (KRS 156.483, KRS 17,160, and KRS 17.165), employment history, references and any other information the particular position may require.

**Policy 8:** The respective hiring agent (the Diocese and parish, for example) is to establish procedures for receiving and reviewing all applications prior to hiring. All such information is to be retained permanently in a confidential file at the location of employment. At the time of hiring, a copy of the Applicant's Certification is to be forwarded to the Chancellor or to the respective Diocesan office.

**Directive 5:** Those persons who recruit volunteers to work regularly with children in the parishes and institutions of the Diocese should exercise caution in selecting volunteers. If there is any cause for concern in a particular case, the matter should be brought to the attention of the responsible supervisor for further review.

## **3. Contact with Children**

Those persons dedicated to the care of children must be vigilant to guard against actual or potential situations which can inflict harm or which may give rise to suspicions of potential sexual abuse. In general, persons working with minors must always avoid the kind of contact that could cause comment on the part of reasonable people.

**Policy 9: A child may not receive regular, scheduled, individual instruction or counseling from a cleric, an employee, or a regular volunteer without written consent of the child's parent or legal guardian.**

**Policy 10: A child may participate on a regular basis in an organized program sponsored by a parish or institution of the Diocese only with the written consent of the child's parent or legal guardian. Such written consent should be kept on file at the local level during the duration of the program.**

**Policy 11: At least two adults should accompany minors on field trips, outings, or camping trips. At least two adults must accompany minors on any program involving an overnight stay.**

**Policy 12: A cleric, an employee, or a regular volunteer must obtain the consent of a child's parent or legal guardian before inviting a minor, known because of the person's professional or volunteer work, to visit in the adult's home.**

**Policy 13: No child may stay overnight in a residence or in any other place used by a priest unless in the company of the child's parent or legal guardian.**

## **C. Response**

In the case of alleged sexual abuse, the Church community, under the leadership of the Bishop, must respond expeditiously and with compassion and care to the victim and the victim's family, to the local church community affected by the abuse, to the larger community, and to the offender. The primary objectives of this response are personal and communal healing and the prevention of any further abuse by the offender.

### **1. Initial Tasks in Dealing with Reported Abuse**

#### **a. Reporting to Civil Authorities**

The Kentucky Revised Statute (KRS 620.030) requires that all individuals, including those acting in an office or professional capacity, report immediately any currently suspected or actual act of child sexual abuse, perpetrated by any person, to the Kentucky Cabinet for Human Resources—Department for Social Services. (See Appendix B.) Agents of the Diocese are obligated to report to the civil authorities and will do so without delay, unless the information is learned under the seal of Confession. Kentucky Revised Statute 620.050 provides that anyone participating in good faith in making such a report shall be immune from civil or criminal liability. On the other hand, failure to report, when someone is required to do so, can result in a misdemeanor charge. The person making the report and other

appropriate personnel in the parish or institution will cooperate with civil authorities, while retaining the right to seek guidance and legal counsel from officials of the Diocese and/or its agents.

**b. Reporting to Church Authorities**

**Policy 14: Any cleric, employee, or regular volunteer who witnesses an act of child sexual abuse perpetrated by another cleric, employee, or regular volunteer or who suspects that such an act has occurred or receives a report of such an act, must make the Chancellor of the Diocese aware of the matter. If the Chancellor is not available, this information should be given to the Vicar General; if the Vicar General is not available, this information should be given to the Director of Priests' Personnel.**

Any other person who believes that a child has been sexually abused by an agent of the Diocese is encouraged to report the alleged incident to the Chancellor.

**Policy 15: The Chancellor will keep the Bishop informed of all reported allegations.**

The Chancellor will form an Investigative Team of three to five persons from an approved list. It is recommended that the Chancellor and the Director of Priests' Personnel participate in this initial investigation together with other persons from the appropriate professional disciplines using the Investigative Process established by the Diocese. (Appendix B-2: Charter ..., Article 2 ;Appendix D-1) The Investigative team gathers information and presents it to the Review Board for its consideration.

**a. Response to the Victim**

Whenever abuse occurs, the victim and the victim's family experience shock and anger. It is essential that effective, immediate, and compassionate care be provided to these individuals. The Diocese will assist in the healing process.

