



Archdiocese of Kansas City in Kansas

CHILD PROTECTION POLICY

Policies and Procedures Pertaining to Sexual Abuse of a Child

Revised February 2007

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** Forms requiring a signature to be kept on file in the parish or institution where the individual is employed or volunteering.

THE ROMAN CATHOLIC ARCHDIOCESE OF KANSAS CITY IN KANSAS

CHILD PROTECTION POLICIES AND PROCEDURES PERTAINING TO SEXUAL ABUSE OF A CHILD

1. Preamble

1.1. Children are a most precious gift from God the Father. As Church, we strive with families, friends and societal institutions, to secure a healthy environment designed to nurture our young people and to assist them in developing to their fullest potential as people of faith and as productive citizens. Any conduct that interferes with this mission must be confronted, discouraged and eliminated.

1.2. The Church is painfully aware of instances of sexual abuse of minors by priests, deacons and church employees and volunteers. The Archdiocesan Church of Kansas City in Kansas pledges its continued efforts to work with all to promote the safety and dignity of our children and youth.

1.3. As part of its commitment to this pledge, the Archdiocese has adopted these Child Protection Policies and Procedures Pertaining to Sexual Abuse of a Child ("policies and procedures") to be observed by all who serve within the Archdiocese.

2. Child Protection Policies Pertaining to Sexual Abuse of a Child

2.1. Sexual abuse of children is contrary to Christian morality, Catholic Doctrine, Canon Law, the ethics of Church ministry, the mission of the Church, and is a serious offense to the dignity of the human person as created by God. It is sinful and criminal. These policies and procedures are established to prevent sexual abuse of children by Church personnel and to guide the Church's response when allegations of sexual abuse of a child are received. All Church personnel are required to uphold the highest standards of behavior and to comply with these policies.

2.2. In all cases of alleged sexual abuse of a child, the primary concerns of the Archdiocese will be the alleged victim's safety and well-being and the legitimate rights of the accused. Whether the alleged abuse occurred recently or many years in the past, the Church will respond pastorally to victims and their families out of concern for their spiritual and emotional well-being. To assist healing and reconciliation, the Church may offer counseling, spiritual assistance or other social services to the victims and their families.

2.3. The Archdiocese acknowledges that sexual abuse of a child is a crime as well as a social evil and a grave sin. The Church strongly supports the state in its efforts to deal with this social and moral evil. Accordingly, the Archdiocese intends to comply with all civil laws. All Church personnel are required to follow all applicable federal and state laws pertaining to actual or suspected sexual abuse of a child. The Archdiocese will cooperate with public authorities about reporting cases even when the alleged victim is no longer a minor.

2.4. Whenever a report alleging sexual abuse of a child (regardless whether the alleged victim is a minor or an adult at the time of reporting) has been received by the Safe Environment

Coordinator, the procedures outlined in this document shall be invoked and followed as appropriate.

2.5. Recognizing that affected parishes and entities may be impacted by allegations of sexual abuse of a child, the Archdiocese may offer assistance as may be appropriate.

2.6. Recognizing that all are God's children, the Church shall demonstrate its deep pastoral concern for the accused and the offender as may be appropriate. During an investigation into an allegation of sexual abuse of a child, the accused will be presumed innocent.

2.7. The successful implementation of these policies and procedures requires an astute vigilance by all (especially priests, school principals, administrators, and directors of ministries and services) for possible instances of potential and actual sexual abuse of children. The Archdiocese shall not retaliate and/or discriminate against any person who makes a good faith report of sexual abuse of a child.

2.8. To protect the reputation and good name of both the alleged victim and accused, all investigations and other actions taken pursuant to these policies and procedures shall be conducted with sensitivity to the privacy of all involved.

3. Procedures for Implementing Child Protection Policies Pertaining to Sexual Abuse of a Child

3.1. Definitions. The following definitions apply to these policies and procedures:

3.1.1. **Archbishop** means the Archbishop of the Roman Catholic Archdiocese of Kansas City in Kansas, or the person who is serving as the administrator of the Archdiocese in the interim between the death, transfer or removal of such archbishop and the installation of his successor, or during the period an archbishop is unable to perform his duties because of absence or physical or mental disability.

3.1.2. **Archdiocese** means The Roman Catholic Archdiocese of Kansas City in Kansas, a non-profit corporation, all Chancery operations of the Roman Catholic Archdiocese of Kansas City in Kansas, all parishes within the Archdiocese, all Archdiocesan schools and all affiliated, but separately incorporated or organized entities.

3.1.3. **Child, Minor and Youth** mean any person less than 18 years of age at the time of the alleged sexual abuse.

3.1.4. **Cleric**, as defined by Canon law, means a bishop, priest or deacon.

3.1.5. **Essential Norms** means the norms for dealing with allegations of sexual abuse of minors by diocesan and religious priests or deacons, which are complementary to the universal law of the Church and must be interpreted in accordance with Church law.

