

ARCHDIOCESE OF PHILADELPHIA
INDEPENDENT RECONCILIATION AND REPARATIONS PROGRAM
FOR CLAIMS OF CLERGY SEXUAL ABUSE OF MINORS

PROTOCOL

NOVEMBER 13, 2018

I. PURPOSE AND OVERVIEW

In 2003, the Archdiocese of Philadelphia (“Archdiocese”) established the Office for Child and Youth Protection (“OCYP”) based on its deep concern for victims/survivors sexually abused as minors by clergy.¹ The OCYP has reached out to victims/survivors and assisted those impacted regardless of the legal status or time-barred nature of the potential claim.²

The Archdiocese desires to extend its efforts to further assist victims/survivors of clergy sexual abuse. To that end, the Archdiocese is implementing an additional program – the Independent Reconciliation and Reparations Program (“IRRP” or “Program”) – to provide support and compensation for victims/survivors abused as minors by priests or deacons of the Archdiocese. The Program has been designed by two nationally recognized claims administration experts, Kenneth R. Feinberg and Camille S. Biros (the “Administrators”). The Program reflects input from victims/survivors and has been approved by a committee of community leaders who are not affiliated with the Archdiocese.

Through this Program, the Archdiocese wishes to acknowledge the wrongs endured by victims/survivors, the Archdiocese’s failure to prevent that harm, and offer an opportunity to submit claims for sexual abuse of minors. Each eligible claimant (the “Claimant”) who participates in this Program - which is purely voluntary - will have the opportunity to receive reparations (i.e., compensation) and, at the Claimant’s option, request support for emotional and pastoral needs.

The IRRP is effective November 13, 2018 and is available to all Claimants regardless of when they were harmed. The claim of clergy sexual abuse must be directed against clergy of the Philadelphia Archdiocese only, which currently covers the City and County of Philadelphia as well as Bucks, Chester, Delaware, and Montgomery counties. Claimants who assert claims of sexual abuse directed against a member of a religious order or clergy of any other archdiocese or diocese are not eligible to participate in this Program.

¹ Since its establishment, the OCYP has served hundreds of people and paid for therapy and care in an amount of nearly \$18 million.

² The Archdiocese has also implemented a Safe Environment Program. The OCYP audits all parishes, schools, and youth-serving entities and provides required training for all clergy, staff, and volunteers who have regular contact with children. For more information about the numerous reforms the Archdiocese has put in place to protect children, please see <https://view.winstormdp.com/AOP/13/Website>.

Claims will be handled in the order in which they are received, starting with claims of clergy sexual abuse previously reported to the Archdiocese (prior to the date of this Protocol). Claim forms and other relevant Program information will be sent to each potentially eligible Claimant.

The exclusive claims period for filing a claim pursuant to this Protocol shall be November 13, 2018 through September 30, 2019. All individual claims submitted to the IRRP must be postmarked within this period.

Individuals who have not previously reported claims of clergy sexual abuse to the Archdiocese may, nevertheless, register to participate in this Program on the Program's website (www.PhiladelphiaArchdioceseIRRP.com) from November 13, 2018 through July 31, 2019. To register, potentially eligible Claimants need to provide their name, contact information, and a summary description of the nature of the claim, including the dates and location of the abuse and name of the perpetrator. Upon registration, the Administrators will perform an initial eligibility review and will then send each potentially eligible Claimant a packet of information including a Claim Form. All claims must be submitted by September 30, 2019. In addition, new allegations of abuse received through this Program will be reported to the local office of the District Attorney and to the Archdiocese for review. To ensure that no person credibly accused of child sexual abuse remains in ministry, if a claim of abuse is brought against a cleric presently in ministry,³ the Archdiocese will follow its usual policy⁴ for such allegations, including having the matter investigated by the Office of Investigations and presented to the Archdiocesan Professional Responsibility Review Board.

As part of this Program, a Victim Support Facilitator (the "Facilitator") will be available to assist Claimants in submitting their claims if requested by the Claimant. If the Claimant so requests, the Facilitator will confidentially provide an assessment of the victim's/survivor's needs to the Administrators who will review this additional information, along with all submitted supporting documentation provided by the Claimant and/or the Claimant's attorney. At their sole option, Claimants will have the opportunity to meet with the Administrators prior to a determination of their claim and may request to meet with representatives of the Archdiocese and/or the OCYP's Victim Assistance Program to foster the emotional and pastoral needs of the victim/survivor. Whether the Claimant meets with any individuals as part of this process is solely the Claimant's decision.

