

**POLICIES AND PROCEDURES REGARDING SEXUAL MISCONDUCT,
INCLUDING EDUCATION, PREVENTION AND ASSISTANCE TO VICTIMS**
(presented to the Clergy on 7/20/99; distributed to the Churches on 9/1/99)

It is the express policy of the Antiochian Orthodox Christian Archdiocese of North America (hereafter "Archdiocese") that all conduct which constitutes sexual misconduct is, and shall be, specifically and strictly prohibited. "Sexual misconduct" is defined as one or more of the following:

- (a) Sexual harassment in a situation where there is a pastoral, employment, mentor or colleague relationship between the persons involved;
- (b) Sexual exploitation, including but not limited to the development or the attempt to develop a sexual relationship between a clergyman (hereafter "cleric"), lay employee or volunteer (hereafter "lay worker") and a person with whom he or she (hereafter "he") has a pastoral/professional relationship whether or not there is apparent consent from the individual;
- (c) 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;
- (d) Sexual relations and/or conduct by a cleric or lay worker which violates the teachings and/or canons of the Orthodox Church and/or violates vows of celibacy and/or marriage.

As an agency of the Church whose authority is spiritual and moral, the Archdiocese does not have the power of civil government to compel compliance. The success of the policies and procedures regarding sexual misconduct depends, to a great extent, on cooperation by people of good will. The Church believes that implementation of the letter and spirit of these policies and procedures will enhance the effectiveness of the response of the Archdiocese to a most serious problem.

The Archdiocese recognizes that sexual misconduct is a special problem with a profound impact on the lives of those affected. In the case of sexual misconduct by a cleric, the integrity of the priesthood and the Church as the servant of the people of God is damaged as well. Clerics serve by ministering to the spiritual needs of the people. When servant becomes abuser, the relationship of trust necessary for ministry becomes diminished for all.

The Archdiocese recognizes that those who work for the Church, both clerics and lay workers, stand in the community as representatives of Christ's Church and Her holy teachings. Since the Church has maintained consistent teachings in opposition to sexual relations outside the sacrament of Holy Matrimony, those who represent the Church must avoid even the appearance of impropriety relating to possible sexual activity outside Holy Matrimony.

Sexual misconduct by a cleric or lay worker affects the whole Church. The solution to

this problem must involve the whole Church. The following policies and procedures are the first steps in the Archdiocese's continuing effort to provide for the safety of the people among whom She carries on Her pastoral mission while protecting the reputation of clerics and lay workers who may be subject to inaccurate or false allegations. The Archdiocese's policies reflect Her adherence to the teachings of the Holy Orthodox Church with respect to sexual relations which govern the conduct of both clergy and laity alike.

I. SEXUAL HARASSMENT IN THE EMPLOYMENT CONTEXT.

A. Policy Statement.

It is a goal of the Archdiocese to promote a workplace that is free of sexual harassment. This policy applies to all parishes and various offices of the Archdiocese. Sexual harassment of staff members occurring in the workplace or in any setting which staff members may find themselves in connection with their employment and/or assignment is unlawful and will not be tolerated by the Archdiocese. Further, any retaliation against an individual who has complained about sexual harassment or against individuals for cooperation with an investigation of a sexual harassment complaint is similarly unlawful and will not be tolerated.

To achieve our goal of providing a workplace free from sexual harassment, the conduct that is described in the policy will not be tolerated, and we have provided a procedure by which inappropriate conduct will be dealt with, if encountered by staff members.

Because the Archdiocese takes allegations of sexual harassment seriously, we will respond promptly to complaints of sexual harassment and, where it is determined that such inappropriate conduct has occurred, we will act promptly to eliminate that conduct and impose such corrective action(s) as is necessary, including disciplinary action up to and including termination from employment where appropriate.

Please note that while this policy sets forth our goals of promoting a workplace that is free of sexual harassment, the policy is not designed or intended to limit our authority to discipline or take remedial action for workplace conduct which the Archdiocese deems unacceptable, regardless of whether or not conduct satisfies the definition of sexual harassment.

B. Definitions.

1. Sexual Harassment:

The legal definition of sexual harassment is very broad.

