

Policy on Church Worker Conduct



The Right Reverend Scott B. Hayashi Eleventh Bishop of Utah

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PURPOSE

This policy provides norms, procedures, and information related to the expected conduct of those who work within the framework of the Diocese of Utah and deals specifically with incidence of sexual misconduct. It is applicable to Diocesan staff, clergy, institutional ministries, and laity employed in any parish or institution in the Episcopal Diocese of Utah. Also see Policies C001, Clergy Background Checks and Training; and Policy D002, Background Checks for Persons Holding Certain Diocesan Offices.

POLICY

This policy is provided in the form of a manual and is written in its own format. Procedures can be found at Part IV.

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- APPENDIX “B” Summary and Text of Utah's Child Abuse Reporting Statute (Utah Code Ann. § 62A-4a-402 et seq.)
- APPENDIX “C” Flow Chart of Complaint Process

LIST OF SUPPLEMENTARY MATERIALS

(While not included in this Manual, copies of the following are included in a supplement to this Manual that is available for review in the Office of the Chancellor).

- SUPPLEMENT “A” Criminal sexual offenses in Utah (Utah Code Ann. § 76-5-401 et seq.)
- SUPPLEMENT “B” Utah Anti-Discrimination Act (Utah Code Ann. § 34A-5-101 et seq.)
- SUPPLEMENT “C” The sexual harassment provisions of Title VII of the Federal Civil Rights Act of 1964, 42 U.S.C. §§ 2000e-2 and -3)
- SUPPLEMENT “D” Utah Department of Human Services Background Investigation Materials for Child Care Workers
- SUPPLEMENT “E” Utah Bureau of Criminal Identification—Criminal Records Check Materials
- SUPPLEMENT “F” American Psychiatric Association: Definition of Paraphilia
- SUPPLEMENT “G” Selected Utah Licensing Statutes
- SUPPLEMENT “H” Utah's Privileged Communications Statute (Utah Code Ann. § 78-24-8) and Utah Rule of Evidence 503 and Advisory Committee Notes (concerning “priest-penitent” privilege)

INTRODUCTION

November 13, 2012

This Manual, along with the training and orientation processes for church workers in the Episcopal Diocese of Utah, is an expression of our concern that all persons share in the health, safety and well-being of others. While much of the material is focused on the discussion of and response to incidents of sexual misconduct, our general expectations of conduct for church workers derive from the gospel and from our baptismal calling to love one another and to “respect the dignity of every human being” (BCP 305).

We are committed to

- a firm rejection of predatory behavior;
- fairness in our process for dealing with that and other misconduct; and
- a sensitivity to victims, respondents and other participants in the process.

As further clarifications and insights will become apparent in time, this Manual and our training program will always be a work in progress. As you read it and engage in the training program, you may have suggestions regarding the content, scope, depth and presentation of the material. We welcome any such suggestions, which may be shared with the Chancellor or me at your convenience.

Thank you for your participation in our training program and your service to the Episcopal Church in Utah.

Faithfully,



The Rt. Rev. Scott B. Hayashi
11th Bishop of Utah

UNDERLYING CONSIDERATIONS

CONFRONTING THE ISSUE OF SEXUAL MISCONDUCT IN THE CHURCH

This Manual does not define a standard of personal behavior “in all things” for this Diocese, nor does it establish a canon of sexual conduct. Scripture, tradition and reason, in this Church, set the standard of behavior for sexual conduct and for the moral code. That is not the purpose of this Manual.

The purpose of this Manual is to deal with “Sexual Misconduct” as defined and utilized throughout this document. Moreover, to avoid confusion over some words and phrases used in this Manual that may have broader or narrower meanings when used in other contexts, a Glossary of Terms is provided as Appendix “A” to this Manual.

The standard of sexual conduct of this Church cannot be prescribed or proscribed by this definition of “Sexual Misconduct.” Nevertheless, the policies and procedures set forth in this Manual are responsive to the practical realities of sexual abuse, harassment and exploitation in a manner that is informed by our calling as Christians. The Church as the body of Christ is called through scripture, tradition and reason, to act responsibly, caringly and compassionately in all matters and relationships and to love one another. “Sexual Misconduct,” as used here, is thus designed to assist us in dealing with these realities.

The following considerations should guide the Church.

1. The Church is called to respond in ways different from secular employers because the Church must be responsible to the spiritual needs of both victims and respondents, as well as of the body of the Church.
2. Predatory conduct will not be excused or tolerated in this Diocese.
3. Every allegation of Sexual Misconduct deserves consideration and a response.
4. Failure to respond promptly and appropriately to a complaint can cause further damage to an alleged victim and the victim’s family and can exacerbate any liability for damages.
5. Church workers can be wrongfully accused of Sexual Misconduct. Therefore, procedures for handling complaints need to honor the full and fair hearing requirements of due process with appropriate confidentiality.
6. The Bishop holds both pastoral and disciplinary responsibilities for the Diocese as a whole. Once any complaint or allegation of Sexual Misconduct has been made against any church worker, the Bishop's role must be limited by the Bishop's over-arching

duty to the whole body of the Church. As such, the Bishop must, of necessity, limit his or her involvement in pastoral care for individuals involved on any side of such allegations until the conclusion of the investigation. Therefore, the Bishop, while having a moral and pastoral responsibility, does not assume any fiduciary responsibility or duty to such individuals.

7. A uniform procedure for handling allegations of Sexual Misconduct lends a sense of justice and impartiality.

8. The Bishop may ask for the assistance of, and consult with, other persons with respect to issues and materials regarding alleged incidents of Sexual Misconduct.

9. The Bishop and the member of the clergy in charge of a congregation where there is an alleged incident of Sexual Misconduct should refrain from placing conversations regarding such allegations within the sacramental framework of confession. Additionally, persons who wish to have conversations that could fall within the “priest-penitent privilege” should be directed to others for such purpose.

PART I
PROHIBITION AGAINST SEXUAL MISCONDUCT
AND
DUTY TO REPORT ALLEGATIONS

The Episcopal Diocese of Utah prohibits any form of Sexual Misconduct, as defined below, by any church worker (including clergy, lay employees and volunteer workers). It is expected that all clergy, lay employees and volunteers will immediately inform an appropriate supervisor of known or suspected Sexual Misconduct on the part of any church worker, as well as any allegations of Sexual Misconduct.

Sexual Misconduct is a serious breach of the expectations, ethical duties and professional standards that qualify individuals for work in the Church. Sexual Misconduct on the part of any church worker will not be tolerated and constitutes grounds for appropriate disciplinary action as described in this Manual, which may include suspension from the performance of duties or termination of employment. Moreover, the Episcopal Diocese of Utah takes seriously any allegation of Sexual Misconduct made against any church worker and will make a thorough investigation of all complaints or reports, and, if such investigation indicates that Sexual Misconduct has occurred, the respondent shall be subject to disciplinary proceedings.

It is the policy of this Diocese to encourage all persons alleging Sexual Misconduct to report incidents in accordance with the procedures set forth in this Manual. No person who complains of Sexual Misconduct will suffer retaliation for having lodged a complaint. An express purpose of this policy is to encourage victims of Sexual Misconduct to report incidents without fear of retaliation, impairment or penalty. All complaints of Sexual Misconduct will be handled consistently with the procedures required by this Manual. Disclosure of information and identities will be limited to those persons with a need to know and handled in a manner sensitive to the privacy expectations of the affected people.

This Manual will be provided to all clergy, lay employees, vestry members and to all volunteers who regularly and directly supervise children and youth engaged in any Church-sponsored activity within the Diocese of Utah. The purpose of this Manual is to instruct church workers in what is expected of them, both by defining Sexual Misconduct (which is prohibited) and by publishing behavioral safeguards for church workers. These standards are intended to protect both the church worker and participants in Church activities from situations in which Sexual Misconduct may occur or out of which unfounded allegations of such conduct may arise.

The pastoral mission of the Church demands that any procedures adopted and implemented operate within four separate constraints. These principles apply whether or not allegations of Sexual Misconduct are substantiated. First, such procedures must give a strong level of assurance to members and participants in Church activities that the Church takes seriously the possibility that any person may be a victim of Sexual Misconduct, even within

the Church, and that the Church will take all reasonable steps to guard against such conduct. Second, the procedures employed will honor the presumption of innocence, assure timely notice of accusations and the opportunity to be fully and fairly heard, along with the reasonable expectation of privacy of respondents. Third, such procedures must be directed toward the essential process of healing for accusers, victims and respondents. The Church's concern also extends to persons who perceive themselves to be victims under circumstances that may be inoffensive to others or that preclude substantiation. Fourth, the Church must respond with a concomitant recognition that church workers may be exposed to risk by the expectations placed on them by members and participants in Church activities. In addition to these constraints, the Church's responsibility includes offering pastoral care to victims, complainants, respondents and congregations. (See Part V.)

The Policy and Procedures set forth in this Manual apply to the Diocese as a whole, including all diocesan congregations, agencies, institutions and instrumentalities. All Diocesan institutions have a responsibility to implement the Policy and Procedures under this Manual. Furthermore, inasmuch as any allegation of Sexual Misconduct occurring within any Diocesan institution affects the body of the Church as a whole, institutional executives and clergy in charge have a duty to report all such allegations to the Office of the Bishop as required by this Manual.

DEFINITIONS

1. The term “**Sexual Misconduct**” embraces three distinct concepts, and means any:

a. **Sexual abuse or sexual molestation** of any person, including but not limited to, any sexual involvement or sexual contact with a person who is a minor or who is legally incompetent;

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

c. **Sexual exploitation**, including but not limited to, the development of, or the attempt to develop, a sexual 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.

2. The term “**pastoral relationship**” means:

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 confession or confidential or privileged information.

3. The term “**church worker**” includes clergy, lay employees or volunteers.
4. The term “**minor**” means anyone who has not attained eighteen (18) years of age.
5. The term “**professional counseling**” means counseling by an accredited professional in the areas of psychiatry, psychology, social work, or family therapy.
6. The term “**victim**” means a person who has been, or is, or is alleged to be the object of acts of the respondent.
7. The term “**respondent**” means a person alleged to have committed an act of sexual misconduct.

