



DIOCESE OF CHALAN KANOA

Commonwealth of the Northern Mariana Islands

Decree Updating the Child Abuse and Protection Policy of the Diocese of Chalan Kanoa

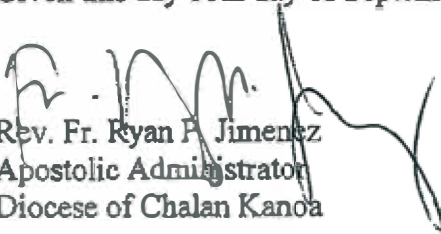
The Diocese of Chalan Kanoa has long recognized its responsibility to establish policies and procedures relative to child abuse and the protection of minors. A policy and related procedures were developed and promulgated in 1997. Since that time there have been developments in understanding the nature of the abuser and the level of sanctions necessary for the protection of minors. This has led to changes in how allegations of abuse are handled by Church officials. These changes were first detailed in the Dallas Charter by the USCCB and more recently by the Office for the Defense of the Faith (CDF) in their document *Sacramentorum sanctitatis tutela*. These changes need to be reflected in the policy of the Diocese of Chalan Kanoa.

The attached *Policy and Procedures Relative to the Prevention of Abuse of Children and for responding to Allegations of Abuse by Clergy, religious and Church Representatives* is an update of our prior *Policy and Procedures Relative to the Prevention of Abuse of children and for responding to allegations of Abuse*. The common good demands that the policy and procedures for such an important aspect of the life and practices of the Faithful in the Diocese of Chalan Kanoa be as current and effective as possible.

Therefore, by means of this decree, I promulgate the updated *Policy and Procedures Relative to the Prevention of Abuse of Children and for responding to Allegations of Abuse by Clergy, religious and Church Representatives* which is attached to this decree. These policies and procedures are given the force of law within this Diocese. All contrary statutes, policies and practices are hereby abrogated. Further, this policy in no way compromises or restricts any future Bishop from amending these norms as is necessary for the common good.

This decree is to be published in the diocesan newspaper, the *North Star*, as the means of its promulgation, along with the text of the policy. The effective date of this decree is the Sunday of its publication in the *North Star*.

Given this day 16th day of September, 2014 at Saipan.


Rev. Fr. Ryan P. Jimenez
Apostolic Administrator
Diocese of Chalan Kanoa


Lolita M. Babauta
Ecclesiastical Notary

Policy and Procedures Relative to the Prevention of Abuse of Children and for responding to Allegations of Abuse by Clergy, religious and Church Representatives

Article I. Introduction

Purpose: This policy provides a structure, division of responsibilities, and procedures for the Diocese of Chalan Kanoa to prevent the occurrence of the physical and sexual abuse of children, to respond to reports of abuse, and to address necessary restrictions on the accused.

Scope: This policy applies to allegations of abuse in which (1) a child is victimized by a representative of the diocese, or a child victimized on diocesan property or at a diocesan event, (2) where child pornography is used by a representative of the diocese in violation of Church law, or (3) a representative of the diocese is required to function as a "mandated reporter" regarding a third party.

Terms:

Assessment Team. A standing team of at least five members which includes a psychological expert, a social worker, a canon lawyer or person truly knowledgeable of canon law, and a civil lawyer. The function of the assessment team is to review the facts of the allegations made against a cleric or representative of the Church and to advise the bishop whether in their opinion, allegations of abuse are founded or unfounded. They also are to make recommendations to the bishop regarding the needs of the victim. The majority of the team members should be knowledgeable lay persons, not in the employ of the Church. They are to be known for their outstanding integrity, professional skill and good judgment. They should be in full communion with the Church. They are appointed by the bishop for a term of five years. The Promoter of Justice should serve on the team as a non-voting, ex-officio member.

