



ROMAN CATHOLIC

DIocese of Springfield-Cape Girardeau

Office of Child and Youth Protection

POLICY ADDRESSING HARASSMENT, DISCRIMINATION, VIOLENCE AND RETALIATION BY EMPLOYEES, OTHER STUDENTS OR THIRD PARTIES

The Diocese of Springfield-Cape Girardeau, rooted in gospel values and the teachings of the Roman Catholic Church, is committed to maintaining an environment free of unlawful harassment, discrimination, violence, or retaliation in our parishes and schools by employees (including Clergy, Principals and Teachers, or any other adults who are involved in youth activities), other students (including minors active in parish and school activities and programs), or third parties (volunteers and other adults who may have regular contact with employees or students/minors). Diocesan personnel are called to high standards of ethical conduct and personal integrity and have a responsibility to behave in a manner that bears witness to Catholic teaching. Everyone has the right to participate, learn, and work in a safe atmosphere that promotes equal opportunities and prohibits harassment and discriminatory practices with respect to Canon Law, all other Diocesan Policies, *The Safe Environment Policy and Procedures*, and all related civil laws.

The Diocese of Springfield-Cape Girardeau requires that any known or suspected child abuse or neglect be immediately reported to the Missouri Child Abuse and Neglect Hotline 800-392-3738 or 844-CAN-TELL. Making a report to Child Protective Services does not preclude the need for any further investigations.

The Diocese of Springfield-Cape Girardeau expects that all relationships among persons on any parish or school campus or engaged in any church-related programs on or off campus will be respectful and free of bias, prejudice, and harassment. All members of the Diocese of Springfield-Cape Girardeau community share responsibility for avoiding, discouraging, and reporting of any form of unlawful harassment, discrimination, violence or retaliation.

The Safe Environment Policy and Procedures of the Diocese of Springfield-Cape Girardeau includes references to Canon Law, as well as applicable civil laws regarding child sexual abuse, neglect and sexual misconduct, and reflects the recommendations of the USCCB National Review Board. The Policies of the Diocese of Springfield-Cape Girardeau, and civil laws that are intended to protect children and adults from violence or abuse are considered applicable and appropriate for these purposes.

Policy Coordinator

The Bishop of the Diocese of Springfield-Cape Girardeau and the Superintendent of Catholic Schools for the Diocese of Springfield-Cape Girardeau may, with the approval of the Catholic School Board, designate one or more other persons to serve as Policy Coordinator(s). The Policy Coordinator should remain independent to avoid conflicts of interest and will report directly to the Diocese and Catholic Schools Senior Leadership Team (which includes the Bishop, the Vicar General, the Chancellor, and the Superintendent).

The Policy Coordinator is to remain knowledgeable and informed of and coordinate compliance with all relevant Federal, State and local Laws and Regulations. The Policy Coordinator must: (1) be informed of reports and complaints of any alleged violations involving sexual harassment and violence; (2) have the authority to coordinate and conduct the investigation in a timely manner; (3) make initial, interim, and final reports to the parties involved; (4) monitor outcomes and the compliance with any disciplinary or other remedial actions; and (5) identify and address any patterns and effects on the parish or school environments.

Harassment

The Diocese of Springfield-Cape Girardeau expects that all relationships among persons on any diocesan, parish or school campus or engaged in any church-related programs on or off campus will be respectful and free of bias, prejudice, and harassment. All members of the Diocese of Springfield-Cape Girardeau community share responsibility for avoiding, discouraging, and reporting of any form of harassment, discrimination, violence, or retaliation. Harassment of any kind is in total disregard to the culture of the Diocese of Springfield-Cape Girardeau, is strictly prohibited, and will not be tolerated.

Under this policy, harassment is: verbal or physical conduct that derogates or shows hostility or aversion toward an individual or group because of his or her race, color, religion, national origin, ancestry, physical or mental disability, or any other characteristic protected by law; is severe, persistent, and pervasive, and adversely affects or substantially interferes with an individual's ability to participate in or benefit from a program or activity; or creates an intimidating, hostile or abusive environment.