EXPLANATION AND ILLUSTRATIVE EXAMPLES OF SEXUAL MISCONDUCT

Without limiting or affecting the foregoing definition of Sexual Misconduct, the following additional guidelines are provided to clarify and explain types of conduct that are included within the definition:

1. Clergy Sexual Misconduct occurs whenever a member of the clergy uses his or her position of authority as a cleric, intentionally or unintentionally, for the purpose of securing sexual gratification or engages in sexual abuse, harassment or exploitation.
2. Clergy Sexual Misconduct can be consensual or nonconsensual. “Consent” to the sexual or romantic relationship does not determine whether the relationship is free of sexual exploitation because the imbalance of power between a member of the clergy and a person in a pastoral relationship may undermine the validity of any such consent. The pastoral counseling and care function creates a special relationship of trust and power. Exploitation of this trust and power through Sexual Misconduct, as defined above, will not be tolerated. All relationships are to be respected and maintained by all clergy and other professionals in the service of the Diocese in every pastoral or counseling situation. All clergy and other professionals in service of the Diocese are expected to maintain the highest ethical standards in all relationships in every pastoral and counseling situation. Clergy and other professionals in the employ of or in service to the Diocese or any of its parishes or agencies are also expected to engage in ethical behavior with their colleagues at all times.
3. Clergy members must always be mindful of the risks created by and inherent in any romantic relationship between a member of the clergy and persons they meet within their congregations, institutions or other areas of Church service. While a case can sometimes be made for romantic relationships between clerics and persons within an area of

ministry, whenever a relationship starts to involve romantic feeling between a cleric and a person within his or her area of ministry, the clergy member must not undertake a pastoral relationship with that person, and must ensure that the other person has another, independent source of pastoral counseling and care available. The clergy member must keep an ecclesiastical superior apprised of the existence of the romantic relationship and be willing to openly discuss with the superior the issues and dangers inherent in that type of relationship.

A romantic relationship between a cleric and a person with whom such cleric has a pastoral relationship at the same time creates an unreasonable risk of coercion, misuse of power, and thus sexual exploitation. As such, no clergy member shall have or attempt to develop a romantic or sexual relationship with any person with whom he or she has an ongoing pastoral relationship.

Moreover, whenever a clergy member recognizes that a romantic relationship is developing in the course of a pastoral relationship, the clergy member shall immediately terminate the pastoral relationship, while ensuring that the other person has been referred to another source for pastoral counseling.

Clergy members must recognize, however, that continuing a romantic relationship even after termination of a pastoral relationship carries the very greatest potential for exploitation. Therefore, in no event shall a clergy member pursue or encourage romantic involvement with any person with whom he or she has had a prior pastoral relationship unless both parties meet with a qualified professional counselor, outside their regular areas of ministry and/or church involvement, to discuss the issues of the imbalance of power, coercion and the potential for exploitation, as well as handling the conflicting feelings that may arise in connection with progress or termination of such a relationship. Unless the professional counselor finds that the other person's romantic feelings toward the clergy are not significantly influenced by co-dependency, coercion or exploitation, and will so certify to the Bishop, the clergy member shall terminate the romantic relationship and refrain from further involvement with the other person.

The statement of this Policy, while recognizing that romantic relationships sometimes develop between clerics and persons within areas of their ministry, does not, however, condone extramarital sexual relationships.

4. Lay Sexual Misconduct occurs whenever a lay employee or volunteer uses his or her position of authority or service in the Church for the purposes of securing sexual gratification or engages in sexual abuse, harassment or exploitation. Lay employees whose responsibilities include pastoral relationships are subject to the same restrictions on romantic involvement with those under their care as apply to the clergy.

5. Any unsolicited, unwelcome, nonreciprocal and offensive sexual overtures or conduct, either physical or verbal, by a church worker—whether clergy, lay employee or volunteer—towards a co-worker or a member of his or her staff or parish constitutes nonconsensual church worker Sexual Misconduct. It includes, but is not limited to, acts which constitute a crime under state law, such as those offenses listed in paragraph 7 below.

It may include sexually-oriented humor or language, questions or comments about one's sexual behavior or preference, unwelcome or undesired physical contact, inappropriate comments about one's clothing or body, or repeated requests for dates or social engagements. Isolated incidents of a minor degree may not be considered to constitute sexual misconduct. Even isolated instances, however, may be sufficiently egregious to warrant disciplinary proceedings set forth in this Manual.

6. Child sexual abuse and molestation includes physical and psychological harm to a person less than eighteen (18) years old or any person who is incompetent or who has a diminished mental capacity that is at the level of a child. It includes, but is not limited to, any sexual act against a minor or incompetent person that constitutes a crime under applicable state law.

7. Criminal sexual offenses under Utah statute (copies of which are set forth in the Supplement to this Manual) include:

- a. Enticing a minor over the Internet (§ 76-4-401).
- b. Sexual exploitation of a vulnerable adult (§ 76-5-111).
- c. Unlawful sexual activity with a minor (14 or older but under 16 years of age) (§ 76-5-401).
- d. Sexual abuse of a minor (§ 76-5-401.1).
- e. Unlawful sexual conduct with a 16 or 17 year old (§ 76-5-401.2).
- f. Rape (§ 76-5-402).
- g. Rape of a child (§ 76-5-402.1).
- h. Object rape (§ 76-5-402.2).
- i. Object rape of a child (§ 76-5-402.3).
- j. Sodomy and forcible sodomy (§ 76-5-403).
- k. Sodomy on a child (§ 76-5-403.1).
- l. Forcible sexual abuse (§ 76-5-404).
- m. Sexual abuse of a child and aggravated sexual abuse of a child (§ 76-5-404.1).
- n. Aggravated sexual assault (§ 76-5-405).

- o. Sexual exploitation of children (§ 76-5a-1 through -4).
- p. Incest (§ 76-7-102).
- q. Bestiality (§ 76-9-301.8).
- r. Lewdness and sexual battery (§ 76-9-702).
- s. Lewdness involving a child (§ 76-9-702.5).
- t. Voyeurism (§ 76-9-702.7).
- u. Distribution of pornography to a minor (§ 76-10-1206). (Other pornography offenses are included in § 76-10-1201 et seq.)
- v. Exploitation of prostitution (§ 76-10-1305) and aggravated exploitation involving minors (§ 76-10-1306).

A separate statutory definition of “child abuse and neglect” for purposes of the child abuse reporting statute is set forth in § 62A-4a-403, Utah Code Ann. A copy of Utah's Child Abuse Reporting statute, as well as a summary of it, is set forth as Appendix “B” to this Manual.

8. The term “sexual harassment” includes, but is not limited to, acts which constitute a violation of the Utah Anti-Discrimination Act (Utah Code Ann. § 34A-5-101, et seq.) or the sexual harassment provisions of Title VII of the Federal Civil Rights Act of 1964, 42 U.S.C. §§ 2000e-2 and -3, as those Acts have been interpreted and applied pursuant to valid regulations and decisions of courts of competent jurisdiction. (Copies of both statutes are included in the Supplement to this Manual). Under Title VII the courts recognize two types of sexual harassment: “quid pro quo” harassment and “hostile work environment” harassment.

9. “Quid pro quo” harassment refers to sexual harassment (requests for sexual favors, sexual remarks about an individual's body or clothing, sexual stereotyping, unwelcome or offensive sexual comments, and other conduct of a sexual nature) by a supervisor or other person in authority which operates—either through submission or rejection by the victim—as the basis for any employment decision affecting the victim. Examples of “quid pro quo” harassment are hiring, or granting or denying a promotion, demotion, transfer, training, salary increase, discharge, or work assignments on the basis of the victim's response to unwelcome acts of sexual harassment.

10. “Hostile work environment” harassment is any conduct which creates a hostile work environment even though the victim has not suffered a tangible employment injury as, for example, denial of raises or promotion or termination. To state a legal claim for “hostile work environment” harassment, the sexual harassment must be sufficiently severe or pervasive to alter the conditions of the victim's employment and create an abusive working environment.

11. Although “hostile work environment” harassment under Title VII requires severe or pervasive misconduct, the Diocese of Utah does not condone isolated incidents that, if perpetuated under a pattern, practice or a continuing course of conduct, would rise to the level of sexual harassment as applied under state or federal law. Even isolated instances, however, may be sufficiently egregious to warrant disciplinary proceedings set forth in this Manual.

12. Under both federal and Utah law, “sexual harassment” also includes any reprisal or retaliation against any church worker by any co-workers or supervisors because that person, in good faith, reports a violation or suspected violation of Sexual Misconduct, as defined in this Manual, whether or not the reported violation is substantiated by an investigation.

13. Examples of behaviors that are or may become sexual harassment (which should not be interpreted as being all-inclusive) include:

a. Verbal. Sexual innuendo, suggestive comments, insults, threats, degrading humor and jokes about sex or gender-specific traits.

b. Nonverbal. Suggestive or insulting sounds; leering; whistling; obscene gestures; display of objectionable posters, cartoons, pictures and/or magazines.

c. Physical. Pinching, brushing the body, coerced sexual relations, assault.

PART II

PREVENTION—EMPLOYMENT/ASSIGNMENT PRACTICES

The following procedures will be followed in connection with the employment or assignment (in the case of clerics and volunteers) of all applicable church workers:

A. BACKGROUND CHECKS

1. **Requirement.** A thorough background check, within the bounds of permissible law, is required for all clergy and lay employees, as well as for all volunteers who regularly supervise youth activities (excluding unpaid Sunday School teachers). See also Policy on Protection of Children and Youth from Abuse, Policy Number P008, for other individuals required to have a background check. The background check will be conducted prior to ordination, employment or acceptance into the Diocese of Utah (either by initial licensing or by letters dimissory) or, in the case of volunteers working with children or youth, prior to assignment to such duties. Employment or assignment may commence prior to completion of the background check but continuing employment or assignment is subject to successful completion of the background check. The background check is conducted by the Chancellor, Executive Officer and Assistant to the Chancellor. Forms to initiate the background check process can be found on the Diocesan Website at, www.episcopal-ut.org or they may be obtained from the Chancellor's Office.

The background checks are custom tailored to the specific positions, providing for just the checks that are appropriate and needed. While the Diocese does not charge for its time, resources and recordkeeping, the costs billed by the vendor for the background checks will range between \$65 and \$180, and these costs are billed to the congregation or entity for whom the checks were performed.

The following, which is not an exhaustive list, are positions identified as requiring a background check pursuant to the above policy. See also Policy on Protection of Children and Youth from Abuse, Policy Number P008.

- All clergy (Episcopal and ELCA), including interim clergy, who transfer to the Diocese of Utah from another diocese, or in the case of ELCA clergy, any serving a parish or in a cure within the Episcopal Diocese of Utah
- Clergy-in-process (to be completed prior to the process of entering postulancy with an update within six months prior to ordination to the diaconate)
- Any visiting clergy from another diocese who has been licensed to serve within the Diocese of Utah
- Any person who transfers from one position to another within the Diocese of Utah who has not previously had a background check
- Any lay employee of the Diocese or any parish (anyone who is paid, regardless of position)
- Acolyte director

After-school tutor
 Camp staff
 Catechist
 Conference Center overnight staff
 CPE Student, Interim or Chaplain
 Ecumenical workers (ELCA)
 Eucharistic Visitor
 Evangelist
 Home visitor
 Interns
 Music director/organist/music minister
 Nursery worker
 Parish nurse
 Parish secretary/administrator (paid)
 Parish treasurers (at the option of parish)
 Preschool worker
 Resident chaplain
 Sexton/caretaker
 Stephen Minister
 Youth Impact worker
 Youth leader/director

Anyone who began service in the above position after September 1994 (the original effective date of this Policy Manual) is required to have a background check. Anyone who transfers from one position to another within the Diocese of Utah and who has previously had a background check will be required to have their background check updated and brought current. (See Update to Application for Employment or Volunteer Appointment, Form 003, as it may be revised from time to time.)

