

**PROPOSED AMENDMENTS  
CANONS  
THE DIOCESE OF THE WEST  
as recommended to Diocesan Synod  
September 29-30, 2008**

**CANON XX  
PROCEDURES FOR RESPONSE TO  
ALLEGATIONS OF SEXUAL MISCONDUCT**

20.1 This diocese will not tolerate acts of sexual misconduct perpetrated by clergymen, employees or volunteers. Should instances of sexual misconduct be reported to the Ordinary, a priest, deacon, Vestry or Mission Committee, it is the policy of this diocese that the procedures set forth in this canon shall be used to investigate allegations and recommend appropriate action for resolution of every case. It also is the policy of this diocese that all investigations under this canon shall be conducted by the diocese because many parishes and missions lack the resources to conduct such investigations.

20.2 Report to the Bishop. Any person who believes he or she has been sexually abused, harassed, or made the victim of sexual misconduct by a member of the clergy, or an employee or a volunteer of this diocese, or of a parish or mission of this diocese, is directed to report this sexual misconduct to the Ordinary. The report may be in person or by telephone, or by any written or electronic means. If there be no Ordinary, the matter shall be reported to the President of the Standing Committee. When receiving the report, the Ordinary, or the President, shall concurrently comply with Canon 20.5.

20.3 Report to the Standing Committee. A person alleging sexual misconduct of the Ordinary shall make the report to the President of the Standing Committee. The President shall immediately notify the President of the ACA House of Bishops, who shall act in place of the Ordinary for these proceedings.

20.4 Child Abuse Reporting. If the civil law of the state, in which the sexual misconduct is alleged, requires child abuse reporting, the Ordinary shall comply with state law when he has reasonable cause outside the seal of confession to believe child sexual abuse has occurred.

20.5 Memorialize Complaint. Using the form entitled *Complaint Form* from the ACA Policy and Procedures for Response to Allegations of Clergy Misconduct, the Ordinary shall immediately

memorialize the complaint in writing. In collecting information for this form, the Ordinary shall use his professional and pastoral judgment to determine how much questioning is possible based on the complainant's physical and emotional state.

20.6. Personal Meeting. If the Ordinary determines it is in the best interests of the complainant, the Ordinary may arrange to meet with the complainant and such other persons as the complainant and the Ordinary may invite. The Ordinary may use this meeting to complete the *Complaint Form*.

20.7 Preliminary Investigation. The Ordinary shall determine whether there is sufficient merit to the allegations of sexual misconduct to warrant an investigation. In making this determination, the Ordinary shall refer all questionably meritorious allegations for investigation. In making this determination, if the Ordinary meets with the accused, he shall comply with the provisions of Canon 20.9.A.

A. Allegations totally without merit. The Ordinary, if he finds the allegations totally without merit and lacking any basis in fact, shall complete a *Non-Investigation Letter* using Form #3 of the ACA Policy. He shall send copies of the form to the complainant, and the accused, and keep a copy in the file of the complaint in diocesan records.

B. Allegations have sufficient merit. The Ordinary, if he does not find the allegations totally without merit, shall send an *Investigation Letter*, using Form #2 of the ACA Policy, to the accused and to the complainant.

C. Immediate help. The Ordinary shall give such immediate aid to both the complainant and the accused as those parties may accept, including pastoral counseling and referrals to appropriate medical and other professional services.

20.8 Publicity. The Ordinary shall designate an individual responsible for public relations, to speak for the diocese with regard to the complaint in response to press or media queries.

20.9 Investigation. The integrity of the pastoral relationship and protection of victims shall be important conditions in all investigations. All parties interviewed in the investigation shall be assured that their responses shall be kept confidential to the fullest extent of the law.

A. Meet with the accused. If the Ordinary has not already done so, he shall meet with the accused, inform him or her of the complaint, and hear the accused's response. He shall prepare a written report of this meeting. The meeting may include other persons at the invitation of the accused and the Ordinary. If the accused admits to the misconduct alleged in the complaint, the Ordinary shall resolve the matter in accordance with Canon 20.10.B.