**b. Action Regarding the Accused Person**

The Chancellor will direct the accused person's supervisor to place the person on a leave of absence from any official duties, pending the internal resolution of the matter. This action is in no way to be construed as imputing guilt. During this leave of absence, regular salary and benefits are to be provided for a period ordinarily not to exceed three months. In no case will the accused be allowed to remain in residence at a parish or institution in the Diocese where children are present. Neither the Bishop nor any priest who may be involved in the investigation should hear the confession of the accused or other persons who may be involved.

In the case of a diocesan priest, in addition to his being placed on a leave of absence, a temporary residence at a distance from the current assignment and without contact with children is to be arranged. If the accused is a religious priest, brother, or sister, his/her major superior will be notified.

The Diocese will assume appropriate responsibility in accord with the rightful relationship it has with the one against whom the allegation is brought. Care will be taken that all canonical and civil rights and laws are upheld. If the accused is a cleric not incardinated in the Diocese, a religious or a lay person, the Diocese will exercise discretionary action in accord with its relationship with the accused and the particular circumstances of the situation.

If the accused is a diocesan priest or deacon, because of the canonical relationship with the Diocese resulting from his ordination, the priest or deacon will be required to undergo a psychiatric/psychological evaluation. The evaluation will be arranged by the Director of Priests' Personnel and shall be done by a facility or counselor approved by the Diocese. All of these actions are to be approved by the Bishop.

### c. Action to the Local Church Community

People first learning that a respected leader has been accused are often reluctant to believe that the report could be true. Although it may be understandable, this reaction can create a burden on those who, often after a long struggle, are finding the ability to bring forth important information. Common responses in a community may include grieving, depression, and significant anger that may be focused against the accused, the accuser(s), the Diocese, the whole Roman Catholic Church, and maybe even God.

In order to assist the local community, the Diocese will coordinate debriefing sessions to help address the hurt within the community, the polarization that could happen, and will provide education and resource persons for further follow up.

## 2. Ongoing Action When There is Established Guilt

**Policy 16: In the instance where guilt is established, the guilty person will be permanently removed from ministry. (Appendix B-2: Charter ..., Article 5)**

The Diocese has a right to take action against this individual to recover its judgment and legal expenses.

## V. Glossary of Terms

The following terms have a specific meaning, as given in this Decree:

**Accused Person** – An individual against whom an allegation of sexual harassment and/or sexual exploitation and/or sexual abuse has been made.

**Allegation** – An accusation of sexual misconduct.

**Applicant’s Certification** – The certifying process for those persons who will work with children.

**Cabinet for Human Resources**—Department for Social Services – The state authority to whom actual or suspected instances of child sexual abuse are to be reported according to State Law.

**Chancellor** – An official of the Diocese of Lexington. (See Diocesan Directory for name and phone number.)

**Child** – A person who is under eighteen years of age.

**Church Professional** – persons who by their specialized training and/or leadership roles, hold a position of privilege and trust in the Roman Catholic Community. Examples include but are not limited to: clerics, pastoral directors, counselors, therapists, teachers, mentors, and coaches.

**Cleric** – A term from Canon Law referring to ordained priests and ordained deacons who are incardinated in the Diocese of Lexington, as well as religious priests, and priests and deacons incardinated in other dioceses who are engaged in a ministry under the control or auspices of the Diocese of Lexington.

**Decree** – This Decree on a Pastoral Response to Issues of Sexual Misconduct by Church Personnel.

**Diocese** – The Roman Catholic Diocese of Lexington. Often the word “diocese” is used in this Decree to refer to the Bishop and/or his representative.

**Directive** – A guideline which encourages persons to take a specific action.

**Employee** – Any person who is employed by the Roman Catholic Diocese of Lexington. An employee may be a cleric, a lay person, or a member of a religious order.

**Guardian or Parent** – That person possessing legal custody of a child.

**Incardination** – The special bond which attaches a cleric to a particular diocese or religious order.

**Institutions** – In this Decree means the following: The Catholic Center, Cliffview Retreat Center, and the Calvary Cemetery.

