

Protocol No.: 2019-062

# Archdiocese of Agaña Policy on the Protection of Children and Young People from Sexual Abuse

## ***Introduction***

The Archdiocese of Agaña commits itself to addressing the problems of sexual abuse by clergy, employees and volunteers and seeks to implement fully the *Charter for the Protection of Children and Young People* (hereafter, “Charter”) and *The Essential Norms for Diocesan/Eparchial Policies Dealing with Allegations of Sexual Abuse of Minors by Priests and Deacons* (hereafter, “Essential Norms”). Under this policy, when an allegation of sexual abuse of a minor is raised, the Archdiocese of Agaña will respond promptly and objectively and will institute appropriate remedial action in accordance with the Charter and Essential Norms.

## ***The Charter***

The Archdiocese of Agaña has adopted the *Charter for Protection of Children and Young People* as promulgated by the United States Conference of Catholic Bishops in June of 2002 and amended in 2011. The bishops acknowledged that the Church in the United States is experiencing a crisis without precedent in our times. The sexual abuse of minors by some priests and bishops, and the way in which the bishops addressed these crimes and sins, have caused enormous pain, anger, and confusion. Innocent victims and their families have suffered immensely. The bishops have committed themselves to take responsibility for dealing with this problem strongly, consistently, and effectively in the future.

The loss of trust becomes even more tragic when its consequence is a loss of the faith the Church has a sacred duty to foster. The bishops adopted the words of St. John Paul II who said that sexual abuse of young people is “by every standard wrong and rightly considered a crime by society; it is an appalling sin in the eyes of God.” (Address to the Cardinals of the United States and Conference Officers, April 23, 2002)

In the Charter, the United States bishops pledged themselves to act in a way that manifests their accountability to God, to the people, and to one another. They committed to do all they can to heal the trauma that victims/survivors and their families are suffering and the wound that the whole Church is experiencing. They acknowledged their need to be in dialogue with all Catholics, especially victims and parents, regarding this issue.

In unity with the bishops of the United States, the Archdiocese of Agaña recognizes that sexual abuse constitutes one of the most serious breaches of trust in human relationships and that it can have devastating consequences for the victim and his/her family, the church community, and society at large.

### ***The Essential Norms***

The Archdiocese of Agaña has adopted the *Essential Norms for Diocesan Eparchial Policies Dealing with Allegations of Sexual Abuse of Minors by Priests or Deacons* (Essential Norms) promulgated by the United States Conference of Catholic Bishops in May 2006, and has established a policy for responding to all claims of sexual abuse by clergy, employees and volunteers. The *Archdiocese of Agaña Policy on the Protection of Children and Young People from Sexual Abuse*, as amended in 2019, implements the Essential Norms and supersedes all written and oral representations that are in any way inconsistent with it, and replaces all previous policies and guidelines, including that policy by the same name adopted October 18, 2017.

The Archdiocese created and revised this policy as a result of the pain, anger and confusion that has been caused to victims of sexual abuse by some priests, deacons or other church personnel. We want to restate once again, in union with the Bishops of the United States, our determination to “provide safety and protection for children and young people in our church ministries and institutions;” (Charter Preamble). Through this policy, we continue to seek to attain these goals:

- To alleviate the hurt and assist in the healing and reconciliation of victims of sexual abuse, and offer such care as we can.
- To ensure that justice is carried out in a timely way for all parties, including the accused.
- To assist a parish community in whatever way necessary as they experience the loss of a priest or deacon resulting from such an allegation.
- To provide a program of broad-based education to assure that clergy, administrators, staff and volunteers of the Archdiocese in its regions, vicariates, parishes, institutions, departments and other related entities will be familiar with the policy and its requirements.

- To educate clergy, administrators, staff, volunteers and parents about detection and prevention of sexual abuse of minors.
- To educate children and youth in proper and effective ways to protect themselves from sexual abuse.
- To define the proper actions when a complaint of sexual abuse of a minor is received and ensure a prompt response to each complaint.

***Sexual Abuse of a minor is defined*** as (1) a violation of the Sixth Commandment of the Decalogue<sup>1</sup>, committed by a cleric, employee or volunteer, with a minor below the age of eighteen years, or with an adult who habitually lacks the use of reason; (2) Sexual abuse of a minor includes sexual molestation or sexual exploitation of a minor and other behavior by which an adult uses a minor as an object of sexual gratification (Essential Norms) by a cleric, employee or volunteer; and (3) the acquisition, possession, or distribution by a cleric, employee or volunteer, of pornographic images of minors, for purposes of sexual gratification, by whatever means or using whatever technology.