After the Administrators' determination, if the Claimant seeks assistance in obtaining referrals to appropriate counseling or other support services, the Administrators will forward such request to the Facilitator, who will be available to help connect Claimants to Church-based or secular resources in their area. If the Claimant decides to accept the reparations awarded through this Program, the Claimant will sign a release of all past and future claims relating to the abuse at the conclusion of this process. Before signing such a Release, the Claimant will be required to

³ "In ministry" includes a priest or deacon with full faculties of the Archdiocese.

⁴ The Archdiocese policies are available here: <http://archphila.org/wp-content/uploads/2016/11/Policies-Nov2016.pdf>.

consult with an attorney for the sole purpose of advising the Claimant concerning the language and binding nature of the Release. If the Claimant does not have an attorney, the Administrators shall provide an attorney to consult with the Claimant for this purpose free of charge.

II. INDEPENDENT OVERSIGHT COMMITTEE

An Independent Oversight Committee has approved this Protocol, and will oversee and periodically review the implementation and administration of the IRRP. The following individuals will serve as members of the Oversight Committee:

Senator George J. Mitchell, Chair
Judge Lawrence F. Stengel (Ret.)
Kelley B. Hodge

The Oversight Committee has reviewed and approved this Protocol. To advance the goals of this Protocol, the Oversight Committee has appointed Lynn Shiner to serve as the Victim Support Facilitator. The Victim Support Facilitator has also reviewed and approved this Protocol.

Periodically, at the request of the Oversight Committee, the Administrators shall meet with the Oversight Committee to report certain findings and determinations. The Oversight Committee may request to review supporting documentation for a particular claim. The Oversight Committee, as and when it deems appropriate, will also report to the Archdiocese as to the implementation and administration of the Program.

Neither the Oversight Committee nor the Archdiocese has authority to modify or reject any individual claim determination governing eligibility or reparations awarded by the Administrators, and neither will function as an appeal board for any Claimant. At the conclusion of the claims administration process, the Oversight Committee will review the process as a whole and make appropriate recommendations to the Archdiocese.

III. ELIGIBILITY REQUIREMENTS

A. Eligible Claimants

The persons eligible to participate in this Program are: a) individuals who allege they were sexually abused as a minor by clergy of the Archdiocese of Philadelphia or b) the Legal Representative (as defined below) of those Claimants. The following additional criteria apply:

- The claim of clergy sexual abuse must be directed against clergy of the Philadelphia Archdiocese only, which currently covers the City and County of Philadelphia as well as Bucks, Chester, Delaware, and Montgomery counties. Claims of sexual abuse directed against a member of a religious order, clergy of any other archdiocese or diocese, or a lay person are not eligible under this Program.

- For new claims not previously reported to law enforcement or the Archdiocese, the Claimant must first report the claim of abuse in writing (with a copy submitted to the Administrators) to the appropriate District Attorney to participate in this Program. A finding of criminal liability by the District Attorney is not required for participating in this Program. All new allegations of abuse received through this Program will also be reported to the appropriate Office of the District Attorney by the Archdiocese as required by law and Archdiocesan policy.
- The Claimant must not have previously entered into a settlement agreement resolving the claim of clergy sexual abuse against a member of the clergy of the Archdiocese.
- The individual Claimant must not have previously litigated his/her claims to resolution against the Archdiocese or any related entities. However, a Claimant whose claims were dismissed or resolved solely on the grounds that they were barred by the Pennsylvania statute of limitations and no other basis, remains eligible to participate in the Program.
- The Administrators will determine, in their sole discretion after reviewing all of the information submitted, whether the allegations of clergy sexual abuse of a minor are credible and likely to have occurred. To do so, the Administrators will consider appropriate factors, including but not limited to:
 - The level of documentation, corroboration, or other circumstantial evidence regarding the nature, frequency, time, and other details of the alleged sexual abuse. Such evidence would include medical or counseling records relevant to the abuse and contemporaneous notification of the abuse by the Claimant to church official, law enforcement authorities, parents, friends or others.
 - Whether or not there exists any information and/or pertinent findings offered by the appropriate Office of the District Attorney or other law enforcement agency.
 - Whether or not the Administrators find the claims of the individual to be credible after a complete review of all relevant documentation provided by the Claimant and the Archdiocese.

B. Legal Representatives of Eligible Claimants

The “Legal Representative” of the individual Claimant shall mean: (1) in the case of a Claimant who is currently a minor, a parent or legal guardian authorized under law to serve as the minor’s legal representative; (2) in the case of an incompetent or legally incapacitated individual Claimant, a person with proof that he or she has been duly appointed as the Claimant’s legal representative in accordance with applicable law; (3) in the case of a Claimant who was deceased prior to the effective date of the Program or a Claimant who submitted a claim while alive but passed away during the claims process, the spouse, descendant, relative or other person who is authorized by law to serve as the decedent’s legal representative; or (4) an attorney authorized to

represent the Claimant, in which case the Claimant must provide a retention agreement signed by both the Claimant and the attorney.