2. **Purpose.** The purpose of the background check is to determine, prior to ordination, employment, or acceptance into the Diocese (or in the case of volunteers working with children and youth, prior to assignment to such duties), the candidate's suitability for service and whether a candidate's background includes current or historic Sexual Misconduct allegations or a criminal record. The background check is further intended to determine whether the candidate's background includes paraphiliac behavior (as defined by the American Psychiatric Association), which includes pedophilia, exhibitionism and voyeurism. (A copy of the American Psychiatric Association's clinical definition of paraphilia is included in the Supplement to this Manual.)

3. **Procedures.** To protect the privacy and confidential interests of all applicants, these procedures will be followed in conducting background checks:

a. **Application for Employment or Volunteer Appointment.** Each prospective church worker shall be asked to complete an Application for Employment or Volunteer Appointment, which may be supplemented in such manner as may be relevant to the particular type of assignment for which the prospective worker is

applying. The Application is in two parts. Part A concerns church affiliation, education, employment history, past service and places of residence. Part B concerns past conduct and involvement in criminal or civil matters. Part A will be accessible by the Bishop, Chancellor, Diocesan Executive Officer or personnel administrator, and any clergy-in-charge or executive-in-charge of the parish, congregation, institution or agency from which the person is to be hired or appointed.

b. **Consent or Withdrawal from Consideration.** No background investigation will be conducted without the signed written consent of the prospective church worker, in the form set forth in the Application (Form 002) and provision to the applicant of a copy of A Summary of Your Rights Under the Fair Credit Reporting Act, Form 006. One purpose of the Application is to inform prospective church workers of the nature and extent of the investigation that will be carried out as a condition to ordination, employment, acceptance into the Diocese, or permission to volunteer in the supervision of children or youth activities of the Diocese or any of its parishes, congregations, or institutions. A prospective applicant who objects to the investigation should be kindly asked to withdraw from consideration. Notice of the withdrawal of application is to be given to the Office of the Chancellor.

c. **Reference Checks.** Information will be sought from selected professional and personal references whenever reasonably available. For clergy, references should include: (1) all bishops having past or present canonical authority over the individual (as well as denominational executives when service as a church worker has been outside the jurisdiction of the Episcopal Church), (2) all schools attended by the individual and (3) all employers of the individual during the past five years (provided that, if the individual had but one employer for over five years, then inquiries will be made of the two most recent employers). For lay employees, references should include: (1) all employers of the individual during the past five years (provided that, if the individual had but one employer for over five years, then inquiry will be made of the two most recent employers) and (2) all schools attended by the individual during the past five years. For clergy and lay volunteer youth ministers, the inquiry should include any youth-serving organizations in which the individual has participated, as well as the bishop (or the denominational executive if outside the Episcopal Church) of any jurisdiction which the individual may have been previously ordained or employed as a church worker. The written record of reference checks should be maintained documenting attempts to contact references who cannot be located or otherwise cannot be contacted.

d. **Request for Written Statements.** The person making reference contacts should ask the reference source to respond to questions as determined by the Diocese of Utah from time to time and provide a written record of the answers to such questions to the Chancellor's Office.

e. **Criminal Records Check.** To the fullest extent permitted by applicable law, the Diocese will conduct a criminal background investigation. In the case of workers in church schools and preschools, Utah law requires criminal

background checks which, for the present time at least, are handled through the Utah Department of Human Services (DHS). An example of the materials necessary to invoke the DHS background investigation is included in the Supplement to this Manual. All such inquiries through DHS shall be initiated by, reported to, and records retained by the applicable church school or preschool with a copy provided to the Office of the Chancellor.

In all other cases, the criminal records check is conducted by the Chancellor and Assistant to the Chancellor. To protect the privacy of church workers, criminal background information obtained will be subject to the following special rules of confidentiality:

(1) Only a limited number of specifically authorized persons will have access to the reports of criminal background checks. The persons currently authorized to have general access to such reports are the Bishop, the Chancellor, the Executive Officer and the Chancellor's Assistant. The clergy in charge or executive in charge of any parish, congregation, institution or agency shall be notified by the Chancellor of any issues raised by the background check of a disqualifying or cautionary nature.

(2) The persons authorized to have access to the report from the applicable state agency shall review the report and make a recommendation to the requesting supervisor or agency as to whether engagement of the prospective church worker is advisable or not; or whether, as a result of the investigation, restrictions must be imposed on the positions to which such prospective worker may be assigned under Part II.B or otherwise.

(3) Reports of criminal background checks shall not be filed in the clergy or personnel files of the individuals on whom they have been requested, but shall be kept in a separate file maintained by the Chancellor.

(4) The confidentiality of the report will be respected to the fullest extent possible, except to the extent that disclosure may be compelled by rule of law, this Manual or an order of a court of law.

f. **Motor Vehicles Record Check.** To the fullest extent permitted by applicable law, the Diocese will conduct a motor vehicles record investigation. Only a limited number of specifically authorized persons will have access to the motor vehicle record of any candidate or applicant. The persons currently authorized to have general access to such reports are the Bishop, the Chancellor and the Risk Manager. In addition, to the extent the individual may be required to drive Diocesan vehicles, the motor vehicle information may be provided as required by the motor vehicle insurer. The persons authorized to have access to the report from the Department of Motor Vehicles shall review the report and make recommendation to the requesting supervisor as to whether engagement of the prospective church worker

is advisable or not; or whether, as a result of the investigation, restrictions must be imposed on the use of motor vehicles by such prospective worker.

g. **Financial Background Check.** For most applicants, a financial check will not be made. However, the Diocese will conduct a financial background investigation on clergy candidates, the Diocesan Treasurer, candidates whose responsibilities would routinely require the handling of money and issuing of checks, and other candidates when their position would prudently require such a check. Background checks for parish treasurers, whose background check is at the option of the parish, will automatically, include a financial check. Only a limited number of specifically authorized persons will have access to these reports. The persons currently authorized to have general access to such reports are the Bishop and the Chancellor. Specifically in regard to clergy, the Bishop and the Chancellor may, after reviewing the report, make recommendation to the requesting supervisor or agency as to whether engagement of the clergy person is advisable or not; or whether, as a result of the investigation, restrictions must be imposed on the positions or authority to which the clergy person may be assigned.

4. **Discretion to Refuse Employment or Appointment.** Notwithstanding the outcome or evaluation of information produced by a background investigation, the Bishop, as well as any ecclesiastical superior or institutional executive in charge shall have the right, in his or her discretion, to determine whether such clergy or lay church worker will be permitted to exercise his or her ministry as proposed or to be hired, engaged or appointed.

5. **Reassignment.** In connection with any transfer or reassignment involving a church worker, the church worker's confidential personnel file shall be reviewed to determine suitability of the candidate for reassignment.

6. **Disclosure to Church Worker.** If the results of any criminal or financial background investigation results in a decision not to hire, appoint, assign or accept any church worker or applicant, the results of such investigation may be disclosed to the applicant or church worker upon his or her request to the extent permitted by law.

7. **Notification to Successive Bishop.** In the case of clergy transferring to other dioceses, the Chancellor's Office will notify the Bishop of the receiving diocese whether or not a background check has been completed.

B. **RESTRICTIONS ON INTERACTION WITH MINORS**

It is the policy of the Episcopal Diocese of Utah that interaction with minors is strictly prohibited for any church worker, or prospective church worker, who:

1. has a civil or criminal record of sexual abuse; or
2. has admitted prior sexual abuse; or

3. is known to have a paraphiliac diagnosis as defined by the American Psychiatric Association (which includes, without limitation, pedophilia, exhibitionism, and voyeurism), a copy of which definition is set forth in full in the Supplement to this Manual.

This prohibition is not subject to the rehabilitation provisions of Part IV.I. As set forth in the general discussion of preventive measures in Part III, this prohibition may also apply to persons reasonably suspected of falling within any of the preceding subclauses even if such fact has not been affirmatively established.

C. **CHURCH WORKER TRAINING**

1. **Requirement.** All clergy and lay employees, as well as all volunteers who regularly supervise youth activities, and volunteers with pastoral responsibilities (including without limitation lay Eucharistic visitors), shall be required to attend diocesan training on prevention of sexual misconduct, including issues of sexual harassment in employment, mentor and colleague relationships, issues of sexual exploitation in pastoral contexts, as well as issues of child sexual abuse. See also Policy on Protection of Children and Youth from Abuse, Policy Number P008, for other individuals required to have training.

The following list, which is not exhaustive, are positions identified as requiring church worker conduct training pursuant to this Policy. See also Policy on Protection of Children and Youth from Abuse, Policy Number P008, for other individuals required to have training.

Clergy Training

All clergy (Episcopal and ELCA) who transfer to the Diocese of Utah from another dioceses (whether or not they have completed training in another diocese), or in the case of ECLA clergy, any serving in a parish or a cure within the Episcopal Diocese of Utah

Interim clergy who have not received training in another diocese

Interim clergy who serve within in the Diocese of Utah at least one year. (Interim clergy who serve within the Diocese for less than one year must provide to the Chancellor's Office proof of training in another diocese.)

Clergy-in-process who are to be ordained and serve within the Diocese of Utah (whether or not they have completed lay training)

Visiting clergy from other dioceses who have been licensed to serve within the Diocese of Utah

Lay Training

Any lay person who is required to have a background check as identified in Part II.A above with the exception of parish treasurers and CPE students.

Commission on Ministry (lay members)

Ecclesiastical Trial Court member (lay members)

Sunday school teachers as follows: If an individual (such as a Sunday School coordinator or ministries coordinator) randomly observes all classrooms in use at their parish during each class time, that individual is required to take the training and other teachers are not so required. If there is no “supervisory” individual who randomly so observes classrooms, then the individual teachers are required to take the training.

Individuals filling the above positions are required to take the training regardless of the date they assumed such position.

2. **Time Frames for Completing Training.** The following will serve as a guide for the period of time within which completion of training should occur:

- a. Clergy transferring into the Diocese of Utah: within six months of their official transfer date to the Diocese of Utah.
- b. Interim clergy who have not had training in another diocese or who will be serving in the Diocese of Utah for more than one year or visiting clergy licensed to serve in Utah: within sixty days of their start date.
- c. Clergy-in-process who are to be ordained and serve within the Diocese of Utah: within the period of one year prior through sixty days following the date of their ordination to the diaconate.
- d. All lay employees of Diocese or parishes, all lay workers and lay members of commissions: within sixty days of their start date in position.

Employees of the Diocese or any parish who fail to complete training within six months of their start date may be subject to termination. Volunteers who fail to complete training within six months may be subject to termination of service.

