



## CREATING AND MAINTAINING A SAFE ENVIRONMENT FOR CHILDREN AND VULNERABLE ADULTS

### **POLICY**

Recognizing that each individual is created by God, the Archdiocese of Miami is committed to the safety and well-being of its children and vulnerable adults and implements procedures to minimize risk and barriers and to build and foster a culture of safe environment. The Archdiocese does not tolerate abuse or neglect of anyone. It will comply with all obligations of civil and canon law; it will promote healing where it is needed, provide education, training and guidance when it is appropriate, and endeavor to prevent any abuse of minors or vulnerable adults with firm justice and mercy towards all.

### **I. GLOSSARY OF TERMS**

**Archdiocesan Contact Person** – The Archbishop has designated the Vicar General, 305-987-1646 or 305-762-1262, to be the contact person.

**Archdiocesan Review Board** – A confidential consultative body to the Archbishop, comprised of a majority of laity not employed by the Archdiocese of Miami, with skills and experience consistent with the requirements of the USCCB’s *Charter for the Protection of Children and Young People*; the Review Board assists the Archbishop in assessing allegations and fitness for ministry as well as review of all related policy.

**Background Screening** – All Church Personnel shall allow an inquiry into their background to assess whether any reason exists that would suggest the person is not suitable for the position sought. Such background investigation shall include a Level 2 fingerprint criminal background search (“CBS”). A Level 2 CBS includes a state-wide criminal and juvenile records check through the Florida Department of Law Enforcement and a federal criminal records check through the Federal Bureau of Investigation.

**Charter** – The document, *2011 Charter for the Protection of Children and Young People*, developed by the United States Conference of Catholic Bishops, outlines the goals, duties and responsibilities of dioceses in the United States in response to the issue of child abuse.

**Child/minor** – A person who is under 18 years of age or a person with a physical or mental handicap who is under 21 years of age.

**Church Personnel** - For purposes of this policy only, Church Personnel includes all individuals who minister, work, or volunteer in any school, parish, or ministry of the Archdiocese whose compliance with this policy is sought. The term has no legal meaning or significance outside the scope of this policy and is not indicative of any employment or agency relationship. **Church Personnel** shall mean all of the following:

*Clergy*: shall mean all priests and deacons who have faculties of the Archdiocese.

*Employee*: shall mean any lay individual who is employed by or engaged in ministry who is given payment for services (any form of compensation, whether monetary or otherwise) rendered in which the obligation to withhold for payroll tax (FICA, Medicare and withholding) exists, whether part-time or full-time. This definition shall include all such persons whether employed by the Archdiocese, Parish, School, Early Childhood Center, Nursing Home, Group Home, or other Archdiocesan entity that is controlled by or operated by the Archbishop. This definition does not



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include independent contractors, consultants, vendors or other persons who are not subject to the supervision of the Archdiocese and for whom no such duty to withhold payroll taxes exists.

*Religious Brothers and Sisters:* shall mean religious brothers and sisters who are regularly involved in ministry on behalf of an entity controlled or operated by the Archdiocese.

*Seminarians:* shall mean those men enrolled in a seminary as seminarians of the Archdiocese of Miami or who are regularly involved in ministry at an entity controlled or operated by the Archdiocese.

*Covered Volunteer:* shall mean any unpaid person who is engaged in or involved in any Archdiocesan institution or parish activity, and who

1. is entrusted with the care or supervision of children or vulnerable adults; or
2. has regular contact with children or vulnerable adults.

*Independent Contractor:* shall mean any non-employed lay individual who is hired or engaged to perform services (for any form of compensation, whether monetary or otherwise) on behalf of the Archdiocese including any Parish, School, Early Childhood Center, Nursing Home, Group Home or other Archdiocesan entity that is controlled by or operated by the Archdiocese.

**Credible allegation** – A claim based upon identifiable facts, such as specific names, places, or time frames, details of incidents or names of corroborating persons.

**Promoter of Justice** - The prosecuting attorney in Church courts.

**Safe Environment Office Director** - The person responsible for distribution of and adherence to Archdiocesan policies and procedures required to assure a safe environment for Vulnerable Persons. This individual maintains the records required for the annual audit conducted by the United States Conference of Catholic Bishops (“USCCB”). In the Archdiocese of Miami, this Office is located within Human Resources Office, with supervision by the Chancellor for Administration.

**Sexual Abuse** – Sexual abuse means any act constituting sexual abuse as defined in Chapter 39 and Chapter 415, Florida Statutes, whether perpetuated against a child or vulnerable adult as defined herein. A copy of the applicable provisions of the statutes is attached to the end of this policy.

**Victim Assistance Coordinator** – An individual designated by the Archbishop to be responsible for initial pastoral response and subsequent pastoral care in the name of the Archdiocese to victims of sexual abuse by Church Personnel.

**Vulnerable Person** – A minor under 18 years of age or a person whose ability to perform normal activities of daily living is impaired due to a mental, emotional, long-term physical or developmental disability or dysfunction, or brain damage, or the infirmities of aging.

## II. PREVENTION

In an effort to guard the safety of Vulnerable Persons under the care of the Archdiocese, all Church Personnel, ages 18 and older, will be required to submit a completed Criminal Background Check Form as well as a complete set of fingerprints so as to facilitate a criminal background investigation. Eligibility for employment, volunteer work, or ministry will be contingent and conditioned upon a satisfactory background investigation. This background investigation will be updated every five (5)



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years. This policy applies even if an individual has been cleared through an FBI or FDLE check conducted by their employer or another entity.

**Volunteers under the age of 18 are not allowed to have unsupervised access to children, youth or vulnerable adults.** This includes youth ministers, coaches, mentors, scout leaders, babysitters, etc. These individuals who may assist with children, youth and vulnerable adults must be supervised by a volunteer or employee who has been VIRTUS trained and has successfully completed a Level 2 Background Check.

