

SEXUAL MISCONDUCT POLICY

803 Sexual Misconduct

Sexual misconduct by personnel of Catholic Charities is contrary to Christian principles and is outside the scope of the duties and employment of all personnel of Catholic Charities. All personnel must comply with applicable state and local laws regarding incidents of actual or suspected sexual misconduct, and with the following policies.

This document is intended to establish procedures in an effort to prevent sexual misconduct by personnel of Catholic Charities and the resulting harm to others, and to provide guidance to the personnel of Catholic Charities on how to respond to allegations of sexual misconduct if any do occur. It intends to implement the Sexual Misconduct Policy promulgated by the Diocese of St. Cloud.

803.1 Definitions: For purposes of this policy only:

803.11 "Sexual Misconduct" means any sexual conduct of Catholic Charities personnel which is:

803.111 unlawful as described by the laws of the State of Minnesota or in section 803.3 of these policies, or

803.112 as defined in rules of regulatory agencies, or

803.113 contrary to the Code of Ethics (#9, 10, and 11) of Catholic Charities.

803.12 "Personnel" includes all personnel of Catholic Charities including Board of Directors; employees; interns; volunteers and consultants who have direct contact with children, the very elderly, the physically or mentally infirm, those who counsel others, and generally those who work with people who are less capable of protecting themselves.

803.2 Policy Distribution: This policy is to be distributed to all personnel of Catholic Charities. A signed Acknowledgement of Receipt (form 803.51), of this policy is to be made by all personnel (see 803.21) of Catholic Charities. The form shall be kept on file in the agency.

803.21 A copy of the form signed by incardinated priests, permanent deacons and transitional deacons, brothers, women religious, or clerics from other jurisdictions must be filed with the Vicar General of the Diocese.

803.3 Applicable Law: This policy is intended to address violations of civil and criminal law. A violation of the criminal law can subject the perpetrator to a prison sentence and/or a monetary fine. It can also be the basis for a civil suit for monetary damages.

The law changes from time to time by enactment of amendments to statutes and judicial interpretations. Because of this, it is incumbent upon all personnel to familiarize themselves with such changes that may occur. It is not possible to set out all of the laws in this document, but assistance will be given to all

personnel having questions or seeking knowledge concerning the law.

The Minnesota Criminal Sexual Conduct Code defines the various types of conduct that violate this law. Three of the primary areas of concern are:

803.31 Sexual Abuse: (as it applies to adult/child or vulnerable person interactions) is the subjection of a child or vulnerable adult, by any person responsible for their care, to any sexual act which is a violation of the Minnesota Criminal sexual conduct code.

803.32 Sexual Exploitation: (as it applies to any formal helper/helped relationship) is any kind of sexual interaction between counselor and client whether initiated by either counselor or client.

803.33 Sexual Harassment: The Minnesota Human Rights Act (Subd. 10A) defines sexual harassment as follows:

"includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact or other verbal or physical conduct or communication of a sexual nature when

- 1) submission to that conduct or communication is made a term or condition, whether explicitly or implicitly, of obtaining employment, public accommodations or public services, education, or housing;
- 2) submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's employment public accommodations or public services, education, or housing; or
- 3) that conduct or communication has the purpose or effect of substantially interfering with an individual's employment, public accommodations or public services, education, or housing, or creating an intimidating, hostile, or offensive employment, public accommodations, public services, educational, or housing environment; and in the case of employment, the employer knows or should know of the existence of the harassment and fails to take timely and appropriate action."

803.4 Education: Education, alone, cannot shape mature attitudes and behavior, nor will it change inappropriate sexual behavior. Each adult must be responsible for his or her sexual growth and maturity. To support this responsibility Catholic Charities, may, from time to time, arrange programs which include knowledge or training applicable to these areas. The following personnel must attend designated educational programs concerning sexual misconduct involving children or others;

803.41 Personnel in a supervisory capacity in particularly high risk areas, such as those who work with children, the very elderly and the physically or mentally infirm, those who counsel others, and generally those who work with people who are less capable of protecting themselves.

803.42 Other personnel as deemed necessary by the Executive Director of Catholic Charities and/or the Vicar General of the Diocese.

803.5 Background and Reference Checks: All personnel of Catholic Charities (see 803.12) are required to

complete a background check.

803.51 A Background Questionnaire Concerning Sexual Abuse (form 803.51) is to be completed by all personnel listed in 803.12. Completed questionnaires shall be reviewed by the appropriate supervisor/head of the department or program and must be placed on file in the agency. A copy of the questionnaire by personnel listed in 803.21 is to be forwarded to the office of the Vicar General.

803.52 The Minnesota Legislature has enacted a law on sexual exploitation by psychotherapists (chapter 372). The law requires employers of persons involved in professional treatment, assessment, or counseling of a mental or emotions illness, symptom, or condition ("psychotherapy") to make inquires of former employers when previous employment involved "psychotherapy" as defined above. In addition, rules of the Minnesota Department of Human Services, and the various county agencies with whom we contract, require that we make this inquiry regarding prospective employees who work with clients who may be considered vulnerable because of physical or mental condition or because of the aging process. Catholic Charities has instituted a procedure to comply with this law; 509.4, Sexual Exploitation by Psychotherapists.