Child abuse. For the purpose of this policy the offense of sexual abuse of a minor which is defined as a "delict," specifically a crime, is understood in accord with the provisions of *Sacramentorum sanctitatis tutela*, article 6, which reads:

section 1. The more grave delicts against morals which are reserved to the Congregation for the Doctrine of the Faith are:

- a. the delict against the sixth commandment of the Decalogue committed by a cleric with a minor below the age of eighteen years; in this case, a person who habitually lacks the use of reason is to be considered equivalent to a minor.

b. the acquisition, possession, or distribution by a cleric of pornographic images of minors under the age of fourteen, for purposes of sexual gratification, by whatever means or using whatever technology;

section 2. A cleric who commits the delicts mentioned above in section 1 is to be punished according to the gravity of his crime, not excluding dismissal or deposition.

section 3. While this policy addresses the Diocesan response to child abuse and is dependent upon the definition of abuse in section one above, reporting obligations to civil authorities reflect the requirements of the Commonwealth Code (6 cmc 5312).¹

Credible /Non Credible Allegation report: A report of abuse received by the diocese is reviewed by The Ordinary, his delegate and/or Promoter of Justice. If there is reasonable suspicion to believe that the allegations are credible and worthy of belief, the report will be forwarded for investigation. If there is reasonable cause to believe that the allegations are not credible, the report is kept in the accused person's file. Every possible means will be made to restore the good name of the accused priest or deacon. If there are three non-credible allegations for the same accused priest or deacon, the Bishop or his designee will take action deemed appropriate.

Mandated reporter. Refers to those persons designated by the Commonwealth Code who have the obligation under law to report incidents of suspected child abuse to the police. Failure to make a report by a mandated reporter can result in criminal charges filed against the mandated reporter who failed to make a required report. Under the Commonwealth Code a parent or guardian or any person who has custody or control of the child is required to report suspected child abuse.

Minor/child. For the purpose of this policy, any person under the age of 18.

Psychological evaluation. An examination undertaken by a licensed specialist in the behavioral and psychological sciences, usually a psychologist or a psychiatrist, which attempts to determine the presence or absence of a particular psychic defect in the person. The evaluation is undertaken using professionally recognized procedures. Using these procedures the expert identifies psychic defects a recognized in the DSM-IV (and updates).

¹ Child abuse as defined by the Commonwealth Code includes physical abuse, neglect, sexual abuse (or attempted), sexual exploitation and emotional abuse with regard to a person under 18 years of age. Physical abuse is the willful and intentional striking, beating of a child under 18 resulting in harm to the child. Neglect is the willful or negligent act or omission that results in failing to provide a child under his or her custody adequate supervision, medical care, food, clothing, or shelter resulting in harm. Sexual abuse refers to engaging or attempting to engage in an act of sexual molestation with a child under 18. Sexual exploitation refers to one who permits a child under 18 to engage in actual or simulated conduct of a sexual nature knowing that the conduct will be used in a live performance, film, audio, video, electronic recording, negative, newspaper, magazine or other material that visually or aurally depicts the conduct. Emotional abuse refers to mental distress or injury impacting the psychological capacity of a child, as evidenced by observation, and substantial impairment of his/her ability to function within a normal range of performance or behavior.

Representative of the Diocese/Church. Those persons authorized to function in an official ministry under the supervision of Church authority, either on a full time or part time basis, either for pay or voluntary, in conducting the proper work of the Church. The person may be cleric, religious or lay person.

Victim Care Minister. A social service professional recognized by the diocese, who assists the victim and victim's family in obtaining resources and assistance needed as a result of victimization. Non professional volunteers may assist in this ministry under appropriate supervision.

Article II. Abuse as a Sanctionable Offense

1. It is established under the particular law of the Diocese of Chalan Kanoa that child abuse as defined in article I above is a sanctionable offense when committed by a representative of the Catholic Church. The offending party is to be punished by just penalties.
2. The period of prescription for this offense is * (the same as the statute of limitations prescribed by law in this jurisdiction) *ten years past reaching age of majority*; however all allegations with regard to this delict are to be considered and if founded are to be forwarded to the Congregation for the Doctrine of the Faith (CDF) for determination if the period of prescription applies or a dispensation is granted to allow a trial regarding the allegations.

Article III. Prevention

- 1) Education of Personnel
 - a) Once each year all persons who act as representatives of the diocese shall be informed by their supervisors of the existence and contents of these policies, so that they shall be aware of their rights and responsibilities under these policies. They must sign a statement acknowledging their knowledge and understanding of these policies. The provision of information regarding these policies will be done in such a manner as to constitute a canonical warning for clerics (c.1374.1).
 - b) Once each year all representatives of the diocese functioning in a supervisory capacity shall attend a workshop or continuing education activity, which will inform them about the nature of child abuse, prevention of such, reporting requirements, available resources for helping victims of child abuse and their families, and assistance available for abusers, as well as of the legal sanctions resulting from abuse or failure to report abuse by mandated reporters.