Because volunteers under the age of 18 are not allowed to have unsupervised access to children, youth or vulnerable adults, they are not screened for criminal history. VIRTUS training for volunteers under the age of 18 is optional.

### **Safe Environment Education – VIRTUS**

All Church Personnel, including applicants offered a position, independent contractors and volunteers working with Vulnerable Persons are required to successfully complete safe environment training through the VIRTUS program. For new Church Personnel, VIRTUS training must be completed within 45 days of hire.

### **Responsibility of Chancellor, Pastor, Principal or Administrator**

The background investigation of Church Personnel shall be the responsibility of the Chancellor, Pastor, Administrator, or other person responsible for managing the Church Personnel subject to this policy. All information reported is considered confidential; the responsible administrator shall preserve confidentiality to the fullest extent possible.

### **Background Screening/Persons or Roles Requiring Screening**

All Church Personnel will be required to submit a completed Criminal Background Check Form as well as a complete set of fingerprints to facilitate a criminal background screening.

All Archdiocesan employees and covered volunteers including clergy, religious, seminarians, principals, instructional personnel, school and parish employees, directors of religious education, catechists, youth ministry directors and volunteers, coaches (whether paid or volunteer), music/choir directors, counselors of children or vulnerable persons, Boy/Girl Scout Troop Leaders, independent contractors working as substitute teachers or temporary school office personnel, and child care center employees and volunteers will be background checked every five years through the FBI/FDLE screening process described later in this policy. For all individuals, this policy supplements requirements of any federal or state policy.

If duties are assigned to any volunteer that include the care or supervision of children or vulnerable adults or otherwise involve regular contact with children or vulnerable adults, the volunteer is then classified as a *Covered Volunteer* and the requirements for *Covered Volunteer* as defined in this policy, including fingerprinting and background screening and training, are required.

Not all volunteers need to be screened for a criminal history. Those volunteers that do not have regular contact with children or vulnerable adults and those volunteers that are not entrusted with the care or supervision of children or vulnerable adults need not be screened for a criminal history. Some *examples* of volunteers that do not need to be screened for a criminal history are:



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### *Volunteer Parish Roles Not Requiring Fingerprinting (VIRTUS Training is Optional)*

1. Sacristan duties
2. Altar dressers; persons responsible for washing and maintaining altar linens
3. Lectors
4. Adult choir member
5. Cantor
6. Extraordinary Minister of Eucharist (if at Masses *only*)
7. Bereavement Group Leader
8. Parish Council members; Finance Council members
9. Ladies' Guild, Council of Catholic Women, Bible Study Groups, Ministry groups that do not have unsupervised or regular contact with children
10. Men's and Women's adult organizations that do not have unsupervised or regular contact with children

### *Volunteer or Vendor School Roles Not Requiring Screening (if accompanied by an Employee or Covered Volunteer at all times)*

1. Presenter at meeting or event
2. Career Day type events (participant or person staffing a booth)
3. Repair person

It is anticipated that the above-listed volunteers' duties will not involve the supervision or care of children or vulnerable adults and will not involve regular contact with children or vulnerable adults.

### **Distribution of this Policy**

A copy of this policy and the procedures for implementation will be distributed to all parishes and other Archdiocesan entities. All pastors and designated administrators are to be familiar with this policy and with their respective responsibilities for training and background screening Church Personnel and are required to fully implement the training and screening requirements within their respective entities. The policy will be posted on the Archdiocese of Miami public website and on the Archdiocese of Miami intranet site accessible to employees. Annually, public announcements about the Archdiocese's efforts to provide a safe environment and the manner in which concerns or allegations may be reported will be made via web, print media and parish bulletins.

### **New Church Personnel**

Before beginning work, ministry or volunteer services, Church Personnel must complete the appropriate criminal background process and receive clearance from the Office of Safe Environment. All offers for any employment are contingent upon approval from the Office of Safe Environment. All new hires requiring FBI/FDLE checks (and other individuals in emergency cases or when approved by the Office of Human Resources) will be fingerprinted at an approved Archdiocesan location.

New employees are required to complete the Employee Standard Code of Conduct, the Affidavit of Good Moral Character and VIRTUS training. New volunteers are required to complete Volunteer Agreement, the Volunteer Code of Conduct, the Affidavit of Good Moral Character, and VIRTUS training.



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### **General Fingerprinting Procedure**

Church Personnel must register online by accessing [www.adom.sofn.net](http://www.adom.sofn.net). At the time of registration, an appointment may be made to be fingerprinted at an Archdiocesan-approved location. Applicants must take the barcode (provided at registration) with them to the appointment. Fingerprints must be taken by an Archdiocesan trained or certified employee or volunteer.

### **Third Party Vendors**

No third-party vendors, other than vendors approved by the Office of Safe Environment, can be used by any Archdiocesan entity for the purpose of background checks and/or clearance. Results of all fingerprinting and background checks will be processed through the Office of Safe Environment.

### **Special Procedures for Instructional Personnel**

Instructional personnel certified through the State of Florida will be re-screened every five years in conjunction with the State's certification process (this will include a renewed FDLE/FBI check). All other school employees will be re-screened every five years according to this policy. The State of Florida certification approval and the related screening results for instructional personnel will be reviewed by the Office of Safe Environment.

### **International Background Check**

Any prospective Church Personnel from another country who has not been in the U.S. for at least one year will receive an International Background Check. Special forms are required and available through the Office of Safe Environment.

### **Clearance Process and Results of Criminal Background Screening**

There are three categories of criminal background results.

*Category 1:* Criminal Background Search shows no criminal record. If a Church Personnel does not have any criminal record, the Office will notify the Church Personnel's administrator in writing that the individual is cleared. The clearance notice shall be kept in a separate, locked, confidential file.

