

THE EPISCOPAL CHURCH IN THE
DIOCESE OF LEXINGTON

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MANUAL OF
POLICIES AND PROCEDURES
FOR THE PREVENTION OF
AND RESPONSE TO
SEXUAL MISCONDUCT

March 1994
Lexington, Kentucky
(Revised January 1995)
INTRODUCTION

Have always therefore printed in your remembrance, how great a treasure is committed to your charge. For they are the sheep of Christ, which he bought with his death, and for whom he shed his blood. The Church and the Congregation whom you must serve, is his Spouse, and his body.

-- The 1551 Ordinal

A. OVERVIEW

The Church has always recognized that those who are set apart for ordained ministry bear a particular responsibility to pattern their lives according to Jesus' example. Not only are bishops, priests, and deacons regarded by the faithful and the world as examples of what a Christian life should be but any moral offense by clerics is especially hurtful because it betrays that trust committed to them by the Church to nurture and care for every member. Cranmer's words, which used to be in the Anglican ordination service, are a forceful reminder of how serious is this responsibility.

In recent years, however, it has become increasingly clear that some clergy, lay employees and church volunteers have engaged in inappropriate sexual behavior, which has hurt those very persons entrusted to their care. Unfortunately, in the past, instances of sexual misconduct were often denied by church authorities or dealt with secretly. Frequently, offenders were sent on to another parish or diocese while victims of Sexual Misconduct were neglected or even blamed and parishes ignored. Such a response fails to implement the standards of justice and Christian love that God requires of the Church.

The Church is now beginning to confront the fact of inappropriate sexual conduct by clergy, lay employees and volunteers and to institute policies and procedures for response. In part, the change in the Church's attitude has been the result of greater awareness in American society of the problems of sexual abuse and harassment. Several states have enacted legislation that makes sexual misconduct by certain professionals, including clergy, grounds for criminal or civil action. The growth of tort liability litigation has had an effect and some actions against churches have succeeded in obtaining large amounts of damages.

Many denominations are responding to the issue of Sexual Misconduct within the Church. In the Episcopal Church, the Office of Pastoral Development offers advice on general policies as well

as help in specific situations. In the Diocese of Lexington, upon the recommendation of the Chancellor and Vice-Chancellor of the Diocese, Bishop Wimberly and the Executive Council have adopted the policies set out in this Manual. This statement of policy is similar to that developed in the Diocese of Washington for diocesan response to allegations and incidents of Sexual Misconduct. These policies have been adopted to help assure that the Church fulfills its moral obligation to preserve a safe and secure environment. In addition, certain provisions in these policies have been adopted to comply with certain conditions imposed by the Church Insurance Company. The primary intent of these policies is not to protect the Diocese or its clergy from litigation. Rather, it is to prevent occurrences of Sexual Misconduct in the first place and to assure that where allegations of Sexual Misconduct are made, the response to any allegation or instance of Sexual Misconduct will be just and compassionate, and so may allow God's grace to work redemptively.

All persons involved in incidents of Sexual Misconduct are in need of healing. Although the Bishop's role as overseer of the Diocese may restrain him from personally providing pastoral care to all parties in such situations, the Bishop will act to ensure that all persons are afforded pastoral care. These policies are intended to establish clear standards concerning Sexual Misconduct and, where allegations of Sexual Misconduct have been made, to establish procedures which afford a full and fair hearing to persons making complaints, alleged victims, and to alleged offenders.

Incidents of Sexual Misconduct affect a variety of interests, some of which are in tension with each other. These interests include the need of an alleged victim and the accused for healing and to be judged fairly and impartially. Allegations of Sexual Misconduct often may affect the health of congregations in which accused clergy or lay persons have conducted ministry. Finally, the very integrity of the Church at large is at stake. These guidelines seek to provide a balanced framework which is sensitive to these varying interests and consistent with our Christian faith. Consistent with principles of fairness, persons accused of Sexual Misconduct shall be presumed to be innocent until the occurrence of misconduct has been established.

B. IMPORTANT DEFINITIONS

For the purposes of these policies, the terms Sexual Misconduct and Pastoral Relationship, when capitalized shall have the following meanings:

Sexual Misconduct, as used in this Manual, refers to

Sexual abuse or sexual molestation of any person who is a minor or who is legally incompetent. Sexual abuse is a criminal offense in all jurisdictions in this diocese and must be reported to law enforcement officials (see Part IV). It is a Diocesan policy to make such reports immediately and to cooperate fully with law enforcement officials in investigating any allegations of sexual abuse.