3.1.6. **Independent Review Board** is an independent body of at least five and no more than nine persons of outstanding integrity and good judgment, who are in full communion with the Church, and who are appointed by the Archbishop to consult and to review with him

Archdiocesan policies and procedures involving sexual abuse of children and to undertake independent reviews of allegations of sexual abuse of children. One member shall be a priest who is an experienced and respected pastor of the Archdiocese and one member shall be a person who should have particular expertise in the treatment of the sexual abuse of minors. The majority of members shall be lay persons who are not employed by the Archdiocese. The Chair of the Board shall be appointed by the Archbishop. Members shall serve for a term of five years and maybe reappointed for additional terms.

3.1.7. ***Occasional volunteers*** are any volunteers who participate in activities on an isolated or irregular basis that would not ordinarily cause or require them to be alone with a child, such as chaperons for non-overnight events, room parents, or similar volunteers.

3.1.8. ***Personnel*** includes all those in the Archdiocese who are a) priests, religious, deacons, retired priests and retired deacons performing ministry in the Archdiocese who have been granted faculties by the Archbishop; b) Archdiocesan seminarians; c) school presidents, principals, administrators, teachers and staff; d) consultants for ministries and services; e) lay employees; f) lay volunteers who participate in environments and activities that may include children; g) priests and religious residing in the Archdiocese with the permission of the Archbishop.

3.1.9. ***Promoter of Justice*** is an appointee of the Archbishop who may be requested to participate in proceedings before the Independent Review Board involving a particular cleric as contemplated by the Essential Norms.

3.1.10. ***Response Coordinator*** means the person appointed by the Archbishop to initiate the response to allegations of sexual abuse of a child received by the Safe Environment Coordinator.

3.1.11. ***Safe Environment Coordinator*** means the person appointed by the Archbishop to receive reports of sexual misconduct by personnel, to coordinate and manage the response of the Archdiocese to such reports and to maintain records compiled pursuant to this policy.

3.1.12. ***Sexual Abuse of a child, minor or youth*** means any sexual act to or with a child, or other sexual exploitation of a child or other behavior by which an adult uses a minor as an object of sexual gratification. For purposes of this policy, the term "***sexual abuse***" is not necessarily limited to the definitions of sexual abuse under civil or criminal law.

3.1.13. ***SRS or Social and Rehabilitation Services*** means the State of Kansas agency that receives and investigates allegations of sexual abuse of a child, minor or youth and other allegations of abuse of a child.

3.1.14. ***Vicar General for Priests*** means the priest appointed by the Archbishop and holding office as vicar for priests in accordance with Canon Law.

3.1.15. ***Victim Assistance Coordinator*** means the person appointed by the Archbishop to assist persons, who allege that as minors they were sexually abused by personnel, make their claims known to the proper Archdiocesan authorities.

3.2. Archdiocesan Safe Environment Program

3.2.1 All personnel shall participate in the Archdiocesan Safe Environment program. This program shall explain child abuse, including sexual abuse of a child, and how to prevent, detect and respond to child abuse.

3.2.2 Special age-appropriate training will be provided for children in parish schools and religious education programs pertinent to their personal safety.

3.2.3 Parent training, including formal presentations, independent reading material, videos and other methods, shall be offered in all parishes and through the Archdiocesan website, concerning child abuse, including sexual abuse of a child.

3.3. Background Checks

3.3.1. Background investigations, including reference checks, of personnel who have regular contact with minors shall be conducted. Those subject to background checks must execute the *Release and Authorization* attached as part of Appendix C. These investigations will be conducted through a service approved by the Archdiocese and will include criminal history checks.

3.3.2. Occasional volunteers are not required to complete the *Confidential Questionnaire for All Persons Working With or Around Children* attached as Appendix C, if they complete the *Volunteer Code of Conduct/Information Sheet & Questionnaire* found at Appendix B. They are required to attend training through the Safe Environment Program.

3.3.3 The following positions within the Archdiocese, except as otherwise provided, shall require completion of the *Confidential Questionnaire for All Persons Working With or Around Children* and *Release and Authorization* attached as Appendix C:

- a) all clerics, seminarians, religious and employees of Catholic schools;
- b) all religious education teachers and volunteers;
- c) all youth ministers and volunteers;
- d) all who work with or around children.

3.3.4. The diocesan bishop of any diocesan cleric wishing to serve in the Archdiocese must provide a confidential report to the Archbishop disclosing all known information concerning any sexual abuse of a child involving the cleric and/or any other information that indicates the cleric has been or may be a danger to children and youth. In the event the cleric is permitted to serve in the Archdiocese, the sending bishop must agree to notify the Archbishop in a timely manner of any such information that becomes available to the bishop after the cleric has been assigned in the Archdiocese. If an offending diocesan priest is sent solely to reside in and not serve in the Archdiocese, the Archbishop must be satisfied that the appropriate safeguards are in place for the protection of children and youth.

3.3.5. The major superiors of all religious clerics, men and women wishing to serve and/or reside in the Archdiocese must provide a confidential report to the Archbishop, consistent

with canon and civil law, concerning any sexual abuse of a child involving the religious and/or any other information that indicates the religious has been or may be a danger to children and youth. In the event the religious is permitted to serve in the Archdiocese, his/her superior must agree to notify the Archbishop in a timely manner of any such information that becomes available to the superior after the religious has been assigned in the Archdiocese. If an offending religious is sent solely to reside in and not serve in the Archdiocese, the Archbishop must be satisfied that appropriate safeguards are in place for the protection of children and youth.