Sexually oriented conduct, whether it is intended or not, that is unwelcome and has the purpose or effect of creating a hostile, offensive, intimidating or

humiliating environment to male or female staff members also constitutes sexual harassment.

For our purposes here we look to the Equal Employment Opportunity Commission's definition of "sexual harassment":

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitutes sexual harassment when (a) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (b) submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individual, or (c) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

While it is not possible to list all those additional circumstances that may constitute sexual harassment, the following are some examples of conduct which if unwelcome, may constitute sexual harassment depending on the totality of the circumstances including the severity of the conduct and its pervasiveness:

- a. Sexual advances - whether they involve physical touching or not
- b. Sexual epithets, jokes, written or oral references to sexual conduct, gossip regarding one's sex life, comment on an individual's body, comment about an individual's sexual activity, deficiencies, or prowess;
- c. The display of sexually suggestive objects, pictures, cartoons, etc.
- d. Leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments;
- e. Inquiries into one's sexual experiences, and discussion of one's sexual activities.

Cases of gender harassment fall in a category of offenses different from those discussed above. They may be confused with sexual harassment because gender and/or racial harassment may be part of an overall pattern of harassment. Under our present civil rights laws, they are discriminatory but *not specifically sexual* in nature in the usual sense of the word "sexual."

- All staff members should take special note that, as stated above, retaliation against an individual who has complained about sexual harassment, and retaliation against individuals for cooperation with an investigation of a sexual harassment complaint is unlawful and will not be tolerated by the Archdiocese.

2. Retaliation/Retaliatory Action:

For the purpose of this policy, the terms "Retaliation" and "Retaliatory Action" mean:

- a. The denying or withholding of any tangible job benefits, e.g., promotions, increases in compensation, benefits, and requested transfers; or,
- b. The assessment of an adverse employment decision against the staff member, e.g., job demotion, unfavorable job evaluation, withholding of a favorable recommendation, undesired transfer or change in work schedule.

3. Staff Member:

For the purpose of this policy, the term "staff member" includes clerics and lay workers.

C. Process for Complaints of Sexual Harassment.

If one feels he has been the victim of sexual harassment, he must report the matter, either verbally, or in writing, to the Diocesan Bishop (hereinafter "Bishop") or, in the event of the absence of the Diocesan Bishop, to the Metropolitan Archbishop (hereafter "Metropolitan"). Should the report be made to the Diocesan Bishop, he will inform the Metropolitan. At His Eminence's direction, the Diocesan Bishop shall appoint and oversee a committee comprised of two priests, an Archdiocesan chancellor, and two elected members of the Archdiocesan Board of Trustees to conduct promptly, thoroughly and discreetly an appropriate investigation.

If, for any reason, the staff member feels he cannot report the matter to the Diocesan Bishop, he should report the matter directly to the Metropolitan. In such instances, the person must indicate to the Metropolitan why he feels unable to report the matter to the Diocesan Bishop.

Every complaint of sexual harassment will be received and investigated as an extremely serious matter. Therefore, it is very important that complaints not be made humorously, flippantly or in jest.

D. Sexual Harassment Investigation.

Upon receipt of the complaint, the committee will promptly investigate the allegation(s) in a fair and expeditious manner. The investigation will be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstances. The investigation will include:

- A private interview with the person filing the complaint.
- An interview with any and all witnesses.
- An interview with the person alleged to have committed sexual harassment.

Upon completion of the investigation, the committee will, to the extent appropriate, inform the alleged victim and the alleged perpetrator of the results of the investigation. The committee will simultaneously inform the Diocesan Bishop of the results of the investigation who, in turn, will inform the Metropolitan.

E. Disciplinary Action.

If it is determined that inappropriate conduct has occurred, the Archdiocese will act promptly to eliminate the offending conduct, and where appropriate, will impose disciplinary action. Such action may range from counseling to termination of employment or deposition, as applicable, and may include such other forms of disciplinary action as the Archdiocese deems appropriate under the circumstances.