3. **Content of Training.** Such training will cover the following topics:

- a. Review and discussion of the definitions of sexual harassment and sexual exploitation;
- b. Review and discussion of the portions of this Manual relevant to sexual harassment and exploitation;
- c. Discussion of the ethical, moral and legal issues raised when pastoral, counseling or employment relationships become, or are used to develop, personal relationships;
- d. Discussion of boundary issues in pastoral, counseling and employment settings;

- e. Review and discussion of the definition of child sexual abuse;
- f. Review and discussion of the portions of this Manual relevant to child sexual abuse;
- g. Awareness of typical seduction patterns of extra-familial child molesters;
- h. Youth protection safeguards;
- i. How to recognize signs of abuse;
- j. Child abuse reporting requirements and procedures;
- k. Diocesan and community resources available to assist victims and respondents; and
- l. Child safety precautions.

4. **Notification to Successive Bishop.** In the case of clergy transferring to other dioceses, the Chancellor's Office will notify the Bishop of the receiving diocese whether or not the clergy person has completed clergy church worker conduct training.

D. **PASTORAL CARE LIMITATIONS**

1. **Fees Prohibited.** The policy of the Diocese proscribes church workers from accepting personal fees or donations for pastoral care given by clergy and other pastoral care providers within the scope of their church employment or duties.

2. **Supervision or Referral.** It is imperative that all church workers be ever mindful of the need for self-awareness and for maintaining proper boundaries in all pastoral interactions. To that end, after six pastoral care or counseling sessions with any one individual have been held around a given life issue, clergy and other pastoral care providers must either (i) refer the individual to professional counseling or (ii) have ongoing professional or peer supervision, as appropriate, and as approved by the Bishop. Any church worker providing formal spiritual direction will submit that ministry to peer or supervisory review on a regular basis with a spiritual advisor approved by the Bishop or ecclesiastical superior. A record of the supervisory function will be made and retained by the supervisor, who will also regularly report the existence of the supervised counseling to the Bishop.

3. **Outside Professional Counseling Services.** Any cleric or other pastoral care provider who, outside the scope of his or her assignment or employment within the Diocese, charges fees for professional counseling must satisfy all of the following requirements:

a. He or she must possess appropriate professional credentials including appropriate licensure under Utah law. (Copies of selected licensing statutes are included in the Supplement to this Manual);

b. He or she must carry, and maintain in force at all times, separate professional liability insurance, including coverage for Sexual Misconduct, and provide proof of such coverage upon request of the Office of the Bishop; and

c. He or she must conduct such professional practice at separately maintained offices and in a manner that does not in any manner imply or convey the impression that the counselor is acting as an employee or representative of the Diocese and that otherwise does not trade on the counselor's position with the Diocese.

4. **Incompatibility of Pastoral and Romantic Relationships.** Clergy members and pastoral care providers must always be mindful of the risks created by and inherent in any romantic relationship between a member of the clergy or a lay pastoral care provider and persons they meet within their congregations, institutions or other areas of Church service. While a case can sometimes be made for romantic relationships between clerics or lay pastoral care providers and persons within an area of ministry, whenever a relationship starts to involve romantic feeling between a cleric or pastoral care provider and a person within his or her area of ministry or Church service, the clergy member or pastoral care provider must not undertake a pastoral relationship with that person, and must ensure that the other person has another, independent source of pastoral counseling and care available. The clergy member must keep an ecclesiastical superior apprised of the existence of the romantic relationship and be willing to openly discuss with the superior the issues and dangers inherent in that type of relationship.

A romantic relationship between a cleric or a pastoral care provider and a person with whom such cleric or counselor has a pastoral relationship at the same time creates an unreasonable risk of coercion, misuse of power, and thus sexual exploitation. As such, no clergy member or lay pastoral counselor shall have a romantic relationship with any person with whom he or she has an ongoing pastoral relationship.

Moreover, whenever a clergy member or pastoral counselor recognizes that a romantic relationship is developing in the course of a pastoral relationship, the clergy member or pastoral counselor shall immediately terminate the pastoral relationship, while ensuring that the other person has been referred to another source for pastoral counseling.

Clergy members and counselors must recognize, however, that such an immediate involvement carries the very greatest potential for exploitation. Furthermore, no clergy member or pastoral counselor shall pursue or encourage romantic involvement with any person with whom he or she has had a prior pastoral relationship unless both parties meet with a qualified professional counselor, outside their regular areas of ministry and/or work involvement, to discuss the issues of the imbalance of power, coercion and the potential for exploitation, as well as handling the conflicting feelings that may arise in connection with

progress or termination of such a relationship. Unless the professional counselor finds that the other person's romantic feelings toward the clergy member or pastoral counselor are not significantly influenced by co-dependency, coercion or exploitation, and will so certify to the Bishop, the clergy member or counselor shall terminate the romantic relationship and refrain from further involvement with the other person.

The statement of this Policy, while recognizing that romantic relationships may develop between clerics or pastoral counselors and persons within their areas of ministry or Church service, does not, however, condone extramarital sexual relationships.

E. **MANUAL DISTRIBUTION**

Copies of this Manual will be distributed at the commencement of their employment or assignment to all clergy, vestry members and lay employees, as well as all volunteers who regularly supervise youth activities. The Office of the Chancellor will retain copies of signed statements from recipients of the Manual acknowledging that they received this Manual and understand its contents. Distribution of the Manual may occur in connection with the initial training referred to in Part II.C.

PART III

PREVENTION—BEHAVIORAL STANDARDS

1. **Self Review.** Church workers should engage in self review and should seek counseling and treatment so as to avoid engaging in any Sexual Misconduct.
2. **Boundary Awareness.** All clergy and any other church workers who are engaged in pastoral care or any counseling relationships should review periodically materials discussing “boundary” issues and check themselves and their work for danger areas. Warning signs of early breakdowns in boundaries between a counselor and counselee can include:
 - a. When there is excessive self-disclosure and sharing of personal problems.
 - b. When a church worker makes a parishioner, colleague or counselee feel special by:
 - making oneself unusually available
 - receiving major gifts
 - scheduling out-of-office appointments when not normally done
 - sharing confidential or private information about other congregants
 - sharing privileged information about members of church hierarchy
 - using congregant as confidant and/or for personal support.
 - c. When a church worker finds himself or herself:
 - wearing special clothing for a parishioner, colleague or counselee
 - rearranging his or her schedule
 - especially looking forward to an appointment with a parishioner, colleague or counselee
 - fantasizing or daydreaming about a parishioner, colleague or counselee
 - hiding such behaviors from a spouse or partner.
 - d. When a church worker invites a counselee, spiritual directee or supervisee to a social event.
 - e. Whenever a church worker makes secrecy a dimension of the relationship.
 - f. Whenever a church worker borrows money or gets involved in a business transaction with parishioner, colleague or counselee.

g. Whenever a church worker uses or offers alcohol or other mood altering chemicals during counseling sessions.

3. **Institutional Adoption and Job-Specific Guidelines.** This Policy and Manual apply to each congregation, institution and agency of the Diocese. Since each situation may present unique circumstances, institutions or agencies are encouraged to adopt additional, more stringent guidelines and standards applicable to their particular circumstances. Each parish, congregation, institution and agency adopting any such supplemental standards shall forward the supplement to this Manual to the Office of the Bishop where they will remain on file. In addition, supervisors have the responsibility to establish, teach, and enforce guidelines (which may go beyond those set forth in this Manual) for persons in sensitive areas.

4. **Termination Without Cause.** Except as otherwise specifically provided by canon, all church workers serve at the will of the Diocese or the applicable clergy or executive in charge of any congregation, parish, institution or agency and their service may be suspended or terminated without cause. All written agreements for the employment of lay church workers shall permit immediate suspension or termination without cause.

5. **Restrictions on Assignments.** Church workers with known problems are subject to the work restrictions set forth in this Manual. Church workers with suspected problems should not be allowed to remain in a situation or position where they could harm anyone. Particular care is necessary in assigning church workers to child care and youth activities positions.

6. **Avoid Unattended Contacts.** In the areas of youth ministry and when care and supervision of children or vulnerable persons are involved, church workers should avoid situations in which only one adult worker is present whenever possible. This includes unpaid Sunday School teachers and nursery workers. Compliance with this policy includes either having two adults present in the room or having one adult present in a room with an opened or windowed door and the availability of a second adult to observe the activities in the room throughout the time of the activity.

7. **Admonition about Dual Roles.** Church workers are strongly advised to avoid “dual status” situations, such as simultaneously having a pastoral relationship and acting in supervisory capacity in an employment context. Such situations significantly increase the potential for exploitation or coercion. When such dual roles exist and cannot be avoided, the church worker should submit that aspect of their work to appropriate peer or supervisory review.

8. **Admonition about Romantic Relationships.** Clergy members and pastoral care providers must always be mindful of the risks created by and inherent in any romantic relationship between a member of the clergy or a lay pastoral care provider and persons they meet within their congregations, institutions or other areas of Church service. While a case can sometimes be made for romantic relationships between clerics or lay pastoral care providers and persons within an area of ministry, whenever a relationship starts to involve

romantic feeling between a cleric or pastoral care provider and a person within his or her area of ministry or Church service, the clergy member or pastoral care provider must not undertake a pastoral relationship with that person, and must ensure that the other person has another, independent source of pastoral counseling and care available. The clergy member must keep an ecclesiastical superior apprised of the existence of the romantic relationship and be willing to openly discuss with the superior the issues and dangers inherent in that type of relationship.

Since a romantic relationship between a cleric or a pastoral care provider and a person with whom such cleric or counselor has a pastoral relationship (past or present) creates an extreme risk of coercion, misuse of power, and thus sexual exploitation, scrupulous adherence to the limitations on pastoral relationships set forth in Part II.D.4. is expected from all clergy and lay pastoral care providers.

PART IV

GUIDELINES AND PROCEDURES FOR PROCESSING COMPLAINTS OF CHURCH WORKER SEXUAL MISCONDUCT

PURPOSE

The purpose of this procedure is to create a process for reporting, adjudicating, and maintaining records of allegations of church worker Sexual Misconduct.

PROCEDURE

These following procedures will be used in cases of suspected or alleged church worker Sexual Misconduct. See also a flow chart of the process found at Appendix “C” to this Manual.

A. THE BISHOP'S ROLE

1. **Limited Pastoral Involvement.** The Bishop holds pastoral and disciplinary responsibility as Chief Pastor to the Diocese as a whole. Once a complaint has been made, the Bishop's role will be limited to that over-arching duty to the whole body of the Church. Except for initial contacts with the complainant or the alleged victim and the respondent (with at least two other people present), to express concern and explain the necessity for limited involvement, the Bishop will, of necessity, limit his or her involvement in pastoral care for the individuals involved until the conclusion of the investigation.

2. **Discretion to Delegate.** The Bishop may, in his or her sole discretion, assign a member of the Diocesan staff the responsibility to act in the place and stead of the Bishop in receiving and acting upon complaints or allegations of Sexual Misconduct to the extent that the Bishop may so delegate. Nevertheless, the Bishop shall be informed promptly of all complaints or allegations of Sexual Misconduct made against any church worker within the auspices of the Diocese.