Harassing conduct includes, but is not limited to:

- Name-calling, derogatory comments, remarks, epithets, jokes, rumors, ethnic slurs, negative stereotypes, and hostile acts;
- Bullying—repeated intimidation, unwanted aggressive behavior, or harassment that causes a person to fear for his or her physical safety or property; may consist of physical actions, including gestures, or oral, cyberbullying, electronic, or written communication, and any threat of retaliation for reporting of such acts;
- Following, stalking, physically blocking or interfering with passage;
- Graffiti, written or graphic material (including digital/social media) that derogates or shows hostility or aversion toward an individual or group or that is placed on walls or elsewhere on the school premises, or published on social media or other publicly accessible medium;
- Threatening comments, intimidating gestures or physical acts of aggression or assault.

Sex-based Harassment

Sex-based harassment constitutes discrimination and is unlawful under applicable civil laws and regulations. Conduct must be sufficiently severe, pervasive and persistent, and adversely affects or substantially interferes with an individual's ability to participate in or benefit from a program or activity; or such that it creates an intimidating, hostile or abusive environment. Not all behavior with sexual connotations constitutes unlawful sexual harassment.

Depending on the circumstances, sexual harassment, whether directed toward individuals of the same or opposite sex, may include, but not limited to the following:

- Unwelcome comments about an individual's body, sexual activity or sexual attractiveness, or overly personal conversation, sexually derogatory or degrading slurs or epithets;
- Name calling, sexual rumors, sexual jokes and stories, graffiti, drawings, pictures, or other communications (including on digital/social media) of a sexual nature or based on sex;
- Acts of verbal, nonverbal, written, graphic depictions or physical conduct based on sex or sex stereotyping, but not involving conduct of a sexual nature;
- Unwelcome sexual advances, leering, sexual flirtations or propositions, requests or pressure of any kind for sexual favors, activities or contact;
- Displaying sexually suggestive objects; posting explicit sexual images or pornography;
- Sexual Exploitation—viewing, recording, or distributing (e.g., video, photograph, or audio) of another person's sexual activity, intimate body parts, or nakedness, in a place where that person would have a reasonable expectation of privacy, and if the individual viewing, recording or distributing the images or audio knows or should have known that the person depicted in the images or audio did not consent or objects to such disclosure;
- Conditioning grades, promotions, requests for or rewards and privileges on submission to sexual favors, activities or contact, regardless of the seriousness of the request (e.g., to say "I was just joking" does not excuse the statement);
- Punishing or reprimanding persons who refuse to comply with sexual requests, activities or contact;
- Intimidating or threatening stance or proximity, cornering or blocking of normal movements.

Sexual contact between a minor/student or vulnerable adult and a teacher, employee, contracted employee, or other adult volunteer, will always be viewed as unwelcome, nonconsensual, and can be subject to criminal prosecution {RSMO 566.086}.

Discrimination

Every human being is created in the image of God and redeemed by Jesus Christ and therefore is invaluable and worthy of respect as a member of the human family. Every person, from the moment of conception to natural death, has inherent dignity and a right to life consistent with that dignity. Human dignity comes from God, not from any human quality or accomplishment. Diocesan personnel have a responsibility to provide an environment that is free from all forms of abuse and maltreatment and free from unlawful behaviors, harassment, discrimination, violence, or retaliation in our diocesan, parish, and school-sponsored programs and activities as described in the Code of Conduct and related policies; and, to uphold and maintain the highest standards of professional, ministerial, and moral behavior, in accordance with the moral teachings, doctrines, and Canon Law of the Catholic Church; and local, state, and federal laws.

Physical Violence

Physical violence includes any act of physical aggression or force which involves the knowingly and intentionally or recklessly touching of another person's body in any manner that could cause harm or injury, verbal threats and/or physical gestures seen as threatening violence or with the intent to cause harm. This includes physically blocking, hitting, punching, slapping, biting, pulling, shoving, grabbing, and/or using an object to cause harm or injury to another person.

Sexual Violence

Sexual violence is an act of physical aggression or force or the threat thereof which involves the touching of another's intimate parts, or forcing a person to touch any person's intimate parts, whether that person is the same or opposite sex. Intimate parts include the primary genital area, groin, inner thigh, buttocks or breast, as well as the clothing covering these areas.