Sexual harassment in a situation where there is an employment, mentor or colleague relationship between the persons involved, including but not limited to, sexually-oriented humor or language; questions or comments about sexual behavior or preference unrelated to job qualifications; undesired physical contact; inappropriate comments about clothing or physical appearance; or repeated requests for social engagements.

Sexual exploitation, including but not limited to, the development of or the attempt to develop a sexual or romantic relationship between a cleric, employee or volunteer and a person with whom he/she has a Pastoral Relationship, whether or not there is apparent consent from the individual.

Pastoral Relationship, as used in these policies, refers to

A relationship between a cleric, employee or volunteer and any person to whom such cleric, employee or volunteer provides counseling, pastoral care, spiritual direction or spiritual guidance or from whom such cleric, employee or volunteer has received a confession or confidential or privileged information.

Other Sexual Misconduct. For any charges of alleged inappropriate sexual behavior whether within or outside a Pastoral Relationship, the Bishop may wish to use the Response Team (see below) as a source of advice and possible intervention.

II. POLICIES AND PRACTICES FOR THE PREVENTION OF SEXUAL MISCONDUCT

2. Sexual Misconduct Prohibited.

The Diocese of Lexington strictly prohibits Sexual Misconduct by any ordained person, aspirant, postulant or seminarian sponsored by or working in this Diocese, and by any lay employee or volunteer working in any capacity for the Diocese of Lexington, any institution related to the Diocese or any parish, mission or congregation in the Diocese.

All members of the clergy canonically resident in or licensed to function in the Diocese of Lexington, all volunteers who regularly supervise youth activities, each member of all vestries and Bishop's committees of this Diocese and all employees of the Diocese and of any parish, mission, conference center, camp or other similar entity shall be given a copy of this Manual and shall sign a statement in the form approved by the Bishop and Chancellor of the Diocese that he or she has received a copy of this manual and understands its content.

3. Background Checks

It is the policy of this Diocese to take all reasonable steps to provide an environment safe from employees, volunteers who supervise youth activities and clerics who have a history of sexual misconduct. No known child molester shall as an agent of the Diocese or of the church have access to any child. Thorough background checks shall be made of all members of the clergy, all volunteers who regularly supervise youth activities (excluding unpaid Sunday School teachers), and all employees, within the confines of permissible law, prior to ordination, employment, appointment or acceptance into the Diocese (either initial licensing or accepting a letter dimissory) to determine current or historic sexual misconduct allegations, criminal records or paraphiliac behavior. Such background checks will include inquiries of all bishops having past or present canonical authority over the individual, all schools attended by the individual during the five years immediately preceding application and all employers of the individual for that period. If the individual has had one employer for over five years, then inquiries shall be made of the two most recent employers.

4. Training

1. A minimum of four hours of initial training on issues of child sexual abuse in church and church conference settings will be required of all members of the clergy, volunteers who regularly supervise youth activities, and employees. A summary of child abuse statutes and the reporting requirements effective in Kentucky appears in Part IV of this Manual.
2. A minimum of four hours of initial training on issues of sexual harassment in employment, mentor and colleague relationships and sexual exploitation in pastoral relationships will be required of all clergy and employees (excluding clerical and maintenance workers).

3. The training required by this Paragraph II(C) shall be completed within six (6) months of employment.

5. Supervision of Counseling and of Formal Spiritual Direction

1. After an individual has received counseling concerning a given life issue for more than six sessions from a member of the clergy or any other pastoral care provider functioning in the name of or under the auspices of the Diocese of Lexington or of any parish, mission, congregation, conference, camp or similar entity, the member of the clergy or any other pastoral care provider shall have ongoing professional supervision or shall refer the individual to professional counseling. A member of the clergy or any other pastoral care provider functioning in the name of or under the auspices of the Diocese of Lexington or of any parish, mission, congregation, conference, camp or similar entity shall proscribe fees or donations for pastoral care. Anyone charging fees for counseling outside the scope of church employment must possess appropriate professional credentials and proof of separate professional liability insurance, including coverage for sexual misconduct, in force at all times, which insurance coverage shall insure the Diocese of Lexington as an additional insured.
2. In the event a pastoral care provider is engaging in formal spiritual direction focusing on one's relationship with God and is meeting more than once a month, the pastoral care provider shall have the supervision of a wise elder who has been approved by the Bishop of the Diocese.