3.3.6. The Archdiocese from time to time sponsors programs conducted by other entities and jointly participates with other dioceses in various programs. The sponsoring entity of the Archdiocese shall take reasonable measures to determine that non-Archdiocesan personnel involved in such programs have been screened by the other entities and dioceses or shall require that safeguards be taken to help discourage and prevent sexual abuse of a child.

3.4 Reporting Allegations of Sexual Abuse of a Child

3.4.1. General Reporting Requirements for Allegations of Sexual Abuse of a Child, Youth or Minor. Allegations of sexual abuse of a child are subject to both internal and external reporting requirements in accordance with civil and canon law and these policies and procedures.

3.4.1.1. **Internal reporting** provides notice to the Safe Environment Coordinator of suspected instances of sexual abuse of a child and permits the Archdiocese to investigate and, as appropriate, apply corrective measures. Internal reports may be received from personnel or from alleged victims and their families.

3.4.1.2. **External reporting** provides notice to civil law enforcement and/or SRS of suspected instances of sexual abuse of a child. **All personnel mandated to report suspected instances of sexual abuse of a child must follow the law in reporting such sexual abuse, except for information obtained by a priest under the unbreakable Seal of the Sacrament of Reconciliation.**

3.4.2. External Reports

3.4.2.1. All Personnel who are mandated reporters, except as noted above in Section 3.4.1.2., must report allegations of sexual abuse of a child when required by Kansas child abuse reporting laws. An internal report does not relieve an individual from reporting sexual abuse of a child if required by Kansas law. **See Kansas Law Summary, Appendix A.** Generally, Kansas law requires certain persons and permits others to report if "there is reason to suspect a child has been injured as the result of...sexual abuse." "Reason to suspect" is not defined in the statute. "Reason to suspect" abuse includes possessing information that would make a reasonable and prudent person believe the child had been sexually abused. Stated another way, there is credible evidence or information that sexual abuse has occurred.

- 3.4.2.2. All Personnel who are not mandated reporters may report allegations of sexual abuse of a child directly to SRS or local law enforcement authorities, and must inform his/her supervisor and/or the Safe Environment Coordinator of the suspected abuse and whether or not such a report has been made.
- 3.4.2.3. Suspected sexual abuse of a child should be reported promptly to SRS or local law enforcement agencies in the county in which the child resides. The Kansas SRS Hotline Number for making such reports is 1-800-922-5330.
- 3.4.2.4. **No liability arises from good faith reporting of sexual abuse of a child.** Under Kansas law, one who in good faith reports a known or suspected incident of sexual abuse of a child shall not be civilly or criminally liable for any report required by law, unless a false report was made and the reporter knew that the report was false, frivolous, malicious or was made with reckless disregard for the truth. **Note**, however, anyone who is required to report, and fails to do so, may face civil and criminal liability. In case of doubt, a report should be made to a local law enforcement agency or SRS may be consulted to discuss the situation "hypothetically." If one is advised to report, one must do so immediately.
- 3.4.2.5. False or unsubstantiated claims may result in penalties under canon law (CIC, c. 1390-1391), criminal laws, and civil laws for false accusations and slander against innocent individuals.
- 3.4.2.6. Victims and their families may report claims of sexual abuse of a child directly to SRS or their local law enforcement agency. They are also requested to report to the Safe Environment Coordinator.
- 3.4.2.7. The Archdiocese shall cooperate in the investigation of any report of sexual abuse of minors.
- 3.4.3 Internal Reports
- 3.4.3.1. Reports of sexual abuse of a child should be made promptly to the Safe Environment Coordinator. Any written reports involving sexual abuse of a child that are filed with a local SRS office or with local law enforcement authorities should be attached to the report to the Safe Environment Coordinator.
- 3.4.3.2 Upon receipt of a report, the Safe Environment Coordinator shall notify the Archbishop, the Archdiocesan attorney and the Response Coordinator, and provide them with copies of any available written reports.
- 3.4.4. Notification of Reporting Procedures. The Archdiocese shall post on its website,

print in *The Leaven* at least annually, and make available in printed form throughout the Archdiocese, procedures for bringing an allegation of sexual abuse of a child. Such information will be printed in the principal languages in which the liturgy is celebrated in the Archdiocese.

3.5. Archdiocesan Response to Allegations of Sexual Abuse of a Child

3.5.1. When a report of suspected sexual abuse of a child is received by the Safe Environment Coordinator, the Archdiocese shall promptly respond to the victim, commence an investigation into the report and notify the accused party of the report as provided below.