*Category 2:* Criminal Background Search shows a non-disqualifying criminal record. If a Church Personnel has a criminal record that is non-disqualifying, the Office may notify the Church Personnel's administrator of the non-disqualifying criminal record. The notification shall be kept in a separate, locked, confidential file.

The administrator will discuss the criminal record with the Church Personnel to obtain the underlying facts as well as any extenuating circumstances. Generally, the administrator will **recommend** to the Archdiocesan Office of Human Resources whether to permit the Church Personnel to be employed or volunteer, notwithstanding the non-disqualifying criminal record. The decision of the Archdiocese will be promptly communicated to the Administrator in writing.

*Category 3:* Criminal Background Search shows a disqualifying criminal record. If a Church Personnel has a criminal record that is disqualifying, as described in Appendix A of this policy, the Office will notify the designated administrator and Church Personnel of the disqualification from employment or volunteer ministry. The disqualification notice shall be kept in a separate, locked, confidential file. The Church Personnel may be notified of an exemption process, if available.



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Restriction on employment or volunteer service of any Church Personnel or rejection notices on any Church Personnel or applicants at the entity shall be kept in a locked, confidential file. When an administrator or pastor is replaced, their replacement should review the confidential file to ensure that they are aware of any restrictions on a volunteer's or employee's activities. In addition, he or she should verify, in writing, to the Office of Safe Environment that such a review has been completed.

### **Renewals**

All Church personnel need to be re-fingerprinted and screened according to this policy every five (5) years.

### **Working or Volunteering With Restrictions**

A person may be permitted to work or volunteer, with restrictions. For example, if a person has had a DUI or reckless driving conviction, he/she may be allowed to work or volunteer but is prohibited from driving on behalf of the parish or school even in the employee's or volunteer's own vehicle.

### **Disqualifying Offenses**

Prior findings of guilt, pleas of guilt or pleas of no contest (regardless of adjudication) for certain misdemeanors and felonies prohibit an individual from employment or volunteer ministry in an entity of the Archdiocese. See Appendix A for a list of disqualifying offenses.

### **Record Maintenance**

Digital fingerprint images will be retained in a secure electronic database through a vendor approved by the Archdiocese of Miami. Any identified criminal history, along with Archdiocesan recommendations for clearance or denial, will be held in a secure location in the Office of Safe Environment.

### **State Licensed and Regulated Facilities**

Some Archdiocesan facilities are licensed or otherwise regulated by the State of Florida and (1) may in some circumstances be governed by additional requirements and (2) only the state can grant an exemption at those facilities. Furthermore, if the state requires and performs the criminal background check, the Office of Safe Environment may rely on the state's determination of eligibility and disqualification at those licensed facilities.

### **Reconsideration or Appeal**

Any Church Personnel who is disqualified or placed on restriction should be informed by the pastor, principal, or designated administrator, and given the reasons for the rejection or restriction. If the individual believes there is an error, or that the facts of the case are not properly known, he or she will be required to provide written documentation to the Office of Safe Environment before the decision will be reconsidered. Any cost associated with presenting this written documentation must be borne by the applicant or Church personnel.

### **Limitations on Use of Screening Information**

The Archdiocese may not use the criminal records, juvenile records, or abuse registry information of a person obtained through this screening process for any purpose other than determining whether that individual meets the minimum standard for good moral character or is otherwise qualified for the position sought.



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### **Criteria for Excluding Church Personnel from Employment/Ministry**

Background checks involve a search of Florida criminal and juvenile records through the Florida Department of Law Enforcement and federal criminal records through the Federal Bureau of Investigation. Failure to meet the minimum standards of good moral character or the reasonable job-related expectations of the Archdiocese will be sufficient for disqualification (or immediate termination) from employment or volunteer ministry. In addition, individuals who misrepresent or fail to accurately complete their background information, including any criminal record or activity, may be denied employment or volunteer activity, or, if the inaccuracy or misrepresentation is subsequently discovered, the individual may be immediately terminated from employment or volunteer ministry.

All Church Personnel shall be expected to live a life of good moral character. If the Pastor, Administrator or other supervisor responsible for implementing this policy is not satisfied that this has been met, then the Church Personnel may be disqualified. The decision regarding employment or volunteer ministry shall take into consideration the minimum requirements of a good moral life which are established by the teachings of the Roman Catholic Church and consistent with Florida Law.

Church Personnel who have been found guilty of, entered a plea of guilty, or entered a plea of *nolo contendere* for any offense listed on Appendix A are disqualified from employment or ministry regardless of the date of the offense. Unless prohibited by law, an exemption from disqualification may be granted by the Archdiocese. In order for an exemption to be granted by the Archdiocese, a Church Personnel must demonstrate by clear and convincing evidence that he/she should not be disqualified from employment or ministry. A Church Personnel seeking an exemption has the burden of setting forth sufficient evidence of rehabilitation including, but not limited to: (a) the circumstances surrounding the criminal incident for which the exemption is sought; (b) the time period that has elapsed since the incident; (c) the nature of the harm caused to the victim, if applicable; and (d) the personal history of the Church Personnel since the incident, or any other evidence or circumstances indicating that the Church Personnel will not present a danger if continued employment or ministry is allowed.

### **Visiting Priests / Non-incardinated Priests**

- For a priest who is visiting for an event or a weekend, or short term visit but not an official assignment within the Archdiocese, a Certification of Good Standing (COGS) is required from the visiting priest's Bishop or Superior to grant faculties.
- For a priest who is requesting an official assignment within the Archdiocese, a COGS and a fingerprinting and background (national or international) background check and VIRTUS training, according to this policy, is required to grant faculties.
- For a priest who is an extern residing in our Archdiocese for all or part of the year (i.e. retired) and wishes to assist at a parish, a COGS and a fingerprinting and background check is required. Certification by the Arch/diocese in which the priest is incardinated that fingerprinting, background screening and safe environment training has been satisfactorily completed within five (5) years may substitute for fulfilling these requirements through the Archdiocese of Miami's procedures
- The Chancellor for Canonical Affairs is responsible to evaluate each request for faculties and approve if appropriate.

