

I. Introduction

“...and what does the Lord require of you but to do justice, and to love kindness, and to walk humbly with your God?” -- *Micah 6:8*

As we gathered around the conference table to do the work which produced this document, our conversations returned again and again to the balance of justice and compassion. Our task was to put voice to the disciplinary canons of the church – voice which would proclaim both justice and compassion. The words of Micah not only captured that for us, but told us that the way to balance justice and compassion was to walk humbly with God.

Our baptismal vows provide a way to walk humbly with God: to seek and serve Christ in all persons; to respect the dignity of every human being; whenever you fall into sin, to repent and return to the Lord. We make all these promises with the words, “I will, with God’s help.” This is not only recognition that we are powerless in and of ourselves to keep these promises, but also affirmation that there will be times of sin, when we fail to live up to these promises.

When this failure occurs in the pastoral relationship, it is essential for the well-being of the whole church that there be clear guidelines for how this breach of trust is handled. This document concerns priests, deacons, and persons in the ordination process, all being referred to as “clerics” in this document. The violation of trust in the clergy relationship is governed by the canons of The Episcopal Church and the Diocese. The Canons, however, as they currently exist can be difficult to understand and are limited to the disciplinary process. It is our goal in this document not only to clearly outline the canonical process of the Title IV Canons, but also to outline an investigative process and a process for managing necessary pastoral care for the persons and communities of the Diocese.

Crucial to this approach is the recognition that a breach of the pastoral relationship has both *judicial* and *relational* implications. Thus, this document addresses *both* the canonical requirements *and* the supportive and healing work that we are called to do among persons and communities when misconduct by a cleric is alleged.

One additional point bears highlighting: Throughout, we strive to balance the competing goals of *transparency* with *confidentiality*. This serves to protect the individual accused of the breach as well as the communities and other parties involved in the response process. The process itself is transparent so that all involved may be aware of the rules which govern the church’s response to allegations of misconduct and the steps which are taken in their resolution. The process is confidential to protect the parties from disclosure of details of events

or allegations that are irrelevant to the process.

This document is structured in order of importance, beginning with *Prevention*. It then outlines the process of *Response to Allegations of Misconduct* and sets up *Policy Review and Adjustment*. An *Appendix* includes definitions, resources for training, policies and liturgical resources. For clarity, the language used in this document will be consistent with canonical language. Definitions are included in the *Appendix*.

Our work has been a labor of love for you, our brothers and sisters in Christ. May it be a source of hope and healing for this part of the body of Christ that we call the Diocese of Newark.

The Rev. Dr. Cathy Deats, co-chair

John Webb, Esq., co-chair

The Rev. Cooper Conway

The Rev. Dr. Allison Moore

The Rev. Willie Smith

The Rev. James Warnke

II. Prevention

It is our goal in this section to set the procedures for investigating allegations of misconduct in their proper context of overall church health and vitality. Additional resources may be found in the Appendix.

Health is a vital benchmark of a vibrant church. A healthy church is clear about its mission and its members feel their ministry is effective. Leadership is characterized by trust and self-differentiated relationships, so that when conflict arises it can be named and worked through in ways that lead to greater health. A healthy congregation sets explicit expectations about how members of the congregation work together, including job descriptions and behavioral norms, and reviews those expectations regularly. There are systems of accountability in place to establish and maintain appropriate boundaries.

Boundaries and accountability are popular terms that evoke both respect and discomfort. In her book *Calling: A Song for the Baptized*, Caroline Westerhoff defines boundary as something that defines and gives identity to all systems, including persons and communities. Boundaries are both tangible, like skin or physical borders, and intangible, as in the names, stories, traditions and values that define a group. Boundaries give identity and definition; yet, they also describe the limits of a group: “who’s in” and “who’s out.” The church struggles with this concept. The Holy Spirit constantly pushes individuals and groups to expand their boundaries to include people who are at first deemed unlovable or unworthy or unwanted. Yet Jesus, clear about inviting all to the Reign of God, was also clear about what kinds of behavior threaten the well-being of the whole: hypocrisy, greed, secrecy, exploitation, and the like. “All are welcome,” but there are rules and expectations for behavior that must be followed if people are to remain in community. Jesus held the religious and political leaders of his day, those who sought healing, and his disciples accountable for their words and deeds. This is often a hard concept for church members who “don’t want to hurt anyone.” Yet not holding the appropriate people accountable for maintaining boundaries, whether in terms of personal space, or clergy/congregation interactions, or performance reviews of staff, can allow destructive behaviors to flourish and ultimately destroy the congregation. Appropriate boundaries and accountability can prevent misconduct and abuse of all kinds.

Problems often arise when there’s a suspicion that a boundary has been violated. “Why did I feel so odd after that meeting?” “Am I the only one who has questions about the financial information? No matter how I ask the question I don’t get satisfactory answers.” “Where is the priest hiding these days? I saw her going off with so and so again.” “Did you smell alcohol on the warden’s breath? He just didn’t make sense the other night.” “My son said he didn’t want the assistant to drive him to youth group any more.” Suspicions about misconduct, especially by someone trusted and powerful in the congregation, can feel like a horrible betrayal.

Possible responses to the suspicion of a boundary violation can include silence, denial, anger, depression, bargaining, somatic symptoms, or sudden or unexplained absence. While these are understandable reactions, they alone will not produce healing. They need to be seen as possible symptoms of a deeper problem--the suspicion of misconduct. The author in the Letter to Ephesians charges the Church then and now to “speak the truth in love” and “grow up in the fullness that Christ is calling us to which is maturity and unity” (Ephesians 4:15-16). “Speaking the truth in love” means sharing suspicions with a wise person who can be trusted to keep confidence, for the purpose of discernment: “What should we do? How can we determine if the suspicions have merit?” Note that this is very different from gossip, speaking badly about someone behind their back for the thrill of sharing “racy news” or defaming their character. In the Epistles “gossip” is listed more often than fornication as a sin that undermines the health of a congregation. Yet not sharing suspicions can mean that more people could be victimized if misconduct is in fact occurring.

Sometimes suspicions can be easily addressed (e.g., “Where is the priest hiding?” “She and so-and-so are taking a course every Monday and Wednesday afternoon this fall.”). Sometimes sharing brings confirmation (e.g., “I can’t get straight answers either. And the password on the financial program has been changed. Who did that?” or “Yes, my son will only go to acolyte practice when the assistant isn’t teaching it.”) When suspicions seem justified, taking the appropriate steps for an investigation that is as discreet as it is thorough can help the church be the safe and holy place it is meant to be.