Legal representatives must supply proof of representative capacity – such as a power of attorney, guardianship, appointment as guardian or attorney ad litem, or the equivalent – as is required to establish authority to act in a representative capacity under the law of the resident state of the decedent, minor, or incompetent or legally incapacitated individual.

IV. CLAIMS ADMINISTRATION PROCESS

A. Guiding Principles

The following non-exclusive principles apply to the administration of claims in the IRRP:

- The Claims Administrators are independent. Any decision rendered by the Administrators as to any claim will be fully binding on the Archdiocese. The Archdiocese has no authority to reject the Administrators' determination as to any claim. Further, the Administrators' determination may not be appealed to the Oversight Committee, the Archdiocese, the Victim Support Facilitator or any other party or entity.
- The Administrators will evaluate each eligible claim in a prompt and fair manner.
- Participation in this IRRP is completely voluntary and does not affect any rights the Claimant may have until and unless the Claimant accepts the reparations and signs a Release after consultation with a lawyer.⁵
- All Claimants will be treated with respect, dignity, and fairness, without regard to race, color, sexual orientation, national origin, religion, gender, or disability. To ensure claims will be adjudicated fairly, the Administrators will manage the process so that all Claimants can equally access the Program's claim submission process. Individuals with disabilities will be given the opportunity to effectively communicate their claims and to request special process accommodations. Accommodations will be made for individuals with language barriers to ensure that they have meaningful access to the process and to the Program.

B. Claim Submission Process

1. Claim Form

The Administrators will send each victim/survivor that has previously reported a claim of abuse to the Archdiocese a packet of information about the Program with a copy of the Claim Form.

⁵ As explained below, a lawyer will be provided free of charge to Claimants to receive this consultation. Further, because participation in this Program is voluntary for the Archdiocese and every Claimant, none of the aspects of this Program give rise to any actionable legal claim of any kind by any Claimant.

Those that have not previously reported a claim of abuse can register on the Program website to receive the Claim Form and accompanying Program information. A list of Frequently Asked Questions will also be made available to Claimants. Program materials may be translated into Spanish upon request.

All Claim Forms must be completed and postmarked no later than September 30, 2019.

Claim Forms should be mailed via overnight courier (a pre-paid courier voucher will be included with each packet) to the Independent Claims Administrators at the following address:

The Independent Reconciliation and Reparations Program
For the Archdiocese of Philadelphia
c/o Feinberg Law Offices
1455 Pennsylvania Avenue, NW – Suite 390
Washington, DC 20004

Claimants are invited to provide documentation identified in the Claim Form, and any other corroborating or supporting information sufficient to substantiate the claim, satisfy eligibility requirements, and allow the Administrators to review, process, and evaluate the claim. If the claim is being presented by a Legal Representative, then the Legal Representative will be responsible for submitting the necessary documentation relating to the represented Claimant.

For claims of abuse previously reported to the Archdiocese, the documentation previously provided to the Archdiocese regarding that claim will be provided to the Administrators. By submitting a claim to this Program, the Claimant consents to the Archdiocese sharing this information and documents with the Program. Additional documentation may be requested at the discretion of the Administrators. Both the Claimant and the Archdiocese will be afforded the opportunity to submit to the Administrators any information deemed relevant to the evaluation and determination of the claim before the final disposition of the claim.

If a Claimant submits an incomplete claim (i.e., the Claimant failed to include required documentation or failed to sign the Claim Form), the Administrators will notify them, explain the additional information that is needed, and work with the Claimant to assist in submitting a complete claim.

2. *Victim Support Facilitator*

Claimants may, at their sole discretion, choose to work with the Victim Support Facilitator appointed by the Oversight Committee to assist in the submission of their claims. The Facilitator is trained and experienced in social work and victim advocacy. The Facilitator may involve and

oversee additional individuals with the same or similar qualifications to fulfill her role in this Program.⁶

The Facilitator will be available to meet with Claimants in person, by telephone, or by video conference. The Facilitator recognizes that each victim/survivor may approach this Program from a different stage in their healing process, and seeks to meet victims/survivors where they are and offer appropriate support. The Facilitator will be a resource to discuss the Program, hear from victims/survivors, and assist Claimants in answering the questions on the Claim Form. For Claimants that so request, the Facilitator may also complete a Victim Support Assessment (“Assessment”), which may include the Facilitator’s recommendations for future support services, such as therapy or counseling (individual, group, relationship, marital, family, substance abuse, and career), alternative therapies, outpatient addiction treatment services, or spiritual counseling of any denomination. The Assessment is a confidential, internal Program document. The Facilitator will provide the confidential Assessment directly to the Independent Claims Administrators upon completion of the Facilitator’s review. Regardless of whether a Claimant elects to work with the Facilitator, all Claim Forms must be timely submitted to the Administrators, i.e., postmarked by no later than September 30, 2019.