II. SEXUAL MISCONDUCT INVOLVING AN ADULT.

Sexual misconduct involving an adult may take a variety of forms. The exact response of the Archdiocese will reflect the nature of the complaint. Such complaints may involve: (a) violations of celibacy or marital fidelity, or (b) abuse of the pastoral office in the course of sexual involvement with an adult.

Sexual exploitation by a cleric, lay worker, therapist or counselor is a relatively new category in our legal and ethical environment. It includes (a) any sexual contact between a cleric or lay worker and a person with whom there is a pastoral/professional relationship, or a therapist or counselor and a client, (b) representation by a cleric, lay worker, therapist or counselor that sexual contact will help in dealing with the emotional struggles the person is having (known as a "therapeutic deception"), or (c) being asked to date the cleric, lay worker, therapist or counselor. Laws for each state vary but in many states this kind of offense is a felony, implying, if convicted, a jail sentence as well as other penalties such as fines and damages. Associations of therapists and counselors are unanimous in describing such sexual contact between a therapist or counselor and a client as unethical and abusive behavior on the part of the professional. Because of the unique relationship between a cleric and/or lay worker and the person with whom there is a pastoral/professional relationship, all sexual relations between such persons are deemed to be without consent.

- A. Immediate help is offered to any cleric or lay worker who seeks help for sexual misconduct or behavior that has become addictive and thereby destructive to his ministry.
- B. Intervention on the charge of sexual misconduct begins when someone other than the cleric or lay worker in question comes forward with a complaint. In such a case, the procedures are as follows:
 - 1. Anonymous complaints which are capable of investigation will be pursued to the extent they can be. Anonymous complaints not capable of investigation will be closed with the notation that a follow up investigation was not possible and the reasons why. Where there is no possibility of investigation, no intervention will take place.

2. Complaints made in person or in written form are treated respectfully. Such complaints should be made as detailed in Article I, Section C. It will be explained to the party making the complaint that this will be presented to the cleric or lay worker as an allegation, not an accusation. The person making the complaint will also be informed that he will be given a summary report of the nature of the cleric's or lay worker's response.
3. The committee appointed to investigate the allegations (hereafter "committee") will inform the cleric or lay worker to apprise him of the allegation(s) of sexual misconduct. The committee will schedule an intervention meeting with the cleric or lay worker to review the entire matter at which the cleric or lay worker will be given the opportunity to respond. The cleric or lay worker will be informed that if he wishes to bring a friend or adviser to the meeting, he is most welcome to do so. The meeting may be tape or video recorded at the Metropolitan's or Diocesan Bishop's discretion.
4. At the intervention meeting, the cleric or lay worker is given the full report of the alleged misconduct, as well as the name(s) of those making the complaint(s). The cleric or lay worker is invited to ask questions, offer his response to the allegation(s), and give his version of the event(s) in question. The meeting proceeds along different lines depending of the cleric's or lay worker's response:
 - a. Credible denial of the allegation(s) and explanation of the event(s) by the cleric or lay worker brings the intervention to a close. This is a case of one person's word against another's, without significant or meaningful outside evidence and consequently no means of resolving the contradiction.
 - The person making the complaint is informed of the denial. The cleric or lay worker is asked not to contact this person, so that there can be no charges of reprisal. The person making the complaint shall be advised of the right to add any additional information which may reopen the complaint. In addition, the person may decide to close the investigation. The decision of the Metropolitan or his designate which affirms the closing of the investigation shall be final.
 - A record of the complaint, the cleric's or lay worker's response, record(s) of the intervention meeting(s) and the decision not to investigate further is maintained in the cleric's or lay worker's personnel file.
 - b. If the cleric admits to the allegation(s) and/or the allegation(s) are substantiated by other credible evidence, then the proper authorities will be contacted and appropriate help shall be offered the victim and him, usually in the form of therapy/counseling and spiritual direction.