3.5.1.1. For reports of suspected sexual abuse of a child against personnel other than clergy, the **Response Coordinator or his/her designee working under the direction and supervision of the Response Coordinator** shall:

- a) consult with Archdiocesan legal counsel about the report;
- b) contact the victim and convey the concern of the Church; explain the victim's right to contact law enforcement or SRS; obtain any additional information about the alleged abuse from the victim; and notify the victim that the **Victim Assistance Coordinator** will be contacting the victim;
- c) notify the accused of the specific allegations reported and of available assistance (*e.g.*, psychological, canonical, legal and spiritual, which will be provided to members of religious orders by their order); further, inform the accused that his/her statements or admissions could possibly be used against him/her in any criminal or civil proceedings and that he/she may wish to consider his or her own legal and/or canonical counsel;
- d) contact the Victim Assistance Coordinator;
- e) notify the Chair of the Independent Review Board of the allegation;
- f) work with the Archdiocesan attorney and other professionals to conduct a thorough investigation of the allegation.
- g) report to SRS or local law enforcement authorities unless a report has already been made.

3.5.1.2. The **Vicar General for Priests** or another priest designated by the Archbishop shall fulfill the duties of Response Coordinator outlined above in all cases alleging sexual abuse of a child made against a cleric and, in addition, shall notify the religious superiors of any accusations made against their members residing or ministering in the Archdiocese.

3.5.1.2.1. In the spirit of charity, a religious order shall be invited to participate in and to cooperate with any investigation of one of its members and any other response under these policies as appropriate.

3.5.1.2.2. If an accusation against a member of a religious order is based upon behavior that occurred when the accused was **not** residing or ministering in the Archdiocese, the religious order shall be responsible for investigating and responding to the accusation. In such cases, the Archdiocese may also respond as appropriate.

3.5.1.2.3. The religious order with the assistance of the Archdiocese when appropriate shall attend to the spiritual, psychological and physical well-being of an accused member during the investigation of any accusation against the member, even if the alleged behavior occurred within the Archdiocese.

3.5.1.3. Upon receiving a report of suspected sexual abuse of a child, the **Victim Assistance Coordinator**, assisted by other Archdiocesan personnel as may be appropriate, shall contact the child and his/her family and

- a) make clear the deep Christian concern of the Church;
- b) assure them that the report will be investigated promptly, that the Archdiocese will make a sincere effort to determine the truth and will deal appropriately with the accused;
- c) state that they are not being requested to give up any legal rights against the accused or the Church; that sexual abuse is a crime and they may wish to pursue criminal proceedings without interference from the Archdiocese;
- d) inform them whether a report has been made to SRS or law enforcement authorities;
- e) offer them psychological and spiritual counseling or care at the expense of the Archdiocese for a period of time approved by the Archbishop or his designee and assist in making referrals to therapists or support groups;
- f) advise them of the Archdiocese's general policy of confidentiality unless they choose to address the alleged abuse publicly, in which case the Archdiocese may, in the interests of justice and fairness, reveal information that might otherwise be held in confidence; and
- g) offer to be present during any meetings between the alleged victim and other Archdiocesan representatives responding to the claim.

3.5.1.4. The Victim Assistance Coordinator shall treat the child and family with respect, maintain a professional relationship with the child and family for as long as appropriate and shall not serve as therapist, attorney or spiritual director for them.

3.5.1.5. The Victim Assistance Coordinator, in addition to assisting the child and family as noted above, shall:

- a) advise the Archbishop or his designee of the family's response to his/her actions and offer of counseling;
- b) submit recommendations to the Archbishop or his designee about the kinds of support that should be given the family;
- c) assess, after consultation with the Response Coordinator, any special needs of affected parishes or entities and recommend to the Archbishop any actions or programs to help promote healing and understanding within those communities; and
- d) perform other tasks that may be assigned by the Archbishop or his designee on a case by case basis.

3.5.1.6. If the Archbishop or his designee determines that it is in the best interests of the alleged victim, the accused and/or the Archdiocese, the Archbishop or his designee, during the pendency of the investigation

- a) shall relieve, or request that the supervisor of the accused relieve, the accused of his or her responsibilities and place him or her on administrative leave pending the outcome of any investigation.
- b) in the case of clerics, take any and all other actions within his executive power of governance within the parameters of the universal law of the Church and the Essential Norms approved for the United States.

3.5.1.6.1 Taking the above action during the investigation of an accusation does not imply that the allegations against an accused are true.

3.5.2. Upon completion of the investigation the Response Coordinator or Vicar General, shall:

- a) prepare the Case File, which shall include the findings of the Response Coordinator or Vicar General along with all supporting documentation; a report from the Victim Assistance Coordinator, which describes all assistance provided to the child and family to date, and, in the case of an accused cleric, any evaluation report prepared by a professional consulted by the Archdiocese, except for the underlying health records; copies of any reports obtained from SRS, local law enforcement or other public agencies pertaining to the allegation;
- b) give copies of the Case File to the Independent Review Board and to the Archdiocesan attorney;
- c) inform the Safe Environment Coordinator that the Case File has been compiled and has been provided to the Independent Review Board and Archdiocesan Attorney.