3. **Institutional Executive's Duty to Report.** Any allegations of Sexual Misconduct that arise within any Diocesan institution shall be reported to the Office of the Bishop by the clergy or executive in charge, as the case may be, and such individuals will have a concomitant duty to cooperate with the Office of the Bishop in the implementation of the procedures for investigation and ultimate resolution of the matter.

B. PASTORAL RESPONSE TEAMS

1. **Appointment and Role.** The Bishop will appoint members of the laity and clergy to serve on Pastoral Response Teams. The responsibility of Pastoral Response Teams will be to assist the Bishop in providing the pastoral response to all complaints of church worker Sexual Misconduct as described in Part IV.

2. **Gender-Balanced Composition.** Each Pastoral Response Team will consist of at least two (2) responders, and will include clergy and lay members and be gender balanced to the extent immediate circumstances permit.

3. **Training.** All Pastoral Response Team members shall receive training in the areas of crisis sensitivity and interviewing persons with information relevant to allegations of Sexual Misconduct, as well as the training required of church workers, including:

a. **Definition of Sexual Misconduct.** All Pastoral Response Team members shall receive training that includes a discussion of the definitions of Sexual Misconduct, as well as a review of this Policy Manual.

b. **Child Sexual Abuse.** Pastoral Response Team members shall be required to attend the most recent Diocesan-approved training on issues of child sexual abuse in church settings and child abuse reporting obligations or shall have documented professional credentials for which equivalent training is a prerequisite. Such training shall cover the following topics:

- (1) Review and discussion of the definition of child sexual abuse;
- (2) A thorough review of child molestation;
- (3) Awareness of typical seduction patterns of extra-familial child molesters;
- (4) Youth protection safeguards;
- (5) How to recognize signs of abuse;
- (6) Child abuse reporting requirements and procedures;
- (7) Diocesan and community resources available to assist victims and respondents; and
- (8) Child safety precautions.

c. **Sexual Harassment and Exploitation.** All Pastoral Response Team members shall be required to attend the most recent Diocesan-approved training on issues of sexual harassment in employment, mentor and colleague relationships, as well as issues of sexual exploitation in pastoral relationships or have documented professional credentials that would include such training. Such training shall cover:

- (1) Review and discussion of the definitions of sexual harassment and sexual exploitation.

- (2) Discussion of the ethical, moral and legal issues raised when pastoral, counseling or employment relationships become, or are used to develop, personal relationships;
- (3) Discussion of boundary issues in pastoral, counseling and employment settings; and
- (4) Review and discussion of applicable canonical provisions regarding clergy misconduct.

A record of the credentials and/or training of all Pastoral Response Team members will be retained indefinitely in Diocese records.

4. **Impartiality Required.** Any member of a Pastoral Response Team who is related to the respondent by blood or marriage, who has knowledge of essential facts involved in the matter, who has a close personal or professional relationship with the respondent or any victim or other witness in the matter, or who reasonably believes himself or herself unable to offer independent judgment or objectivity in the matter shall disclose the conflict or impairment to the Bishop and be excused from serving on the Pastoral Response Team for that matter.

C. **BISHOP'S INVESTIGATOR**

1. **Appointment.** The Bishop will appoint an appropriately credentialed and duly licensed professional investigator to serve as Bishop's Investigator (hereinafter "the Investigator").

2. **Role of Investigator.** The Investigator will be assigned to ascertain the facts of the probable incident or incidents in order to make a report to the Bishop preliminary to any disciplinary action. The report is intended for the internal use of the Church and not for any criminal or civil action.

D. **INITIATION OF COMPLAINTS**

1. **Upon Bishop's Own Initiative.** The Bishop may initiate an investigation and appoint a Pastoral Response Team on the basis of any information that the Bishop believes merits the invocation of this Procedure, whether or not a formal complaint or allegation has been lodged by another person.

2. **Upon Complaint.** Complaints of Sexual Misconduct may be initiated by the purported victim or another person. Although complaints may be oral, the person receiving the complaints should attempt to obtain a written complaint, or at least obtain the information described in this paragraph. All such complaints shall be reduced to writing either by the complainant or by the person receiving the complaint. Complaints may be delivered to the clergy in charge of a congregation, parish, institution or agency or directly to the office of the Bishop. Copies of all written complaints shall be forwarded promptly to the Bishop. The

Bishop shall notify the President of the Standing Committee of the receipt of a complaint or information which may result in a complaint, without identifying the complainant or respondent. If the complaint is against the Bishop, the complaint shall go to the Presiding Bishop. As provided in the National Canons, the Presiding Bishop, after consulting with the complainant, may appoint an advocate to assist the complainant in reducing the complaint to a written charge and in participating and understanding the disciplinary process of this Church as it applies to bishops. A printed notice of who to contact to report an incident or how to file a complaint of misconduct shall be provided by the Chancellor to be posted in every parish, congregation, institution or agency. A complaint shall include the name, address, and telephone number of the complainant. It shall also include the date, location, and time of the alleged Sexual Misconduct and a statement detailing the specifics of the act or acts. It should also include the name and title of the respondent and names, addresses, or telephone numbers of any witnesses if these are known.

In the case of complaints not involving a Bishop, upon receipt of a complaint or allegation of Sexual Misconduct the following shall occur:

- a. The complaint or allegation shall be sent immediately to the Bishop,
- b. The Bishop's office will inform a Pastoral Response Team, and
- c. The Office of the Bishop or, at the Bishop's direction, the investigator will obtain from the reporting party the information stated in this Part D.2.

Regardless of whether the signed complaint is received, the Bishop's office may initiate the investigation as described in this Part IV.

3. **Child Abuse Reporting Compliance.** Every complaint of child abuse shall be reported immediately to the State of Utah, Department of Human Services, Division of Child Protective Services. The Bishop, any member of the clergy or any supervisor of a congregation, parish or institution shall make such report.

4. **No Promise of Confidentiality.** The Church makes no promise of confidentiality with respect to communications of complaints or other allegations of any form of Sexual Misconduct, except to the extent that such communications are received under the seal of confession. The Church reserves the right to disclose information for the protection of others, to ensure the adequacy of the investigation by the Church and the ability of the Church to take appropriate action consistent with this Policy and applicable canons. Nevertheless, the Diocese, and all persons who receive information that would invoke the procedures under this Policy, will limit disclosure to those individuals who have a need to know and will proceed with due sensitivity to the protection of the legitimate privacy interests of the persons affected by the allegations. If a complainant should come forward demanding confidentiality as a condition to disclosing the allegations, the person receiving the complaint should advise the complainant that the request denies the Church the ability to take any action to discipline the respondent or prevent a reoccurrence. Such a complainant must also sign a statement setting forth the request for confidentiality and a release from all

damages from past and future misconduct of the respondent. The Bishop and the Chancellor will be advised of the situation and the latter will review the written request for confidentiality and the release from damages.

E. **PRELIMINARY EVALUATION**

1. **No Allegations Ignored.** Given the seriousness of Sexual Misconduct, or any allegations thereof, no complaint or allegation suggesting that Sexual Misconduct has occurred, or is occurring, can be ignored, regardless of how insubstantial the evidence or how questionable the information received or the source of that information. Nevertheless, there may be situations in which allegations are so insubstantial, or information so unreliable, that invocation of the full investigative procedure contemplated by this Part IV cannot be justified. The decision not to institute, or to limit, an investigation will be made only by the Bishop with the concurrence of the Chancellor.

2. **Bishop's Discretion to Limit the Scope of Investigations.** In those limited circumstances in which the evidence of Sexual Misconduct alleged against any church worker is clear, or is clearly unreliable, the Bishop may determine that one or more of the procedures mandated by this Part IV need not be invoked and may limit the scope of the investigation accordingly. A determination to limit the investigation or other actions under this Part IV must be based upon a careful evaluation of all the facts and circumstances, but may include (without limitation) situations that involve the following facts:

- a. The respondent has acknowledged the truthfulness of the allegations;
- b. The information on which the complaint is based is either (1) clearly internally inconsistent or inconsistent with specific facts of which the Bishop has personal knowledge, or (2) totally unreliable (in light of articulable circumstances);
- c. The Bishop is not aware of, nor do the personnel records of the respondent provide, any information that reasonably indicates that the conduct complained of, while inappropriate, is part of a pattern or continuing course of conduct that may not be known to the complainant; but only if the allegations involve conduct that does not threaten the safety or health of any person, does not involve allegations of criminal activity, and is not of such a serious nature as would constitute legally actionable sexual harassment or sexual exploitation and the complainant or the alleged victim (and his or her family, when appropriate) expressly agree in writing, in a clearly voluntary manner, to the proposed limitation on the scope of the procedures and the sanctions that may be invoked.

The discretion of the Bishop to limit an investigation shall not be construed as requiring such a limitation in any circumstance. For example, a full and complete investigation may be necessary in what might otherwise be a clear case solely because allegations have been widely disseminated (either within the body or agency of the Diocese or to the public at large) and nothing less than a full and complete investigation will reassure the Church and the public of the Diocese's commitment to confronting such allegations. Nothing in this

Part IV.E. shall be construed as altering the standard of proof for substantiation of allegations of Sexual Misconduct or otherwise permitting deviations from the requirements concerning sanctions for substantiated Sexual Misconduct and the standard of proof to be applied under Parts IV.H. and I.

3. **Mandatory Review of Personnel File.** No decision to limit the scope of any investigation, as permitted under the preceding paragraph, will be made before consulting the personnel file of the respondent, as well as any criminal background report maintained in the confidential files of the Diocese, to determine whether information contained therein may suggest that the allegations, although seemingly an isolated occurrence, may in fact be part of a pattern of conduct (even though prior allegations may have been determined to be unsubstantiated).

4. **Complainant's Request That No Investigation be Made.** An individual making a complaint may request or suggest that a full investigation is not warranted or necessary but that some informal admonition and counseling may be appropriate. For example, a complaint may involve an isolated occurrence or conduct that, while inappropriate, does not rise to the level of legally actionable sexual harassment or exploitation. In such circumstances, the complaint should be documented by the supervisor, and the Bishop or church worker's supervisor will meet directly with the respondent, taking such action as may be appropriate in the circumstances. A copy of the report of the complaint as documented will be maintained in the personnel file of the person complained against. The complainant will be asked to sign a statement agreeing to the limited scope of the action taken at his or her request and acknowledging the action taken.

5. **Documentation.** Regardless of whether the complaint or allegations are handled informally as a result of the preliminary evaluation or the exercise of the Bishop's discretion to limit the scope of the investigation pursuant to this Part IV.E., the requirement of documentation and record retention set forth in Part IV.J. of this Policy Manual shall be followed.

F. **INITIATION OF PASTORAL RESPONSE**

1. **Pastoral Concerns for Alleged Victims and Complainants.** As soon as possible after learning of the allegations, the Bishop shall direct that the alleged victim and, when appropriate to the circumstances, his or her family or the complainant be contacted on behalf of the Diocese to make available pastoral resources. Such pastoral care will be handled separately from the investigation of the allegations. The role of pastoral care providers (hereinafter the "Pastoral Response Team") to the alleged victim and his or her family will be to aid and assist without acting as defender or prosecutor with respect to the allegations.

2. **Pastoral Concerns for the Respondent.** During the course of the investigation, the respondent will be referred to someone other than the Bishop's office or anyone in the congregation in which such person was performing duties for purposes of pastoral care and, if desired, the rite of reconciliation. All communications intended to be

covered by the “priest-penitent privilege” or by the confessional seal as part of pastoral care shall be honored as confidential communications under civil and canon law. (Utah's Child Abuse Reporting statute, a copy of which is included as Appendix ”B” to this Manual, has a limited exception for information received under the confessional seal. Utah also recognizes a limited “priest-penitent privilege” by which a person may prevent a confessor from testifying as to confessions made. Copies of Utah's Privileged Communications statute, Utah Code Ann. § 78-24-8, and Utah Rule of Evidence 503 are found in the Supplement to this Manual.)

3. **Pastoral Concerns for Congregations, Institutions and Agencies.** It is the policy of this Diocese to conduct investigations in a manner that respects the legitimate privacy interests of the complainant and the respondent. As such, information concerning the allegations themselves as well as the course of the investigation are not to be disclosed other than to those who have a need to know. Nevertheless, there may be situations in which information about incidents or allegations has become widely disseminated within a congregation, institution or agency through rumor, notorious conduct, or even media publicity. Under such circumstances, the Bishop will determine an appropriate response to meet the needs of the congregation, institution or agency. The type of response will of necessity depend on the nature of the information being disseminated, the status of the Diocesan investigation, and all other circumstances attendant thereto. Part V of this Manual provides some guidance in the handling of those circumstances. In the initial stages, such a response may be limited to reassuring persons within the congregation, institution or agency that the allegations are being taken seriously and investigated in accordance with this Manual and that additional information will be forthcoming only upon completion of the investigation. The extent and manner of disclosure and response is a matter within the discretion of the Bishop or his or her delegate, in consultation with appropriate clergy or institutional executives.

4. **Notification of Referral.** The Bishop, in conjunction with the Chancellor, shall immediately notify the complaining witness and the respondent that the complaint has been assigned to an Investigator for investigation.

5. **Psychological Assessments.** The Bishop may require a church worker to undergo immediately a psychological and/or medical evaluation or a professional rehabilitation assessment and to agree that the results of that assessment may be disclosed to the Bishop.

6. **Temporary Suspension of Duties and Leaves of Absence.** In those circumstances in which the allegations involve child abuse or blatant, serious misconduct, and the allegations cannot be discredited immediately, the Bishop, or the clergy or executive in charge of a congregation or Diocesan agency where the misconduct is alleged to have occurred, may immediately relieve a lay respondent of duties, without suspending pay or benefits, and make pastoral resources available to that person and his or her family. A member of the clergy may be subjected to a temporary inhibition by the Bishop pursuant to applicable canons, with pay and benefits. Pastoral resources shall be made available to the respondent clergy member and his or her family. None of these actions constitutes or is to be

interpreted as suspension or deposition. Any such decision does not derogate from respondent's civil and ecclesiastical presumption of innocence. The respondent will be advised to have no interaction or communication with the complaining party or alleged victim. If the alleged victim or accuser is also a church worker, he or she may also be required, or afforded the opportunity, to take a temporary leave of absence, with pay and benefits, pending the outcome of the investigation.

7. **Chancellor Notification.** The Bishop, or the clergy or executive in charge of a congregation or Diocesan agency where the misconduct is alleged to have occurred, shall immediately notify the Chancellor. The Chancellor shall have the responsibility to determine if and when the circumstances surrounding the complaint or allegations are to be reported to any liability insurers that have issued policies, that cover claims against the Diocese or any Diocesan institution in which the misconduct is alleged to have incurred.

8. **No Interference with Civil Authorities or Procedures.** Neither the Bishop nor any other church worker should interfere if persons wish to consult with law enforcement authorities or their own attorneys.

9. **Media Relations.** If the news media become involved, there should be one spokesperson appointed who will be the only person authorized to respond to the media on behalf of the Diocese or its instrumentalities. Press releases and statements to the media will respect the confidentiality of the complainant and the respondent (even if other persons may have disclosed identities of the parties) consistent with these policies, will clearly restate the Diocesan policy that all allegations are taken seriously and investigated fully and that representatives of the Diocese will comment only after an investigation is completed and then only if comment is appropriate to the findings.

10. **Respondent Responsible for Legal Costs of Civil Proceedings.** If the alleged misconduct and the complainant's perception are of a nature that either a civil investigation is required or legal action is likely, the Bishop, or the clergy or executive in charge of a congregation or Diocesan agency where the misconduct is alleged to have occurred, will recommend that the respondent seek legal counsel, but not from the Chancellor or the Vice Chancellor. The Church, the Bishop and the congregation or Diocesan agency will not post bond or advance legal, counseling or other expenses, including attorneys' fees and charges, but may recommend insurance or other financial resources. Legal fees and costs incurred in canonical proceedings are addressed in the Diocesan Canons.

G. **INVESTIGATION PROCEDURES**

1. **Prompt Referral.** As soon as reasonably possible, but not to exceed thirty (30) days, after receiving a written complaint of Sexual Misconduct, the Bishop shall assign the complaint to an Investigator for investigation as described in this Part IV.G.

2. **Prompt Commencement of Investigation.** The Investigator shall commence investigating the complaint as soon as possible after receiving it, unless good cause exists for

delaying the commencement of the investigation. The Investigator will consider that church workers can be wrongfully accused.

3. **Noninterference and Cooperation with Civil Agencies.** If the alleged misconduct must be reported to any civil agency for investigation (as in the case of child abuse or sexual assault), the Investigator will conduct his/her investigation in a manner that does not interfere with a civil or criminal investigation carried out by state agencies. In general, the Investigator should not interview any of the parties or witnesses except with the approval of any civil agency involved and then only in accordance with such guidelines as the civil agency may outline. The Investigator may need to follow up directly with the civil agencies to determine whether their investigation has been completed or when it is appropriate for the Investigator to commence his/her own investigation. If necessary, the Investigator should consult with the Chancellor for help in coordinating efforts with civil agencies.

4. **Interviews.** The Investigator shall interview the complaining witness and will interview the respondent and all other witnesses or clearly report his/her reasons for not doing so.

5. **Voluntary Statements by Parties.** Any party or witness to an act of alleged Sexual Misconduct shall be permitted to submit a statement in writing if he or she requests it.

6. **Report of Investigation.** The Investigator shall assemble all pertinent information and submit a written report of his/her findings to the Bishop. The report shall include the original complaint, results of interviews, all written statements submitted to the Investigator, and the Investigator's impressions of the credibility of witnesses (with articulated reasons therefor) and the weight of the evidence, as well as the Investigator's impressions as to the likelihood that a claim for damages or other legal action may result from the allegations.

7. **Notification Compliance.** During the course of the investigation, the Investigator should be sensitive to clues from witnesses regarding the likelihood of a claim or suit, with the understanding that the determination of the likelihood that a claim or suit will be made is not necessarily related to the substantiation of the allegations themselves. As soon as it becomes apparent to the Bishop or the Investigator that it is likely that a claim (meaning a request or demand for payment of damages or other compensation to any purported victim of alleged Sexual Misconduct) or suit will be brought arising out of any complaint or allegations, the Bishop shall immediately notify the Chancellor, regardless of whether the Investigator has otherwise completed his/her investigation. If the Investigator questions whether information indicates that such a likelihood exists, he/she should immediately contact the Bishop and the Chancellor for consultation on the issue of the likelihood of such a suit.

8. **Prompt Completion.** The Investigator shall complete his/her investigation and submit a written report as soon as possible after the initiation of the complaint. If the Bishop is not satisfied with the report, the Bishop may direct that the Investigator renew the

investigation to gather additional relevant information and submit a supplemental report. In those rare instances in which completion of the investigation and a final report cannot be completed promptly, the Investigator shall submit a preliminary report including an explanation of the reason additional time is necessary to complete the report and a deadline by which the Investigator expects to be able to complete his/her investigation. The Investigator shall then proceed as quickly as possible to complete the investigation and report. The Bishop may request interim reports from the Investigator as the Bishop deems necessary.

If the Investigator has not, for any reason, been able to complete his/her investigation and the Bishop feels that time is of the essence, the Bishop may, in his or her discretion, require the respondent to submit to a psychological evaluation and make a disciplinary decision on the basis of the available facts and the results of the evaluation.

H. **ACTION ON REPORT OF INVESTIGATION**

1. **Unsubstantiated Allegations.** If the Investigator finds that the allegation cannot be substantiated, or an evaluation of the evidence does not indicate that Sexual Misconduct has occurred, and the Bishop agrees with the findings, the Bishop will, if the Bishop deems it appropriate, institute a process of individual or corporate healing, or both.

2. **Follow-up.** The Bishop, upon receipt of the report from a completed investigation of Sexual Misconduct, may require the implementation of additional policies or procedures, which may be directed to specific individuals, to prevent further acts or allegations of Sexual Misconduct or the appearance of Sexual Misconduct to protect the community of faith, thereby making the Church safe for everyone.

3. **Discipline.** If the Investigator finds that an evaluation of the evidence indicates that Sexual Misconduct has occurred, and the Bishop agrees with the findings, the Bishop shall impose, or recommend to the executive in charge of a Diocesan agency that he or she impose, appropriate disciplinary action including, but not limited to, therapeutic and law enforcement referrals, and termination or temporary suspension of a lay church worker. If a clergy member is involved, the Bishop shall refer the matter for initiation of disciplinary proceedings under the Canons of the Diocese.

4. **Standard of Proof.** An evaluation of the evidence indicates that Sexual Misconduct has occurred only if the Investigator finds, and upon review, the Bishop concurs, that a preponderance of the evidence (“more likely than not”) reviewed by the Investigator and reported to the Bishop indicates that Sexual Misconduct has occurred. However, evidence demonstrating reasonable grounds to believe, although less than a preponderance of the evidence, that the respondent may have engaged in Sexual Misconduct shall be sufficient to:

- a. permit the Bishop to require, in the Bishop's sole discretion, that the respondent undergo a professional rehabilitation assessment under Part IV.I., and such other training or rehabilitation as the Bishop may thereafter deem advisable; and

- b. in cases of allegations of child abuse (including child sexual abuse), require that the respondent be prohibited from any regular interaction with children or youth as required under Part II.B.

Nothing in this section shall be construed to prohibit a temporary suspension with pay under Part IV.F.6. or the making of an appropriate record in the church worker's clergy or personnel file of the fact the Investigator determined that the evidence of Sexual Misconduct was inconclusive or to prohibit consideration of prior allegations in the event that a subsequent allegation is made against the same individual. Further, nothing in this Part H shall be construed to preclude or prohibit a respondent from requesting the initiation of proceedings under the Canons of the Diocese.

5. **Notice of Disposition.** When the investigation is complete, the Bishop shall so advise the complaining witness, the respondent, and, where appropriate, the congregation, agency or institution, giving assurance that the Bishop has reviewed the matter and informing them about the action that is being taken.

I. **PROFESSIONAL REHABILITATION IF SEXUAL MISCONDUCT FOUND**

1. **Conditions of Employment.** Whenever the Investigator finds that an evaluation of the evidence indicates that a church worker has engaged in Sexual Misconduct, and the Bishop agrees with the findings, the church worker shall, as a condition of future or continuing employment or assignment within the Diocese:

- a. Undergo a professional rehabilitation assessment by a credentialed professional approved by the Bishop in consultation with its liability insurers, for the purpose of determining such person's suitability for work or for a return to work;
- b. In cases involving clergy, obtain the endorsement of the Bishop of canonical residence, and, if different, the Bishop(s) in whose jurisdictions he or she currently exercises his or her ministry;
- c. Make amends to any aggrieved parties to the satisfaction of the respondent's ecclesiastical superior and the Bishop or the ecclesiastical authority of the Diocese; and
- d. Undergo and successfully complete such program of rehabilitative therapy or additional training as the Bishop, in consultation with the appropriate institutional executive and appropriate bodies, may deem appropriate.

2. **Notification of Ecclesiastical Authority or Church Employer.** Whenever the Bishop finds that an evaluation of the evidence indicates that Sexual Misconduct has occurred, the Bishop shall notify the vestry of any parish in which the respondent may be serving or the respondent's church-affiliated employer of compliance with the requirements of this Part IV.I.

3. **Discretion to Limit or Terminate Service.** Whenever an investigation under this Part IV indicates that Sexual Misconduct has occurred, the Bishop (as well as any ecclesiastical superior or institutional executive in charge of a particular diocesan congregation, institution or agency in which the respondent serves or exercises his or her ministry) shall have the right, in his or her discretion, to invoke such additional proceedings or to impose such sanctions or limitations as he or she may determine to be appropriate. Such sanctions may include, without limitation, termination of employment or interdiction against further service in a volunteer capacity. Nevertheless, any such additional proceedings, sanctions or limitations must be consistent with the requirements of this Policy Manual. Furthermore, in connection with a finding of Sexual Misconduct involving a member of the clergy, all such procedures and sanctions must be consistent with the Canons of the Diocese and the Episcopal Church.

J. **RECORD RETENTION AND CONFIDENTIALITY**

1. A report of all substantiated complaints and disciplinary action taken shall be kept on file and maintained indefinitely in the Bishop's office and sent to other dioceses or Church entities as appropriate.

2. A report of all unsubstantiated complaints and the Investigator's report shall be kept on file and maintained indefinitely in the Bishop's office, along with any statement submitted by the church worker about the complaint. It is also the Policy of the Diocese that, in cases where an allegation of Sexual Misconduct is found to be completely unsubstantiated, the Bishop will respond to future employment inquiries regarding the respondent by stating that a matter came to the attention of the Bishop, was investigated in accordance with the Diocesan investigative policies and procedures, and that the allegations were found to be unsubstantiated. Any church worker, however, may at any time request release of such information from his or her confidential file in connection with any subsequent inquiry or request for information, including without limitation the fact that old rumors may have surfaced.

3. The Investigator shall not disclose any investigation or the contents of the report of the Investigator to anyone, except the Bishop or as required by a civil or ecclesiastical court or this Policy Manual (including without limitation the notification to the Chancellor required under Part IV.K.).

4. Nothing in this Policy shall be deemed to preclude disclosure of facts and circumstances surrounding any complaint or allegation to any insurer, attorneys or other individuals whose assistance is sought in connection with the investigation or defense of any complaint or allegation.

K. **INSURER NOTIFICATION**

1. Upon receipt of the notification required under Part IV.G.6., the Chancellor will have the responsibility to determine if and when any complaint or allegations of Sexual

Misconduct will be reported to insurers providing coverage to the Diocese or any of its officers, employers or institutions.

2. If a claim (meaning a request or demand for payment of damages or other compensation to any purported victim of alleged Sexual Misconduct) or a civil complaint alleging Sexual Misconduct is received by or served upon the Diocese or any of its officers, employees or institutions, the Chancellor shall be notified immediately and the Chancellor will undertake immediate notification of the applicable insurance companies.

3. Not later than forty-five (45) days following notification or awareness of any occurrence (as defined by the applicable provisions of the liability policy held by the Diocese) giving rise to allegations of Sexual Misconduct but not constituting a claim or suit, the Bishop and the Chancellor will consult with the Investigator and the Pastoral Response Team members to evaluate whether such allegations are likely to result in a claim against the Diocese or any of its institutions so as to permit the Chancellor to comply with the sixty-day notification requirements of the Diocesan insurance policy regarding events that are likely to result in claim or suit. The Chancellor will inform the Bishop, the Investigator and the Pastoral Response Team members whenever the notification requirements under applicable Diocesan insurance policies change so as to alter the time within which reports under this Part IV.K. are required.

PART V

PASTORAL CARE OF COMPLAINANTS, RESPONDENTS, AND CONGREGATIONS

A. INTRODUCTION

When Sexual Misconduct has occurred or is alleged, the complainant, the respondent and the congregation involved may be alienated from the very resources for healing and reconciliation that the Church can offer. The Church's task is to communicate God's transforming grace, and to create an environment in which new relationships of trust can develop. The restoration of individual and corporate health requires careful preparation and the utilization of all the resources God makes available.

The Church's responsibility is to proclaim the reality of sin, the necessity for repentance, and the availability—through God's grace—of forgiveness and reconciliation. The Office of the Bishop is recognized as the agency most able to organize a healing process and to make available the resources of the Church.

B. GUIDELINES FOR RESPONSE TO COMPLAINANTS, THE RESPONDENT AND THEIR FAMILIES

The Office of the Bishop should identify—and if necessary provide training, and have available on short notice—a corps of pastoral care givers designated as Pastoral Response Teams willing and able to provide pastoral care for the complainant and the complainant's family, the respondent and the respondent's family, and, where appropriate, the affected community.

Upon notice of a complaint from the Bishop, the Pastoral Response Team will respectively contact the complainant and the respondent. In each case the Pastoral Response Team should determine whether the person already has an existing pastoral support system. If there is no existing pastoral support system or the if the previously existing pastoral support system has been disrupted, the Pastoral Response Team should offer pastoral support and spiritual care. If a support system and support pastors are already in place, then the Pastoral Response Team should offer to supply a team member as an additional support person and resource to the pastoral support persons already in place.

Complainants and, if appropriate, members of their families should be made aware of community facilities for help, support and referral, and encouraged to take advantage of such resources. For example, in case of an accusation of rape, the woman could be referred to the “Rape Crisis Center” or other appropriate facilities having trained professionals competent in the area of sex abuse treatment and counseling. Pastoral Response Team members should be knowledgeable of the spectrum of such resources within the community, and possess skills in making referrals.

In addition, the complainants and their families must be reassured that the Church recognizes the reality of their feelings of victimization, and stands ready to assist them spiritually and emotionally, regardless of the results of the formal investigation made under the policies and procedures set forth in this Manual. Even more fundamentally, the Pastoral Response Team is available to assist complainants and their families work through the process of personal healing and forgiveness that is essential to moving forward.

Similarly, the respondent and, if appropriate, his or her family members, will need reassurance from the Pastoral Response Team that the Church cares deeply about the individual and his or her family, and recognizes the depth of his or her feelings and the personal devastation and disruption that the allegations have brought to bear. The Pastoral Response Team's duty is also to strive to reassure the respondent that the Church is there for him or her regardless of the outcome of the formal investigative process and will make available to the respondent the blessings of reconciliation and redemption where appropriate. Pastoral Response Team must also be sensitive to the likelihood that the pastoral needs of family members may be substantially different from those of the respondent, so much so, in fact, that separate Pastoral Response Team members may be necessary or appropriate.

It is not the responsibility of the Pastoral Response Team to justify or validate the investigative process or the ultimate determination of the matter. However Pastoral Response Team may be called upon to provide support and help to complainants, respondents and their families when the results of the process do not meet their respective expectations of justice, retribution or vindication, as the case may be. This educational function of the Pastoral Response Team may entail explaining the constraints of due process, standards of proof and the fallibility of human judgment that are inherent in the investigative process.

C. GUIDELINES FOR CONGREGATIONAL HEALING

1. Congregations should be reminded of the presumption of innocence. Christians are charged to pray for all human conditions. The congregation should begin regular prayer for the complainant, the respondent, and the congregation at large.

The continuing ministry to a congregation which has been traumatized by an incident of Sexual Misconduct may take any of several forms, including:

- * meetings between the Bishop, or his or her delegate, and the parish leadership to assess the healing process of the congregation and to keep the congregation appropriately informed;
- * study groups which consider the issue of ethics, perhaps by discussing a selected book on the topic;
- * congregational focus groups which address the question, "Where are we now in our process of moving ahead?"; and

- * formation or appointment of a Committee on Congregational Life to assess needs and to plan programs for continued healing.

2. Some congregations in other Dioceses that have worked through a history of Sexual Misconduct take up a special vocation in a related area. Some have offered themselves to other congregations that are confronted with the same issues, some have offered their building for use by community groups that address issues of sexual or child abuse, and some have developed “Stranger Danger” or other programs for children, young people or adults about protecting themselves from abuse. These are signs that the congregation has indeed moved into the redemptive activity of letting its own pain be a gift for others.

3. Perhaps most heartening are those congregations that have taken a clear-eyed look at church worker-congregation relations and have moved into an awareness that, while each member of the Church is responsible for his or her own behavior, there are congregational factors that can contribute to a climate in which church worker Sexual Misconduct may occur. These congregations commit themselves to provide:

- * honest feedback to their leadership through a regular process of mutual evaluation;
- * sufficient time off and continuing education time so that church workers are less at risk of becoming burned out or isolated;
- * funding and support of benefit packages which allow church workers to consult with professional care givers when needed; and
- * support for fostering church worker family life and maintenance of boundaries between home and Church by the establishment of clear policies developed in consultation with parish leadership.

4. The so-called “new” issue of church worker Sexual Misconduct presents the entire Church with an opportunity to come to new levels of clarity about expectations of the church worker, professionalism of the church worker, relationships between men, women and children, and indeed about the shared nature of ministry itself.

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THE EPISCOPAL DIOCESE OF UTAH

ACKNOWLEDGEMENT FORM

DIOCESAN POLICY MANUAL CONCERNING CHURCH WORKER CONDUCT

I acknowledge that I have reviewed a copy of the Diocesan Policy Manual Concerning Church Worker Conduct. I acknowledge that I am expected to know and be familiar with the contents. I understand:

- The contents of the Manual.
- The definition of “Sexual Misconduct” set forth in the Manual and the procedures for reporting and investigating allegations of misconduct.
- That Sexual Misconduct is grounds for disciplinary action, including termination of employment or suspension from service.
- That I am expected to attend the training required by this Manual unless I serve solely on a Vestry and am not involved with youth.
- That submission to the procedures outlined, including the duty to report suspected Sexual Misconduct, is a condition of my service in the Diocese of Utah.
- That this Manual may be updated from time to time and that I will be responsible for reading and filing the updates as received.
- That this Manual does not create or affect any contract of employment and in no way limits the rights of the Diocese of Utah to change its policies or procedures described in this Manual.