**Investigative Team** – The team formed to investigate the initial report of an allegation of sexual abuse.

**Legitimate Authority** – The person to whom one is responsible.

**KRS** – Kentucky Revised Statute - references a particular law by means of the numeration following these letters.

**Minor** – A person under the age of 18 years or an adult who is uniquely vulnerable to abuse because of physical or mental disabilities. In this Decree the term “minor” may be used interchangeably with the term “child”.

**Offender** – An individual who has been accused of some form of sexual misconduct.

**Parent or Guardian** – That person possessing legal custody of a child.

**Police Check** – A check of police records to ascertain whether a person has been convicted of an offense.

**Policy** – Any provision of this Decree requiring an action or standard of behavior on the part of the specified persons or offices, agencies, parishes, or institutions of the Diocese. The policies of this Decree are law of the Roman Catholic Diocese of Lexington, as defined by the Code of Canon Law.

**Regular Volunteer** – Includes any catechist, scout leader, coach, youth minister, coordinator, or others, who function in a regular, significant relationship with others. This includes interns, student teachers, and others in a similar capacity. It does not include the occasional volunteer, such as a driver or chaperone for individual activities.

**Religious** – A priest, brother, or sister who is a vowed member of a religious congregation or order.

**Responsible Supervisor** – For a school, the principal; for a parish, the pastor; for a Diocesan department, the department head; for any other organization or institution, the person in charge.

**Review Board** – “Dioceses/eparchies will ...have a review board that functions as a confidential consultative body to the bishop/eparch. The majority of its members will be lay persons not in the employ of the diocese/eparchy. This board will advise the diocesan/eparchial bishop in his assessment of allegations of sexual abuse of minors and in his determination of suitability for ministry. The board will regularly review diocesan/eparchial policies and procedures for dealing with sexual abuse of minors. Also, the board can review these matters both retrospectively and prospectively on these matters and give advice on all aspects of responses required in connection with these cases.”  
Charter...Article 2

**Sexual Abuse** – Sexual contact between a cleric, employee, or regular volunteer of the Roman Catholic Diocese of Lexington and a minor. Sexual abuse refers to acts described in KRS 620.020 (37), part 4. (cf. Appendix B-1) as well as those described in the Charter for the Protection of Children and Young People, page 5. (cf. Appendix B-2)

**Sexual Exploitation** – Sexual interaction between a church professional and an adult who is receiving care from that person.

**Sexual Harassment** – Continued unwanted sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature between individuals in a church-related setting in which at least one person is a cleric, an employee, or a regular volunteer of the Roman Catholic Diocese of Lexington.

**Sexual Misconduct** – In this Decree means one of three related forms of misconduct: sexual harassment, sexual exploitation, or sexual abuse.

**Sexual Misconduct Decree** – This Decree with all its contents regarding sexual misconduct in the form of harassment, exploitation, and abuse.

**Unwanted Conduct** – Behavior that is offensive to another, and is clearly made known as such to the offender.

**Vicar General** – The priest who, by Canon Law, represents the Bishop in his absence. (See the Diocesan Directory for name and phone number.)

**Victim** – In this Decree, means the person who is the object of some form of sexual misconduct.

**Volunteer** – Persons, other than clerics and employees, who function in some capacity in relation to an activity. In a single instance of service, the term “volunteer” is used. If the person regularly serves in a capacity, the term “regular volunteer” is used.

## **APPENDIX A**

### **ACKNOWLEDGEMENT OF RECEIPT OF THE DECREE ON A PASTORAL RESPONSE TO ISSUES OF SEXUAL MISCONDUCT BY CHURCH PERSONNEL**

I hereby acknowledge that I received a copy of the Decree on a Pastoral Response to Issues of Sexual Misconduct by Church Personnel, revised July 2003, that I have read the Decree, and understand its meaning.

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Signature

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Date

**DIRECTIONS:** This completed Acknowledgement Form is to be given to the supervisor of the person signing the Acknowledgement Form. The original Form will be forwarded to the Chancellor while a copy will be kept on file locally.