III. Responses to Allegations of Misconduct

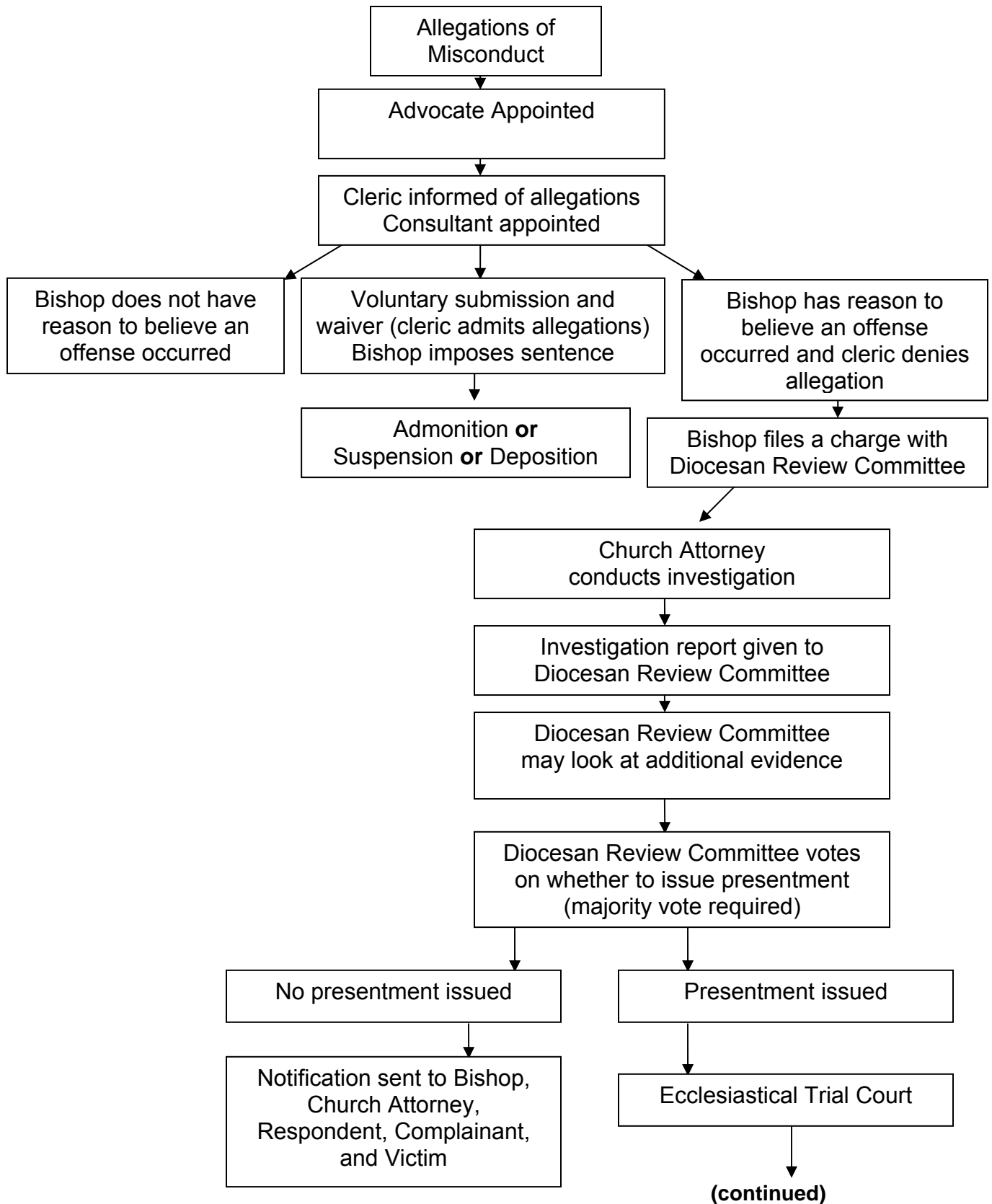
Judicial and Pastoral Aspects of the Response

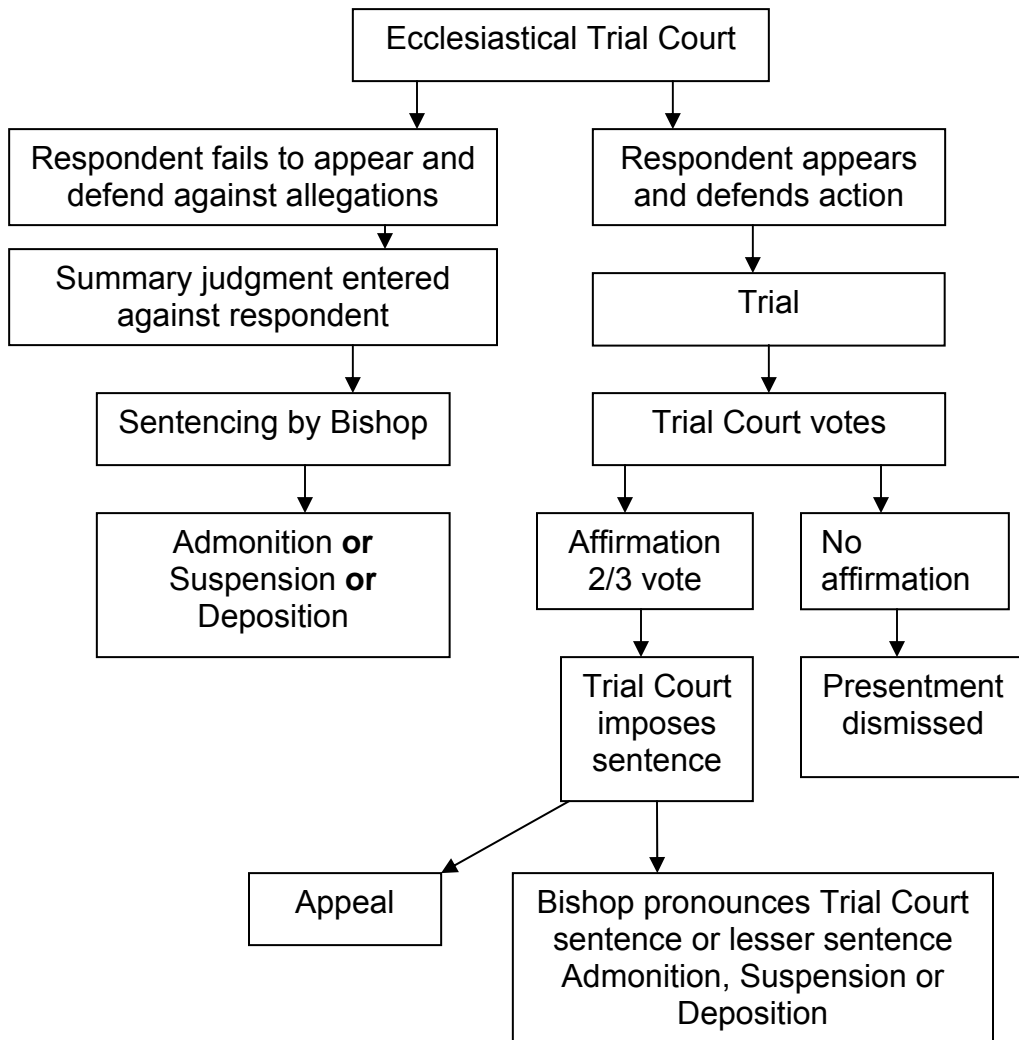
There are two parallel systems of response to allegations of misconduct in the Diocese of Newark. One is termed “judicial” in this document and deals with matters of guilt and innocence and ecclesiastical discipline when appropriate. The other is pastoral and deals with the spiritual needs of all the parties involved, whether directly or indirectly, in what is the crisis of alleged or actual misconduct.