Date

Signature

(Please Print Name)

Parish or Organization

After signing, please remove this copy of the Acknowledgement Form from the Manual and return to the Episcopal Diocese of Utah, Attn: Stephen F. Hutchinson, 75 South 200 East, Salt Lake City, UT 84111-2147. Retain the duplicate in your Manual.

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Date

Signature

(Please Print Name)

Parish or Organization

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APPENDIX “A”

Glossary of Terms

The following terms and phrases (set out in **boldface** type) are used with particular meanings in this Manual that may differ from their broader use in other contexts. These definitions are provided to avoid confusion and to clarify the intent and coverage of the Manual.

1. “**Area of ministry**” or “**area of Church service**” means the congregational or institutional setting(s) to which a church worker has been assigned and extends to those individuals to or for whom the church worker performs services as well as to co-workers.
2. “**Church worker**” means any member of the clergy, any lay employee of the Diocese or any of its parishes, congregations, institutions or agencies, or any volunteer rendering service within the Diocese or any of its parishes, congregations, institutions or agencies.
3. “**Clergy in charge**” means the member of the clergy of highest rank within any diocesan parish or congregation. Without limiting the generality of the foregoing, a rector or vicar is the “clergy in charge” of the parish to which he or she is assigned.
4. “**Colleague relationship**” means any situation in which two people work together in any capacity, regardless of whether there is any supervisory or mentor relationship between the two persons. Without limiting the generality of the foregoing, a colleague relationship exists between co-workers without regard to any apparent differential in power or authority between the two individuals or their respective responsibilities.
5. “**Ecclesiastical superior**” means the person to whom a clergy member may be called to report on the exercise of his or her ministry or to whom he or she may be accountable in the exercise of his or her ministry in light of civil or canon law.
6. “**Executive in charge**” means the chief executive officer of any diocesan institution or agency other than a parish or congregation to whom all other individuals within such institution or agency are responsible and whose activities are not subject to review or supervision within the institution or agency itself.
7. “**Mentor relationship**” means any situation, whether formally recognized or not, in which one person with experience or training in a particular field of endeavor undertakes to train or otherwise assist another person with less experience or training in such field, to advance the professional development of such other person in such area.
8. “**Minor**” means anyone who has not attained eighteen (18) years of age.

9. **“Pastoral care”** refers, in a broad and inclusive way, to all pastoral work concerned with supporting and nurturing persons and relationships, including everyday expressions of care and concern that may occur in the midst of various pastoring activities and relationships, which may include sacramental acts and confession. Pastoral care in many of its expressions is conversational though briefer and less therapeutically complex than counseling, as in supportive or sustaining ministries like visiting the sick. The term is also applied to non-conversational ministries in which a significant caring dimension may be present, as in administering communion, conducting a funeral, or pastoral teaching. *Compare* “Pastoral counseling” and “Pastoral relationship.”

10. **“Pastoral counseling”** refers to caring ministries that are more structured and focused on a specifically articulated need or concern. Pastoral counseling always involves some degree of “contract” in which a request for help is articulated and specific arrangements are agreed upon concerning time and place of meeting and, in extended counseling, a fee may also be agreed upon, depending on the institutional setting and other considerations. Pastoral counseling generally implies extended conversation focused on the needs and concerns of the one seeking help, embracing that person's history, family of origin, parenting, old wounds disturbing the individual's present well-being, etc. *Compare* “Pastoral care” and “Pastoral relationship.”

11. **“Pastoral relationship”** means 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. It is specifically contemplated that a “pastoral relationship” entails a greater degree of individual involvement than the mere fact that a person is a member of or attends services within a congregation served by a cleric. *Compare* “Pastoral care” and “Pastoral counseling.”

12. **“Peer or supervisory review.”** See “Professional or peer supervision.”

13. **“Predatory behavior”** means any conduct evidencing egregious, habitual or continuing attempt to misuse power, authority, position or situation to abuse or exploit others, as well as deliberate attempts to entrap or entice church workers to commit Sexual Misconduct.

14. **“Professional counseling”** means counseling by an accredited professional in the areas of psychiatry, psychology, social work, or family therapy.

15. **“Professional or peer supervision”** means ongoing review by, and discussion with, an ecclesiastical superior, mentor or colleague, or a professional therapeutic counselor, whose experience or credentials are appropriate to the particular situation, among the purposes of which supervision is to review the maintenance of appropriate boundaries, the advisability of continuing the care or counseling in question, or the need to refer or involve others in the process. The determination of whether peer or professional supervision is appropriate requires an examination of the nexus between the nature of the care, counseling

or guidance being given and the experience and credentials of the church worker and the area of expertise and credentials of the supervisor.

16. “**Respondent**” means a person alleged to have committed an act of sexual misconduct.

17. “**Sexual abuse**” or “**sexual molestation**” means any nonconsensual sexual involvement or sexual contact with any person. For purposes of this definition, sexual involvement or sexual contact with any person who is a minor or who is legally incompetent can never be consensual.

18. “**Sexual exploitation**” means the development of, or the attempt to develop a sexual 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.

19. “**Sexual harassment**” means, in a situation where there is an employment, mentor or colleague relationship between the persons involved, any uninvited or unwelcome sexually-oriented humor or language; questions or comments about sexual behavior or preference unrelated to employment qualifications; undesired physical contact; inappropriate comments about clothing or physical appearance; or repeated requests for social engagements.

20. “**Sexual Misconduct**” means any:

a. **Sexual abuse or sexual molestation** of any person, including but not limited to, any sexual involvement or sexual contact with a person who is a minor or who is legally incompetent; or

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

c. **Sexual exploitation**, including but not limited to, the development of or the attempt to develop a sexual 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.

21. “**Supervisor**” means the person to whom any church worker is directly accountable in the performance of his or her duties of whatever nature.

22. “**Victim**” means a person who has been, or is, or is alleged to be the object of acts of the respondent.

APPENDIX “B”

Summary and Text of Utah's Child Abuse Reporting Statute

(Utah Code Ann. § 62A-4a-402 et seq.)

Duty to Notify

Under Utah law, any person observing, or having reason to believe, that a child is being or has been subjected to:

1. Sexual abuse or sexual exploitation, including incest or molestation;
2. Physical abuse or neglect; or
3. Conditions or circumstances which would reasonably result in any of the above;

is required to report such facts **immediately** to the nearest peace officer, law enforcement agency or the Utah Division of Family Services, Office of Child Protective Services. Physicians may not avoid the reporting responsibility on the grounds of the physician-patient privilege.

In addition, any person who attends the birth of a child or cares for a child has a duty to report any determination by that person that the child suffers from fetal alcohol syndrome or fetal drug dependency.

Limited Clergy Exemption

Members of the clergy are not required to report on the basis of information received in the course of formal confession, **but only if** the following requirements are also met:

1. Confession is received directly from the respondent; and
2. Under canon law, church doctrine or practice, there is a duty of confidentiality as to the confession.

Reports are still required, even as to acts of a person from whom confession has been received, if information is received from any other source. Also, the statute does not relieve a member of the clergy from other duties at law that may exist to prevent further abuse or neglect by the respondent from whom confession has been received. The statute also contemplates that the respondent may consent to a report by the person receiving the confession.

Written Reports

While an oral communication will fulfill the reporting duty, the Division of Family Services may, within 48 hours of receiving a report, require submission of a written report.

Criminal Liability

Failure to report suspected child abuse or neglect is a Class B misdemeanor, which is subject a fine of up to \$1,000 or imprisonment for up to six months.

While not explicit in the statute, failure to report may be grounds for civil liability in cases of further abuse or neglect that might have been prevented by the report.

Confidentiality of Reports and Immunity

Reports of suspected child abuse or neglect are confidential. However, the reports—or the fact that a report has been made—may be disclosed to certain other persons who have a need or right to know, or who may be able to assist in the investigation.

The statute confers immunity from civil liability for persons who make reports of suspected child abuse and neglect.

NOTE: A complete copy of Utah's Child Abuse Reporting Statute, Utah Code Ann. § 62A-4a-402 et seq., follows immediately in this Appendix.

62A-4a-402. Definitions.

As used in this part:

(1) "A person responsible for a child's care" means the child's parent, guardian, or other person responsible for the child's care, whether in the same home as the child, a relative's home, a group, family, or center day care facility, a foster care home, or a residential institution.

(2) "Subject" or "subject of the report" means any person reported under this part, including, but not limited to, a child, parent, guardian, or other person responsible for a child's care.

Amended by Chapter 299, 2008 General Session

62A-4a-403. Reporting requirements.

(1) (a) Except as provided in Subsection (2), when any person including persons licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 31b, Nurse Practice Act, has reason to believe that a child has been subjected to abuse or neglect, or who observes a child being subjected to conditions or circumstances which would reasonably result in abuse or neglect, that person shall immediately notify the nearest peace officer, law enforcement agency, or office of the division.

(b) Upon receipt of the notification described in Subsection (1)(a), the peace officer or law enforcement agency shall immediately notify the nearest office of the division. If an initial report of abuse or neglect is made to the division, the division shall immediately notify the appropriate local law enforcement agency. The division shall, in addition to its own investigation, comply with and lend support to investigations by law enforcement undertaken pursuant to a report made under this section.

(2) Subject to Subsection (3), the notification requirements of Subsection (1) do not apply to a clergyman or priest, without the consent of the person making the confession, with regard to any confession made to the clergyman or priest in the professional character of the clergyman or priest in the course of discipline enjoined by the church to which the clergyman or priest belongs, if:

(a) the confession was made directly to the clergyman or priest by the perpetrator;
and

(b) the clergyman or priest is, under canon law or church doctrine or practice, bound to maintain the confidentiality of that confession.

(3) (a) When a clergyman or priest receives information about abuse or neglect from any source other than confession of the perpetrator, the clergyman or priest is required to

give notification on the basis of that information even though the clergyman or priest may have also received a report of abuse or neglect from the confession of the perpetrator.

(b) Exemption of notification requirements for a clergyman or priest does not exempt a clergyman or priest from any other efforts required by law to prevent further abuse or neglect by the perpetrator.

Amended by Chapter 299, 2008 General Session

62A-4a-411. Failure to report -- Criminal penalty.

Any person, official, or institution required to report a case of suspected abuse, neglect, fetal alcohol syndrome, or fetal drug dependency, who willfully fails to do so is guilty of a class B misdemeanor. Action for failure to report must be commenced within four years from the date of knowledge of the offense and the willful failure to report.

Amended by Chapter 299, 2008 General Session

APPENDIX "C" Flow Chart of Complaint Process