B. Form a Select Committee. After meeting with the accused, if the Ordinary determines that the complaint must be investigated, he shall immediately notify the Chancellor. The Chancellor, within 3 days of receiving that notice, and with the approval of the Ordinary, shall appoint a select committee consisting of at least 2 other persons, at least one of whom shall be of the same sex as the complainant. The Chancellor, depending on the nature of the complaint, shall attempt to appoint to the committee professionals, who are members of the ACA, skilled in crisis intervention, pastoral care, law enforcement, sexual misconduct, mental health, substance abuse, and counseling.

C. Investigation procedures.

1. Meetings. The Committee must offer to meet personally with the complainant, and may only meet telephonically at the insistence of the complainant. Such insistence, and the reasoning therefore, shall be recorded completely in the written records of the Committee. The Committee also shall meet with the accused. The accused shall be allowed to answer the allegations of misconduct in the complaint, to offer evidence in his or her defense, and shall have the right to be represented by counsel.

2. Confidential records. The Committee shall keep a complete written record of its proceedings and deliberations, including all evidence received. The Chancellor shall keep this record in a secure location, and confidences of the accused and complainant shall be maintained to the full extent allowed by civil law.

3. Professional services. With the advice and consent of the Ordinary, the Committee may request that the accused and/or the complainant undergo such mental health or other professional evaluation services as it deems appropriate. The investigation may proceed regardless of such request, or the failure or compliance of either party to accede to such request.

4. Pastoral care. The Ordinary shall personally continue pastoral contact with the parties, or shall designate a reliable

clerical representative to provide such pastoral contact. This pastoral contact shall not interfere with the investigation.

5. Withdrawal of the complaint. The Ordinary and the Chancellor may continue the investigation, even if the complainant withdraws the complaint.

6. The Committee shall complete its investigation of the complaint within 60 days. The Ordinary, with the advice and consent of the Standing Committee, may allow extensions of time. Within 10 days of the completion of the investigation, the Chancellor shall submit a written report to the Ordinary.

7. The Ordinary may at any time, consistent with canon law, take action against an accused clergyman.

20.10 Resolution Following an Investigation. Upon receipt of the report from the Chancellor, the Ordinary shall conclude whether the allegations in the complaint are meritorious. The Ordinary may seek the advice of the Standing Committee in making his conclusion.

A. No substance to allegations. The Ordinary shall notify the complainant and the accused in writing using Form #4 of the ACA Policy, and retain a copy for the files of the diocese.

B. Allegations are substantially true. The Ordinary shall determine the appropriate action against the accused. In making his determination, the Ordinary may consult with available professional mental health advisors, the Chancellor, Select Committee members, and the Standing Committee. In determining which action is appropriate, including, but not limited to, inhibition, ecclesiastical discipline, or mental health treatment, the Ordinary shall take into consideration the factors in paragraph D.2 of the ACA Policy.

20.11 This canon implements the ACA Policy and Procedures for Response to Allegations of Clergy Misconduct. Nothing in this canon is intended to conflict with the ACA Policy. In case of any conflict, the provisions of the ACA Policy shall govern. In acting under this canon, all persons should refer to the ACA Policy and Procedures for necessary forms and further guidance.

Explanation: This entire canon is an addition. It substantially replicates the procedures in the ACA Policy, which was adopted in 1996, and is incorporated by reference

in the ACA canons. In one aspect, it goes beyond the ACA Policy, which is limited to clergy misconduct. As has been well established in the past, our parishes and missions also are liable for the misconduct of their employees and volunteers. This canon addresses misconduct by clergy, employees, and volunteers. Given the small size and limited resources of many parishes and all missions, employee and volunteer misconduct should be addressed by the diocese. This canon also goes beyond the ACA policy by involving the advice, and sometimes the advice and consent, of the Standing Committee, when the Bishop makes his determinations and decisions. Since this is added as Canon 20, the existing Canon 20 and the subsequent canon, will be renumbered accordingly.

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