### **Standards of Conduct for Church Personnel**

Any form of sexual misconduct is sinful. Certain forms of sexual misconduct can be criminal as well. Church Personnel who engage in any form of sexual misconduct are violating the ministerial



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relationship, misusing their authority, power and trust, and taking advantage of the vulnerability of those they serve. By these unique circumstances of ministerial service there is an absence of meaningful consent to *any* sexual activity, even if the person is an adult.

It is the responsibility of Church Personnel to maintain appropriate emotional and sexual boundaries with those with whom they work or serve. While it is not possible to identify every form of inappropriate conduct that violates a person's boundaries, based on the foregoing, it is inappropriate for Church Personnel to:

- make sexual propositions or perform any type of sexual act with and/or in the presence of anyone.
- give inappropriate gifts (such as lingerie).
- threaten or cause personal harm or injury or damage to property.
- smoke or encourage smoking on any Archdiocesan property, at any school or entity.
- observe someone undressing while he/she is changing clothes at school, a sporting event or retreat other than necessary supervision in a locker room or approved changing area.
- denigrate or verbally abuse any person.
- provide medical advice, or medical procedure unless properly authorized or are required by law.
- administer drugs, including over-the-counter medication, in the absence of express written permission.
- provide massages or other physical therapy or touch an individual inappropriately.
- examine the genitalia of any person, for any reason.
- use the internet or other mobile electronic devices for pornographic access.
- show sexually suggestive objects or pornography.
- tell tales of sexual exploits, experiences or conflicts or use sexual vulgar language
- offer a prolonged hug when a brief hug is customary behavior or kiss on the lips.
- invite children and young people to their home unsupervised or for overnight stays, even with the permission of the parent or guardian.
- offer children and young people transportation, even with the permission of the parent or guardian.

Behaviors that raise serious concerns with respect to maintaining a safe environment for children include, but are not limited to:

- Over investment in children; over identification with children
- Failure to set appropriate limits with children
- Indications of anxiety regarding adult sexuality
- Success in getting around the rules
- Allowing individuals under supervision to break rules
- Lack of meaningful, in-depth relationships with adult peers
- Keeping secrets with children
- Allowing special relationships with, or giving gifts to, an individual young person

**Conduct with Youth and Young Adults** The Archdiocese of Miami has specific Youth and Young Adult Policies and Procedures for those who work or minister with youth or young adults in any Archdiocesan parish or entity.





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### **Requirements for Outside Groups Using Archdiocesan Facilities/Space**

Outside groups that use Archdiocesan facilities but are not affiliated with the Archdiocese are responsible for meeting the minimum level 2 screening requirements of Section 435.04 and 1012.465 of the Florida Statutes, pursuant to the terms of the Archdiocesan Non-Exclusive Space Use Agreement and License. Accordingly, those License-affiliated persons do not have to be screened under this policy, *Creating and Maintaining a Safe Environment*. The *Space Use Agreement and License* can be found on the Archdiocesan bookkeeper web site.

### **III. RESPONDING TO AN ALLEGATION OF SEXUAL ABUSE OF A VULNERABLE PERSON**

#### **Reporting**

If a victim of abuse reports, or if any clergy, religious, lay employee, or volunteer of the Archdiocese of Miami knows or has cause to suspect that a Vulnerable Person has been subjected to any form of abuse, child sexual abuse, or neglect by any person, including another Archdiocesan employee or volunteer, religious or clergy, the following procedures will be immediately observed.

- *Mandatory Reporting to DCF.* All Church Personnel who know, or have reasonable cause to suspect, that a child or vulnerable adult has been a victim of sexual abuse, shall immediately make any report required by law directly to the Department of Children and Families (DCF). Any mandatory report may be made by calling the toll-free statewide abuse or neglect registry at 1-800-96ABUSE, or by calling the local DCF office responsible for receiving such reports. Any verbal report to DCF, which is required by law to be confirmed in writing, shall be confirmed in writing to the local DCF office within forty-eight (48) hours of making the verbal report. The statutory clergy confidentiality privilege, as provided in Section 39.204, F.S., and as described in Section 90.505, F.S., shall apply to all reporting required under this paragraph.
- *Additional Reporting Requirements.* If the alleged perpetrator is a teacher, social worker, or licensed mental health professional, the event should *also* be reported to Department of Professional Regulations (DPR) at 1-800-445-6739.
- *Hotline Calls.* The Archdiocese of Miami maintains a dedicated hotline, 1-866-802-2873, that is broadly advertised and available, with voice message capacity, 24/7 to receive calls from victims. A call received via the hotline is logged according to policy and immediately referred to the Victim Assistance Coordinator to contact the victim and offer assistance. The Call Log is shared with the Victim Assistance Coordinator and the Archdiocesan attorney.
- *Report to Archdiocesan Contact Person.* All allegations of sexual abuse by Church Personnel or on church premises shall be reported promptly to the Archdiocesan Contact Person. The Archdiocesan Contact Person shall immediately notify the Archdiocesan Attorney who will in turn notify the local State Attorney. Procedures for making a complaint will be readily available in printed form.
- *Notification of Pastor/Principal of Supervisor and Victim Assistance Coordinator.* Immediately after telephoning DCF, DPR, the appropriate law enforcement agency and the Archdiocesan Contact Person, the individual who learns of an allegation will notify the pastor, school principal, director of religious education, or other responsible supervisor, as appropriate. Immediately after receiving notification of a reported child abuse charge the supervisor will contact the Victim Assistance Coordinator, who will then notify the parents, as appropriate, in the case of a child.



