

Diocese of New York and New England of the Coptic Orthodox Church Sexual Misconduct and Physical Abuse and Neglect Policy

Preamble. God made humans male and female in His image and likeness, and saw that it was good. Particularly in light of the free will God has granted, any good gift from God can be misused. Such corruption can result in layers of spiritual, physical, and psychological pain and suffering. The Gospel calls the Diocese of New York and New England of the Coptic Orthodox Church (“Diocese”) and its Parishes to serve all of God's people, showing special care for those who are vulnerable, including children, the elderly, and those experiencing brokenness or loss. Mt. 18:6; 25:31-46. The Diocese and its Parishes¹ will, therefore, work to ensure their activities are safe for all, consistent with Biblical principles, Church Canon Law and this policy.

Prohibition. Sexual misconduct² and physical abuse and neglect committed against any individual are contrary to Coptic Orthodox values. They are forbidden and a violation of this policy. They are always outside the scope of acceptable behavior of Clergy and other Workers.³

Screening. Each person applying or volunteering for appointment, employment, or a position in the Diocese or a Parish, whether for a paid or unpaid position, shall complete a Background Information Form⁴ as part of the application process. The Regional Policy Coordinator will review these forms. All Clergy and other Workers whose duties include ongoing, supervised or unsupervised contact with minors (individuals under the age of 18) shall be subject to a criminal background check. Anyone found to have a history of inflicting sexual misconduct, physical abuse or neglect will be denied and prohibited from appointment, employment or position in the Diocese or a Parish.

Reporting. Every member of the Clergy or other Worker who believes someone (including themselves) is a victim of sexual misconduct, physical abuse, or neglect, or who reasonably suspects sexual misconduct, physical abuse, or neglect has occurred or will occur, shall immediately report such information as detailed below. There are two distinct types of reporting: internal and external. Internal reporting provides notice to Diocesan officials of **all suspected or prior instances of sexual misconduct, physical abuse or neglect against any individual learned outside of privileged communications.** External reporting provides notice to law enforcement of crimes, including suspected or prior instances, of *child or elderly abuse or neglect, whether sexual or physical.*⁵

- a. *Internal General Reporting:* Clergy and other Workers who reasonably suspect an incident of sexual misconduct, physical abuse, or neglect has occurred or will occur against any individual, including those who believe that they are victims of such conduct, shall immediately report the details to the Diocesan third-party Victim Reporting Center.⁶
- b. *External Crimes Reporting:* Victims of misconduct are free to notify law enforcement. No member of The Diocese, Clergy or other Workers shall discourage, dissuade, or otherwise attempt in any way to prevent such reporting. The Diocese, Clergy, and other Workers shall promptly report every allegation of criminal conduct, including child abuse or neglect and elderly abuse or neglect to law enforcement as required by respective state law (See Exhibit A), or if requested by the victim.

Any member of the Clergy or other Worker who has any doubt regarding his or her internal or external reporting obligations should consult with Victim Reporting Center and/or the Offices of the General Counsel for the Diocese (“GC Offices”).

Policy staff⁷ making external reports shall make them by phone and follow up in writing to the appropriate law enforcement agency using a Diocesan Reporting Form.

False Reporting. It is a violation of this policy for any individual to knowingly or intentionally provide false information or make an allegation that is confirmed to be maliciously false. Such individual will be reported to law enforcement and subject to criminal prosecution, civil liability, and spiritual discipline, including but not limited to denial of Holy Communion.

Privileged Communications. The law in many, but not all, jurisdictions recognizes confidential communications between a penitent with his or her clergy in his role as a spiritual advisor, and affords a privilege to such communications, except where prohibited by law, for example, in a state’s mandatory child abuse reporting statute. *Please refer to the attached Exhibits A-G for the law specific to the state, territory, or island-country in which you are located.*^A

Depending on the law of the jurisdiction in which you are located, information you learn during the course of a privileged communication may or may not be protected from disclosure. If you have questions about your responsibility to report information disclosed during a privileged communication, please contact the GC Offices.