***Clergy, employees and volunteers are defined*** as all bishops, priests, deacons, seminarians, religious brothers and sisters, deacon candidates, employees and volunteers

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<sup>1</sup> Sexual abuse has been defined by different civil authorities in various ways, and these norms do not adopt any particular definition provided in civil law. Rather, the transgressions in question relate to obligations arising from divine commands regarding human sexual interaction as conveyed to us by the sixth commandment of the Decalogue. Thus, the norm to be considered in assessing an allegation of sexual abuse of a minor is whether conduct or interaction with a minor qualifies as an external, objectively grave violation of the sixth commandment (USCCB, *Canonical Delicts Involving Sexual Misconduct and Dismissal from the Clerical State*, 1995, p.6). A canonical offense against the sixth commandment of the Decalogue (CIC, c. 1395 §2; CCEO, c. 1453 §1) need not be a complete act of intercourse. Nor, to be objectively grave, does an act need to involve force, physical contact, or a discernible harmful outcome. Moreover, "Imputability [moral responsibility] for a canonical offense is presumed upon external violation ... unless it is otherwise apparent" (CIC, c. 1321 §3; CCEO, c. 1414 §2). Cf. CIC, canons 1322-27, and CCEO, canons 1413, 1415, and 1416. (Cf. Essential Norms - Preamble)

"If there is any doubt whether a specific act qualifies as an external, objectively grave violation, the writings of recognized moral theologians should be consulted, and the opinions of recognized experts should be appropriately obtained (*Canonical Delicts*, p.6). Ultimately, it is the responsibility of the diocesan bishop/eparch, with the advice of a qualified review board, to determine the gravity of the alleged act:" (Cf. Essential Norms. footnote 2)

of the Archdioceses of Agaña. Additionally, this policy applies to all parishes, schools, departments, programs and ministries operating under the authority of the Archbishop of Agaña.

**I. *Responding to Allegations of Abuse:***

- A. To carry out this policy, the Archbishop of Agaña will appoint a Delegate to coordinate and implement this policy. To assist the Delegate, a Victim Assistance Coordinator working with professional counselors will receive initial calls, obtain necessary background information and coordinate assistance to victims.
- B. All allegations of sexual abuse of minors and criminal sexual conduct involving clergy, employees or volunteers will be reported consistent with ***Mandated Reporting Requirements***, section V, below. Subsequent to compliance with mandated reporting requirements by a cleric, employee or volunteer, any communications between the Archdiocese and civil officials will be made by the Delegate with legal counsel as appropriate. In addition, all provisions of civil law will be observed regarding the reporting of abuse or neglect of minors. In this regard, cooperation of Archdiocesan officials with civil authorities is required.
- C. The Archbishop of Agaña will maintain an Independent Review Board (the “Board”) to assist in the implementation of this policy. The Board will serve as a confidential consultative body to the Archbishop of Agaña. The composition and functions of the Board are set out specifically in the related and complementary policy, *Archdiocese of Agaña Policy for the Independent Review Board*.
- D. Specific functions of the Board shall include:
  1. To make initial assessment of allegations of sexual abuse of minors and subsequent recommendations to the Archbishop of Agaña regarding credibility of the allegations. (Cf. cc. 1717-1719) In the event civil authorities are unable or unwilling to provide information and documentation, or in other special circumstances, the Archdiocese may engage the services of an independent investigator to provide a report to the Board.  
In this initial assessment, the Board shall consider an allegation to be credible if it has a semblance of truth, meaning it appears to be or could possibly be true.<sup>2</sup>

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<sup>2</sup> Cf., canon 1717 §1. Whenever an ordinary has knowledge, which at least seems true, of a delict, he is carefully to inquire personally or through another suitable person about the facts, circumstances, and imputability, unless such an inquiry seems entirely superfluous.

2. To recommend to the Archbishop of Agaña possible restriction of ministry following Board assessment of an allegation of sexual abuse involving a minor.
3. To consult with the Archbishop's Delegate regarding any and all possible claims of inappropriate sexual behavior, including boundary issues, involving a minor and any clergy, employee or volunteer of the Archdiocese of Agaña. The Board may offer advice regarding relevant diocesan policies or procedures.
4. Every two years, to review this policy and its procedures for dealing with allegations of sexual abuse of minors. The Board will make recommendations to the Archbishop of Agaña for any proposed change or modification.