6. Clergy Dating

In the past, romantic relationships between single clerics and other single persons with whom the cleric has a pastoral relationship have not always been defined as sexual exploitation. There are a number of priests, for example, who are married to persons who were parishioners in a parish in which they have served. Nevertheless, such relationships are always complex and subject to later interpretation. While they may appear consensual, these relationships may not truly be mutual because of the imbalance of power between the cleric and the parishioner. Similar relationships are recognized as inappropriate by members of other professions, such as doctors and therapists. A cleric cannot be both priest and suitor at the same time. Thus, in a single clergy parish a parishioner dating a cleric loses his or her priest. If the relationship between the parishioner and the cleric ends, the parishioner may feel ill-treated. Regardless of the outcome of the relationship, the parish may be harmed by secrecy surrounding the relationship or by the sense of ownership and responsibility accompanying even a relationship that results in marriage.

Any cleric contemplating a relationship with a person with whom the cleric has a pastoral

relationship is advised to seek discernment in the Christian community. This includes consultation with the Bishop or a person appointed by the Bishop and with representatives of the parish or other place of ministry. In addition, care must be taken in such situations that pastoral care for the parishioner is available from another priest. If a complaint is made regarding such a relationship, this Diocese will investigate it according to these procedures.

3. DIOCESAN POLICY FOR RESPONDING TO COMPLAINTS OF CLERGY SEXUAL MISCONDUCT

1. When a Complaint is Received

1. All complaints involving clergy sexual misconduct are to be referred to the Bishop. The Bishop, upon learning of such complaint, shall notify the diocesan chancellor. The Bishop may arrange for an interview of the complainant, the alleged victim (if other than the complainant), and the alleged offender. The Bishop may invite to this interview, at the election of the Bishop, the Chancellor, the Vice-Chancellor or a Deputy Vice-Chancellor of the Diocese. The Bishop will personally assure the person making the complaint and the alleged victim (if other than the complainant) of the Church's concern regarding the complaint and that the complaint will be promptly and thoroughly investigated. At any time during this initial interview, the Bishop may refer the matter to a Response Team. At the earliest opportunity, the Bishop or the Response Team will ask the person making the complaint to sign a written statement, minutes of the interview held with the Bishop or other writing, which shall include the date, location, time and a description of any alleged Sexual Misconduct and a description of the alleged offender and the name, addresses and telephone numbers of any witnesses. If no written statement is made, the Bishop with the counsel of the Chancellor, Vice-Chancellor, or Deputy Vice-Chancellor shall determine whether further investigation and possible disciplinary proceedings are warranted and take such further steps as the Bishop deems necessary, including following the procedures outlined in this policy.¹
2. If the complaint alleges sexual abuse of a minor or an incompetent adult, the Bishop will immediately notify the relevant law enforcement authorities (see Part IV). The Bishop and any other church official or employees with knowledge of the alleged abuse will cooperate fully with the law enforcement authorities. Further action by the Bishop will be guided by the progress of the law enforcement investigation.

¹If the complaint alleges sexual misconduct by the Bishop, the Standing Committee will perform the functions assigned to the Bishop by this policy.

3. In cases other than those involving sexual abuse, the Bishop, after receiving the written statement described in Section 1 above and interviewing the alleged offender will determine whether further investigation is necessary and assign the complaint to a response team for investigation. The Bishop's office will immediately notify the complainant, the alleged victim (if not the complainant) and the alleged offender, that the complaint has been assigned to a Response Team for investigation. The Bishop will personally assure the complainant, the alleged victim (if not the complainant) and the alleged offender of the Church's concern regarding the complaint and of the thorough confidential investigation and response which the complaint will receive. The Bishop will also immediately issue a pastoral direction to the alleged offender proscribing any contact with the complainant and the alleged victim (if not the complainant) until after the Response Team has completed its investigation.
 1. The Bishop will appoint members of the laity and clergy to serve on the Response Teams, whose responsibility is to investigate complaints of clergy sexual misconduct. Each Response Team will consist of at least two persons, and will include one woman and one man, at least one of whom will be a lay person and normally will include a cleric, an attorney, and a mental health professional. Before serving on a Response Team, members will receive training in crisis interventions and interviewing alleged offenders, victims, and witnesses. Training and ongoing supervision of Response Team members will be under the direction of a person skilled in these areas and appointed for this purpose by the Bishop.
 2. In selecting persons to serve on a Response Team, the Bishop will take care not to assign persons whose judgment or objectivity might be impaired because of a relationship with or knowledge of any parties or witnesses to a complaint.
4. The Response Team will begin investigating the complaint as soon as possible but in no event later than five (5) working days following the receiving of the complaint.
5. The Response Team will attempt to interview individually the complainant, the alleged victim (if other than the complainant), the alleged offender, and all other witnesses. Both the alleged victim and the alleged offender may be accompanied by a person of their choosing at the interview, except that if the complainant and the alleged victim are not the same person, the alleged victim should not, customarily, be accompanied by the complainant. In certain instances, as where the complainant is the parent or spouse of the alleged victim, the Response Team may, at its discretion, invite the complainant to the interview. The Response Team may, at its discretion, consult with parish wardens and staff members from present or previous contacts of ministry. The Response Team will at all times try to insure the privacy of the alleged victim and the complainant (if other than the alleged victim) and the alleged offender.