Investigation and Action. Allegations of misconduct, physical abuse, or neglect are taken extremely seriously. Allegations will not constitute conclusory findings, and all those accused are presumed innocent unless and until such allegations are found true by the policy Review Board.⁸

Upon receipt of an allegation, the Victim Reporting Center shall conduct an interview with the victim. The Victim Reporting Center and Outreach Coordinator are the only persons authorized to contact or communicate with the victim. Once the Victim Reporting Center completes the interview, it will generate a victim report and deliver it to the Regional Policy Coordinator, who shall promptly notify the Diocesan Regional Vicar and the GC Offices, and initiate relevant policy procedures. Those procedures include making preliminary decisions about reporting to law enforcement, the imposition of administrative leave, and the commencement of an internal investigation.

As part of the internal investigation, the Conduct Investigation Team⁹ will study the victim report, interview any witnesses, collect any other evidence, interview the accused, and generate a final report. The final report will attach the victim report and be submitted to the Review Board for deliberation. In the event of a directly relevant criminal investigation or legal proceeding, Conduct Investigation Team’s investigation and/or Review Board deliberations shall be suspended, and resume only after the conclusion of said investigation or proceeding.

^A See Exhibit A for New York
See Exhibit B for Massachusetts
See Exhibit C for Rhode Island
See Exhibit D for Connecticut
See Exhibit E for Maine
See Exhibit F for New Hampshire
See Exhibit G for Vermont

In due course, and after the submission of the Conduct Investigation Team's final report to the Review Board, the Review Board will conduct a hearing to give the accused an opportunity to be heard, if the accused so chooses. Following the completion of all proceedings, allegations found to be true will result in swift disciplinary action, and may be subject to criminal prosecution by governmental authorities.

In cases in which the accused is found responsible for wrongdoing, whether by first review or appeal, the Review Board shall so declare in writing, and provide a copy of same to the parties. Commensurate disciplinary action may include without limitation: relief of responsibility of the service, discharge of employment, permanent removal from the ministry, and dismissal from the clerical state. If indicated, the Review Board shall further commission by name a team of clergy and laity to be responsible for personally, and—optionally at the request of the confirmed victim—publicly, supporting the victim, and that of the affected family in the community. In all cases, prompt notification, reconciliation, pastoral care and counseling will be made available to the confirmed victim and affected family. All possible, reasonable measures will be taken to protect against any future harm by the confirmed offender to others. Notification will be made to the leaders of all Coptic Orthodox churches of the identity of any confirmed sexual offender, the general allegations found, as well as the disciplinary action imposed on such individual.


In cases in which the accused is found innocent, whether by first review or appeal, the Review Board shall so declare in writing, and provide a copy of same to the parties. If indicated, the Review Board shall further commission by name a team of clergy and laity to be responsible for personally and—optionally at the request of the falsely accused—publicly, supporting the restoration of his or her reputation, and that of the affected family in the community. Pastoral care and counseling will be made available to the falsely accused and affected family. Notification will be made to the leaders of all Coptic Orthodox churches in order to publicly exonerate and fully restore him or her in service and dignity.

Confidentiality. The identities of victims and witnesses and the specific allegations against persons accused, will be kept confidential by the Diocese, and the disclosure of names, and other personally identifying information, shall **only** be disclosed to the Victim Reporting Center, Outreach Coordinators, Policy Coordinators, Conduct Investigation Team, Review Board and the GC Offices (including retained outside legal counsel), unless and until a finding is made at the conclusion of Review Board deliberations. Furthermore, all internal deliberations, investigative reports and other documents shall be kept confidential by the Diocese. Only upon the conclusion of Review Board deliberations and any legal proceedings, may the ultimate disposition of a case be disclosed.