- The victim shall be offered appropriate help which may include assistance for therapy/counseling and/or spiritual help. The particular psychological and spiritual needs of each person affected will vary and will be respected accordingly. The Archdiocese will assist in covering the cost of such help and will seek reimbursement from the cleric or lay worker.
 - The cleric or lay worker is informed that therapy/counseling may be due the victim and, if so, that it becomes the cleric's or lay worker's responsibility to pay for it.
 - Every person who made an allegation is informed of the cleric's or lay worker's response and the forthcoming provision of therapy/counseling if that is necessary.
 - If there is any possibility of litigation, the committee will assist the cleric or lay worker in finding legal counsel.
 - A record of the complaint, the cleric's or lay worker's admission, record(s) of the intervention meeting(s), any other credible evidence substantiating the complaint and the other determinations made is maintained in the cleric's or lay worker's personnel file.
- c. In a case where previous allegations of a similar nature, or multiple but unrelated complaints of sexual misconduct have been made, the cleric or lay worker will ordinarily be asked to undergo professional evaluation. Such evaluation is also asked for when denial by the cleric is not firm, but leaves in question substantive issues in the allegation(s).
- An "evaluation" is not therapy, but a professional psychological assessment through interview and testing to identify problematic areas that may be present in a cleric's or lay worker's life. The evaluation provides guidance for the cleric or lay worker and the Archdiocese, e.g., the need for therapy.
 - The Archdiocese shall name the professional or institution which will be entrusted with conducting the evaluation. Should the cleric or lay worker disagree with the results of the evaluation, he would have the right to consult another professional for a second evaluation at his own cost.
- C. Once the intervention meeting has taken place, a full report of the allegation(s) and the cleric's or lay worker's response is given to the Metropolitan. If the probability that the allegation is true is established the Metropolitan will take such disciplinary action as is warranted. Where the case is so serious as to warrant residential treatment or removal of a cleric or lay worker from his position, the Metropolitan will ask to meet personally with the cleric or lay worker following receipt of the professional evaluation. The Diocesan Bishop

will attend this meeting as well as the chairman of the committee. The cleric or lay worker involved may bring a friend or adviser to this meeting.

1. The goal of this meeting is to come to a mutual agreement between the Metropolitan and the cleric or lay worker on the appropriate response and treatment.
2. If mutual agreement is not reached, the Metropolitan may consider appropriate action against the lay worker, and in the case of a cleric, may consider initiating the canonical process deemed most appropriate to protect the Church community, such as the canonical process for removal from office (*kathairesis* or defrocking), for withdrawing faculties (*argia* or suspension), for declaring the presence of an impediment to the exercise of priestly ministry (ordination declared *akyros* or null and void), or the imposition or declaration of a canonical penalty (*epitimia* or penance). If a canonical process is initiated, it shall follow the order established in the Archdiocese, under which the cleric involved has the right to seek an advocate with training in canon law.

III. SEXUAL MISCONDUCT INVOLVING A MINOR.

Allegations of sexual misconduct with minors demand immediate interventions that vary in some respects from those for adults. The need for special procedures in this area reflects the special vulnerability of young people who may be victimized and the intense damage that such abuse inflicts. At the same time, the rights of the cleric or lay worker against whom an allegation of sexual abuse with a minor is made must continue to be respected.

A. Precautions Clerics or Lay Workers Should Take.

Clerics and lay workers can and should develop a good rapport with minors. However, they must also avoid the kind of contact with minors that could raise questions or lead to negative comment on the part of reasonable people. Therefore, the Archdiocese has established the following regulations:

1. Clerics and lay workers must avoid activities such as tickling, wrestling, inappropriate hugging, etc. that involve physical contact with minors.
2. Clerics and lay workers must not have minors in their rooms, nor should minors stay overnight at their residences.
3. Clerics and lay workers must not go on vacation with minors unless parents or other adults are present. On field trips or other outings involving minors, at least one other adult should be present.

All persons who are subject to this policy will review and become familiar with the sexual misconduct awareness indicators which are set out in *Exhibit A* (cf. page 11).

Given the seriousness of the consequences of sexual misconduct, especially when minors are involved, clerics and lay workers have a responsibility to be their brothers' keepers in

these matters. While we must avoid paranoia or unhealthy interference in others' lives, we do need to be aware of danger signs. Such danger signs might be clear violations of the guidelines presented above. In addition, we also need to be aware of the danger to clerics and lay workers who seek the company of minors and look to them for the emotional support only normal adult relationships provide. When a cleric or lay worker fears that another may be involved in such behaviors, he should normally speak first to the cleric or lay worker in question and also bring his concerns to the Metropolitan or Diocesan Bishop.