## **APPENDIX B -1**

### **KENTUCKY REVISED STATUTES**

### **PERTAINING TO SEXUAL ABUSE**

**KRS 620** provides for the protection of children through the mandatory reporting of known or suspected child abuse. All states require similar duties of persons related to the reportage of child abuse.

**KRS 620-020. (1)** Definition of abused or neglected child means a child whose health or welfare is harmed or threatened with harm when his parent, guardian or other person exercising custodial control or supervision of the child (1) inflicts or allows to be inflicted upon the child physical or emotional injury by other than accidental means; (2) creates or allows to be created a risk of physical or emotional injury to the child by other than accidental means; (3) commits or allows to be committed an act of sexual abuse, sexual exploitation, or prostitution upon the child; (4) creates or allows to be created a risk that an act of sexual abuse, sexual exploitation, or prostitution will be committed upon the child; (5) abandons or exploits the child; (6) or does not provide the child with adequate care, supervision, food, clothing, shelter and education or medical care necessary for the child's well-being.

**KRS 620.020. (2)** Definition of dependent child means any child, other than an abused or neglected child, who is under improper care, custody, control, or guardianship that is not due to an intentional act of the parent, guardian or person exercising custodial control or supervision of the child.

**KRS 620.020. (37)** Definition of abuse and exploitation means emotional or physical harm or sexual abuse as defined below:

1. *emotional harm* means harm to the mental or psychological capacity or emotional stability of a child as testified to by a qualified mental health professional;

2. *emotional injury* means an injury to the mental or psychological capacity or emotional stability of a child as evidenced by a substantial and observable impairment in his or her ability to function within a normal range of performance and behavior with due regard to age, development, culture and environment;

3. *physical injury* means substantial physical pain or any impairment of physical condition;

4. *sexual abuse* includes, but is not limited to any contacts or interactions between a child and an adult in which the parent, guardian or other person having custodial control or supervision of the child or responsibility uses or allows, permits or encourages the use of the child for the purposes of the sexual stimulation of the perpetrator or another person;

5. *sexual exploitation* includes involvement of the child in prostitution or acts of obscene or pornographic photographing, or filming depicting of a child.

**KRS 620.030. (1)** Any person who knows or has reasonable cause to believe that a child is dependent, neglected, or abused shall immediately cause an oral or written report to be made to a local law

enforcement agency or the Kentucky state police, the cabinet or its designated representative; the commonwealth's attorney, or the county attorney; by telephone or otherwise.

**KRS 620.030. (2)** Any person, including but not limited to a physician, osteopathic physician, nurse, teacher, school personnel, social worker, coroner, medical examiner, child-caring personnel, resident, intern, chiropractor, dentists, optometrist, emergency medical technician, paramedic, health professional, mental health professional, peace officer, or any organization or agency for any of the above, who knows or has reasonable cause to believe that a child is dependent, neglected, or abused, regardless of whether the person believed to have caused the dependency, neglect, or abuse is a parent, guardian, person exercising custodial control, or supervision of another person, or who has attended such child as a part of his professional duties shall, if requested, in addition to the report required in subsection (1) of this section, file with the local law enforcement agency or the Kentucky state police or the commonwealth's or county attorney, the cabinet or its designated representative within forty-eight (48) hours of the original report a written report containing: (a) the names and addresses of the child and his parents or other persons exercising control or supervision; (b) the child's age; (c) the nature and extent of the child's alleged dependency, neglect or abuse (including any previous charges of dependency, neglect or abuse) to this child or his siblings; (d) the name and address of the person allegedly responsible for the abuse or neglect; and (e) any other information that the person making the report believes may be helpful in the furtherance of the purpose of this section.

**KRS 620.050.** Anyone acting upon reasonable cause in the making of a report or acting under KRS 620.030 to 620.050 in good faith shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participation shall have the same immunity with respect to participation in any judicial proceeding resulting from such report or action.