The services of the Facilitator are completely optional. The Facilitator will not make any determinations, representations, or recommendations about a Claimant’s eligibility, the validity of the claim, or the amount of reparations a Claimant should receive—all of which are in the sole discretion of the Administrators. In addition, no Claimants will be penalized if they choose not to work with the Facilitator or obtain the Assessment.

C. Reparations

Based upon all of the information available, the Independent Claims Administrators will evaluate each claim to determine the monetary reparations that should be paid to an eligible Claimant. The Administrators may involve and oversee additional staff, as needed, to carry out their duties.

1. *Opportunities to Be Heard*

The Claimant will be afforded an opportunity to be heard before the Administrators’ determination. Upon request by the Claimant, the Administrators will be available to meet in-person, by video conference, or by telephone to further discuss his or her claim, but these meetings are voluntary. Requests to meet with the Administrators should be sent by email and will be scheduled at a mutually convenient time and location. The Administrators may also request a meeting with a Claimant or his or her representative at a reasonable mutually convenient time and location, though the Claimant is not obligated to attend any such meeting.

⁶ The Victim Support Facilitator is a neutral and independent party available to assist Claimants. The Facilitator is not an attorney or advocate, and will not be representing any Claimant in this Program.

In addition, a Claimant may, at any time in this process, request an in-person or telephonic meeting with officials of the Archdiocese and/or a professional of the OCYP's Victim Assistance Program. If there is a particular individual within the Archdiocese the Claimant wishes to meet with to further the healing and reconciliation process, the Archdiocese will make every reasonable effort to accommodate that request. Further, if a Claimant would find it helpful to meet with officials from the Archdiocese or Victim Assistance Program with other Claimants, rather than individually, the Program will seek to provide that opportunity.

2. *Claim Determination*

As relevant to any particular claim, the Administrator may consider the following non-exclusive factors in determining the reparations to be paid to any eligible Claimant:

- The nature and extent of the harm to the Claimant as a result of the sexual abuse, including but not limited to the emotional and spiritual harm.
- The nature and extent of the Claimant's physical or psychological damage.
- Verifiable documentation of medical, counseling, or prescription expenses incurred as a result of the abuse.
- The credibility of the claim based upon all of the facts and circumstances.
- The Victim Support Facilitator's Assessment, if one was requested by the Claimant.

Prior to a final determination by the Administrators, all new claims against a cleric presently in ministry will be investigated by the Archdiocese's Office of Investigations and presented to the Archdiocesan Professional Responsibility Review Board.⁷

The Administrators, in their sole discretion, shall determine the reparations to be offered each eligible Claimant. The Administrators will confidentially send the Claimant the following in writing: (1) the Administrators' decision regarding the claim; (2) the amount offered; (3) a Release to be signed by the Claimant if the Claimant accepts the offered compensation and (4) a Payment Option Form. The Administrators' offer must be accepted by the Claimant within 60 days, after which it will no longer be valid. The Claimant may not appeal or seek to have the Administrators' determination reviewed by the Oversight Committee, Archdiocese, Victim Support Facilitator, or any other party or entity.

⁷ The Administrators will consider the outcome of any investigation in determining the claim among all of the other information available. The result of any criminal or internal investigation will not be binding on the Administrators in this Program. Likewise, the Administrators' determinations in this Program will not be binding on any potential future criminal or internal investigation involving the same or similar allegations or Claimants.

3. *Payments*

Upon the Claimant's acceptance of the Independent Claims Administrators' determination and receipt of the Claimant's signed Release, the Administrators will authorize payment, by check or electronic funds transfer, to each eligible Claimant. Checks will be sent to Claimants via overnight courier service. If so requested by the Claimant, the Administrators will work with the Claimant to offer alternatives to lump-sum payments, such as an annuity to have the money administered by a third party.

4. *Release*

In order for the claim to be eligible for payment, all Claimants must voluntarily consent to participate in the IRRP and agree to be bound by its terms. No such agreement will be enforceable until the Claimant is made aware of the awarded amount. Until a final Release is executed, each individual Claimant retains all rights under the law.