- 2) Children in Catholic schools and parish religious education programs will be provided each year with age appropriate instruction on how to protect themselves from being sexually abused and how to report abuse if it occurs.
- 3) Prior to appointment to ministry the person responsible for hiring a person for paid ministry or a teaching position with the diocese or its associated agencies must obtain a police clearance from any place the person has lived for one year or more within the past ten years as well as clearance from the FBI sexual offender registry. The new employee or minister may not begin ministry or teaching until the required police clearances are obtained.
- 4) Prior to appointment to any volunteer ministry which involves work with persons under 18 years of age, a police clearance must be obtained from any place the person has lived for more than one year or more within the past ten years as well as clearance from the FBI sexual offender registry.
- 5) Prior to acceptance as a seminarian for the diocese, the applicant must undergo a psychological evaluation. The purpose of the evaluation is to assist in determining if the person has the psychological and emotional qualities appropriate to clerical ministry and to identify any psychic defects inconsistent with clerical ministry. Police and FBI clearances are required, in addition to other testimonials to the person's character, as the Director of Vocations may request.
- 6) A psychological evaluation is required of extern priests seeking incardination in the diocese. The purpose of the evaluation is to identify any psychic defects inconsistent with clerical ministry. A psychological evaluation is not required of extern priests simply to exercise their ministry in the diocese. However, a letter of recommendation from the ordinary of incardination is required before an extern priest is permitted to exercise his ministry in the diocese. This letter must attest to the moral character of the cleric and affirm that there are not now and have not ever been any credible allegations of child abuse against the cleric.
- 7) Prior to formal acceptance of an aspirant as a candidate for the permanent diaconate, the aspirant must undergo a psychological evaluation. The purpose of the evaluation is to assist in determining if the person has the psychological and emotional qualities appropriate to clerical ministry and to identify any psychic defects inconsistent with clerical ministry. Police and FBI clearances are required, in addition to other testimonials to the person's character, as the person appointed to be responsible for the formation of permanent deacons may request.
- 8) Prior to employment or acceptance into ministry as a cleric, staff person or volunteer where they will come into regular contact with children, it is required that they read and sign the Code of Conduct, which will be maintained by the parish, institution or agency. The Code of Conduct presents the expectations of the diocese with regard to the behavior of the person. The Code of Conduct shall include statements that personnel:
 - a) are expected to represent the Church in a faithful, authentic and loving way, supporting the teachings, disciplines and tradition of the Catholic Church;

- b) will exhibit the highest Catholic ethical standards and personal integrity in their day-to-day work and personal lives;
 - c) will conduct themselves in a professional manner in both church and work environments, avoiding any flagrant or public misconduct;
 - d) will hold one another accountable to conduct and standards appropriate to their respective roles;
 - e) will foster the dignity of each person and be committed to the best interests of others;
 - f) will respect the integrity of all individuals and protect the confidentiality of all information to which they have access;
 - g) will not take advantage of any relationship with a child/youth for their own benefit;
 - h) will not physically, sexually or emotionally abuse anyone;
 - i) will not neglect a child who is in their care
- 9) All schools that are formally recognized as Catholic, through institutional sponsorship or a letter of recognition, as well as agencies and associations of the faithful that are recognized as Catholic organizations within the Diocese of Chalan Kanoa, are subject to this policy and must develop and maintain internal guidelines on how they will provide for the safety of children and youth within their organization and its facilities.² This is to be accomplished within six months of the promulgation of this amended policy and a copy of these guidelines provided to the Diocesan chancellor who will maintain it in the diocesan records.

Article IV. Reporting

- 1) All mandated reporters shall fulfill their legal responsibilities under civil law, except if such civil responsibilities conflict with a priest's obligation to confidentiality under the seal of confession in the context of the sacrament of Reconciliation.³
- 2) All those representatives of the Church who are not mandated by Commonwealth law to report suspected child abuse to civil authorities but who have reason to believe that such abuse has occurred, apart from information received in the context of the sacrament of Reconciliation, are required by this policy to report the suspected abuse to the appropriate civil authorities.⁴

² The concern is that the guidelines reflect the particular circumstances of each organization. Such guidelines often include the requirement that there must always be at least two adults present for any youth activity, that adult volunteers may not transport individual youth or children other than his/her own children, that there must always be a line of sight so that adults and children are visible to others at all times, as well as similar guidelines that protect both the youth (FROM ABUSE) and the adults (from false accusations).