3.5.3 Upon receipt of a case file alleging sexual abuse of a child, the Independent Review Board shall:

- a) review the case;
- b) if necessary, request that the Response Coordinator or Vicar General, as required by the case, and/or the Victim Assistance Coordinator, meet with the board to answer questions and/or obtain additional information for the board's consideration;
- c) invite the victim (the parents or guardians of the victim if the victim is a minor) and a representative of the victim to meet with the Board in private session;
- d) invite the accused and his or her representative to meet with the Board in private session;
- e) conduct its review in, and maintain at all times, strict confidence as set out in CIC, c. 1717 and 1719 and execute any non-disclosure agreement that may be required governing its deliberations and recommendations; and
- f) following completion of its review of the case, the Independent Review Board shall forward to the Archbishop, the Case File and the Board's findings and recommendations with respect to all aspects of the case, including when applicable, its recommendations concerning an accused cleric's suitability for ministry.

3.5.4. In addition to the foregoing, special procedures must be followed in accord with Canon Law and the Essential Norms whenever an allegation of sexual abuse of a child has been brought against a cleric.

3.5.4.1. The preliminary investigation must be conducted promptly and objectively in accordance with canon law [CIC, c. 1717].

3.5.4.2. During an investigation into an allegation of sexual abuse of a child by a cleric, the accused is presumed innocent and appropriate steps will be taken to protect his reputation.

3.5.4.3. The alleged offender may be requested to obtain an appropriate medical and psychological evaluation at a facility mutually agreeable to the Archdiocese and the accused, and to voluntarily comply with any recommendations of the evaluation.

3.5.5. At the conclusion of its review of any alleged case of sexual abuse of a child or at any other time, the Independent Review Board shall provide advice to the Archbishop concerning these Policies and Procedures as well as the Archdiocesan response to any claim of sexual abuse of a child, whether retrospectively or prospectively.

3.5.6. In cases involving clerics, it is desirable that the Promoter of Justice participate in meetings of the Independent Review Board.

3.5.7. The Archbishop shall give final approval or disapproval to any recommendation of the Independent Review Board.

3.5.8. After the Archbishop makes a final decision, the results of the investigation shall be given promptly to the victim and family and to the accused.

3.6. Archdiocesan Response if Allegations of Sexual Abuse of a Child are Determined to be Unfounded

3.6.1. If, after consultation with the Independent Review Board, the Archbishop concludes that there is no substance to an allegation of sexual abuse of a child, the case will be closed, the cleric will remain in or be restored to ministry, other personnel placed on leave will be restored to their positions and every effort will be made to restore their reputations, if damaged by the allegations.

3.6.2. As appropriate or necessary, there shall be a pastoral response to the church or entity where the abuse allegedly occurred, as well as the wider church and community.

3.7. Archdiocesan Response if Sexual Abuse of a Child or Other Improper Conduct is Confirmed or Determined

3.7.1. Any non-clergy personnel who admits to, does not contest, or is found guilty by a court of law of an incident of sexual abuse of a child, shall be dismissed immediately from employment or any position with the Archdiocese and permanently barred from holding employment or any position within the Archdiocese in the future.

3.7.2. When any cleric of the Archdiocese admits to, does not contest, or is found guilty by a court of law or is found by the Archbishop, after consultation with the Independent Review Board, to have committed an incident of sexual abuse of a child, the Archbishop shall apply the measures prescribed by canon law and the Essential Norms decreed by the United States Conference of Catholic Bishops, which have been granted recognition by the Holy See, for diocesan policies dealing with allegations of sexual abuse of children by diocesan and religious priests or deacons.

3.7.3. When a report of sexual abuse of a child is investigated in accordance with these policies and procedures and no determination or confirmation of guilt has been made as provided in paragraphs 1 and 2 above, upon recommendation of the Independent Review Board, the Archdiocese may nonetheless take appropriate actions against an accused when his or her behavior, although not rising to the level of sexual abuse of a child, was improper and cause for concern.

3.7.4. The Archdiocese shall not enter into any settlement arising from an allegation of sexual abuse of a minor that binds the parties to confidentiality except at the request of the victim/family and the request is noted in the text of the settlement agreement.

3.8. Distribution and Acknowledgment

3.8.1 All personnel except occasional volunteers shall receive a copy of this document and shall execute the Acknowledgement of Receipt attached as Appendix D. Acknowledgments of employees will be maintained in their personnel files. Volunteer acknowledgments will be maintained in special volunteer files.

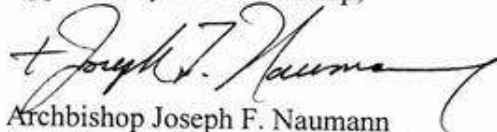
4. Declaration of the Archbishop

4.1. In addition to all rights and obligations conferred upon the Archbishop under these policies and procedures, the Archbishop, in consultation with the Independent Review Board, reserves the right in connection with any report of sexual abuse of a child to take additional or different measures to meet individual needs and circumstances, particularly when the tenets of the Catholic Church, prescriptions of civil or canon law or the greater good of all indicate or require action at variance with these policies and procedures. This discretion is to be exercised sparingly.