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Copies of all reports to DCF and other agencies are forwarded to the responsible supervisor within the same calendar day. Immediately after receiving copies of the written reports, the supervisor will forward them to the Archdiocesan Victim Assistance Coordinator and Archdiocesan Attorney.

- *Content of Report.* Any report made to DCF should contain, when possible, the names and addresses of the child or vulnerable adult and of the child or vulnerable adult's parent, guardian, or other adult having custody and control of the child or vulnerable adult, the child or vulnerable adult's age, the nature and possible extent of the child or vulnerable adult's injuries, and any other information that the person reporting believes may be helpful with respect to the investigation of the alleged abuse, and the identity of the alleged perpetrator.
- *Notification of Guardian.* If the complaint is not received from or does not involve the parent or guardian of the child or vulnerable adult, arrangements should be made to notify immediately the parent or guardian. Notice should *not* be given to the parent or guardian if he or she is the person against whom the complaint is made. Appropriate pastoral concern and support shall also be shown to all parties involved, including the family. All information relating to a child or vulnerable adult incident, in which a complaint is made against Church Personnel, shall be assembled and retained in a written form in a confidential manner.
- *Cooperation with Law Enforcement.* The Archdiocese will cooperate with public authorities about reporting in cases when the person alleged to have been abused is no longer a minor. In every instance, the Archdiocese will notify the Archdiocesan Attorney who will in turn notify the local State Attorney. In addition, the Archdiocese will advise and support a person's right to make a report to public authorities.
- *Confidentiality Agreements.* In cases of child sexual abuse, the Archdiocese will not enter into confidentiality agreements except for grave or substantial reasons brought forward by the victim or survivor and noted in the text of the agreement.
- *Allegation against the Archbishop or Auxiliary Bishop.* If an allegation is made against the Archbishop or an Auxiliary Bishop, the Apostolic Nuncio will be notified of the allegation. The Archdiocesan Contact Person shall make certain that the Apostolic Nuncio is notified. In cases of financial demands for settlements involving allegations of any sexual misconduct by the Archbishop, the Apostolic Nuncio will be informed.

### **Initiating the Investigation**

When an allegation of sexual abuse of a minor by any Church Personnel is received, a preliminary investigation in harmony with canon law will be initiated and conducted promptly and objectively. The accused will be encouraged to retain the assistance of civil and canonical counsel and will be promptly notified of the investigation. If an allegation of sexual abuse of a minor by Church Personnel is found credible, the alleged offender will be temporarily relieved of any ecclesiastical ministry or function, in harmony with canon law. The Archdiocese will not interfere with any investigation by law enforcement. When there is sufficient evidence that sexual abuse of a minor by a cleric has occurred, the Congregation of the Doctrine of the Faith shall be notified.



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### **Responsibility of the Victim Assistance Coordinator**

The Archdiocesan Victim Assistance Coordinator sees to the immediate pastoral care of persons who claim to have been sexually abused by Church Personnel when they were minors or vulnerable adults. The Archdiocese is concerned for the spiritual and emotional well-being of alleged victims and is committed to promote healing and reconciliation. The Archdiocesan Victim Assistance Coordinator will offer appropriate counseling, spiritual assistance, access to support groups and other agreed upon social services.

### **Archdiocesan Response**

The Archdiocese will cooperate with public authorities about reporting cases when the person alleged to have been abused is no longer a minor. In addition, the Archdiocese will advise and support a person's right to make a report to public authorities

### **Communication Regarding Allegation and/or Investigation**

To the extent possible, all communications regarding allegations of child sexual abuse will protect the identity of the victim and reflect the confidential nature of the investigation. Care will be taken to protect the rights of the alleged perpetrator.

With respect for the privacy and the reputation of the individuals involved, the Archdiocese will deal as openly as possible with members of the community. This is especially so with regard to assisting and supporting parish communities directly affected by alleged ministerial misconduct involving minors.

### **Internal Communications**

Notification to parishes, schools, priests, religious, lay employees, and volunteers will be made through releases provided by the Archbishop or his representative. These will be made available as soon as feasible.

### **External Communications**

All media inquiries will be answered by Archdiocesan Director of Communication or the spokesperson designated by the Archbishop for this purpose. No other Archdiocesan Church Personnel is to respond to the media except and unless specifically directed by the Archbishop. Every effort will be made to provide that all information is disseminated in a timely and appropriate manner. To that end, media releases will be made to appropriate individuals as advisable.

### **Personnel Record**

Any employee found guilty of child sexual abuse or abuse of vulnerable adult will have this information noted in his or her personnel file. This determination is cause for termination from employment with the Archdiocese of Miami and prohibition of future re-employment. Inquiries for references in cases of guilty employees should be referred to the Office of Human Resources.

### **Archdiocesan Review Board**

#### *Membership*

To assist the Archbishop in his work, the Archdiocese has a Review Board that functions as a confidential consultative body established by the Archbishop, which is composed of at least five persons of outstanding integrity and good judgment. Members of the Review Board should be individuals of outstanding integrity and good judgment in full communion with the Church.



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The majority of the Review Board members will be laypersons who are not in the employ of the Archdiocese; but at least one member must be a priest who is an experienced and respected pastor of the Archdiocese. At least one member should have particular expertise in the treatment of the sexual abuse of minors or vulnerable adults. The members will be appointed for a term of five years, which can be renewed. It is desirable that the Promoter of Justice and the Archdiocesan Attorney participate in the meetings of the Review Board.

### *Functions*

The functions of this Review Board include:

- Advising the Archbishop in his assessment of allegations of sexual abuse of minors and vulnerable adults and in his determination of suitability for ministry;
- Reviewing Archdiocesan policies for dealing with sexual abuse of minors and vulnerable adults, offering advice on all aspects of these cases, whether retrospectively or prospectively.