803.53 In addition, the Minnesota Department of Human Services has promulgated Rule 11 to establish procedures and standards for background studies of individuals affiliated with programs subject to licensure under Minnesota Statutes, chapter 245 A, to protect the health, safety, and rights of persons served by those programs. Catholic Charities fully complies with the requirements of Rule 11.

803.6 Obligation to Report: Any personnel of Catholic Charities who knows or has reason to know of an incident of sexual misconduct by any personnel of Catholic Charities or an employee who believes he/she has been a victim of sexual harassment shall comply with any applicable reporting or other requirements of State and local laws, and shall report as follows:

803.61 A verbal report of the incident shall be made immediately to the supervisor and assigned administrative staff. This shall be followed immediately by a written report with a copy to the Executive Director of Catholic Charities. A copy of the official reporting form accompanies this policy.

803.62 Employees of programs which serve vulnerable adults and children are also required to comply with the Department of Human Services rules. Specific procedures are outlined in the program, and are posted in residential facilities.

803.63 The Executive Director of Catholic Charities shall notify the Vicar General of the Diocese, of all reported incidents.

803.7 Investigation of Incident Reports: Each reported incident will be immediately investigated, with care taken not to interfere with any criminal investigation or investigation by a County Social Service Agency, and with a high level of Christian care, concern and confidentiality for the alleged victim, the family of the alleged victim, the person reporting the incident, and the alleged perpetrator.

803.71 For accusations against Catholic Charities personnel, an investigation will be made by the Vicar General of the Diocese of St. Cloud or his designate in order to determine the validity of any alleged claim.

803.72 If the alleged claim is substantiated or appears to be substantiable, the alleged perpetrator may be relieved of all responsibilities in Catholic Charities, and placed on administrative leave pending the outcome of the internal and any outside investigation.

803.73 Appropriate records will be kept by Catholic Charities of each incident reported and of the investigation and the results thereof.

803.74 Notification of the incident shall be given to insurers in accordance with the terms of applicable insurance policies.

803.75 When accusations are made of sexual misconduct involving personnel of Catholic Charities, contact with the alleged victim and/or family will be promptly initiated, if appropriate, by personnel, approved by the Bishop. Medical, psychological and spiritual assistance may be offered, in the spirit of Christian justice and charity, but legal advice must first be obtained.

803.76 Any media contact or inquires regarding an incident of sexual misconduct should be directed to the Executive Director of Catholic Charities or designee. The Executive Director shall consult with the Vicar General of the Diocese prior to any media contact.

803.77 If any cleric (see 803.21) is accused of sexual misconduct, the investigation shall be subject to the Sexual Misconduct Policy of the Diocese of St. Cloud.

803.8 Action Where Guilt Determined: Any personnel of Catholic Charities who admits to, does not contest, or is found guilty of an incident of sexual abuse or exploitation (see 803.31, 803.32) and sexual harassment (803.332) shall be immediately terminated from employment and any position of responsibility with Catholic Charities.

803.10 False Accusation and Unsubstantiated Claims: There is always the possibility of false accusations or unsubstantiated claims made for whatever reason. It is important for all personnel to know that civil law provides penalties for the crime of falsehood in which individuals become victims of false denunciation and calumny. Any employee who makes a report in good faith is protected from disciplinary action in any way by Catholic Charities.

803.10 Amendments: Any amendment of this policy shall be approved by the membership of the Catholic Charities corporation.

Background Questionnaire Concerning Sexual Abuse

The purpose of the background questionnaire is to protect clients served by Catholic Charities and to assure to the extent possible that sexual misconduct does not occur.

1. Have you ever been convicted of a crime of sexual abuse, physical abuse, sexual harassment or exploitation?

Yes ___ No

If yes, give an explanation of the conviction and the date, place, and other details of the legal proceedings.

2. Has any allegation or civil or criminal complaint ever been made against you relating to sexual abuse, sexual harassment, or exploitation or physical abuse?

Yes ___ No

If yes, give a short explanation of the allegation or complaint - date, nature, and place of the incident leading to the complaint, where the complaint was filed, and the deposition of the complaint.

3. Have you ever terminated your employment or had your employment terminated for reasons relating to allegations of sexual abuse or physical abuse by you, or relating to civil or criminal complaints against you?

Yes ___ No

4. Have you ever received treatment, physical or psychological, for reasons involving physical or sexual abuse by you?

Yes ___ No

Signed _____ Date

Position

Reviewed by: _____ Date

To be completed after hire:

Sexual Misconduct Policy Catholic Charities of the Diocese of St. Cloud

Acknowledgment of Receipt

I, hereby acknowledge, that I received a copy of the Sexual Misconduct Policy of Catholic Charities of the Diocese of St. Cloud, and that I've read it, understand its meaning, and agree to conduct myself in accordance with the Policy.

Signed: _____ Date: