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Sexual Ethics Policy

Letter from the Bishop

Dear Brothers and Sisters In Christ,

In the past years, an affirmative and hopeful development in the Episcopal Church is to make our churches as free as possible of sexual abuse and misconduct, and whenever such abuse or misconduct occurs to confront it honestly and quickly so that the healing can begin.

To that end, this manual, Policies and Procedures of the Diocese of East Carolina Concerning Allegations and Incidents of Sexual Misconduct, is extended to the laity and clergy of our Diocese.

I endorse this revised manual and require adherence to its spirit and its standards, by myself and by all members of our Church. We simple must do all we can to make church a safe place for everyone and to respect the dignity of every human being.

In the glory of God, and for the people of God, we can do nothing less.

Faithfully,

Clifton Daniel, 3rd
Bishop of East Carolina

Theological Context

revised December 8, 2008

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I. Theological Context

Have always therefore printed in your remembrance, how great a treasure is committed to your charge. For they are the sheep of Christ, which he bought with his death, and for whom he shed his blood. The Church and Congregations whom you must serve, is his Spouse, and his body. And if it shall happen the same church, or any member thereof to take any hurt or hindrance by reason of your negligence, ye know the greatness of the fault, and also the horrible punishment that will ensue.

The Book of Common Prayer (1551)

The Church has always recognized that those who are set apart for ordained ministry bear a particular responsibility to pattern their lives according to Jesus example. Not only are bishops, priests and deacons regarded by the faithful and the world as examples of what Christians lives should be, but any moral offense by clerics is especially hurtful because it betrays that trust committed to them by the Church to nurture and care for every member. Cranmer words, in the 1551 Book of Common Prayer, are a forceful reminder of how serious is this responsibility.

Responsibility for patterning one's life after the example of Jesus Christ is not limited to ordained persons. In the Baptismal Covenant all persons vow to accept Jesus Christ as Savior and, among other things, to respect the dignity of every human being. In more concrete terms, we wish to ensure that the Church is maintained as a safe, secure place where care givers, teachers and leaders, paid and volunteer, ordained and lay persons, minister appropriately to the manifold needs and concerns in the church and in the world about us.

Sexual misconduct on the part of a clergy person as pastor, employer, teacher and religious leader is especially harmful to our Baptismal Community. Ordination is a sacrament that sets apart one among the baptized to gather the community, to teach and proclaim the message of the Gospel, to administer the sacraments and care for the people of God especially entrusted to him or her. Great authority, and therefore great responsibility, are conferred upon bishops, priests, and deacons. As those who are entrusted with power in the lives of the faithful, and bear a deep trust relationship to them, they must at times put the welfare of those they serve before their own. Abusing this power and violating this trust by sexual misconduct destroys the spiritual integrity of the ordained and cannot be tolerated.

All persons involved in incidents of sexual misconduct are in need of healing. Although the Bishop's role as overseer of the Diocese may restrain him/her from personally providing pastoral care to all parties in situations where there has been an allegation of sexual misconduct, the bishop will act to ensure that all persons are afforded pastoral care. The primary intent of this policy is not to protect the diocese, its clergy or others from litigation. Rather, it is an attempt to prevent the occurrence of sexual misconduct in the first place and to ensure that, where allegations of sexual misconduct are made, the response to any allegation or instances of sexual misconduct will be just and compassionate, as so may allow God's grace to work redemptively.

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This manual is intended to establish clear standards concerning sexual misconduct and, where allegations of such misconduct are made, to establish procedures which afford a full and fair hearing to persons making complaints, alleged victims (if not the person making the complaint) and to alleged offenders. Consistent with principles of fairness, persons accused of sexual misconduct shall be presumed to be innocent until the occurrence of misconduct has been established.

The Diocese of East Carolina joins with the National Church in making every effort to ensure that the Church is a safe place for all. Our policy and procedures for responding to allegations of sexual misconduct reflect our conviction that the consistency of uniform procedures ensures that all involved will be treated with compassion.

II. Policy Concerning Allegations and Incidents of Sexual Misconduct

It is the intent of this policy to cover or exceed all warranties required by the Church Insurance Corporation; and, to the extent that it does not, this policy statement is amended to include them.

Statement of Policy

The Diocese of East Carolina strictly prohibits sexual misconduct of any type by any ordained person, aspirant, postulant, candidate, or seminarian sponsored by or working in this Diocese, and by any lay employee or volunteer working in any capacity for the Diocese of East Carolina, any diocesan related institution or any parish or other congregation in the Diocese of East Carolina.

The Diocese of East Carolina strictly prohibits interaction with children and youth by anyone with a civil or criminal record of child abuse or who has admitted prior sexual abuse or anyone known to have a paraphiliac diagnosis (e.g. pedophilia, ephebophilia, exhibitionism, voyeurism, etc.) as defined by the American Psychiatric Association.

As a diocese, we recognize that sexual abuse, exploitation, and harassment are clear violations of the promise in the Baptismal Covenant to respect the dignity of every human being. It is the responsibility of church workers to do all they can to make the church a safe environment. Activities that are harmful to others physically, emotionally or spiritually are simply not permitted.

Definitions

Sexual misconduct means any of the following:

- (1) *Sexual Abuse* is sexual involvement or contact by a member of the clergy, other church employee or volunteer with a person who is a minor or who is legally incompetent. It is diocesan policy to make such reports immediately to the local Department of Social Services and to cooperate fully with law enforcement officials in investigating any allegations of sexual abuse, canonical responsibilities permit. Sexual abuse also includes those acts of a sexual nature as defined as criminal acts in Chapter 14 of the General Statutes of the State of North Carolina.
- (2) *Sexual harassment* includes, but is not limited to, sexually oriented humor or language, questions or comments about sexual behavior, unwelcomed or undesired physical contact, repeated requests for social engagements, or inappropriate comments about physical appearance or clothing. Sexual harassment may occur in a situation where there is an employer, mentor or collegial relationship, and includes harassment of aspirants, postulants and candidates and seminarians sponsored by or working in the Diocese of East Carolina.

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3) *Sexual exploitation* includes, but is 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 or she has a pastoral relationship.

Pastoral relationship is 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

**III. Diocesan Procedures for Responding
to Complaints of Sexual Misconduct**

Statement of Procedures

The process which follows as part and parcel of this policies apply to all clergy, lay employees and volunteers of the congregations and other bodies within this diocese.

A. Building Principles

This procedure is intended to acknowledge the following concerns:

- a. that all allegations, for the sake of the alleged perpetrator, the complainant (and the alleged victim if not the same) as well as the whole of the Christian community, shall be taken seriously;
- b. that every allegation that reaches the Bishop deserves a response from the Bishop;
- c. that the Bishop, by necessity, shall involve others in assessing and evaluating the substance of allegations;
- d. that the Bishop will employ these procedures in each instance of allegation unless the Bishop is absolutely persuaded that the allegation is obviously unfounded or of a trivial nature;
- e. that the Bishop holds both pastoral and disciplinary responsibilities;
- f. that a shared approach, involving legal, mental health and pastoral resources is desirable.
- g. that litigation by its very nature is a recourse available to anyone;
- h. that a uniform procedure intends that all cases will be treated with compassion and justice, as well as consistency;
- i. that the Bishop's pastoral concern is directed to both alleged perpetrators, as well as alleged victims, their families and the affected Christian community;
- j. that the Bishop may consult, in confidence, with any person so chosen to review issues and materials regarding any alleged incident(s) of sexual misconduct.
- k. that the Bishop should refrain from placing conversations regarding allegations within sacramental framework, but is well advised to guard the privacy of all individuals concerned with utmost care;
- l. that the Bishop may refer cases for further investigation under relevant canonical procedures when deemed appropriate.

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Procedures: Response Team & Notifications and Responses

B. Response Team

The Bishop will appoint both lay persons and clergy to serve on Response Teams. Individually or in teams, they may be called upon to investigate all complaints of clergy sexual misconduct referred to them, serve as the Bishop's liaison with complainants, or lead the process for healing in the congregation (as described below). No member of a Response Team will serve simultaneously as an advocate or liaison for an alleged victim and as an investigator of the complaint made by the person.