B. Information Regarding Sexual Misconduct With a Minor Provided by a Cleric Himself.

If a cleric himself discovers or determines that he is having or has had trouble with child abuse or other misconduct, the Archdiocese strongly encourages him to come forward and talk to the Metropolitan or Diocesan Bishop about his difficulties.

1. In an instance where a cleric comes forward, the Archdiocese will assist him in seeking the help he needs and will do everything possible to support him.
2. In cases where the cleric has come forward with an admission of abusive behaviors, the Archdiocese will immediately contact any victims and offer pastoral assistance and appropriate counseling.

C. Response to Accusations of Child Abuse or Sexual Misconduct with Minors by a Cleric or Lay Worker.

It is always a tragedy when a cleric or lay worker is accused of child abuse, and the Archdiocese is very much aware of the need to treat all involved in such incidents with candor, fairness and dignity. Our concern must always be for the victims, for the cleric or lay worker involved and for the pastoral care of the parish.

1. Anonymous allegations, unless they are clearly frivolous, are presented to the cleric or lay worker. This is for the cleric's or lay worker's own protection in case such allegations are reported to the police. Anonymous complaints will be investigated to the extent reasonably possible. Anonymous complaints not capable of investigation will be closed with the notation that a follow up investigation was not possible and the reasons why it was not possible.
2. Allegations that are reported to the civil authorities by the person making the complaint will lead to an investigation by police or sheriff detectives. It is recommended that the cleric or lay worker secure an attorney for guidance. It is expected that the cleric or lay worker will cooperate fully with the investigation.
3. If an allegation is made against a cleric or lay worker the committee appointed for this purpose will investigate it as quickly and as thoroughly as possible.
 - a. The Archdiocese will make every effort to be solicitous to the needs of the accused cleric in order to see that he gets the personal support he needs during a very

difficult time.

- b. The Archdiocese will make every effort to reach out to the minor(s) involved and to their families and assist them in a pastoral way.
4. The investigation will be handled according to the procedure described in Article II for cases of alleged sexual misconduct with an adult.
5. If there is evidence indicating a problem, the Archdiocese will ask the cleric or lay worker to undergo a psychological evaluation and will work with the therapists to determine the best course for his future.
6. It is the policy of the Archdiocese that if a cleric or lay worker is involved in sexual misconduct, he is financially responsible for the counseling or appropriate treatment for the person(s) involved.
 - The victim and his or her family shall be offered appropriate help that may include assistance for counseling and/or spiritual help. The particular psychological and spiritual needs of each person affected will vary and will be respected accordingly. The Archdiocese will assist in covering the cost of such help and will seek reimbursement from the cleric or lay worker.
7. If there are criminal charges involved, the Archdiocese will ask the cleric or lay worker to contact a criminal attorney and will be willing to assist the cleric or lay worker in seeking such counsel. The cost of such legal assistance is borne by the cleric or lay worker. However, if necessary, the Archdiocese may, at its discretion, loan the cleric or lay worker the money to secure a criminal attorney.

D. Possibility of Continuing in or Return to Ministry Following Admission or Discovery of Guilt.

In the case of both a cleric and lay worker, there is no possibility of continuing in or returning to ministry. In the case of a cleric, the Archdiocese will immediately initiate appropriate canonical procedures.

Exhibit A

SEXUAL MISCONDUCT AWARENESS INDICATORS

In the course of any pastoral relationship with others, a cleric or lay worker occupies a position of actual and/or perceived power, making the relationship inherently unequal as between that person and the other with whom he or she is relating. Accordingly, it is the responsibility of the cleric or lay worker to maintain the propriety of conduct, including sexual conduct, with respect to all such relationships with others. Essential to fulfilling this responsibility is the necessity that the role boundaries which define the pastoral/professional relationship remain sharp and clear at all times. When the role boundaries and role definitions