6. The Bishop will arrange for an evaluation within thirty days of the alleged offender by a person professionally qualified and experienced in the evaluation of clergy sexual misconduct. The Bishop will encourage the alleged offender to undergo the evaluation. Upon receipt of the appropriate releases, the results of the evaluation will be available to the Bishop, the Response Team and the alleged offender. The requirement of an evaluation may be waived at the Bishop's discretion if the Response Team recommends that the evidence does not initially appear to warrant an evaluation. The Diocese will pay for the evaluation.
7. Any party or witness to an alleged act of clergy sexual misconduct may submit a statement in writing if desired.
8. The Response Team will make at least a preliminary written report and recommendations to the Bishop within fourteen (14) days. The Response Team will move as swiftly as possible towards completion of a final report and recommendations to the Bishop. The final report will include the original written statement of the complainant and all written statements submitted by other persons.
9. Upon receipt of the Response Team's recommendation, the Bishop may meet with the complainant, the alleged victim (if other than the complaining witness) and the alleged offender. The Bishop will not at any time following the making of the complaint hear the sacramental confession of any of the persons listed above.
10. After reviewing the Response Team's recommendations and, if desired, meeting with the complainant, the alleged victim, the alleged offender and the Response Team, the Bishop will make a determination as to whether the complaint of clergy sexual misconduct has been substantiated.

2. When a Determination is Made

1. When the Bishop has made a determination, the Bishop will immediately inform the complainant, the alleged victim (if other than the complaining witness), and the alleged offender.
2. If the Bishop determines that the complaint is unsubstantiated, a written report to that effect will be placed in the file and a copy will also be placed in the cleric's diocesan personnel file. The Bishop will meet with the complainant to discuss the determination and may also meet with the alleged offender to discuss any steps that may be necessary to make known the determination.

3. If the Bishop determines that the complaint is substantiated, the Bishop will take the following steps:
 1. The Bishop will meet with the victim to express the Church's deepest regret and to discuss appropriate responses by the Church to assist in the victim's healing. The victim may be accompanied by persons of the victim's choosing. The Bishop will determine what therapeutic or other assistance should be offered to the victim.
 2. The Bishop may meet, if appropriate, with the victim's spouse and/or family to discuss how the Church may assist them.
 3. The Bishop, or a representative appointed by the Bishop, will meet with the offender. The offender may be accompanied by another person if the offender desires. The Bishop will discuss with the offender the actions the Bishop intends to take. If appropriate, the Bishop will refer the offender for therapy by persons professionally qualified in treatment of clergy sexual misconduct. The Bishop, after consultation with the Chancellor, will also determine whether disciplinary action under Title IV of the Canons of the Episcopal Church is appropriate. Such disciplinary action may include the issuance of a pastoral direction, presentment, temporary inhibition, and inhibition following a presentment and pending trial. Whenever an allegation of clergy sexual misconduct in a current position is substantiated, the Bishop normally will act immediately to remove the offender from all current positions of pastoral responsibility. When the allegation that is substantiated relates to a lay employee of the Church, the Bishop shall take such disciplinary action as may be appropriate and permitted by state and federal law. When the allegation that is substantiated relates to a previous context of ministry, the Bishop at his discretion may act to remove the offender from current positions if this appears appropriate.
 4. The Bishop may meet, if appropriate, with the offender's spouse and/or family to discuss how the Church may assist them.
 5. In making any decisions about professional rehabilitation and future employment for the offender, the Bishop will be guided by the assessments of those experts in the treatment of clergy sexual misconduct who have treated the offender. A professional rehabilitation assessment by a professional approved by Church Insurance Company is required before any redeployment in the Church will be considered. Public acknowledgment of the misconduct, including exoneration of and restitution to the victim, will normally be required. In the case of lay employees, employment outside the Church may be required or employment with the Church may be significantly altered all in

accordance with the requirements of state and federal law.