All Response Team members will have received training in the areas of case intervention and interviewing alleged victims, the accused and witnesses. Such training will be supervised by the Office of the Bishop.

Response Team members will not be assigned to investigate any complaint where their judgment or objectivity may be impaired by relationship to any of the parties to a complaint.

C. Notifications and Responses

1. All complaints of sexual misconduct shall be reported immediately to the Bishop.
2. If the complaint is against a lay staff worker, the head of the employing agency involved may be notified and will immediately notify the Bishop.
3. Complaints involving a violation of federal or state laws regarding sexual abuse of a minor or incompetent adult must be reported immediately to the local Department of Social Services as well as to the Bishop. The Bishop, Church officials or employees with knowledge of such alleged abuse, will cooperate fully with authorities, insofar as canonical responsibilities permit.
4. Within three working days after receiving a verbal or written complaint of sexual misconduct the Bishop will assign the complaint to a Response Team for investigation.
5. The Bishop's office will immediately notify the complainant(s) and the alleged offender that a complaint has been filed and assigned to a Response Team for investigation.
6. The Bishop will notify the Chancellor and/or Standing Committee, as appropriate, as well as appropriate insurance officials.
7. As soon as it is received, subject to the advice of the Chancellor, a copy of the written complaint will be given to the accused.

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8. The Bishop will immediately issue a pastoral directive to the alleged offender proscribing any contact with the complainant until after the Response Team has completed its investigation. The Bishop may recommend the accused obtain private legal counsel (not from the Chancellor's office or attorneys representing the parish).
9. The Bishop may, consistent with Title IV of the Canons of the Episcopal Church and with the advice of the Chancellor, place on leave of absence with pay the person who is the subject of the allegation during the investigation. This leave is without prejudice and does not imply the guilt or innocence of the person under investigation.
10. The Bishop, with the advice of the Chancellor, may prepare a written official statement to the congregation stating only the relevant information. No further official statements about the alleged incident will be made without the advice of the Bishop and/or the Chancellor.
11. The Bishop, or person(s) appointed by the Bishop, may meet with the vestry, congregation, and/or interim minister to assist the parish in responding to their crisis.
12. If the accused wishes the sacrament of penance or pastoral care, it is recommended that the accused obtain those ministries from someone other than from within the parish or from the Bishop's office. The Bishop will ascertain and address the pastoral care needs of the accused.
13. Reporting and notification requirements as contained in the diocese, parish or other liability policies shall be strictly followed.
14. The Bishop is advised not to:
 - a. Post bond for the accused;
 - b. Advance legal or other expenses;
 - c. Advocate for or rationalize the accuser's behavior;
 - d. Act as prosecutor of either the complainant or accused;
 - e. Express opinions during the investigation, but to speak only to known facts;
 - f. Admit liability, discuss or seek settlement;
 - g. Expect nor accept any quick cure of the accused; and,
 - h. Transfer the accused to another position where a similar offenses might be repeated.
15. Nothing in these procedures is intended to limit the discretion of the Bishop in assisting individuals to obtain appropriate care and treatment.