between the parties to the relationship begin to blur, or are crossed, the chances of a sexual misconduct incident are greatly increased. There are, however, some recognized behavioral indications that often signal that the role boundaries are beginning to blur. When one or more of these behavior patterns is present, the cleric or church worker should be on the alert and highly sensitive to a greatly increased potential for encountering conditions and an environment in which sexual misconduct and allegations of sexual misconduct are more likely. If recognized, such behavior patterns indicate that some action needs to be taken to re-establish the role boundaries. Clerics and lay workers, therefore, should be aware of these indicators, and watch for them in their own behavior, *and for indications of them in the behavior of those with whom they have a pastoral/professional relationship*. If observed, the cleric or lay worker must immediately take whatever corrective steps necessary to clarify and re-establish the appropriate role boundaries, which may include the possibility of terminating the pastoral/professional relationship.

1. Wanting to spend time alone together, especially if engaged in activities which are not, or only tangentially, related to the purpose of the pastoral/professional relationship.

2. Seeking to meet outside of normal office hours and/or away from the office, when not required by an occasional emergency or extreme conditions. When there is an occasional emergency or extreme condition, such meetings should always be in a public place, open to the view of others; the cleric or lay worker should ensure that some third party is nearby; and everyone should arrive and leave the meeting place alone. **UNDER NO CIRCUMSTANCES SHOULD ANY CLERIC OR LAY WORKER EVER MEET WITH A CHILD OUTSIDE OF PUBLIC VIEW**; and if at all possible, a third party adult should always be present.

3. The meetings or sessions run longer and/or the frequency of them increases. It is wholly appropriate and good practice to establish a specific schedule of meeting frequency (suggested: no more than once per week) and duration (suggested: no more than one hour) before the first meeting, or as the first item of business at the first meeting. Once established, this schedule should be followed, with variances only in cases of unavoidable necessity.

4. Concern with or awareness of own appearance, or that of the other person, beyond normal desire to be neat and clean, especially if such awareness involves sexual feelings, or has sexual overtones. A realization that one is dressing in a particular manner, choosing what to wear or not to wear, based to any degree on the preferences of the other can indicate that a romantic or sexual attraction is forming toward the other person.

5. Seeking to please the other person. Behavior which has as its motivation the desire to please another can take many forms, such as dressing to please the other, as discussed above, or offering praise or compliments. The critical element involved in this indicator is the motivation for the behavior. Whatever the behavior, if the motivation is to elicit the approval of the other or to please the other, there is a danger that the role boundaries are not clear and/or being properly maintained.

6. Seeking to maintain secrecy with respect to the relationship, or some aspect(s) of it. The desire to hold all, or part of the relationship secret is a strong indication that there is something decidedly not right about it which needs to be hidden to avoid disapproval on the part of those who may discover the secret.

This indicator may be especially important to unmarried persons. The church environment is, by its nature, social. Accordingly, it would be realistic to presume that occasionally a social relationship between an unmarried parishioner and an unmarried lay worker may, at some point, become a romantic relationship. It is critical to realize, however, that the roles of pastoral/professional caregiver and party to a romantic relationship are totally incompatible and that any attempt to maintain both roles, by definition, crosses the role boundaries of both. Moreover, given the inherent inequality of the pastoral/professional relationship, it is not proper that a lay worker seek, or permit, a romantic relationship with one with whom he or she is, or has been, engaged in a pastoral/professional relationship.

In those cases in which a romantic relationship arises from a normal social relationship, it is important that the principle of open honesty be maintained at all times, beginning with the parties as soon as they realize that a romantic attraction for one another has begun to form. The parties should, at this time, talk openly with one another regarding the relationship and the boundary difficulties that it involves. If such a conversation is difficult, or impossible for one or both of the parties, this would be, in itself, an indication that the relationship is suspect. The parties must seek immediate counsel with the parish priest or another trusted cleric, from whom they may jointly receive appropriate pastoral care.

7. A lessening of clarity as to whose emotional needs are being met. It is likely that the role boundaries have become blurred when the cleric's or lay worker's problems and concerns begin to become the topic of discussion, especially when they involve sexual, or marital matters. This indicator may also take the form of an awareness of feeling really "good," energized, "up," needed, effective, or important because of the pastoral/professional relationship with the other person.