³ A mandated reporter under the Commonwealth Code (6 cmc 1314; 5312) is the parent or guardian of the victimized minor or any person who has custody or control of the child. While the confidentiality of the seal of confession is absolute, information provided in other contexts is not bound by the seal of confession and may be subject to reporting requirements.

⁴ At the time of the promulgation of this policy the Department of Public Safety is the appropriate civil authority to which a person should report suspected child abuse.

- 3) In addition to fulfilling any reporting obligations under civil law, the bishop or Vicar General are the appropriate Church officials to receive allegations of physical or sexual abuse committed by a representative of the Church.⁵ If allegations are reported to any other Church officials (pastor, principal, Victim Care Minister, etc.) that church official is required to provide the Bishop or Vicar General with the allegations and related information received.
- 4) The Victim Care Minister is provided as an advocate for the victim and a resource to help the victim access services in the community that may be needed to effectively deal with the impact of abuse.
 - a) Whenever a credible allegation is reported to Church officials, contact information for the Victim Care Minister and a listing of related services is to be provided to the victim and his/her parents or legal guardians at the time the Promoter of Justice has determined, after his preliminary investigation, that the allegation has merit.
 - b) The services of the Victim Care Minister are available to any victim of child abuse, whether the alleged perpetrator is a representative of the Church or not. The services of the Victim Care Minister shall include but not be limited to: informative meetings for community groups, counseling for victims and their families, short term counseling services for affected groups, and coordinate meetings between parishioners and the bishop or other appropriate Church officials. Meetings may also be facilitated between the victim and victim's family, if they desire, and appropriate Church officials to promote communication and reconciliation.
 - c) In those cases where the perpetrator of the alleged abuse is a cleric or other representative of the Church, the Victim Care Minister shall facilitate counseling and medical services for the victim. Short term counseling services are also to be provided to the victim's immediate family members as secondary victims of the alleged abuse. The Diocese will cover the cost of these particular victim services.
 - d) If the need becomes apparent the victim Care Minister is to arrange for pastoral and spiritual counseling for the victim and victim's immediate family, as well as any specialized religious education resources addressing their spiritual needs. Assistance with pastoral counseling and religious education resources is available to all victims of child abuse whether the perpetrator was a representative of the Church or not.
 - e) The Victim Care Minister shall continue to provide appropriate services until such time as the victim terminates services.
 - f) In all cases where the alleged perpetrator is a representative of the Church the Victim Care Minister shall keep the victim and victim's family informed of the status of the accused and of the status of any * canonical proceedings.

⁵ In the situation of sede vacante, that is, during the period of time when there is no appointed diocesan bishop, the Apostolic Administrator is the appropriate person to receive allegations of abuse.

- 5) Upon receipt of an allegation of abuse by a cleric, religious, or other representative of the Church, the Bishop shall appoint a Promoter of Justice, if one is not already appointed in an ongoing role, who shall
 - a) conduct a preliminary investigation of the allegations in determining if the allegations are credible or meet legal standard for reporting to civil authorities.
 - b) The Promoter of Justice shall also call for and convene a meeting of the Assessment Team within 48 hours of the Bishop receiving the allegations.
- 6) The assessment Team shall review the information gathered by the Promoter of Justice in light of their professional knowledge and competence and report to the Bishop whether they consider the allegations to have sufficient merit to be founded and subject to further penal or administrative action by the bishop. If the available information is insufficient to allow such a determination they shall identify what additional information is needed and, with the assistance of the Promoter of Justice obtain the needed information so that the determination can be made and reported to the bishop.
- 7) After hearing the recommendations of the Assessment Team and the Promoter of Justice, as well as reviewing their written reports, the bishop will determine if the allegation has merits or should be considered unfounded. Prior to any decision, the bishop is to provide the alleged offender with an opportunity to hear the allegations raised against him and to provide an initial response to the allegations.
- 8) If it is determined that there is merit to the allegations and further action is required, the bishop will instruct the Promoter of Justice to prepare and present a Petition of Accusation based on the reported allegations, subsequent preliminary investigation and the expert opinions of the Assessment Team.
- 9) Upon receipt and acceptance of the Petition of Accusation:
 - a) If the alleged offender is a cleric the bishop is to determine what restrictions will be placed upon the cleric in light of the allegations and the well being of all involved. These restrictions are for the common good and provided for in canon 1722. These restrictions must be communicated to the accused cleric in writing. They remain in place until such time as removed by the bishop or the matter is resolved administratively or through judicial decision.
 - b) If the alleged offender is a lay employee, he or she will be placed on administrative leave. The matter will be pursued in accordance with the Personnel Policy of the Diocese of Chalan Kanoa. A lay volunteer will be removed from service in any volunteer ministry pending the outcome of the case.
 - c) If the accused is a religious, the accused will be removed from diocesan ministry pending the outcome of the case. The religious superior(s) of the accused will be informed of the allegations.
 - d) If it appears that civil laws may have been broken, the allegations will be reported to the Department of Public Safety or other appropriate civil authority, if the matter had not already been reported as provided in paragraphs one and two of this article.