D. Investigation

1. The Bishop and the Response Team will meet with the complainant(s) within five working days of receiving notification of the complaint unless good cause exists for delay. The complainant(s) may be accompanied by a person of his or her choice. The purpose of this meeting is to advise the complainant(s) of the procedures which will be used in investigating the complaint, to introduce the members of the Response Team, and to provide information to the complainant(s) as to the policies and procedures of the Diocese.
2. The Bishop and the Response Team will meet with the accused for the same purpose as the initial meeting with the complainant(s). The accused may be accompanied by a person of his or her choice.
3. The Bishop will specify to complainant(s) and to accused appropriate guidelines for privacy. The complainant(s) and accused will be kept informed at all stages of the process and told of its outcome. Communication with the complainant(s) and the accused during the course of the investigation should be through one or more designated members of the Response Team, and not through the Bishop.
4. Prior to undertaking the investigation of the complaint, the Response Team will obtain from the complainant(s) a written statement including: dates, times, location, and specific details of the alleged misconduct. The statement is to include names, addresses and telephone numbers of all complainant(s) and witness. The complainant(s) will be asked to sign and verify the written statement and will be furnished a copy of the signed statement.
5. The Response Team will meet with all witnesses and such other persons the Team consider appropriate. If desired, any party or witnesses to the alleged misconduct will be permitted to submit a statement in writing. The accused will be afforded an opportunity to insert into the record a written statement. The Bishop will not participate in the investigation except as set out in these procedures.
6. The Bishop may arrange for a Professional Rehabilitation Assessment of the accused, by a person with appropriate professional credentials and experience approved by the Church Insurance Company. Neither the request nor the fact of an evaluation implies a finding or presumption of guilt or innocence. The results will be furnished to the Bishop. The Diocese may pay for the evaluation.
7. The Bishop may, after investigation, take disciplinary measures, including the initiation of proceedings in accordance with canon law.

E. Reports and Recommendations

The Response Team will make at least a preliminary, written report and recommendations to the Bishop within fourteen (14) days of their receiving the initial complaint. The Response Team will move as swiftly as possible toward completion of a final report and recommendations to the Bishop. The final report will include the original written statements of the complainant and all written statements submitted by other persons.

F. Disposition

The Bishop may accept, reject or request further investigation or clarification of the Response Team's report and recommendations. In the event of rejection, the Bishop will attach to the report a statement of his or her reason for rejection.

Upon receipt of the Response Team's recommendation, the Bishop and such other persons of his or her choosing may, at the Bishop's discretion, meet with the complainant(s) and the accused (each may be accompanied by an individual of their choice), either jointly or separately, or may appoint a personal representative for this purpose. The Bishop will immediately notify the wardens, if the accused serves a parish, and begin the process of healing in the parish. The Bishop, or the Bishop's representative, may meet with the congregation in open forum.

1. Unsubstantiated Complaints

a. If the Response Team recommends that the allegation be found unsubstantiated and the Bishop adopts the recommendation the Bishop shall, if deemed appropriate, begin a process of individual or corporate healing. The Bishop will meet with the complainant and the alleged offender, (each may be accompanied by an individual of their choice), to discuss what steps may be necessary to make known the determination. The accused will be afforded an opportunity to clear his or her name and to insert (if not already done) into the file a statement of innocence. The Bishop may exonerate the accused publicly or privately.

2. Substantiated Complaints

a. If the allegation is substantiated and the Bishop adopts the Response Team's recommendation, the Bishop will immediately inform the victim(s) and the accused. The Bishop may impose disciplinary action including, but not limited to, therapeutic and law enforcement referrals, inhibition of ministerial privileges and/or initiation of deposition proceedings. Any disciplinary action will be in accordance with the Canons of the Episcopal Church.

b. The Bishop will meet with the victim and the victim's family, if appropriate, to express the Church's regret and discuss how the Church may assist them.

c. The Bishop or a representative appointed by the Bishop will meet with the offender. The accused may be accompanied by another person if the accused desires. The

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Bishop or a representative will discuss what disciplinary actions the Bishop intends to take, and when indicated after assessment, refer the accused for appropriate therapy.

d. The Bishop will ensure that all recommended actions are being pursued by the accused and will receive periodic reports from the providers of therapeutic services, without clinical details, concerning general progress and recommendations for further services.

e. In making any decision about professional rehabilitation and future employment of the accused, the Bishop will be guided by the professional rehabilitation assessment of a credentialed professional approved by The Church Insurance Company. In many cases, significant involvement in personal psychotherapy and employment outside the Church will be required before any deployment in the Church will be considered. Public acknowledgment of the misconduct, including exoneration of and restitution to the victim, will normally be required.

f. The Bishop, or the Bishop's representative, will inform the victim(s) that actions are being taken, without specifically disclosing the clinical content.

g. If the accused cleric is not willing to pursue the courses of therapeutic action recommended, he/she will continue under temporary inhibition while other alternatives are considered. Failure to comply within a reasonable time will be grounds for further disciplinary action.

h. The Bishop may invoke any of several sanctions, as deemed appropriate:

Caution: In a case where conduct has been unwise behavior, but not necessarily unethical, the Bishop may give a verbal caution to the person.