### *Procedures*

- The Review Board shall develop its own procedures for implementing this policy.
- The Review Board or its designee shall report to the Archbishop regarding its deliberations. At the Archbishop's request, the Review Board or its designee and the Archdiocesan Attorney shall meet with the Archbishop to respond to any questions he may have, or provide additional information desired by him. All information received by the Review Board shall be considered confidential and shall not be revealed by any member of the Review Board, except to the Archdiocesan Attorney, other members of the Review Board, and the Archbishop, unless compelled by law.

### **In summary, when an allegation of child sexual abuse is received:**

- Florida Reporting Law is followed. Call toll-free abuse registry hotline at 1-800-962-2873 or 1-800-342-9152 immediately.
- The Archdiocesan Contact Person (Vicar General) is notified, 305-987-1646 or 305-762-1262.
- If an allegation is credible, the individual is removed from his/her position pending a law enforcement and internal investigation.
- The Victim Assistance Coordinator reports an allegation received to the Vicar General, who reports to the Archdiocesan attorney and Safe Environment Coordinator. The investigation is directed by the Archdiocesan Attorney. The Archdiocesan Review Board is convened when deemed necessary and without interfering with any civil law enforcement investigation.
- The recommendations of the Archdiocesan Review Board are presented to the Archbishop.



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### **Removing Church Personnel**

Nothing in this section shall be construed to preclude the Archbishop from temporarily or permanently removing Church Personnel upon receipt of an allegation, either pending or after the Review Board's completion of its proceedings.

## **IV. PROCEDURES RELATED TO ALLEGATIONS OF ABUSE BY PRIEST OR DEACON**

### **Clinical Evaluation**

If a credible allegation of sexual abuse of a minor or vulnerable adult involves a priest or deacon, the alleged offender may be requested to seek, and may be urged voluntarily to comply with, an appropriate medical and psychological evaluation at a facility mutually acceptable to the Archdiocese and to the accused. The Individual will be informed of the allegations by the Archbishop or his representative and will be given an opportunity to respond to the allegation. He will be advised of his/her right to seek legal and canonical counsel. In the case of a religious order priest, the allegation will be reported to the major superior of the religious order.

### **Response to Admitted or Established Abuse**

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

1. The Archdiocesan policy provides that for even a single act of sexual abuse of a minor—past, present, or future—the offending priest or deacon will be permanently removed from ministry. At all times, the Archbishop 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, for the sake of the common good and observing the provisions of canon law, the Archbishop shall exercise this power of governance to ensure that any priest who has committed even one act of sexual abuse of a minor as described above shall not continue in active ministry.
2. In every case, the processes provided for in canon law must be observed, and its various provisions be considered (cf. *Canonical Delicts Involving Sexual Misconduct and Dismissal from the Clerical State*, 1995; Letter from the Congregation for the Doctrine of the Faith, May 18, 2001). These provisions may include a request by the priest or deacon for dispensation from the obligations of Holy Orders and the loss of the clerical state, or a request by the Archbishop for dismissal from the clerical state, even without the consent of the priest or deacon. For the sake of due process, the accused is to be encouraged to retain the assistance of civil and canonical counsel. When necessary, the Archdiocese will supply canonical counsel to a priest.
3. If the penalty of dismissal from the clerical state has not been applied, the offender ought to lead a life of prayer and penance. He will not be permitted to celebrate Mass publicly or to administer the sacraments. He will be instructed not to wear clerical garb, or to present himself publicly as a priest.
4. The priest or deacon may at any time request a dispensation from the obligations of the clerical state. In exceptional cases, the Archbishop may request of the Holy Father the dismissal of the priest or deacon from the clerical state *ex officio*, even without the consent of the priest or deacon.



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### **Transfer Requirements**

No priest or deacon who has committed an act of sexual abuse of a minor may be transferred for ministerial assignment to another diocese or religious province. Before a priest or deacon can be transferred for residence to another diocese or religious province, the Archbishop shall forward in a confidential manner to the local bishop or religious ordinary of the proposed place of residence any and all information concerning any act of sexual abuse of a minor and any other information indicating that he has been or may be a danger to children or young people. This shall apply even if the priest or deacon will reside in the local community of an institute of consecrated life or society of apostolic life.

### **Restoration of Position**

If the investigation proves the allegation to be not credible, the accused individual will be restored to his/her former position or be offered placement in another archdiocesan position.

***In the case of proven child sexual abuse, no one will be restored to an Archdiocesan position. If a priest or religious is removed, he or she can longer function in any ministry for any Arch/diocese.***

Reference: USCCB Charter for the Protection of Children and Young People (June 2011)  
Province of Florida policies  
Archdiocese of Miami Policy on Conduct with Youth and Young Adults  
Archdiocese of Miami Space Use Agreement and License