Prohibition of Retaliation. The Diocese explicitly prohibits any form of intimidation, threats, promises, coercion, retaliation or any other adverse action (direct or indirect, explicit or implied) (collectively, "Retaliation") by any member of the Diocese, Clergy, or other Worker against an individual who makes an allegation of sexual misconduct, physical abuse or neglect. This prohibition of Retaliation also applies to any victim or anyone connected to a victim. Any form of Retaliation will result in disciplinary action against such person. Additionally, the same prohibition against Retaliation applies with respect to a member of the Clergy or other Worker who, in good faith, reports suspected misconduct, bears witness, or assists in the investigation of such a report. Any person who suspects that Retaliation has taken place shall promptly report the same to the Victim Reporting Center (in the case of Retaliation against the victim) or to the Offices of General Counsel of the Diocese (in the case of Retaliation against Clergy or other Workers). If

said Retaliation is made during the course of a criminal investigation, law enforcement will be notified and the person or persons Retaliating can be subject to criminal penalties, such as intimidation of a witness, obstruction of justice, or other crimes in the respective jurisdiction.

Responsible Offices: The Offices of the General Counsel of the Diocese of New York and New England of the Coptic Orthodox Church

Approving Bishop: []

Effective Date: September [_15_], 2020

Next Review Date: September [_15_], 2021

¹ **“Parish”** means a Coptic Orthodox parish within the Diocese. All Clergy, employees and servants are required to read and familiarize themselves with the Diocese document addressing Guidelines on Interactions with Children and Young People and attend appropriate training and educational seminars concerning misconduct, abuse and neglect.

² **“Sexual misconduct”** includes: (a) any sexual conduct which arises from the work of the Diocese or of a Parish, involves Clergy or other Workers and another person, and that constitutes either unlawful activity, sexual harassment, or activity contrary to Coptic Orthodox moral teachings or canon law; (b) violence, threat, or abuse of authority by a deacon, priest, or bishop that forces someone (whether an adult or a minor) to perform or submit to a sexual act; (c) the production, exhibition, possession, or distribution of a pornographic image of a minor or vulnerable person; or (d) youth peer sexual harassment.

“Sexual harassment” is any unwelcome sexual advance, request for sexual favors and other visual, verbal or physical conduct of a sexual nature when submission to or rejection of such conduct is used as the basis for employment decisions, or such conduct has the purpose or effect of unreasonably interfering with an employee's work performance or creating an intimidating, hostile or offensive working environment. Sexual harassment does not refer to behavior or compliments of a socially acceptable nature. It refers to sexual behavior that is unwelcome, personally offensive, or interferes with work effectiveness.

“Youth peer sexual harassment” is any unwelcome sexual advance, request for sexual favors or other verbal or physical conduct of a sexual nature by or between minors involved in any Diocesan or Parish activity and that has the purpose or effect of intimidating, embarrassing or humiliating the other person.

³ **“Clergy and other Workers”** and **“Clergy or other Workers”** includes:

- a. The Papal Exarch or presiding General Bishop;
- b. Coptic Orthodox priests, archdeacons, and deacons, attached to or on assignment by or visiting the Diocese;
- c. Celibates in the Coptic Orthodox Holy Orders (including monks, novices, nuns, and sisters in training) visiting or employed by the Diocese or serving in a Parish;
- d. Diocesan seminarians and diaconal candidates serving a Parish or the Diocese;
- e. Servants/volunteers of the Diocese or any Parish, including without limitation, Sunday School teachers, youth leaders, lay counselors; and,
- f. Paid or unpaid Employees in the Diocese or any Parish.

⁴ **“Background Information Form”** is a form requiring information necessary to conduct a third-party criminal background check. Reporting will be derived from queries from the national criminal database, nationwide sex offender registry, social security number trace data, address history, alias names and re-verification of criminal information.

⁵ **“Child abuse or neglect”** and **“elderly abuse or neglect”** includes more than sexual misconduct as defined by this policy. It includes physical injury and neglect in the form of malnutrition, failure to thrive, and inadequate provision of food, clothing, shelter, or medical care.

⁶ **“Victim Reporting Center”** are trained, third-party, independent professionals who receive and immediately document any and all Internal General Reporting. Reports may be made 24 hours a day, 365 days a week, either by telephone or online at www.integritycounts.ca/org/nynecopts. For more information visit, www.nynecopts.org.

⁷ **“Policy Staff”** includes Policy Coordinators and members of the General Counsel Offices

⁸ **“Review Board”** is a confidential body commissioned to deliberate over the Conduct Investigation Team’s final report and any hearings.

⁹ **“Conduct Investigation Team”** is a team comprised of two to three persons trained in conducting a fact-finding internal investigation. In the event a clergyman is accused the conduct team shall be comprised of no less than one clergyman and one woman.

EXHIBIT A – NEW YORK STATE LAW

Privileged Communications. In New York, the law provides a privilege for communications between priests and individuals. That privilege is called the “priest-penitent privilege.” In order for communications to be subject to this privilege, a person’s communications must be made: (1) in confidence; and (2) for the purpose of obtaining spiritual guidance. The privilege accorded to such communications shall belong only to the person or persons making the communication and shall be subject to waiver only under the following circumstance:

1. The person or persons making the communication consent to waiver of the privilege.¹

Before deciding to disclose in accordance with No. 1 above, the priest may seek spiritual advice or guidance from the Papal Exarch or other Archdiocesan clergy regarding such communications. Any such communications shall be made confidentially, without mentioning the names of individuals or any details that would identify the person(s) involved. Consultation with the Office of the General Counsel for the Diocese of New York and New England on how to disclose such communications is urged.

¹An individual making the communication may expressly waive the privilege or implicitly waive it by his or her conduct.

EXHIBIT B– MASSACHUSETTS STATE LAW

Privileged Communications. In Massachusetts, the law provides a privilege for communications between priests and individuals. That privilege is called the “clergy-penitent privilege.” In order for the privilege to apply, there must be a communication that is made to a minister acting in a professional capacity as a spiritual advisor, and the communication must be made for the purpose of seeking religious or spiritual advice or comfort.^{1,2,3,4} The privilege accorded to such communications shall belong only to the person or persons making the communication and shall be subject to waiver only under the following circumstance:

1. The person or persons making the communication consent to waiver of the privilege.

Before deciding to disclose in accordance with No. 1 above, the priest may seek spiritual advice or guidance from the Papal Exarch or other Archdiocesan clergy regarding such communications. Any such communications shall be made confidentially, without mentioning the names of individuals or any details that would identify the person(s) involved. Consultation with the Office of the General Counsel for the Diocese of New York and New England on how to disclose such communications is urged.

¹ A Massachusetts appeals court concluded that incriminating statements made to a pastor by a man who was charged with the molestation of his stepdaughter were not protected from disclosure by the clergy-penitent privilege because they were not made to the pastor *while acting as a spiritual adviser*.

² In *Commonwealth v. Kebreau*, 454 *Mass.* 287, 301 (2009), the Supreme Judicial Court noted that the privilege is strictly construed and applies only to communications where a penitent “seek[s] religious or spiritual advice or comfort.”

³ In *Commonwealth v. Vital*, 83 *Mass. App. Ct.* 669, 673–674 (2013) the Court found that a communication by the defendant to his pastor with a request that it be passed on to a person who was the alleged victim of a sexual assault by the defendant was not covered by the privilege because *the defendant’s purpose was not to receive “religious or spiritual advice or comfort,”* but instead to circumvent the terms of a restraining order.

⁴ In *Commonwealth v. Nutter*, 87 *Mass. App. Ct.* 260, 264–265 (2015) the Court held that a communication made *after pastoral relationship had ended* was not privileged.

EXHIBIT C– RHODE ISLAND STATE LAW

***Privileged Communications.* No privilege exists between a cleric and a penitent in the case of child, or elderly sexual misconduct, abuse, or neglect. In fact, “any person who has reasonable cause to know or suspect that any child has been abused or neglected or has been a victim of sexual abuse by another child shall, within 24 hours, transfer that information to the department.”¹**

Consultation with the Office of the General Counsel for the Diocese of New York and New England on how to disclose such communications is urged.

Penalty for Failure to Report or False Reporting	Misdemeanor and up to \$500 fine and/or imprisonment for up to 1 year for failure to report; misdemeanor and up to \$1000 fine and/or imprisonment for up to 1 year for false report.
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¹ R.I. Gen. Laws § 40-11-11, R.I. Gen. Laws § 40-11-3(a).

EXHIBIT D- CONNECTICUT STATE LAW

***Privileged Communications.* It is essential to note that clergy are mandatory reporters under Connecticut law, and no statutory exception is noted.¹ As such, the cleric-penitent privilege is *likely* abrogated with respect to child, or elderly sexual misconduct, abuse, or neglect.**

Consultation with the Office of the General Counsel for the Diocese of New York and New England on how to disclose such communications is urged.

Penalty for Failure to Report or False Reporting	\$500 to \$2500 fine and required educational and training program for failure to report (individual may also be sued for damages arising out of failure to report; fine up to \$2,000 or imprisonment for not more than one year, or both for making a false report.
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¹ Conn. Gen. Stat. § 17a-101(b).

EXHIBIT E-- MAINE STATE LAW

Privileged Communications. In Maine, the law provides a privilege for communications between priests and individuals. That privilege is called the “clergy-penitent privilege.” In order for the privilege to apply, there must be a confidential communication made privately and not intended for further disclosure to a clergyman acting as a spiritual advisor. The privilege accorded to such communications shall belong only to the person or persons making the communication. **Clergy are mandatory reporters unless the information was received during confidential communications as described above.**

Before deciding to disclose, the priest may seek spiritual advice or guidance from the Papal Exarch or other Archdiocesan clergy regarding such communications. Any such communications shall be made confidentially, without mentioning the names of individuals or any details that would identify the person(s) involved. Consultation with the Office of the General Counsel for the Diocese of New York and New England on how to disclose such communications is urged.

EXHIBIT F– NEW HAMPSHIRE STATE LAW

***Privileged Communications.* No privilege exists between a cleric and a penitent in the case of child, or elderly sexual misconduct, abuse, or neglect.¹**

Consultation with the Office of the General Counsel for the Diocese of New York and New England on how to disclose such communications is urged.

Penalty for Failure to Report	Anyone who knowingly fails to report shall be guilty of a misdemeanor.
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¹ State v. Willis, 75 A.3d 1068 (N.H. 2013).

EXHIBIT G– VERMONT STATE LAW

Privileged Communications. In Vermont, the law provides a privilege for communications between priests and individuals. That privilege is called the “clergy-penitent privilege.” In order for the privilege to apply, there must be a confidential communication made privately and not intended for further disclosure to a clergyman in his professional character as a spiritual advisor. The privilege accorded to such communications shall belong only to the person or persons making the communication. **Clergy are mandatory reporters unless the information was received in a communication which is: (1) made to a member of the clergy acting in his capacity as spiritual adviser; (2) intended by the parties to be confidential at the time the communication is made; (3) intended by the communicant to be an act of contrition or a matter of conscience; and (4) required to be confidential by religious law, doctrine, or tenet.**

Before deciding to disclose, the priest may seek spiritual advice or guidance from the Papal Exarch or other Archdiocesan clergy regarding such communications. Any such communications shall be made confidentially, without mentioning the names of individuals or any details that would identify the person(s) involved. Consultation with the Office of the General Counsel for the Diocese of New York and New England on how to disclose such communications is urged.