Warning: In a case of clearly inappropriate and possibly unethical behavior, the Bishop may give a verbal warning to the person.

Reprimand: In a case involving unethical behavior, the person will appear before the Diocesan Bishop and will be given a reprimand in writing.

Censure: A record of the action will be put in the individual's personnel file. Appropriate Diocesan personal rehabilitation will be required as needed, with ongoing (at least one year) accountability to the Diocesan Bishop.

Inhibition: The inhibition will continue subject to Title IV of the Canons of The Episcopal Church.

i. Misconduct sanctions in the case of other than ordained persons will be invoked in accordance with the Diocesan canon law in conjunction with the Bishop's recommendation.

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j. The Bishop, or the Bishop's representative, may meet with the offender's family to discuss how the Church may assist them.

k. The Bishop, Response Team members and all other representatives of the Diocese will make every effort to protect the privacy of victims of sexual misconduct.

- (1) All complaints, records of Response Team's investigations and determinations by the Bishop will be held in strict confidence in the Bishop's office and separate from ordinary personnel files. The files may be made available by the Diocese if requested by subpoena.
- (2) The Response Team will not disclose any part of their investigation to anyone except the Bishop and the Standing Committee, or pursuant to a court process. Response Team Members will not retain personal copies of any investigatory records.

l. If a complainant alleges sexual misconduct by the Diocesan Bishop, the Standing Committee will ask a Bishop serving in another diocese to perform the procedures outlined in this policy.

IV: Insurance Warranty

The Diocese of East Carolina warrants and agrees in compliance with the Church Insurance Company that:

- A. On the inception date of this policy and each renewal thereof, it has a manual in its possession that outlines procedures to be followed and standards of conduct to be maintained whose purpose is to prevent sexual misconduct by any clergy, employee, or volunteers of the Named Insured:
- B. The procedures outlined in such manual will be followed by the named Insured throughout the policy period;
- C. The manual includes at a minimum the following:
 1. the comprehensive definition of sexual misconduct contained in this policy;
 2. specific behavior standards that proscribe such sexual misconduct;
 3. strict prohibition of interaction with children and youth by anyone with a civil or criminal record of child sexual abuse or who has admitted prior sexual abuse, or by anyone know to have a paraphiliac diagnosis (e.g., pedophilia, exhibitionism, voyeurism) as defined by the American Psychiatric Association;
 4. procedures for the investigation of allegations of sexual misconduct that conform to the disciplinary canons of the Episcopal Church and demonstrate sensitivity to the complaint and seek justice for all parties;

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5. procedures, commensurate with the offense, for discipline and professional rehabilitation after an evaluation of evidence indicates sexual misconduct, including:
 - a. consultation between the appropriate institutional executive and appropriate body for possible disciplinary action; and
 - b.. professional rehabilitation assessment by a credentialed professional approved by Church Insurance Company;

- D. It will comply with the following procedures throughout the policy period:
 1. any insured entity will keep on file signed statements by all of its clergy, volunteers who regularly supervise youth activities, vestry members, employees that each such party has received the manual and understands its content;
 2. thorough background checks will be made of all clergy, volunteers who regularly supervise youth activities (excluding Sunday School teachers), and employees, within the confines of permissible law, prior to ordination, employment, or acceptance into a diocese (either by initial licensing or acceptance of a letter dimissory) to determine current or historic sexual misconduct allegations, criminal records, or paraphiliac behavior. Such background checks will include inquires of all bishops who having past or present canonical authority over the individual, all schools attended by the individual during the past five years, and all employers of the individual during the past five years. If the individual has had one employer for over five years, then inquiries will be made of the two most recent employers;
 3. a minimum of 3-4 hours of initial training within 3 months of employment on issues of sexual abuse in church settings including a segment on sexual harassment in employment will be required for all clergy, volunteers who regularly supervise youth activities, unpaid Sunday School teachers and nursery attendants and employees. In addition insured entity will promulgate to all clergy, volunteers who regularly supervise youth activities, vestry members and employees, a summary of current child abuse statutes an dreporting requirements for that legal jurisdiction;
 4. clergy and other pastoral care providers will be required to have ongoing professional supervision or to refer the individual to professional counseling after six sessions have been held around a given life issue, and will not proscribe fees or donations for pastoral care. Anyone charging fees for counseling outside the scope of church employment must possess appropriate professional credentials and proof of separate professional liability insurance, including coverage for sexual misconduct, in force at all times;