6. The Bishop will notify the wardens, if the offender serves a parish, or representatives of the place of ministry if the offender does not serve a parish, and discuss with them what assistance would be most helpful for healing. Unless there are specific factors which make it inappropriate, the Bishop will recommend an open congregational meeting to begin the process of healing in the congregation. The Bishop or the Bishop's representative will attend such a meeting.
4. All records of Response Team investigators and determinations by the Bishop will be held in strict confidence and separate from ordinary personnel files. Response Team members will not retain personal copies of investigatory records. These records will be made available by the Diocese if they are requested by a subpoena or as a part of a personnel investigation for future employment of the alleged offender.
5. The Bishop, Response Team members, and all other representatives of the Diocese will make every effort to protect the privacy of victims of clergy sexual misconduct.

IV. THE DUTY TO REPORT UNDER THE STATUTES OF THE COMMONWEALTH OF KENTUCKY

The applicable chapters of the Kentucky Revised Statutes ("KRS") pertaining to reporting sexual misconduct are KRS 600 and KRS 620. KRS Chapter 209 pertains to neglect and abuse of adults. Summaries of those Chapters as they may pertain to this Manual are provided here in order to advise when reporting is required.

4. KRS Chapter 600 provides definitions of terms used in the child abuse chapter:
 1. A "child" is a person who has not reached his or her eighteenth birthday.
 2. An "abused or neglected child" refers to a child whose health or welfare is harmed or threatened when the child's parent, guardian or other person exercising control or supervision of the child:
 1. inflicts or allows to be inflicted upon the child physical or emotional injury by other than accidental means;
 2. creates or allows to be created a risk of physical or emotional injury by other than accidental means;
 3. commits or allows to be committed an act of sexual abuse, sexual exploitation, or prostitution upon the child;

4. creates or allows to be created a risk that an act of sexual abuse, sexual exploitation, or prostitution will be committed upon the child;
 5. abandons or exploits such a child;
 6. does not provide the child with adequate care, supervision, food, clothing, shelter and education or medical care necessary for the child's well-being.
3. A "dependent child" means any child, other than an abused or neglected child, who is under improper care, custody, control, or guardianship that is not due to an intentional act of the parent, guardian, or person exercising custodial control or supervision of the child. So, the presence or absence of "intent" is a distinguishing factor.
5. KRS Chapter 620 provides that **any person who knows or has reasonable cause to believe** that a child is dependent, neglected or abused has the **duty** to **immediately give an oral or written report.**

The report must be made to:

1. A local law enforcement agency;
2. the Kentucky State Police;
3. the Cabinet for Human Resources or its designated representative;
4. the Commonwealth's Attorney;
5. the County Attorney.

The report can be given by telephone or otherwise.

Any person shall, if requested, file a more complete written report within 48 hours of the original report.

Anyone who acts upon reasonable cause and in good faith in making the report has immunity from any civil or criminal liability.

6. KRS Chapter 209 pertains to the protection of adults who may be suffering from "abuse, neglect, or exploitation", and similarly requires reporting to the Department for Social Services of the Cabinet for Human Resources. This topic is not directly pertinent to a manual on sexual misconduct, but is noted here for the information and convenience of those to whom this Manual is given. "Abuse or neglect" of an adult similarly refers to the infliction of physical pain, injury, or mental injury, or the deprivation of services by a caretaker which are necessary to maintain the health and welfare of an adult, or a situation in which an adult, living alone, is unable to provide or obtain the necessary services to maintain health or welfare, or the situation where a person inflicts physical pain or injury upon a spouse or deprives a spouse of reasonable services to maintain the health and welfare of the spouse. "Exploitation" means the improper use of an adult's resources by a caretaker or other person for the profit or advantage of the caretaker or other person.

RECEIPT OF POLICY MANUAL

The undersigned person is (check the applicable category)

- _____ a member of the clergy canonically resident in the Diocese of Lexington.
- _____ a member of the clergy licensed to function in the Diocese of Lexington.
- _____ a volunteer who regularly supervises youth activities in the Diocese of Lexington
- _____ a volunteer who occasionally supervises youth activities in the Diocese of Lexington.
- _____ a member of the vestry of a parish in the Diocese of Lexington.
- _____ a member of the Bishop's committee of a mission in the Diocese of Lexington.
- _____ an employee of the Diocese of Lexington.
- _____ an aspirant for ordination in the Diocese of Lexington.

The undersigned person has received a copy of the Manual of Policies and Procedures for the Prevention of and Response to Sexual Misconduct (revised January 1995) and the Policies for the Protection of Children and Youth for the Episcopal Diocese of Lexington (adopted December 2004), and understand their content and also understands that if there is a conflict between the two, the 2004 "Policies for the Protection of Children and Youth" takes precedence, this _ day of _____, 200_____.

(Signature)

(Printed or typed name of the person who signed above)