## **APPENDIX B-2**

### **CHARTER FOR THE PROTECTION OF CHILDREN AND YOUNG PEOPLE**

#### **Sexual Abuse as Described in the Charter**

\*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 (CIC, c.1395 §2, CCEO, c.1453 §1). 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 offense against the sixth commandment of the Decalogue (CIC, c. 1395 §2; CCEO, c. 1453 §1) need not be a complete act of intercourse. Not, 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, cc. 1322-1327, and CCEO, cc. 1413, 1415, and 1416. If there is any doubt about whether a specific act fulfills this definition, the writings of recognized moral theologians should be consulted and the opinion of a recognized expert be 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.

## **Article 2**

Dioceses/eparchies will have mechanisms in place to respond promptly to any allegation where there is reason to believe that sexual abuse of a minor has occurred. Dioceses/eparchies will have a competent person or persons to coordinate assistance for the immediate pastoral care of persons who claim to have been sexually abused as minors by clergy or other church personnel. Dioceses/eparchies will also have a review board that functions as a confidential consultative body to the bishop/eparch. The majority of its members will be lay persons not in the employ of the diocese/eparchy (see norm 5 in *Essential Norms for Diocesan/Eparchial Policies Dealing with Allegations of Sexual Abuse of Minors by Priests or Deacons*, 2002). This board will advise the diocesan/eparchial bishop in his assessment of allegations of sexual abuse of minors and in his determination of suitability for ministry. It will regularly review diocesan/eparchial policies and procedures for dealing with sexual abuse of minors. Also, the board can review these matters both retrospectively and prospectively and give advice on all aspects of responses required in connection with these cases. The procedures for those making a complaint will be readily available in printed form and will be the subject of periodic public announcements.

## **Article 5**

When an allegation of sexual abuse of a minor by a priest or a deacon is received, a preliminary investigation, in harmony with canon law (CIC, cc. 1717-1719; CCEO, cc. 1468-1470), will be initiated and conducted promptly and objectively. If this investigation so indicates, the diocesan/eparchial bishop will both notify the Congregation for the Doctrine of the Faith and apply the precautionary measures mentioned in CIC, canon 1722, or CCEO, canon 1473—i.e., relieve the alleged offender promptly of his ministerial duties. The alleged offender may be requested to seek, or urged voluntarily to comply with, an appropriate medical and psychological evaluation, so long as this does not interfere with the investigation by civil authorities. When the accusation has proved to be unfounded, every step possible will be taken to restore the good name of the priest or deacon.

When sexual abuse of a minor by a priest or a deacon is admitted or is established after an appropriate process in accord with canon law, the following will pertain:

● Diocesan/eparchial policy will provide that for even a single act of sexual abuse (see Article 1, note \*) of a minor—past, present, or future—the offending priest or deacon will be permanently removed from ministry, not excluding dismissal from the clerical state, if the case so warrants. In keeping with the stated purpose of this Charter, an offending priest or deacon will be offered professional assistance for his own healing and well-being, as well as for the purpose of prevention.

● In every case involving canonical penalties, the processes provided for in canon law must be observed (cf. Canonical Delicts Involving Sexual Misconduct and Dismissal from the Clerical State, 1995; cf. Letter from the Congregation for the Doctrine of the Faith, May 18, 2001). 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 or deacon.

● Also provided for in canon law are the following: a request by the priest or deacon for dispensation from the obligation of holy orders and the loss of the clerical state or a request by the bishop for dismissal from the clerical state even without the consent of the priest or deacon (cf. Canonical Delicts).

● 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.

● 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. Because sexual abuse of a minor is a crime in all jurisdictions in the United States, for the sake of the common good and observing the provisions of canon law, the diocesan bishop/eparch shall exercise this power of governance to ensure that any priest or deacon who has committed even one act of sexual abuse of a minor as described above shall not continue in active ministry.

## **APPENDIX C**

### **APPLICANT'S CERTIFICATION**

Direction: This Certification must be signed by every applicant for employment with the Roman Catholic Diocese of Lexington whose work would involve regular and/or supervisory contact with children. It is highly recommended that all employees and regular volunteers whose work involves regular and/or supervisory contact with children also sign this certification. This Certification is filed at the local place of employment or volunteer work.