- E. It will adopt and comply with the following procedures whenever an evaluation of evidence indicates sexual misconduct by an individual:
 1. it will notify the appropriate diocese and current vestries or other church affiliated employers; and

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2. prior to the individual's being eligible for future or continuing employment with any insured entity, there will be:
 - a. professional rehabilitation assessment by a credentialed professional approved by Church Insurance Company;
 - b. if ordained clergy, endorsement by the bishop of canonical residence and the bishop of current jurisdiction (if different); and
 - c. a requirement that the offender make amends to any aggrieved parties to the satisfaction of ecclesiastical superior;

F. it will provide a signed statement documenting on-going compliance with and implementation of the contents of this warranty prior to the inception date of this policy and each renewal thereof.

Compliance with the terms of this warranty constitutes a condition precedent to coverage under this policy. The failure of any Named Insured to comply with any portion of this warranty will constitute a material breach.

V. Legal Summary

North Carolina General Statutes 48-A-2 provides that a minor is any person who has not reached the age of 18 years

A. A juvenile under the North Carolina Juvenile Code, General Statutes 7-A, Articles 41-44, is in fact a minor.

B. Section 543 of that Code, Confidentiality, reads as follows:

Any person or institution who has cause to suspect that any juvenile is abused, neglected, or dependent...or has died as a result of maltreatment, shall report the case of that juvenile to the Director of the Department of Social Services in the county where the juvenile resides or is found.

C. Section 550 provides immunity to the reporter in subsequent proceedings so long as the reporter was acting in good faith, and good faith is presumed until it is shown to be otherwise.

D. Section 551 removes the availability of any privileged relationship (except the attorney client relationship in the particular case) either as grounds to report or to exclude evidence developed from such a report.

VI. Implementation of Policy & Procedures Concerning Allegations and Incidents of Sexual Misconduct

A. Personnel Procedures

In accordance with applicable civil legal requirements, prior to ordination, employment or acceptance into the Diocese (either through initial licensing or acceptance of a letter dimissory) thorough background check shall be made of all clergy, volunteers who regularly supervise youth activities (including unpaid Sunday School teachers), and employees. Among other things, such background checks shall include current or past sexual misconduct allegations, criminal records or paraphiliac behavior.

Background check shall include, at a minimum: inquiries of all bishops having past or present canonical authority over the individual; all schools attended by the individual during the past five years; and all employers of the individual during the past five years. Written records documenting compliance with the Policy shall be made contemporaneously and retained indefinitely.

Background check forms are available through the office of the Canon to the Ordinary and at www.diocese-eastcarolina.org/328212.ihtml. The congregation in which the person is employed or is a volunteer is responsible for beginning the background check process. All cleric and lay background checks will be reviewed by the bishop. The bishop will notify the appropriate person in the event of a red flag. Once completed, all cleric background checks will become a permanent record of their personnel file. All lay background checks will be archived by the office of the Canon to the Ordinary. The cost of background checks will be borne by the parish.

B. Adoption of the Policy by Parishes and Separate Congregations

Unless otherwise approved in writing by the Bishop of East Carolina, the vestry of each parish and congregation in this Diocese shall adopt this policy by a formal resolution, the text of which shall be recorded in the official minutes of the vestry.

In addition, on an annual basis:

1. The vestry of each parish and congregation shall reaffirm the applicability of these policies to all clergy, lay employees, and volunteers of each parish and congregation; and
2. All clergy, all lay employees, and all volunteers who regularly supervise youth activities shall be furnished with a copy of this policy by the Diocese -- after they have completed the appropriate training.