Judicial

The overall structure of the judicial aspect of responding to allegations of misconduct is fairly straight-forward. Allegations trigger investigations and further proceedings in accord with canon law as will be explained in detail later in this Section III and in the diagram following this paragraph. Clergy who are convicted of or admit the alleged offense may be admonished (reprimanded), suspended (for a set period of time prohibited from exercising ordained ministry and subject to conditions for return to active ministry), or deposed (permanently forbidden to function as priest or deacon in The Episcopal Church).

Summary of Title IV of The Episcopal Church's Canons





Pastoral

The second, parallel, process is pastoral. It is an attempt to meet the spiritual and emotional needs of all involved. Allegations of misconduct precipitate a crisis in all of the individuals immediately involved, their families, their church communities, and the Diocese and larger church as a whole.

Upon receiving notice of an allegation, the Bishop will appoint a Response Coordinator who will work with the Bishop to oversee the response process. The Bishop's office will conduct interviews with the parties concerned as outlined later in this section and consistent with the canons of this Diocese and The Episcopal Church.

In consultation with the Bishop, the Response Coordinator will make a list of individuals and groups who may require pastoral care, contact each of the parties involved in the case, inform them as to the pastoral care available to them and assist them as needed in securing pastoral care. Persons who may be contacted include the Respondent and (subject to the Respondent's permission) the Respondent's partner or spouse and, when desired and appropriate, other family members of the Respondent. If desired, the Response Coordinator will recommend persons selected from a Pastoral Care Panel who might be appropriate to offer pastoral care for each individual. Those persons chosen as pastoral care providers in relation to the case may in appropriate cases form a pastoral care team and, while maintaining appropriate confidentiality, collaborate with the Response Coordinator and one another in the pastoral care of these persons.

The Bishop, with the assistance of the Response Coordinator, may appoint a pastoral care transition team for the parish served by the Respondent to assist the clergy and laity of that parish during and after the response process.

These pastoral care teams will continue to function under the general coordination of the Response Coordinator until such time as the Bishop determines that their work is complete.

Structure/Guidelines for Pastoral Care Panels and Judicial Response Teams

The Bishop will appoint from among the Laity and Clergy of the Diocese persons trained and skilled in pastoral care (clergy, chaplains, mental health professionals, pastoral counselors, and spiritual directors) who will offer voluntary service for a period of three years on the Pastoral Care Panel of the Diocese. In consultation with the Bishop, the Response Coordinator for each case will assist alleged victims, Respondents, parish leaders or other persons affected by the process in the selection of pastoral caregivers on a case-by-case basis. Individual parties to each case are, however, completely free to engage for their

pastoral care needs other professionals than those empanelled by the Diocese in the same way persons are free to choose Advocates and legal counsel for the judicial aspects of the process.

Similarly, the Bishop may assemble a panel of appropriately skilled persons to provide voluntary service from time to time and as needed as part of a Judicial Response Team. If possible, they should have received training in crisis intervention and interviewing complainants, alleged offenders, witnesses and anyone else whom they determine to have relevant information. The Bishop may also identify professional investigators whom the Diocese might hire to investigate facts in appropriate cases. The Response Coordinator appointed by the Bishop for a particular case, when appropriate, may compose an investigative Judicial Response Team, composed of one (1) or more persons. Depending upon the nature of the accusation, the Judicial Response Team may include mental health professionals, private investigators, attorneys or others whose expertise may assist them in assessing the accusations.

The Response Process

The Diocese has devised procedures for the discipline of clergy for misconduct and will soon examine procedures for the discipline of lay church workers. The procedures are designed to provide:

- a safe environment in which victims of misconduct may come forward;
- justice for both the alleged victim and the accused cleric in accordance with canon law;
- openness with the alleged victim and the accused cleric in accordance with canon law;
- transparency of the process while respecting confidentiality requirements;
- protection of a member of the clergy who may be falsely accused of misconduct;
- punishment of offenders (clergy) that is proportional to the offenses committed;
- appropriate pastoral assistance to victims, offenders, their respective loved ones and others affected when misconduct occurs;
- facilitation of restoring alleged victims, accused clerics and their communities to wholeness.

The purpose of the Diocese's process for responding to alleged misconduct by clerics is to (1) assure appropriate intervention in alleged incidences of misconduct; (2) provide care for all involved and (3) appropriately balance necessary protection of personal and factual confidentiality with predictability, openness and integrity of the process. In addition to alleged victims and those against whom accusations are made, congregations and those in employment settings are also affected. The process is intended to engage the

Church in promoting healing and justice through actions of the Bishop, the Judicial Response Team, pastoral care providers and, if necessary, the Diocesan Review Committee, the Church Attorney and the Ecclesiastical Court.

The response process can be conceptualized as involving a number of phases, some overlapping, and occasionally preempting, other phases. The process has been designed to allow flexibility in achieving timely, just results and in balancing justice and mercy. The process is not linear. So it is that the sequence of these theoretical phases and the activities appropriate to particular cases will vary in practice; good judgment and promoting justice and reconciliation must guide the process.

Accusation Phase

A complaint of misconduct by a cleric, should be reported to the Bishop's office. A complaint of misconduct by the Bishop should be reported to the office of the Presiding Bishop of The Episcopal Church. If the alleged misconduct is against a minor, the complaint initiator should immediately call the New Jersey Office of Child Abuse Central in the Division of Youth and Family Services at 1-877-652-2873. A cleric who is the subject of rumored misconduct may also initiate an investigation to disprove the alleged misconduct by a similar communication with the Bishop's office. The initial complaint may be submitted orally or in writing, and can be made by the Complainant or another person (such as a parent or spouse) with an appropriate relationship to the alleged victim (as defined in the canons). If the accusation is in the form of a Charge presented to the Diocesan Review Committee, the Bishop may decide not to convene a Judicial Response Team but rather allow the Church Attorney instead of the Judicial Response Team to conduct investigation of the matter.

Notification Phase

The Bishop and/or the Response Coordinator will assemble an investigative Judicial Response Team as soon as possible after learning of the alleged misconduct.

The Bishop and/or the Response Coordinator will assure the Complainant of the Church's concern and that the matter will be investigated.