Initial: April, 2002  
Current: March, 2012



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**Appendix A**

**List of Disqualifying Offenses**

| Prohibited Misdemeanor or Felony Offenses   | Statute        | Origin             |
|---|----------------|--------------------|
| Sexual misconduct with certain developmentally disabled clients and reporting of such conduct   | Sec. 393.135   | 435.04<br>1012.315 |
| Sexual misconduct with certain mental health patients and reporting of such misconduct  | Sec. 394.4593  | 435.04<br>1012.315 |
| Medicaid provider fraud   | Sec. 409.920   | 408.809            |
| Medicaid fraud  | Sec. 409.9201  | 408.809            |
| Adult abuse, neglect or exploitation of aged persons or disabled adults   | Sec. 415.111   | 435.04<br>1012.315 |
| Domestic violence   | Sec. 741.28    | 435.04             |
| Murder  | Sec. 782.04    | 435.04<br>1012.315 |
| Manslaughter, aggravated manslaughter of an elderly person or disabled adult, or aggravated manslaughter of a child   | Sec. 782.07    | 435.04<br>1012.315 |
| Vehicular Homicide  | Sec. 782.071   | 435.04             |
| Killing of an unborn quick child by injury to the mother  | Sec. 782.09    | 435.04             |
| Assault, if the victim of the offense was a minor   | Sec. 784.011   | 435.04             |
| Battery, if the victim was a minor  | Sec. 784.03    | 435.04<br>1012.315 |
| Kidnapping  | Sec. 787.01    | 435.04<br>1012.315 |
| False imprisonment  | Sec. 787.02    | 435.04<br>1012.315 |
| Luring or enticing a child  | Sec. 787.025   | 435.04<br>1012.315 |
| Taking, enticing, or removing a child beyond the state limits with criminal intent pending custody proceedings  | Sec. 787.04(2) | 435.04<br>1012.315 |
| Carrying a child beyond the state lines with criminal intent to avoid producing a child at a custody hearing or delivering the child to the designated person | Sec. 787.04(3) | 435.04<br>1012.315 |



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|  |                       |                    |
|--|-----------------------|--------------------|
| Exhibiting firearms or weapons within 1,000 feet of a school   | Sec. 790.115(1)       | 435.04<br>1012.315 |
| Possessing an electric weapon or device, destructive device, or other weapon on school property      | Sec.<br>790.115(2)(b) | 435.04<br>1012.315 |
| Sexual battery   | Sec. 794.011          | 435.04<br>1012.315 |
| Prohibited acts of persons in familial or custodial authority  | Sec. 794.041          | 435.04<br>1012.315 |
| Unlawful sexual activity with certain minors   | Sec. 794.05           | 435.04<br>1012.315 |
| Prostitution   | Ch. 796               | 435.04<br>1012.315 |
| Lewd and lascivious behavior   | Sec. 798.02           | 435.04             |
| Lewdness and indecent exposure   | Ch. 800               | 435.04<br>1012.315 |
| Arson  | Sec. 806.01           | 435.04<br>1012.315 |
| Burglary   | Sec. 810.02           | 435.04             |
| Fraudulent acts through mail, wire, radio, electromagnetic, photoelectronic, or photooptical systems | Sec. 817.034          | 408.809            |
| False and fraudulent insurance claims  | Sec. 817.234          | 408.809            |
| Patient brokering  | Sec. 817.505          | 408.809            |
| Criminal use of personal identification information  | Sec. 817.568          | 408.809            |
| Obtaining a credit card through fraudulent means   | Sec. 817.60           | 408.809            |
| Abuse, aggravated abuse, or neglect of an elderly person or disabled adult                           | Sec. 825.102          | 435.04<br>1012.315 |
| Lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled adult | Sec. 825.1025         | 435.04<br>1012.315 |
| Incest   | Sec. 826.04           | 435.04<br>1012.315 |
| Child abuse, aggravated child abuse, or neglect of a child   | Sec. 827.03           | 435.04<br>1012.315 |
| Contributing to the delinquency or dependency of a child   | Sec. 827.04           | 435.04<br>1012.315 |





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|   |                |                    |
|---|----------------|--------------------|
| Negligent treatment of children   | Sec. 827.05    | 435.04             |
| Sexual performance by a child   | Sec. 827.071   | 435.04<br>1012.315 |
| Forgery   | Sec. 831.01    | 408.809            |
| Uttering forged instruments   | Sec. 831.02    | 408.809            |
| Forging bank bills, checks, drafts or promissory notes  | Sec. 831.07    | 408.809            |
| Uttering forged bank bills, checks, drafts or promissory notes  | Sec. 831.09    | 408.809            |
| Fraud in obtaining medicinal drugs  | Sec. 831.30    | 408.809            |
| Resisting arrest with violence  | Sec. 843.01    | 435.04<br>1012.315 |
| Depriving a law enforcement, correctional, or probation office means of protection or communication       | Sec. 843.025   | 435.04             |
| Aiding in an escape   | Sec. 843.12    | 435.04             |
| Aiding in the escape of juvenile inmates in correctional institutions                                     | Sec. 843.13    | 435.04             |
| Obscene literature  | Ch. 847        | 435.04<br>1012.315 |
| Encouraging or recruiting another to join in a criminal gang  | Sec. 874.05    | 435.04<br>1012.315 |
| Drug abuse prevention and control if another person involved was a minor (Sale, Possession, Distribution) | Ch. 893        | 435.04             |
| Sexual misconduct with certain forensic clients and reporting of such sexual misconduct                   | Sec. 916.1075  | 435.04<br>1012.315 |
| Inflicting cruel or inhuman treatment on an inmate resulting in great bodily harm                         | Sec. 944.35(3) | 435.04             |
| Escape  | Sec. 944.40    | 435.04             |
| Harboring, concealing, or aiding an escaped prisoner  | Sec. 944.46    | 435.04             |
| Introduction of contraband into a correctional facility   | Sec. 944.47    | 435.04<br>1012.315 |
| Sexual misconduct in juvenile justice programs  | Sec. 985.701   | 435.04<br>1012.315 |