Sexual violence may include, but is not limited to:

- Physical contact of a sexual nature, including touching, patting, grabbing, pinching, or rubbing of intimate parts of oneself or another person's body;
- Coercing, threatening, forcing or attempting to coerce or force the touching of anyone's intimate parts, or the clothing covering these areas;
- Threatening or forcing exposure of intimate apparel or body parts by removal of clothing;
- Coercing, threatening, forcing or attempting to coerce or force sexual intercourse or a sexual act on another;
- Physical sexual acts of aggression, assault, or violence, including criminal offenses, such as rape, sexual assault, sexual battery, sexual coercion;
- Any sexual act directed against another person, forcibly and/or against that person's will; or not forcibly or against the person's will where the victim is incapable of giving consent due to the person's age, intellectual disability, or use of drugs or alcohol (see Definitions).

Sexual violence is a criminal matter and victims of sexual violence are strongly encouraged to make a report to law enforcement agents immediately. Victims should also file a complaint and request an investigation if a student, employee, or volunteer of the Diocese of Springfield-Cape Girardeau perpetrated the act of violence whether the incident occurred on or off campus. In all cases, victims of sexual violence will be directed to seek services from community medical and crisis counseling providers, advocates, and other appropriate support services.

Retaliation

The Diocese of Springfield-Cape Girardeau encourages the reporting of all perceived incidents of harassment, discrimination, violence, or retaliation. It is the policy of the Diocese of Springfield-Cape Girardeau to investigate such reports. The Diocese of Springfield-Cape Girardeau prohibits retaliation against an individual who reports harassment, discrimination, violence, or retaliation, or participates in an investigation of such reports.

Retaliation against an individual for reporting harassment, discrimination, or violence, or for participation in an investigation of a claim of harassment or discrimination is a serious violation of this policy and, like harassment, discrimination, or violence itself, will subject an individual to disciplinary action. Acts of retaliation should be reported immediately and will be investigated and corrective action taken promptly.

Corrective action may include, but is not limited to: warning, suspension, expulsion, and in egregious situations, the involvement of law enforcement officials.

Individuals and Conduct Covered

This policy applies to all minors and adults of the Diocese of Springfield-Cape Girardeau community, including all employees and persons hired to provide contracted services, and volunteering at parish and school activities and all other programs where minors/students may be present.

Conduct prohibited by this policy is unacceptable in all academic, educational, extracurricular, athletic, and other activities and programs involving youth and children of the schools and parishes, whether those programs occur on campus, on a bus, or at another location away from the parish or school campus. Individuals who violate these policies will be subject to disciplinary action, up to and including suspension or expulsion if a student; suspension or termination of employment if an employee; dismissal if a volunteer; and in egregious situations or when required by law, reported to law enforcement officials.

In keeping with the Diocese of Springfield-Cape Girardeau's mission to create citizens built upon the teaching mission of Jesus Christ, and in accordance with provisions in the school's Acceptable Use Policy (and with respect to Diocesan policies, the *Safe Environment Policy and Procedures* and the *Policy and Guidelines for the Use of Technology, Email and Social Media*), the use of parish or school computers, other electronic devices, or the parish or school network to harass others, whether the harassment occurs on or off campus, is prohibited.

The Diocese of Springfield-Cape Girardeau, in accordance with its obligations under civil laws and regulations, reserves the right to investigate reports of harassment, discrimination or violence occurring between minors/students and other members of the parish or school community, regardless of whether the alleged incident occurred during or outside regular school hours; on or off parish or school grounds; or using school/parish-owned or personally-owned electronic devices (e.g., postings to digital media, electronic forums such as Snapchat, Facebook, etc., or text messages). Disciplinary actions may include, but are not limited to demerits, restrictions on computer use, exclusion, suspension, and expulsion.

Reporting an Incident of Harassment, Discrimination, Violence, and/or Retaliation

The Diocese of Springfield-Cape Girardeau encourages prompt reporting of complaints, concerns, and all perceived incidents of harassment, discrimination, violence, or retaliation, regardless of the offender's identity or position, so that rapid and corrective action can be taken. Early reporting and intervention have proven to be the most effective method of resolving actual or perceived incidents of harassment, discrimination, violence, or retaliation.