Soon after learning of the alleged misconduct, the Bishop (with another Diocesan representative, like the Chancellor or the Response Coordinator) will meet with the accused cleric ("Respondent"), informing him or her of the alleged misconduct and advising the Respondent of his or her rights, which include:

- ◆ The right to be informed of the nature of the accusation;
- ◆ The right not to make any statement regarding the accusation, and to be told that any statement can be used as evidence against him or her;
- ◆ The right not to testify against himself or herself;
- ◆ The right to have an attorney of his or her choice.

At that initial meeting, the Respondent may answer questions provided the Respondent voluntarily in writing waives the right not to make a statement. The Respondent may decline to answer any questions at that time. The Response Coordinator will advise the Complainant and the Respondent that the complaint has been assigned for investigation.

Support Identification Phase

The Bishop's pastoral concerns are directed equally to all parties affected: the one against whom a complaint is made, the Complainant, the families of both and the parish community. The Bishop also has the role and responsibility ultimately to impose a sentence of admonition, suspension or deposition on clerics who are convicted of, or who admit, misconduct. The Bishop may attempt to resolve the matter informally, if the Complainant wishes. The Bishop's judicial and pastoral canonical responsibilities, which are in tension, are separately delegated to different sets of people so that investigative (judicial) and support (pastoral) functions do not interfere with each other. For instance, a member of a Judicial Response Team for a case will not also serve in relation to that case as an Advocate, a Consultant or a pastoral care provider.

The Bishop and/or the Response Coordinator will explain to the Complainant that the role of an Advocate is to explain the disciplinary process and to aid the Complainant throughout that process, and that Advocates are not intended to serve as the principal pastor to the person whom they serve. An Advocate is chosen by the Response Coordinator after exploring with the Complainant what characteristics he or she may wish in an Advocate, such as gender, lay or ordained, geographic location, and language. Advocates may also be assigned to the alleged victim (if different from the Complainant) and family members of the alleged victim or of the cleric.

The Bishop will offer the Respondent a Consultant. The Response Coordinator will discuss with the Respondent what characteristics of a Consultant best meet the needs of the Respondent. If the Respondent requests a Consultant from outside the Diocese, every effort will be made to accommodate this request. The Consultant will help the Respondent through the response process.

The Bishop may request that the Respondent participate in a mental health assessment done at Diocesan expense by a professionally qualified individual experienced in the evaluation of the type of misconduct alleged. The Respondent will receive a copy of any written assessment and will be informed of the conclusions and recommendations of any assessment. An assessment is only one among many factors that will inform decisions by the Bishop in the course of the response process.

During the investigation of the Respondent's alleged misconduct, the Bishop can impose restrictions on a Respondent's ministry, as follow:

- ◆ The Bishop may direct the Respondent to have no further contact with the Complainant or alleged victim.
- ◆ A formal restriction called a “Temporary Inhibition” can be issued when the Bishop believes that the allegations of misconduct are “supported by sufficient facts.” Title IV, Canon 1.2(a). This inhibition must be in writing and must state the reasons for its issuance, clearly specify the misconduct alleged, specify the restrictions imposed on the Respondent’s ministry and be served on the Respondent. It becomes effective once served; the Respondent may appeal to the Diocesan Review Committee which has the power to dissolve a Temporary Inhibition by a 2/3 vote.
- ◆ In appropriate circumstances, including when restrictions of a Temporary Inhibition interfere with the congregation’s interaction with their cleric, the Bishop and a pastoral care team may provide pastoral support to the congregation. The pastoral care team will provide the congregation with appropriate support for dealing with the emotional and spiritual problems that an accusation of misconduct causes the congregational community.

At all times, the Diocese will cooperate with civil authorities who are investigating allegations of misconduct and will respond truthfully to governmental requests for non-privileged information about charges of misconduct. The Bishop may choose to postpone any part of the response process in a case where criminal charges are brought against a cleric, although pastoral assistance will still be available to anyone (including affected congregations) who needs it. In cases where the alleged victim is still a minor at the time the accusation is made, the Diocese will notify the appropriate governmental authorities and defer their investigation.

Case Assessment Phase

The Bishop oversees the investigation, administration and evaluation of the case, using the Judicial Response Team and/or other qualified investigators as resources, with the objective of determining whether the allegations of the complaint are “supported by sufficient facts” (Title IV, Canon 1.2(a)) or there is “sufficient reason to believe that [the Respondent] has committed” misconduct for which the Respondent could be tried in an Ecclesiastical Court (Title IV, Canon 3.5). The Bishop may also use these resources to determine the appropriateness of an offer regarding a voluntary submission to discipline and/or to determine the appropriateness of a sentence.

The scope of the investigation related to the case will be as narrow or broad as may be canonically appropriate. Those interviewed may in appropriate cases be advised that the results may be admitted into evidence in the event of ecclesiastical, criminal or civil judicial proceedings. They will also be encouraged to consult an attorney should they have any questions or concerns about the investigation.

Generally, the investigator(s) will attempt to present a report to the Bishop

through the Response Coordinator within 90 days of receiving the investigation assignment, and during the process the investigator(s) will keep the Response Coordinator apprised of their progress. The Bishop and the Response Coordinator will meet with the Judicial Response Team or other investigator(s) to discuss their determinations and recommendations, if any. The report, which may be all or in part oral, will include:

- ◆ A statement of the complaint;
- ◆ Relevant materials, including records of interviews and written statements;
- ◆ Determination and any recommendations.

Note: This report and any report developed in the course of the response process will be held in confidence. It is also the case, however, that these reports may be released if required by law (pursuant to subpoena or otherwise), and that these reports and statements by parties and witnesses may be used in judicial or ecclesiastical proceedings arising from the alleged misconduct. Notwithstanding those exceptions to confidentiality, content of communications between Advocates and Complainants and between Consultants and Respondents is, however, privileged (like priest-penitent and attorney-client communications) and disclosure of such privileged communications cannot be compelled.

Conciliation Phase

During any phase of the response process, the Bishop, Complainant, Respondent or other participants in the process may seek to resolve the matter through negotiation of a compromise. For instance, before formally notifying a Respondent of a complaint, the Bishop may attempt to resolve the matter informally if the Complainant wishes. Discussions leading up to a “Voluntary Submission to Discipline” by the Respondent might occur during any of the phases of the response process.

An explanation of “Voluntary Submission to Discipline” seems appropriate below in this “Conciliation Phase” section.

The Respondent, upon admitting that he or she has committed the offense alleged, can voluntarily submit to the discipline of the Church. In such cases, the Respondent voluntarily waives all rights to a trial and agrees to accept a sentence imposed and pronounced by the Bishop. The Respondent is informed of the sentence to be imposed before waiving his or her rights. This process is called “Voluntary Submission to Discipline.” The Voluntary Submission to Discipline must be documented in writing, containing:

- Name of the cleric.
- Information sufficient to identify the offense.
- Canonical reference to the offense committed.
- A statement that the cleric is aware of the sentence to be imposed and the effect of that sentence.
- The signature of the cleric after having an opportunity to

- consult with an attorney of his or her choosing.
- And, if such consultation has occurred, identification of the legal counsel.