- 10) Upon acceptance of the petition of accusation, the Bishop shall inform the Apostolic Delegate for CEPAC of the allegations. At the present time it is required that all testimonies, documents and other proofs be submitted to the Congregation for the Defense of the Faith (CDF), which will determine the necessity for a penal trial and will provide for the trial.
- 11) The Promoter of Justice will continue to conduct an investigation into the matter and to provide the results of the investigation to the CDF. The Promoter of Justice shall also provide additional support and assistance to the CDF as needed in their consideration of the allegations.

Article V. Return to Ministry

1. No cleric may be transferred to another diocese/eparchy for return to public ministry after he has been removed from ministry because of a finding by ecclesiastical authority that he has committed sexual abuse of a minor as defined in Article One of this policy and in accord with the provisions of *Sacramentorum sanctitatis tutela*, article 6.
2. No cleric may be transferred to another diocese/eparchy for return to public ministry after he has been removed from ministry because of a finding by ecclesiastical authority that he has committed sexual abuse of a minor as defined in Article One of this policy and in accord with the provisions of *Sacramentorum sanctitatis tutela*, article 6.
3. A cleric, religious, employee, volunteer or other representative of the Church who had been accused of sexual abuse of a minor as defined in Article One of this policy and has been acquitted of the charge in the ecclesiastical forum, and in the civil forum, if charges were brought before civil authorities, or the charges have been determined to be unfounded, may be returned to public ministry in the diocese. The exact ministry is at the discretion of the bishop, reflecting the pastoral needs of the People of God at that point in time. Every effort should be taken by the bishop to restore the good name and reputation of the cleric.
4. If “a cleric, religious, employee, volunteer or other representative of the Church who had been accused of sexual abuse of a minor as defined in Article One,” is found guilty in either the civil forum or the ecclesiastical forum, that individual will be deemed incapable of exercising ministry or providing continued service in the Diocese. In the case of an incardinated cleric, he will be provided appropriate support in accord with the principles contained in canon 281, §2, which provide that “Provision must also be made so that [clerics] possess that social assistance which provides for their needs suitable if they suffer from...incapacity.”
5. A cleric who is not returned to public ministry shall be provided with *sustentatio*⁶ but no *remuneratio*.⁷ When the cleric obtains secular employment even *sustentatio* shall cease.

⁶ *Sustentatio* refers to basic living expenses including room and board, clothing, and basic medical care (health insurance) as provided to the clergy of the diocese.

⁷ *Remuneratio* refers to payment for services rendered. This is due only when actual services are provided and implies some form of ministerial assignment as a context for the services. Since the cleric in this situation is unable to

6. The faculties to minister of a cleric who is not returned to public ministry shall be removed. Should he move to another diocese, the bishop of that diocese will be informed of the cleric's status in his home diocese and the reasons for that status. If the penalty of dismissal from the clerical state has not been applied, the offender should lead a life of prayer and penance.⁸ He is not permitted to say Mass publicly or to or to administer the sacraments. He is not to wear clerical garb nor to present himself publicly as a cleric.

undertake public ministry he lacks a context in which he might earn *remuneratio*.

⁸ Dismissal from the clerical state may not be imposed in some cases where charity demands it for the sake of advanced age or infirmity.