I hereby attest and certify that I have never been accused of, convicted of, nor pled guilty to: sexual abuse, gross sexual imposition, voyeurism, public indecency, or any existing or former offense of any municipal corporation, this state or any other state of the United States that is substantially equivalent to any of the above offenses. (If you have been accused of, convicted or, or pled guilty to any of the above offenses and wish to explain the circumstances thereof, please do so on a separate sheet). I further certify that I have never been discharged from employment or a volunteer position because of any activity covered by the foregoing statutes.

I hereby authorize any present or former employer, person, firm, corporation, physician, or government agency to answer all questions and to release or provide any information within their knowledge or records dealing with the above-named areas of conduct, and I agree to hold any and all of them harmless and free of any liability for releasing any information that is within their knowledge and records. I further authorize the Roman Catholic Diocese of Lexington to conduct a check of my police criminal records in accordance with KRS 156.483, KRS 17.160, and KRS 17.165).

I hereby attest and certify that the above information provided by me is true and correct to the best of my knowledge. I understand that misrepresentations or omissions may disqualify my application or result in my immediate dismissal if I am already employed.

Applicant's Signature \_\_\_\_\_

Witness \_\_\_\_\_

Date \_\_\_\_\_

**APPENDIX D-1**

**Investigative Process to be used in cases of alleged sexual exploitation**

1. The complaint is made to the Chancellor. The Chancellor arranges for a personal interview with the person making the complaint. This gives the complaint the status it deserves.

2. The Chancellor forms an Investigative Team who will stand in the background if needed. Details of the complaint are not shared at this point.

3. In the interview with the complainant, the Chancellor or a designated person will:

- listen to details of the allegation;
- offer support to the complainant;
- inform the person making the complaint about the procedure that will follow.

4. The Chancellor makes known to the accused that he/she has been accused.

5. In the case of denial of or lack of response to the allegation of sexual exploitation,

- The Chancellor informs the accused that a formal investigation will begin. The names of the Investigative Team members are shared with the accused at this time, and the person is told that he/she will be notified within 3 days of the meeting time with the investigators. The accused person has the right to raise a concern to the Chancellor who may use discretion about replacing an Investigative Team member if the accused demonstrates some conflict of interest.

- The Chancellor notifies the Investigative Team and shares with them the facts of the allegation. Within 5 working days of the initial complaint, the Team begins the Investigation.

- At least two members of the Investigative Team will meet with the person making the accusation. The accuser will write and sign the accusation.

- The Investigative Team meets with the alleged offender to present the written accusations. The accuser as well as the Investigative Team jointly determine whether or not the person making the allegation is part of the meeting with the accused.

- Following upon these meetings and the work of the Investigative Team, this Team will render a decision and provide the reasons for the decision. The “preponderance of evidence” will be the basis for rendering the decision.

- The written report will be given to the Bishop.

**Investigative Process to be used in cases of alleged sexual abuse**

## **A. Allegation is current.**

**1.** The Chancellor receives the allegation and reminds the person reporting the allegation of his/her obligation to report the allegation to civil authority.

**2.** The Chancellor informs the Bishop/Designee, reports the allegation to civil authorities and assures them of full cooperation.

**3.** Within 24 hours, the Chancellor forms an Investigative Team from the list approved by the Bishop/Designee; team members chosen must be available to respond promptly.

**a.** The work of the team is to determine whether they believe the allegation is credible and substantive.

**b.** The team is to determine if there is enough reason to remove the person from his/her workplace permanently.

**c.** The team has the right to determine who might have pertinent information.

**d.** The team will exercise discretion regarding who is contacted during the investigation.

**e.** The team will interview minors only when accompanied by a parent or guardian.

**f.** The team must have the written consent of the parent/guardian.

**4.** Immediately upon the conclusion of the investigation, the Team will inform the Bishop/Designee of its findings.

**5.** Within 10 working days, the Investigative Team will submit a written report to the Bishop/Designee. This report will include details of the investigation, findings of fact and the Team's decision regarding the allegation.

## **B. Allegation is old but is not in litigation-**

Same process as above

**C. Allegation is old and is in litigation-**

Same process as above; Diocesan attorney will be contacted for legal advice and direction.

Can be found at: <http://crossroads.cdlex.org/index.cfm/NewsItem?ID=83991&From=Home> , 05/10/12