The cleric cannot appeal a sentence imposed. It is final (three days after the cleric's signature, which ensures, in addition to the cleric's knowledge of the sentence in advance of signing the Voluntary Submission document, that the cleric is making a voluntary and knowing decision). Voluntary Submission to Discipline can happen anytime before the Ecclesiastical Court comes to a verdict. Once the Ecclesiastical Court has made its decision, however, a cleric can no longer voluntarily submit to discipline.

Action Plan Phase

As soon as practical after receipt of the Judicial Response Team report, the Bishop will make a determination as to whether the Complainant's allegations meet the canonical requirements for referral of the case to the Diocesan Review Committee, and in that limited sense, have been substantiated. In this phase of the response process, a plan is formulated and executed with a view to effecting healing where possible, treating all persons affected by a breach of faith with respect and due process and resolving the case. Some plan of action will be needed, even if the allegations are not sufficient basis for a Charge to be considered by the Diocesan Review Committee, as noted below.

The following actions will be considered and appropriate action will be taken:

- ◆ The Bishop and/or Response Coordinator will speak separately with the Respondent and the Complainant. Both the Respondent and the Complainant may be accompanied by a person of their choosing.
- ◆ A written copy of the determination may be put in the file maintained by the Bishop and in the cleric's Diocesan personnel file.
- ◆ Not Substantiated: When the determination of the Bishop is that no misconduct has occurred, then the Bishop will discuss with the Respondent any steps necessary to make such findings known and to facilitate reconciliation for all who have been affected by the accusation and the response process.
- ◆ Substantiated: When the determination finds that misconduct has been substantiated in the limited sense explained above,
 - If appropriate, the Bishop may require the Respondent to continue therapy by persons qualified in the treatment of misconduct.
 - The cleric's matter must be referred to the Diocesan Review Committee for discipline under Title IV of the Canons of The Episcopal Church, and the Bishop, the Diocesan Review Committee, the Church Attorney and the Ecclesiastical Court will follow the canonical process outlined in the diagram on pages 8 through 10, above.
 - The Bishop will advise the Complainant that the allegations are

sufficient to proceed as a Charge in the disciplinary process, express the Church's deep regret, and discuss appropriate responses by the Church to assist in the healing of the Complainant. The Bishop may also, if appropriate, meet with the spouse, parents and/or family of the Complainant to discuss how the Church may assist them.

- The Bishop and/or the Response Coordinator may meet with the members of the household of the Respondent.
- The Bishop and/or the Response Coordinator may notify the appropriate persons in leadership positions in the affected congregations, church-affiliated employees or dioceses.
- The Bishop will decide whether the Respondent should be removed from his or her position.
- The Bishop and/or the Response Coordinator may organize an open congregational meeting to begin the process of healing for the affected congregation.

Care after Case Resolution

Resolution of a case may not involve full reconciliation. Reconciliation is rarely achieved; it is a process, not a goal. Reconciliation does not occur until the Church has made justice. Justice requires that truth be spoken, the offender held accountable by the faithful community, amends be made and the injured and the community forgive the offender.

To facilitate healing and reconciliation after ecclesiastical discipline and to nurture appropriate boundaries, the following steps may be followed whenever a cleric returns to ordained ministry in the Diocese of Newark after ecclesiastical discipline. If the Bishop allows a return to ministry by a cleric after confession or conviction of misconduct, the Bishop may require him/her to undergo assessment by a professional as to the fitness of the cleric to return to ordained ministry. That assessment will be sent to the Bishop (and to the Ecclesiastical Court, if the Court is involved in the case when the assessment becomes available). The findings will be considered in determining the sentence. Only clergy who are cleared to return to ministry by the assessment professional will be allowed to resume the work of ordained ministry. While undergoing such an evaluation will not guarantee that the Respondent can remain in ordained ministry, failure to participate when directed to do so by the Bishop means that the Respondent may not return to work in ordained ministry in this Diocese. These recommendations are applicable whether the cleric was disciplined under Title IV or through the inherent authority of the Bishop or the offender's bishop at the time of the offense:

Steps to be taken by the cleric:

- Before accepting a call, the cleric will share his or her story regarding the problematic behavior with the vestry and possibly the entire congregation and if the return to ordained ministry is in a new diocese,

- with the Bishop of that diocese.
- Before entering into new ministry, the cleric will work with lay leaders in the congregation to establish safeguards by setting clear boundaries that relate to the subject matter of the prior problematic behavior. For example, if the prior problematic behavior involved financial impropriety, the cleric and lay leaders might establish a system in which the cleric's access to parish finances is restricted or precluded.
 - With the Bishop's consent and the consent of those involved, the cleric may choose to meet with members of the clergy and laity who were or are affected by the cleric's prior problematic behavior. The cleric may request the assistance of the Bishop in this process.

Steps to be taken by the Diocese:

- The Bishop will inform the congregation in which the problematic behavior occurred that the cleric will return to ministry. The Bishop may explain the process that was followed and the work that has been accomplished by the cleric which has satisfied the Bishop that the cleric is ready to return to ministry.
- The Bishop may meet with the clergy of the district in which the problematic behavior occurred and affected institutions and their leadership so as to have an opportunity to tell them that the cleric will return to ministry. With the Bishop's consent, the cleric may choose to be present during these conversations.
- The Bishop will attempt to identify additional clergy who may have been affected by the cleric's problematic behavior. The Bishop may choose to meet or have conversation with these clergy as appropriate. With the Bishop's consent, the cleric may choose to be present during these conversations.
- The Bishop will answer questions asked by congregations as appropriate.

IV- Policy Review and Adjustment

The Bishop may convene a task force (or re-convene the Committee who helped develop this Policy) to review this Policy periodically and recommend adjustments of the Policy to the Bishop. This Policy may be amended from time to time by the Bishop, in consultation with the Standing Committee and the Diocesan Council.

V. Appendices

I. Definitions

Advocate - a person, lay or clergy, designated to support and assist a Complainant or an alleged Victim in any proceeding contemplated by Title IV. The Advocate need not reside in or be a member of the diocese proceeding under Title IV or of the diocese of the person or body designating the person as Advocate. (Canon IV.15)

Response Coordinator - serves as the contact person for those involved in a complaint, to assist the Complainant and the accused in identifying support persons, and to assist the Bishop and the Chancellor in dealing with issues involved in the complaint. The Response Coordinator may also work with the investigator(s) and stay in touch with the Complainant and the accused through their support persons.