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|  |                |                     |
|--|----------------|---------------------|
| Introduction, removal, possession of contraband at juvenile detention facility or commitment program                             | Sec. 985.711   | 435.04<br>1012.315  |
| <b>Additional Prohibited Felony Offenses</b>   | <b>Statute</b> | <b>Origin</b>       |
| Assault, battery and culpable negligence   | Ch. 784        | 435.04<br>1012.315* |
| Female genital mutilation  | Sec. 794.08    | 1012.315            |
| Voyeurism  | Sec. 810.14    | 435.04<br>1012.315  |
| Video Voyeurism  | Sec. 810.145   | 435.04<br>1012.315  |
| Theft, robbery and related crimes  | Ch. 812        | 435.04<br>1012.315  |
| Fraudulent sale of controlled substances   | Sec. 817.563   | 435.04<br>1012.315  |
| Fraudulent use of credit cards   | Sec. 817.61    | 408.809             |
| Exploitation of an elderly person or disabled adult  | Sec. 825.103   | 435.04<br>1012.315  |
| Sale, manufacture, delivery, or possession with the intent to sell, manufacture, or deliver any counterfeit controlled substance | Sec. 831.31    | 408.809             |
| Drug abuse, prevention and control (Sale, Possession, or Distribution) if no minor was involved                                  | Ch. 893        | 435.04<br>1012.315  |

\* Limited to Sections 784.021, 784.045 and 784.075



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### Appendix B

#### CITATIONS FROM FLORIDA STATUTES

##### From Section 415.102:

(25) "Sexual abuse" means acts of a sexual nature committed in the presence of a vulnerable adult without that person's informed consent. "Sexual abuse" includes, but is not limited to, the acts defined in s.794.011(1)(h), fondling, exposure of a vulnerable adult's sexual organs, or the use of a vulnerable adult to solicit for or engage in prostitution or sexual performance. "Sexual abuse" does not include any act intended for a valid medical purpose or any act that may reasonably be construed to be normal caregiving action or appropriate display of affection.

(27) "Vulnerable adult" means a person 18 years of age or older whose ability to perform the normal activities of daily living or to provide for his or her own care or protection is impaired due to a mental, emotional, sensory, long-term physical, or developmental disability or dysfunction, or brain damage, or the infirmities of aging.

##### From Section 39.01 Definitions:

##### Section 39.01 (67):

(67) "Sexual abuse of a child" means one or more of the following acts:

- (a) Any penetration, however slight, of the vagina or anal opening of one person by the penis of another person, whether or not there is the emission of semen.
- (b) Any sexual contact between the genitals or anal opening of one person and the mouth or tongue of another person.
- (c) Any intrusion by one person into the genitals or anal opening of another person, including the use of any object for this purpose, except that this does not include any act intended for a valid medical purpose.
- (d) The intentional touching of the genitals or intimate parts, including the breasts, genital area, groin, inner thighs, and buttocks, or the clothing covering them, of either the child or the perpetrator, except that this does not include:
  1. Any act which may reasonably be construed to be a normal caregiver responsibility, any interaction with, or affection for a child; or
  2. Any act intended for a valid medical purpose.
- (e) The intentional masturbation of the perpetrator's genitals in the presence of a child.
- (f) The intentional exposure of the perpetrator's genitals in the presence of a child, or any other sexual act intentionally perpetrated in the presence of a child, if such exposure or sexual act is for the purpose of sexual arousal or gratification, aggression, degradation, or other similar purpose.
- (g) The sexual exploitation of a child, which includes allowing, encouraging, or forcing a child to:
  1. Solicit for or engage in prostitution; or
  2. Engage in a sexual performance, as defined by chapter 827.

#### **39.201 Mandatory reports of child abuse, abandonment, or neglect; mandatory reports of death; central abuse hotline.**

(1) (a) Any person who knows, or has reasonable cause to suspect, that a child is abused, abandoned or neglected by a parent, legal custodian, caregiver, or other person responsible for the child's welfare, as defined by this chapter, or that a child is in need of supervision and care and has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care shall report such knowledge or suspicion to the department in the manner prescribed in subsection(2).

(b) Reporters in the following occupation categories are required to provide their names to the hotline staff:

1. Physician, osteopathic physician, medical examiner, chiropractic physician, nurse, or hospital personnel engaged in the admission, examination, care, or treatment of persons;
2. Health or mental health professional other than one listed in subparagraph 1;
3. Practitioner who relies solely on spiritual means for healing;
4. School teacher or other school official or personnel;
5. Social worker, day care center worker, or other professional child care, foster care, residential, or institutional worker;
6. Law enforcement officer; or
7. Judge.



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### **Section 39.204:**

#### **39.204 Abrogation of privileged communications in cases involving child abuse, abandonment, or neglect.--**

The privileged quality of communication between husband and wife and between any professional person and his or her patient or client, and any other privileged communication except that between attorney and client or the privilege provided in s. 90.505, as such communication relates both to the competency of the witness and to the exclusion of confidential communications, shall not apply to any communication involving the perpetrator or alleged perpetrator in any situation involving known or suspected child abuse, abandonment, or neglect and shall not constitute grounds for failure to report as required by s. 39.201 regardless of the source of the information requiring the report, failure to cooperate with the department in its activities pursuant to this chapter, or failure to give evidence in any judicial proceeding relating to child abuse, abandonment, or neglect.

#### **90.505 Privilege with respect to communications to clergy.**

(1) For the purposes of this section:

- (a) A "member of the clergy" is a priest, rabbi, practitioner of Christian Science, or minister of any religious organization or denomination usually referred to as a church, or an individual reasonably believed so to be by the person consulting him or her.
- (b) A communication between a member of the clergy and a person is "confidential" if made privately for the purpose of seeking spiritual counsel and advice from the member of the clergy in the usual course of his or her practice or discipline and not intended for further disclosure except to other persons present in furtherance of the communication.

(2) A person has a privilege to refuse to disclose, and to prevent another from disclosing, a confidential communication by the person to a member of the clergy in his or her capacity as spiritual adviser.

(3) The privilege may be claimed by:

- (a) The person.
- (b) The guardian or conservator of a person.
- (c) The personal representative of a deceased person.
- (d) The member of the clergy, on behalf of the person. The member of the clergy's authority to do so is presumed in the absence of evidence to the contrary.