4.2. The Archbishop commits himself and this Archdiocese to review these Child Protection Policies and Procedures periodically or as necessary to ascertain and assure their effectiveness.

4.3. These Child Protection Policies and Procedures supersede all earlier versions and are adopted, as revised, by the Archbishop of the Roman Catholic Archdiocese of Kansas City in Kansas, this 20th day of February, 2007.

Approved by the Archbishop,



Archbishop Joseph F. Naumann
Archdiocese of Kansas City in Kansas

APPENDIX A

The Roman Catholic Archdiocese of Kansas City in Kansas Child Protection Policy

Kansas Law Summary Effective January 1, 2007

Important Note: This Kansas Law Summary is subject to change from time to time.

The following summarizes the Kansas statutory provisions concerning reporting sexual abuse of a child referenced in the Archdiocesan Child Protection Policy.

1. Definitions (K.S.A. 38-2202)
 - 1.1 **Child** is a person under 18 years of age;
 - 1.2 **Harm** "means physical or psychological injury or damage."
 - 1.3 **Sexual abuse** is "contact or interaction with a child in which the child is being used for the sexual stimulation of the perpetrator, the child or another person" and includes "allowing, permitting or encouraging a child to engage in prostitution or to be photographed, filmed or depicted in pornographic material."
2. Reports of sexual abuse of a child
 - 2.1 Who must or may report sexual abuse of a child? (K.S.A. 38-2223(a))
 - 2.1.1 A mandated reporter who "has reason to suspect that a child has been harmed as a result of....sexual abuse" must make a report "promptly."
 - 2.1.1.1 Persons providing medical care or treatment are mandated reporters: persons licensed to practice the healing arts, dentistry and optometry; those engaged in postgraduate training programs approved by the Kansas board of healing arts; licensed professional or practical nurses and chief administrative officers of medical care facilities.
 - 2.1.1.2 Persons holding state licenses to provide mental health services are mandated reporters: psychologists, masters level psychologists, clinical psychotherapists, social workers, marriage and family therapists, clinical marriage and family therapists, professional counselors, clinical professional counselors and registered alcohol and drug abuse counselors.
 - 2.1.1.3 School employees and child care providers are mandated reporters: teachers, school administrators or other school employees where the child is attending and persons licensed by SRS to provide child care services or their employees at the place where the child care services are provided to the child.
 - 2.1.1.4 Other mandated reporters include: firefighters, emergency medical services personnel, law enforcement officers,

juvenile intake and assessment workers, court services officers and community correction officers, appointed case managers and mediators.

- 2.1.2 Anyone who has reason to suspect that a child has been sexually abused may make a report.
- 2.2 What should a report of sexual abuse of a child include? (K.S.A. 38-2223(b))
 - 2.2.1 A report required of suspected harm resulting from sexual abuse may be made orally, and in writing if requested, and generally should include, if known, the child's
 - a) name, address and location,
 - b) parents or other guardian(s) and their address (es),
 - c) why sexual abuse is suspected and "the nature and extent of the harm to the child, including any evidence of previous harm;"
 - d) other information the reporter believes helpful.
 - 2.2.2 A person reporting a suspicion of sexual abuse of a child "shall disclose protected health information freely and cooperate fully with" SRS and law enforcement investigations and subsequent legal proceedings.
- 2.3 To whom are reports of sexual abuse of a child to be made? (K.S.A. 38-2223(c))
 - 2.3.1 Reports of sexual abuse of a child are made to SRS, when open for business.
 - 2.3.2 If SRS is not open, reports of sexual abuse of a child should be made to the appropriate local law enforcement agency.
- 2.4 May penalties be imposed in connection with reports of or failure to report sexual abuse of a child? (K.S.A. 38-2223(e))
 - 2.4.1 Willful and knowing failure of a mandated reporter to make a report required by law is a class B misdemeanor.
 - 2.4.2 Intentionally preventing or interfering with making a report required by law is a class B misdemeanor.
 - 2.4.3 Willfully and knowingly making a false report of sexual abuse of a child or making a report knowing it lacks factual foundation is a class B misdemeanor whether or not the report was required under law.
- 2.5 Does the law protect reporters of sexual abuse of a child?
 - 2.5.1 One who, without malice, makes a report of sexual abuse of a child

to SRS or law enforcement or participates in any activity or investigation relating to or judicial proceedings resulting from the report "shall have immunity from any civil liability that might otherwise be incurred or imposed." (K.S.A. 38-2223(f))

2.5.2 An employer who retaliates against an employee for making a report to or cooperating with an investigation by SRS or a law enforcement agency relating to harm to a child the employee suspects resulted from the sexual abuse of a child is guilty of a class B misdemeanor. (K.S.A. 38-2224)

3. Investigations of sexual abuse of a child.

3.1 Upon written request for information from SRS or law enforcement and written notice that an investigation into a report of sexual abuse of a child is being conducted by SRS or law enforcement, a person or agency possessing records relating to the involved child relevant to the investigation shall provide the necessary records. (K.S.A. 38-2226)

4. Clerics and Religious

4.1 Clerics and religious are not considered mandated reporters under Kansas law by virtue of their status as clerics or membership in a religious order.