By submitting a claim in this Program, a Claimant is seeking to resolve all claims against all responsible parties relating to allegations of sexual abuse involving the Archdiocese of Philadelphia. If a Claimant chooses to accept a final payment pursuant to this Program, the Claimant will be required to sign a full Release, in a form satisfactory to the Archdiocese, of all past and future claims against any party relating to such allegations of sexual abuse. Before signing a Release, the Claimant will be required to consult with an attorney selected by the Claimant or, if the Claimant so requests, the Program will provide an attorney to provide free legal counseling to the Claimant for the sole purpose of advising the Claimant concerning the language and binding nature of the Release. The Release will waive any rights the Claimant and his/her heirs, descendants, legatees or beneficiaries may have against the Archdiocese of Philadelphia and any potentially responsible party to assert any claims relating to such allegations of sexual abuse, to file an individual legal action relating to such allegations, or to participate in any legal action associated with such allegations. However, the Release will not operate to preclude or limit the Claimant's ability to report and discuss allegations of abuse with law enforcement.

No one affiliated with this Program will provide tax or legal advice to those receiving payments from this Program. Claimants are urged to consult with a tax advisor concerning any questions regarding tax liability for payments pursuant to this Program.

D. Additional Victim Support

After the Independent Claim Administrators' determination, the Victim Support Facilitator will be available upon request by the Claimant to help connect Claimants with resources in their area for future emotional and spiritual care. Such services will include those offered through the OCYP's Victim Assistance Program and other secular options not affiliated with the Archdiocese or the Catholic Church.

E. Program Integrity

For the purpose of protecting the integrity of the Program and resources for legitimate Claimants, the Independent Claims Administrators will institute all necessary measures to prevent the payment of fraudulent claims, including taking steps to verify claims and analyze submissions for inconsistencies, irregularities, or duplication.

Each Claimant who signs the Claim Form at the time of submission certifies that the information provided in the Claim Form is true and accurate to the best of the Claimant's knowledge, and that the Claimant understands that false statements or claims made in connection with such submission may result in fines, imprisonment, and/or any other remedy available by law. Suspicious claims will be forwarded to federal, state, and local law enforcement agencies for possible investigation and prosecution. Individual claims submitted pursuant to this Program may be forwarded, in appropriate cases, to an appropriate Office of the District Attorney for review.

F. Privacy

This Program is confidential.⁸ By filing a claim with the IRRP, the Claimant or his or her representative agree that information submitted by a Claimant and the Archdiocese pursuant to this Program will be used and disclosed only for the following purposes:

- 1) Processing the Claimant's claim, including procedures for payment;
- 2) Administering the Program, including work by the Oversight Committee and Victim Support Facilitator;
- 3) Program-related work, including internal investigations, by the Archdiocese and its designees;
- 4) Reports to law enforcement; and
- 5) The protection of children under the Safe Environment Program.

When documents maintained by the Archdiocese (including OCYP, Office of Investigation, and Office of Clergy) become part of a Claimant's file for purposes of this Program, such materials will be reviewed by the Independent Claims Administrators to assist in evaluating the claim, but will otherwise remain confidential. These files are not available for inspection, review, and copying by the Claimant or his or her representatives during or after the Program.

⁸ All Claimants agree they are using the services of a third-party administrator in this Program to help them reach a resolution of their claims, and that this Program is entitled to confidentiality and protection from disclosure under Pennsylvania law. *See* 42 Pa. Stat. and Cons. Stat. Ann. § 5949(a), (c). However, no aspect of this Program shall preclude or limit the Claimant's ability to report and discuss allegations of abuse with law enforcement.

To protect the privacy of Claimants that participate in the IRRP, one year after the conclusion of the Program all personal information provided by the Claimant during this process will be destroyed, except to the extent otherwise required by law.

Participating Claimants may, at their sole and voluntary option, disclose information in their possession regarding their claim, reparations, and their experience with the Program.

All confidentiality requirements are subject to law, regulation, and judicial process.

V. RECOMMENDATIONS FOR BEST PRACTICES & COMMUNITY HEALING

To complement the claim process available through this Program, the Victim Support Facilitator, Oversight Committee, and Archdiocese will work together to establish internal best practices for the Archdiocese to better serve the community as a whole. This will include a review of current policies to improve interactions with victims/survivors, prevent future harm, and protect public safety. The Victim Support Facilitator will also provide input for internal training programs.

The Archdiocese also recognizes the need for further healing in the community. Based upon the Victim Support Facilitator's training, experience, and work with individuals participating in this Program, the Facilitator will make recommendations to the Archdiocese regarding other appropriate outreach and events that would help promote emotional and spiritual healing in the community.