## **II. *Actions to be taken:***

- A. When an abuse allegation has been made, the Victim Assistance Coordinator or the Delegate will promptly contact the complainant to obtain information required for a report to civil authorities and offer appropriate assistance to the alleged victim.
- B. When an allegation of sexual abuse of a minor by a cleric is determined to have a semblance of truth by the Archbishop upon recommendation of the Board, or by some other means, and following the procedures of cc. 1717-1719, the alleged offender will be relieved of his ministry and functions. The Congregation for the Doctrine of the Faith ("CDF") shall be notified by the Archdiocese and its instruction(s) followed.
- C. Any priest or deacon relieved of his ministry and functions will continue to receive remuneration pending resolution of the allegation and the outcome of the process. He will be prohibited from the exercise of any public ministry; he will also be prohibited from wearing clerical attire or publicly representing himself as a priest or deacon. In addition, a specific residence may be imposed or prohibited. During this time, the Archbishop of Agaña or the Delegate may grant permission for an accused priest or deacon to exercise limited public ministry for a specific occasion (e.g. death of a parent). The accused priest or deacon may be asked to undergo appropriate medical and psychological evaluation, and will be encouraged to retain civil and canonical counsel. When necessary, the Archdiocese will assist the accused in obtaining canonical counsel.
- D. When an allegation of sexual abuse of a minor by a bishop or archbishop is received by the Delegate, the Delegate must present the case to the Holy See promptly, with due documentation, through the apostolic delegate in Pacific

Oceania and await further instructions from the Holy See.

The Delegate must keep the moderator of the Curia, the chancellor and the presbyteral council informed.

- E. When a credible allegation of sexual abuse of a minor is made against a member of a religious community residing or serving in the Archdiocese, pending the resolution of the allegation or the outcome of the process, the following action will be taken:
  - 1. The Delegate will contact the major religious superior.
  - 2. The Archbishop of Agaña or his Delegate will immediately remove any faculties the accused member may have been granted.
- F. When the accused is a non-cleric employee or volunteer, the administrator who has authority over the accused will place the employee on leave or suspend the services of a volunteer.
- G. For serious reasons (e.g. priest, deacon or religious has been criminally charged or has acknowledged the abuse), the Delegate, in consultation with some members of the Board, shall address a situation on a temporary basis, and the matter will then be reviewed by the Board at the next meeting.

**III. *If abuse is admitted or established after an appropriate investigation and canonical process:***

- A. The processes provided in canon law will be observed (Cf. Canonical Delicts Involving Sexual Misconduct and Dismissal from the Clerical State, 1995; cf. Letter from the CDF, May 18, 2001; the Essential Norms and subsequently issued documents).
- B. These provisions may include a request that the offending priest or deacon be permanently removed from public ministry or for a dispensation from the obligation of holy orders and the loss of the clerical state; or a request by the Archbishop of Agaña for dismissal from the clerical state without the consent of the priest or deacon.
- C. If the penalty of dismissal from the clerical state is not applied after consultation with the CDF, the priest or deacon offender will be required to lead a life of prayer and penance. He will not be permitted to celebrate Mass publicly or exercise any public ministry, wear clerical attire, present himself publicly as a priest or deacon, or to be alone with minors or other possible victims in an unsupervised setting.

#### **IV. *Non-Credible Accusations:***

When an accusation is determined to be not credible, every possible step will be taken to restore the good name of the accused priest or deacon. Such means may include, without limitation, notices to the media, general public and Catholic community, as well as the communities and institutions where the accused has served. Because of the uniqueness of each allegation, it is not always possible to specify one approach that will fit all situations. After three such non-credible reports filed against the same cleric, employee or volunteer, the Delegate will notify the archbishop. The archbishop or his designee will contact the accused person, advise him of the non-credible reports, and take action as he deems appropriate.