4.2 If a cleric or religious is also mandated reporter (*e.g.* teacher, psychologist or employee of the school which the child attends) and has reason to suspect that a child has been harmed as a result of sexual abuse, he or she must make a report pursuant to K.S.A. 38-2223(a). However, see Section 4.3 below.

4.3. Penitential Communication Privilege. (K.S.A. 60-429)

4.3.1 A "penitential communication" is "any communication between a penitent and a regular or duly ordained minister of religion which the penitent intends shall be kept secret and confidential and which pertains to advice or assistance in determining or discharging the penitent's moral obligations, or to obtaining God's mercy or forgiveness for past culpable conduct." K.S. A. 60-429(a)(5)

4.3.2 "A person, whether or not a party [to litigation], has a privilege to refuse to disclose, and to prevent a witness from disclosing a communication if he or she claims the privilege and the judge finds that (1) the communication was a penitential communication and (2) the witness is the penitent or the minister, and (3) the claimant is the penitent, or the minister making the claim on behalf of an absent penitent." K.S.A. 60-429(b)

5. Questions about this summary or applicable Kansas law should be directed to the Archdiocesan Attorney.

APPENDIX B
The Roman Catholic Archdiocese of Kansas City in Kansas
VOLUNTEER CODE OF CONDUCT / INFORMATION SHEET & QUESTIONNAIRE
FOR PERSONS WORKING WITH OR AROUND CHILDREN

Volunteer Code of Conduct

Our children are among the most important gifts God has entrusted to us. As a volunteer, I promise to strictly follow the rules and guidelines in this Volunteer's Code of Conduct as a condition of my providing services to the children and youth of our parish, school, facility, Archdiocese, etc..

As a volunteer, I will:

- √ Treat everyone with respect, loyalty, patience, integrity, courtesy, dignity and consideration.
- √ Avoid situations where I am alone with children and/or youth at church activities.
- √ Use positive reinforcement rather than criticism, competition, or comparison when working with children and/or youth.
- √ Refuse to accept expensive gifts from children and/or youth or their parents without prior written approval from the pastor or administrator.
- √ Refrain from giving expensive gifts to children and/or youth without prior written approval from the parents or guardian and the pastor or administrator.
- √ Report suspected abuse to the pastor, administrator, or appropriate supervisor and proper local authorities. I understand that by our Archdiocesan Policy, I shall report suspected abuse to civil authorities.
- √ Cooperate fully in any investigation of abuse of children and/or youth.

As a volunteer, I will not:

- √ Use, possess, or be under the influence of alcohol at any time while volunteering.
- √ Smoke or use tobacco products in the presence of children and/or youth.
- √ Use, possess, or be under the influence of illegal drugs at any time.
- √ Knowingly pose any health risk to children and/or youth.
- √ Strike, spank, shake, or slap children and/or youth.
- √ Humiliate, ridicule, or degrade children and/or youth.
- √ Touch a child and/or youth in a sexual or other inappropriate manner.
- √ Use any discipline that humiliates children and/or youth.
- √ Use profanity in the presence of children and/or youth.

APPENDIX B (cont.)

You have expressed an interest in serving as _____ volunteer working
(location/position)
with or around children. The Archdiocese of Kansas City in Kansas has policies and procedures concerning the protection of children and youth and needs your agreement to abide by these policies at all times during your volunteer work. The following policy summary reflects the Church's concern and commitment to all children and volunteers who participate in Church sponsored activities.

1. Sexual abuse of children is contrary to Christian morality and the mission of the Church and is a serious offense to the dignity of the human person as created by God. Abusive sexual behavior can never be seen as arising out of volunteer work in any Archdiocesan office, parish or affiliated organization.

2. All Archdiocesan volunteers must comply with applicable civil laws and Archdiocesan policy regarding child sexual abuse.

3. Persons who have been convicted of either child sexual or physical abuse or other criminal offenses involving minors should not volunteer service in any church sponsored activity or program for children.

4. Any persons, who for whatever reason, do not believe they can conduct themselves at all times while working with children in a lawful and non-sexual manner should not volunteer in any church sponsored activity or program for children.

5. Adult volunteers should observe the "two adult" rule requiring that an adult never be alone with children without another adult present.

6. All volunteers should report immediately to their supervisors any conduct they observe which seems abusive or inappropriate.

VOLUNTEER QUESTIONNAIRE -- *Please fill out the questions on this page and return.*

As you answer each question, know that your responses will be kept confidential.

1. As a church volunteer working with or around children, do you agree to observe all church policies regarding working with children? Yes _____ No _____.

2. Have you ever been convicted of or pleaded guilty to a crime? Yes _____ No _____.
If yes, please describe on a separate sheet of paper.

I have read the above policies, requirements, and Volunteers Code of Conduct/Information Sheet and agree to comply with all of them. I understand that as a volunteer working with children and/or youth I am subject to a thorough background check including criminal history. I understand that any action inconsistent with this Code of Conduct or failure to take action mandated by this Code of Conduct may result in my removal as a volunteer with children and/or youth.