Chancellor - of the Diocese guides the Bishop's office, Response Coordinator and investigator(s) in addressing legal aspects involved in a complaint and investigation, before involvement in the case of the Diocesan Review Committee and/or the Ecclesiastical Court, and at appropriate times as legal canonical advisor to the Bishop's office in relation to pastoral directives, inhibitions, voluntary submissions and sentencing. The Chancellor advises the Bishop, the Response Coordinator and others working on the case. The Chancellor represents the Diocese, not the accused nor the Complainant. Sometimes the Chancellor provides suggestions to the Complainant and the accused regarding the need for legal counsel and may provide referrals of those who might provide that counsel. The Chancellor plays no role in the decision-making process of the Diocesan Review Committee or the Ecclesiastical Court.

Church Attorney – the Church Attorney is appointed by the Standing Committee with the advice and consent of the Ecclesiastical Court for a term of three (3) years. The Church Attorney shall be a confirmed adult communicant of this Church in good standing, learned in the law, and admitted to practice law in the State of New Jersey. The Church Attorney need not reside in or be a member of the Diocese. The Church Attorney may not be the Chancellor or a Vice Chancellor of the Diocese or a member of the Standing Committee, the Diocesan Review Committee or the Diocesan Council and may not be from the same law firm as the Chancellor, the Clergy Consultant, or any Lay Assessor. The Church Attorney, a duly licensed attorney, (i) as to proceedings concerning priests and deacons, is appointed to investigate matters of ecclesiastical discipline on behalf of the Diocesan Review Committee, to represent the Church in a prosecution of Presentments against priests and deacons and to represent the Church in an appeal to the Court of Review of a Trial of a Priest or a Deacon; (ii) as to proceedings concerning bishops, is appointed to investigate matters of ecclesiastical discipline on behalf of the Review Committee, to represent the

Church in the prosecution of Presentments against bishops and to represent the Church in an appeal to the Court of Review of a Trial of a Bishop pursuant to Canon IV.5.9, and appointed by Presenters pursuant to Canon IV.5.13. The Church Attorney's client shall be the Diocesan Review Committee or the Review Committee, as the case may be. (Canon IV.15) The Ecclesiastical Court shall have the power, with or without cause, to remove (or suspend) the Church Attorney by vote of two-thirds (2/3) of its members. Upon any such removal or suspension, the Standing Committee with the advice and consent of the Ecclesiastical Court, shall appoint a temporary replacement (in the case of a suspension) and shall fill the office of Church Attorney (in the event of a removal).

Complainant - the person or body by whom a Charge is made. (Canon IV.15)

Consultant - The Consultant shall mean a priest, pastoral counselor, chaplain, attorney-at-law or other person familiar with the procedures, alternatives, requirements and consequences of the disciplinary canons (Title IV) and who is made available to a member of the clergy pursuant to Canon IV.14.8 to consult with and advise the priest or Deacon and his or her legal advisors at reasonable times prior to the issuance of a Presentment. The Consultant shall explain the rights of the Priest or Deacon and the alternatives available under this Canon. A Priest or Deacon shall be notified of the availability and identity of the Consultant at the earliest of (a) the communication to the Priest or Deacon of a Charge; (b) any interrogation or request for a statement; (c) the service of a Temporary Inhibition; (d) submission to the Ecclesiastical Authority; or (e) prior to the Execution of a Waiver and Voluntary Submission to Discipline. All communications between the Consultant and the Priest or Deacon, or his or her legal advisors shall be Privileged Communications. (Canons IV.14.8 and IV.15)

Diocesan Review Committee - There shall be a Diocesan Review Committee which shall be composed of four (4) Priests or Deacons elected by the Convention for a term of four (4) years and three (3) Lay Persons, who are confirmed adult communicants of this Church in good standing, elected by the Convention for a term of three (3) years. No member of the Diocesan Review Committee may be a member of the Standing Committee or the Ecclesiastical Court.

Ecclesiastical Court - There shall be an Ecclesiastical Court for the Trial of a Priest or Deacon which shall be composed of four (4) Priests or Deacons elected by the Convention for a term of four (4) years and three (3) Lay Persons, who are confirmed adult communicants of this Church in good standing, elected by the Convention for a term of three (3) years. No member of the Court may be a member of the Standing Committee or the Diocesan Review Committee. The Court shall appoint not less than one nor more than three Lay Persons who are confirmed adult communicants of this Church in good standing, learned in the

law, as Assessors. A Lay Assessor need not reside in or be a member of the Diocese.

investigator – person skilled in conducting investigations of alleged misconduct, for the purpose of discovering the facts about such misconduct and other relevant facts that may bear on the Bishop’s determination of an offer of voluntary submission to discipline. The investigator conducts interviews, seeks and examines documentation, (if necessary for proper evaluation) commissions scientific testing and reports findings to the Bishop. A judgment regarding innocence or guilt is not part of the report.

Judicial Response Team - persons with investigative skills, including paid professional investigator(s), evaluators, forensic specialists or others, chosen by the Response Coordinator in consultation with the Bishop to investigate the charges presented and report to the Bishop on their findings.

pastoral care panel – persons with counseling or pastoral skills chosen by the Bishop to be available for assignment to a pastoral care team.

pastoral care team – persons with counseling or pastoral skills chosen by the Response Coordinator in consultation with the Bishop to serve with at least one other person as support for congregations and others affected by a Title IV situation.

Respondent – a member of the clergy (including persons formally pursuing the process toward ordination, beginning with aspirant status) charged with an offense or to whom commission of an offense is imputed.

offense – shall mean any conduct or act proscribed in Canon IV.1.1: as **(a)** Crime; **(b)** Immorality; **(c)** Holding and teaching publicly or privately, and advisedly, any doctrine contrary to that held by this Church; **(d)** Violation of the Rubrics of the Book of Common Prayer; **(e)** Violation of the Constitution or Canons of the General Convention; **(f)** Violation of the Constitution or Canons of the Diocese in which the person is canonically resident; **(g)** Violation of the Constitution or Canons of a Diocese of this Church wherein the person may have been located temporarily; **(h)** Any act which involves a violation of Ordination vows; **(i)** Habitual neglect of the exercise of the Ministerial Office, without cause; or habitual neglect of Public Worship, and of the Holy Communion, according to the order and use of this Church; **(j)** Conduct Unbecoming a Member of the Clergy.

inhibition - a written command from a Bishop that a Priest or Deacon shall cease from exercising the gifts of ordination in the ordained ministry as specified in the Inhibition. When an Inhibition is issued to a Bishop it may also command the Bishop to cease all episcopal, ministerial or canonical acts.

victim - a person who has been, or is, or is alleged to be the object of acts of the Respondent. (Canon IV.15)

voluntary submission to discipline – a written instrument containing the information required by the canons, particularly Canon IV.2.2, constituting a cleric's signed acceptance of a sentence of admonition, suspension or deposition by the Bishop after due diligence, and after the cleric's having been provided an opportunity to consult with counsel. (Canon IV.15)

II. Child Abuse Reporting Requirements

NEW JERSEY CODE OF CRIMINAL JUSTICE 2C:24-5 Chapter 24 - OFFENSES AGAINST THE FAMILY, CHILDREN AND INCOMPETENTS

2C:24-4 Endangering welfare of children.

a. Any person having a legal duty for the care of a child or who has assumed responsibility for the care of a child who engages in sexual conduct which would impair or debauch the morals of the child, or who causes the child harm that would make the child an abused or neglected child as defined in R.S.9:6-1, R.S.9:6-3 and P.L.1974, c.119, s.1 (C.9:6-8.21) is guilty of a crime of the second degree. Any other person who engages in conduct or who causes harm as described in this subsection to a child under the age of 16 is guilty of a crime of the third degree.

b. (1) As used in this subsection:

"Child" means any person under 16 years of age.

"Internet" means the international computer network of both federal and non-federal interoperable packet switched data networks.

"Prohibited sexual act" means

(a) Sexual intercourse; or

(b) Anal intercourse; or

(c) Masturbation; or

(d) Bestiality; or

(e) Sadism; or

(f) Masochism; or

(g) Fellatio; or

(h) Cunnilingus;

(i) Nudity, if depicted for the purpose of sexual stimulation or gratification of any person who may view such depiction; or

(j) Any act of sexual penetration or sexual contact as defined in N.J.S.2C:14-1.

"Reproduction" means, but is not limited to, computer generated images.

(2) (Deleted by amendment, P.L.2001, c.291).

(3) A person commits a crime of the second degree if he causes or permits a child to engage in a prohibited sexual act or in the simulation of such an act if the person knows, has reason to know or intends that the prohibited act may be photographed, filmed, reproduced, or reconstructed in any manner, including on the Internet, or may be part of an exhibition or performance. If the person is a parent, guardian or other person legally charged with the care or custody of the child, the person shall be guilty of a crime of the first degree.

(4) Any person who photographs or films a child in a prohibited sexual act or in the simulation of such an act or who uses any device, including a computer, to reproduce or reconstruct the image of a child in a prohibited sexual act or in the simulation of such an act is guilty of a crime of the second degree.

(5) (a) Any person who knowingly receives for the purpose of selling or who knowingly sells, procures, manufactures, gives, provides, lends, trades, mails, delivers, transfers, publishes, distributes, circulates, disseminates, presents, exhibits, advertises, offers or agrees to offer, through any means, including the Internet, any photograph, film, videotape, computer program or file, video game or any other reproduction or reconstruction which depicts a child engaging in a prohibited sexual act or in the simulation of such an act, is guilty of a crime of the second degree. (b) Any person who knowingly possesses or knowingly views any photograph, film, videotape, computer program or file, video game or any other reproduction or reconstruction which depicts a child engaging in a prohibited sexual act or in the simulation of such an act, including on the Internet, is guilty of a crime of the fourth degree.

(6) For purposes of this subsection, a person who is depicted as or presents the appearance of being under the age of 16 in any photograph, film, videotape, computer program or file, video game or any other reproduction or reconstruction shall be rebuttably presumed to be under the age of 16. If the child who is depicted as engaging in, or who is caused to engage in, a prohibited sexual act or simulation of a prohibited sexual act is under the age of 16, the actor shall be strictly liable and it shall not be a defense that the actor did not know that the child was under the age of 16, nor shall it be a defense that the actor believed that the child was 16 years of age or older, even if such a mistaken belief was reasonable.

9:6-8.10. Report of abuse

Any person having reasonable cause to believe that a child has been subjected to child abuse or acts of child abuse shall report the same immediately to the Division of Youth and Family Services by telephone or otherwise. Such reports, where possible, shall contain the names and addresses of the child and his parent, guardian, or other person having custody and control of the child and, if known, the child's age, the nature and possible extent of the child's injuries, abuse or maltreatment, including any evidence of previous injuries, abuse or maltreatment, and any other information that the person believes may be helpful with respect to the child abuse and the identity of the perpetrator. [L. 1971, c.437, s.3; amended by L. 1987,c.341,s.4.]

III. Guidelines for Clergy Dating Relationships

When a single, divorced, or widowed cleric begins a dating relationship with a parishioner, supervisee, or any other person with whom the cleric has a pastoral relationship, the couple shall inform the bishop, the wardens and/or the vestry or other supervisor that this relationship has begun. The cleric shall terminate the pastoral role with the person he or she is dating, and shall support the person in seeking pastoral care from another cleric.

IV. Healthy Clergy / Healthy Parish Resources

Good practice in the Congregation

The Church is a community of volunteers, with members contributing to its life in different ways. In today's busy world it is often difficult for people to take on new responsibilities, especially in the care and nurture of children where commitment is needed. It is therefore important that those working with children and young people should be carefully selected, supported and trained. The Executive Committee/Vestry is responsible for all congregational activities and must satisfy itself that everything is being done to provide a safe environment for its children and young people. It is also responsible for making sure, as far as possible, that no false accusations can be made against its workers and volunteers.

- Each congregation or Executive Committee/Vestry should identify the groups of children and young people for whom they are responsible and who are covered by these guidelines, not forgetting groups that are mixed adults and children such as choirs, servers and bell-ringers. The Executive Committee/Vestry should identify who are the leaders and who are the helpers.
- Existing leaders and helpers must be made aware of these guidelines.
- The Congregation/Vestry/Executive Committee must have adequate liability insurance coverage for all congregational activities, on or off the premises.

Guidelines for Leaders and Helpers with Children and Young People

1. All children and young people should be treated with the respect and dignity befitting their age.
2. Leaders must make sure that their speech, tone of voice and body language is not threatening or sexually suggestive.
3. Leaders should be trained in techniques of control and discipline without the use of physical punishment.
4. There should be at least two adults present in case help is needed to toilet, wash a child or give first aid.
5. Parental permission must be given before a child is seen on his or her own. Another adult should be nearby and the child should know this.
6. When possible or appropriate each group should include at least two adults one of whom should be of the opposite sex. The children should know about this arrangement and that they can speak to a person in charge if need be.

7. Do not invade a child's privacy while washing or toileting or touch inappropriately or intrusively.
8. Do not play rough physical or sexually provocative games or permit tickling.
9. Don't be sexually suggestive about or to a young person even in fun.
10. Don't make a scapegoat of, ridicule, or reject a child.
11. Don't show favoritism.
12. Don't allow children to involve you in excessive attention seeking that is overtly physical or sexual in nature.
13. Don't give rides to individual children or young people. If this is unavoidable, have children sit in the back seat.
14. Don't share sleeping accommodations with young people.
15. Don't invite a young person to your home alone. Invite a group and make sure there is at least one other responsible adult around and that parents are aware of where the young people are.
16. Don't permit abusive peer activities, e.g. initiation ceremonies, ridiculing, bullying, tickling.
17. Don't allow unknown adults access to children. Visitors should be accompanied by a known person.
18. Require parents to supply names of those adults who have parental permission to pick up children in case of emergencies.