#### **V. *Addendum:***

- A. The Archdiocese will continue to reach out to victims of sexual abuse for healing and reconciliation through a Victim Assistance Coordinator. This outreach shall include counseling, spiritual assistance and, with the cooperation of others, developing support groups where appropriate. The Delegate, in coordination with appropriate Archdiocesan departments, will develop and maintain these services. The Delegate will provide the Board with an annual report describing these services.
- B. The Archdiocese will establish safe environment programs, and cooperate with parents and community leaders to provide education and training to all church personnel, parents and other interested parties about ways to develop and maintain a safe environment for children. See, *Safe Environment Program*. The Safe Environment Office shall be audited annually and shall provide the audit report to the Board of its work in this area.
- C. Utilizing the resources and support of law enforcement and other community agencies, the Archdiocese and its parishes and institutions will evaluate the criminal history background of all Archdiocesan and parish personnel and volunteers who have regular contact with minors in the course of their work, consistent with the *Safe Environment Program*. The Human Resources Department of the Archdiocese will implement this directive.
- D. The Vocations Director and the Director for the Ministry and Life of Permanent Deacons shall make available to the Board for annual comment and review the screening process that is utilized for candidates for priestly and diaconal ministry.
- E. Whenever a priest or deacon from another arch/diocese or religious community is proposed for an assignment or residence in the Archdiocese, the referring bishop or major superior will submit for review, before such an

assignment is made, an accurate description of the cleric's record, including anything in his background or service that might raise any questions about his fitness for ministry. An annual report shall be developed and made available to the Board through the Vicar of Clergy, identifying such assignments, and verifying that appropriate credentials have been furnished.

- F. The Archdiocese will deal as openly as possible with the media and those parishes and institutions involved. The Director of Communications or the Delegate shall be the Archdiocesan media spokesperson and media contact. The Safe Environment Office will assist parishes in dealing with the issues of sexual abuse of minors by priests and deacons or members of a religious community. Where schools or religious education programs are involved, the assistance of the Superintendent of Education will be provided and coordinated through the Safe Environment Office.
- G. The Archdiocese, through the office of the Moderator of the Curia, shall maintain a current listing of priests eligible to help minister in parishes and institutions, as well as a list of those currently prohibited or restricted.
- H. Clergy, employees and volunteers are expected to cooperate in any investigations involving civil authorities and comply with legally established reporting requirements, as set out below.

## ***VI. Mandated Reporting Requirements***

### **A. Reporting to the Civil Authorities**

The Child Protective Act of Guam, Title 19 Chapter 13<sup>3</sup> requires that "any person who, in the course of his or her employment, occupation, or practice, comes into contact with children" and has reason to suspect that a child has been abused or neglected must make a report to the civil authorities of Guam. The obligation to report under this Act is broader than sexual abuse alone and requires that any suspected abuse or neglect of a child must be reported.

Accordingly, all archdiocesan clergy, employees and volunteers who become aware of actual or suspected abuse or neglect of minors must make a report to civil authorities as follows:

1. Immediately report the suspicions or allegations by phone or in person to:
  - a. Guam Child Protective Services (CPS) at (671) 475-2653 or 475-2672; or
  - b. Guam Police Department (GPD) at (671) 472-8911 or 475-

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<sup>3</sup> <http://www.guamcourts.org/CompilerofLaws/GCA/19gca/19gc013.PDF>



8508; and

2. Within 48 hours, complete the Child Abuse and Neglect Referral (Part I) (Attachment 6) and deliver the form to Child Protective Services.

**B. Reporting to the Archdiocese of Agaña:**

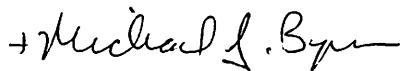
If the person suspected of abuse or neglect is a clergy member, employee, or volunteer of the Church, after reporting to the Child Protective Services, the reporting person should immediately contact the Archdiocese of Agaña Delegate. If the delegate is not available, contact the Safe Environment Coordinator. Within 48 hours, provide the Delegate a copy of the completed Child Abuse and Neglect Referral (Part I).

The Delegate may be contacted at:

- Hotline Phone No.: (671) 562-0039
- Address: Archdiocese of Agaña  
196 Cuesta San Ramon, Ste. B  
Hagatña, Guam 96910
- Safe Environment Coordinator: (671) 562-0029

**VII. Approval**

Approved and given at the chancery of the Archdiocese of Agaña on the first day of April in the year of our Lord, two thousand nineteen.

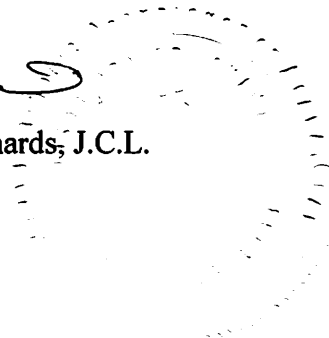


Most Rev. Michael J. Byrnes, S.T.D.  
Coadjutor Archbishop of Agaña

Attested by:



Fr. Ronald S. Richards, J.C.L.  
Chancellor





MEMORANDUM FOR THE DIRECTOR, NSA

DATE: 10/10/54

SUBJECT: [Illegible]

REFERENCE:

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