Date

Volunteer's Signature

Printed Name of Volunteer

APPENDIX C
THE ROMAN CATHOLIC ARCHDIOCESE OF KANSAS CITY IN KANSAS
CONFIDENTIAL QUESTIONNAIRE
FOR ALL PERSONS WORKING WITH OR AROUND CHILDREN

Applicants for employment and volunteer work with or around children must complete this questionnaire. Separate employment applications must be completed in addition to this form by those seeking employment. Answers may be verified if questions arise as to qualifications for such employment or volunteer work.

1. Name: _____
(Please print) Last First Middle (full-no initial) Maiden
2. Address, City, State, Zip: _____
Prior Address (address, city, state, zip): _____ Home Phone: _____

3. *Social Security No.: _____ *Date of Birth: _____
4. *Driver's License No.: _____ *Issuing State: _____
5. Current or Last Employer: _____
Address: _____
Supervisor's Name: _____ Phone No.: _____
Beginning date of this employment (Mo/Yr): _____
6. Current memberships (religious, community, business, labor or professional organizations).

7. Has a civil or criminal complaint ever been filed against you alleging child neglect or abuse by you?
____ Yes ____ No
If yes, give a short explanation of the complaint.

8. Do you use illegal drugs? ____ Yes ____ No.
9. Have you ever terminated your employment for reasons relating to allegations of physical abuse or sexual abuse by you? ____ Yes ____ No.
If yes, give a short explanation of the allegations. (Please indicate the date, nature and place of the allegations, the disposition of the allegations, and your employers at the time, including your employer's name, address and telephone number.

APPENDIX C (cont.)

10. List all paid and volunteer positions involving work with or around children you have held with church and non-church organizations, e.g., other Catholic parishes, Boy Scout leader, religious education instructor, youth minister, coach, etc. Include dates of service and the names, addresses and telephone numbers of sponsoring organizations, e.g. parishes, schools, United Way, etc.

11. Have you ever been accused of or investigated for an act of sexual abuse or harassment?

Yes _____ No _____

If yes, give a short explanation of the circumstances and the name and address of the organization or person(s) involved:

12. Have you ever been removed from any of the positions listed above for reasons relating to allegations of physical or sexual child abuse by you? _____ Yes _____ No.

If yes, give a short explanation of the circumstances and the name and address of the organization or person(s) involved:

13. Have you ever been convicted of or plead guilty to nolo contendere (no contest) to a criminal offense? Yes _____ No _____

If yes, please explain the nature of the offense and give the date of the offense and location of the court which handled the matter.

14. Is there any fact or circumstance involving you or your background not discussed above that might indicate you should not work with or around children? Yes _____ No _____

If so, please explain _____

15. Give the names, addresses and telephone numbers of three personal references and their relationship to you.

RELEASE AND AUTHORIZATION

I hereby certify that the information I have provided in the Confidential Questionnaire For Persons Working With Or Around Children is complete, true and correct to the best of my knowledge and may be verified, if necessary by contacting persons or organizations named on this questionnaire or by contacting any person or organization that may have information concerning me. Any misrepresentation or willful omission of facts shall be sufficient cause for disqualification for or termination of my position. I understand I may be asked to provide additional information as may be necessary. Furthermore, I understand that this questionnaire and any other materials submitted or obtained in connection with my employment or volunteer position become the property of the Archdiocese or affiliate. If accepted for a position, I agree to observe all rules, regulations, and policies of the Archdiocese of Kansas City in Kansas.

I, _____, hereby authorize the Archdiocese of Kansas City in Kansas and/or its agents, affiliates, parishes and representatives to make an independent investigation of my background, references, character, past employment, education, criminal or police records, including those maintained by both public and private organizations and all public records for the purpose of confirming the information contained on my Application for Employment and/or obtaining other information which may be material to my qualifications for volunteer work or employment now, and if applicable, during the tenure of my employment with the Archdiocese of Kansas City in Kansas, its parishes or affiliates.

I release the Archdiocese of Kansas City in Kansas and/or its agents, affiliates, parishes and representatives as well as any person or entity which provides information pursuant to this authorization, from any and all liabilities, claims, or lawsuits arising out of or in any manner related to information obtained from any and all of the above referenced sources.

The following is a true and complete legal name and all information contained herein is true to the best of my knowledge:

Applicant/Employee Name (Please print)

Date

Signature

***NOTE:** This information is required for identification purposes only, and is in no manner used as a qualification for employment.

APPENDIX D

THE ROMAN CATHOLIC ARCHDIOCESE OF KANSAS CITY IN KANSAS
ACKNOWLEDGMENT OF RECEIPT

I, the undersigned hereby acknowledge that I received a copy of the Archdiocese of Kansas City in Kansas' **Child Protection Policy – Policies and Procedures Pertaining to Sexual Abuse of a Child**. Further, that I have read the Policy, understand its meaning, and agree to conduct myself in conformity with the Policy and as the Policy may be amended in the future. I also understand that this acknowledgment will be kept on file in my personnel file.

Date Child Protection Policy
as described above received

Signature

Printed Name