Guidelines for Prevention of Sexual Abuse and Exploitation for Persons Working with Youth

One of the hardest things for us to accept and understand is the fact that there are people who sexually molest or abuse children and young people. The facts, however, are undeniable: Sexual victimization is a very serious problem. Given the number of kids who are involved in summer programs, special events and retreats, we can no longer deny our responsibility to report suspected abuse to child protective services.

Child abuse is a serious criminal offense. As a person working with youth for an extended period of time, or as a summer volunteer for a week's program, or as a chaperone for just the weekend event, you are charged with the responsibility of caring for our young people, and may from time to time be placed in sensitive

situations, making yourself vulnerable to charges of child molestation. If you take these simple precautions, however, you need not be afraid of groundless accusations:

1. In all counseling situations, you should observe the "TWO-PERSON" rule, which is that you should always be in a situation that you are in the line of sight of another person, preferably another adult worker.
2. A further protection for the church and children is to have an "OPEN DOOR POLICY". This policy should state that the parents of the children served, the clergy, or administrative and professional staff of the church or institution have the right to visit and observe the program at any time unannounced.
3. Have another adult present when supervising visits to the bathroom, showers, changing, or other circumstances in which the young person may be dressing or undressing.
4. Respect the privacy of the individuals.
5. A young person has the right to reject displays of affection if he or she feels uncomfortable about them, i.e., the passing of the peace at Eucharist or other worship times. Not every young person comes from a background in which affection is openly displayed. Respect the person's wishes.
6. Protect your own privacy. In some instances of camp our youth group living, youth supervisors will be rooming with the young people, therefore caution must be taken when discussing sensitive subjects with the guys or girls in your living quarters, and should not go into details of your private life.
7. Understand and comply with the Diocese of Newark Policies and Practices for the Prevention of Child Abuse. Sexual exploitation should not be confused with physical contacts that are true expressions of affection. A warm and healthy relationship can exist between a person working with youth and a young person if adult workers respect the young persons and place reasonable limits on their physical interaction. Youth supervisors have the responsibility of knowing their boundaries.

[Guidelines for Ethical Relationships Between Clergy and Congregations](#) ,
Diocese of Newark [\[link\]](#)
[On the Ethics of Clergy Transitions and Boundaries](#) , Diocese of Newark
[\[link\]](#)

V. Training Resources for the Prevention of Sexual Abuse and Exploitation

Diocese of Newark training in Sexual Misconduct Prevention and Child Abuse Awareness <http://www.dioceseofnewark.org/sexabuse.html> [recommend to Diocese that the Diocesan website add a link under “Training” for “Child Abuse Awareness”]

VI. Background Check / Application Process for Screening

Hiring Guidelines

Whether you are using paid staff or volunteers to be in charge of children, you should approach the selection and hiring in the same manner. Do not be put off by the applicant or volunteer who objects to your inquiries and interview processes. A person who is mature and able to deal with children in an appropriate manner will be understanding and not offended by what you are doing. While these processes can inconvenience an adult, failure to implement them can damage a child.

- 1) Have an application form. The form should list the essentials that any employer would ask an applicant whether paid or volunteer.
- 2) Ask for references from unrelated sources, preferably ones that have seen the applicant in action with children.
- 3) Make certain that you check the references. An efficient way to check references is to send out a form which should be kept on file for at least seven years. The written form offers the opportunity for the person to contact the interviewer by telephone. Some suggest that a telephone check is likely to be more candid than a written reference. You can also sense reluctance, or hesitation about certain questions that gives you a clue to ask further questions that may help you get a better picture of the individual.
- 4) Have a form to record their answers.
- 5) While interviewing the applicant or volunteer you should be looking for:
 - a) openness: a genuine interest in and concern for young people
 - b) dependability
 - c) self-confidence and assertiveness
 - d) self-awareness
 - e) good health and a high energy level
 - f) sense of humor and the ability to relax
 - g) ability to tolerate conflict and discord
 - h) cooperative team spirit: ability to express viewpoints honestly and accept compromise
 - i) emotional ability and good impulse control
 - j) ability to make quick, sound decisions, often independently
- 6) Establish a list of questions that you would ask all applicants or volunteers. Keep notes on how they respond.

7) When observing and interviewing an applicant, watch for possible indications of or a potential for abuse:

- a) unresolved, negative childhood experiences including but not limited to abuse as a child
- b) unrealistic expectations of young people
- c) poor ability to plan ahead or anticipate the need to intervene
- d) inflexibility
- e) low self-esteem, isolation, or a tendency to internalize problems
- f) punitive tendencies
- g) difficulty in expressing emotions appropriately
- h) inability to relate to youth except as peers
- i) lack of personal support system
- j) over investment in children for personal needs

Processing the Applicant

At the time that the applicant or volunteer has been accepted for the position, you should request that the applicant give you:

- 1) Copies of their degrees or credentials that they have listed on the application. You may be surprised at the number of individuals who claim to have credentials that they do not have. This is one measure of their integrity.
- 2) A copy of their driver's license. Even if they are not going to be driving for you, this is another form of identification that is useful to have on file.
- 3) A copy of their driving record. This should be done within ten days of the time of employment or start of the volunteer job. A motor vehicle license record can be obtained by the applicant by going to the closest DMV and requesting it.
- 4) A copy of their proof of insurance.
- 5) The applicant should sign a form that states that they have received a copy of the policies and procedures of the organization.
- 6) You should go over child abuse reporting obligations with your incoming staff or volunteers. At this time you should give them a copy of the child abuse handbook and have them sign the statement for your files.
- 7) The applicant should receive a job description that lists the general duties of the job, the specific responsibilities, who they report to and the requirements for the job. There should be a job description for paid employees as well as for volunteers.

8) Have the applicant fill out the State background check form and return it to you to process. You can request these forms from your nearest State Police Headquarters or DMV office. A fee is charged for this.

VII. Response Team – Training Resources

The Bishop will appoint from among the laity and clergy of the Diocese persons trained and skilled in pastoral care (chaplains, mental health professionals, pastoral counselors, spiritual directors) who will offer voluntary service for a period of three years on the Response Team of the Diocese. From this group, the Bishop will select persons to serve in the following roles: pastor* for the Complainant; pastor for the Respondent; pastor(s) for the congregation(s) involved. Individual parties to each case are completely free to select other professionals for their pastoral care needs in the same way persons are free to choose advocates and legal counsel for the judicial process. The response team may also include: conflict mediator, interim priest or supply priest.

Training for individuals on the Response Team shall be developed by a team appointed by the Bishop.

**In this section, "pastor" does not necessarily denote an ordained person.*

VIII. Internet Policy [\[link\]](#)

IX. Financial Guidelines

Diocese of Newark [Guidelines on Discretionary Funds](#)

X. Diocesan Review Committee Policy / Procedure [\[link\]](#)

XI. Ecclesiastical Disciplinary Process (See process maps, pages 8-9)
Diocesan Canons 17 and 18 [\[link\]](#)