All employees of the Diocese of Springfield-Cape Girardeau are required to immediately report in writing to the designated Policy Coordinator any suspected harassment, discrimination, violence, or retaliation of a minor/student regardless of whether it is based on the employee's own observations, on information from the minor/student, the parent or the minor/student, or a third party.

An employee who observes such acts is expected to intervene, unless circumstances would make such intervention dangerous. All reports of harassment, discrimination, violence, or retaliation will be investigated (see Report Form).

The Policy Coordinator, upon receiving an allegation or suspected harassment, discrimination, violence or retaliation that involves a minor/student, shall immediately notify the Pastor of the Parish or Principal of the School. Immediately upon receiving the allegation, the Diocesan Leadership Team or School Superintendent shall notify the Director of OCYP.

Informal Complaint Procedure

The informal complaint procedure is intended to stop inappropriate behavior, investigate and facilitate resolution through informal means. It is not a precursor to the filing of a formal complaint and may be terminated at any time in order to move to the formal process.

As an initial step, an individual who believes he or she has been subject to harassment or discrimination is encouraged to promptly advise the alleged offender that his or her behavior is unwelcome and request that it be discontinued, as long as he or she feels comfortable doing so. In some cases, an offender may not realize his or her behavior is offensive and being perceived as harassment. This action alone may sometimes resolve the problem. The Policy Coordinator is available to support an individual taking this initial step.

The Diocese of Springfield-Cape Girardeau recognizes that an individual may prefer to pursue the matter through informal or formal complaint procedures. If, for any reason, an individual does not wish to address the offender directly, or if addressing the offender does not successfully end the offensive conduct, the individual should notify, orally or in writing, the Pastor, the Principal of School, the Superintendent of Catholic Schools, the Policy Coordinator, or any other member of the Diocese of Springfield-Cape Girardeau Leadership Team (identified at the end of this policy). Students may also report incidents to the school nurse, counselor, or to a teacher. All reports will be filed with the school's Policy Coordinator, who will either facilitate an informal resolution or appoint another individual to facilitate an informal resolution.

An informal resolution may involve meeting with the alleged offender to discuss the unwelcome nature of the behavior, or, if both parties agree, facilitating a meeting between the complainant and the alleged offender to work out a mutual resolution. In cases involving minors/students, this may only be done with the consent of the parents or legal guardians of both parties involved.

The informal complaint procedure is not intended for victims of sexual violence. An individual who is a victim of sexual violence and has filed a police report may also file a complaint under the Diocese of Springfield-Cape Girardeau's formal complaint procedures.

Victims of sexual violence should NOT approach the offender under any circumstances in an attempt to resolve the matter, and should file a police report as soon as possible after the attack has occurred.

Formal Complaint Procedure

If an individual who believes he or she has been subject to harassment, discrimination, violence, or retaliation chooses not to utilize the informal procedure, or feels that the informal procedure is inadequate or has been unsuccessful, he or she may proceed to the formal procedure.

Any complaint against an employee or volunteer shall be handled through the formal procedure. All reports of harassment, discrimination, violence, or retaliation, made orally or in writing to any employee of the Diocese of Springfield-Cape Girardeau must be immediately reported to the Policy Coordinator.

Members of the Leadership team and the Policy Coordinator are responsible for investigating all reports of harassment, discrimination, violence, or retaliation. Investigations will be launched immediately upon the filing of a complaint and are to be completed promptly.

Typically, the investigation will begin with an interview of the complainant to obtain information regarding the identity(ies) of the alleged offender(s), any potential witnesses, the offensive conduct, the context in which the incident occurred, how the conduct adversely affects the individual or creates a hostile or abusive environment, and the desired resolution. The complainant will be offered an opportunity to submit any evidence that he or she believes relevant to the investigation within five (5) school days.

Within five (5) school days of receiving the initial complaint, the alleged offender will be informed of the allegations and will be offered an opportunity to submit a written response to the allegations. The alleged offender's response and any supporting materials must be submitted within three (3) school days. The investigator will then review the relevant documents and conduct additional interviews as necessary to determine whether there has been a violation of this policy. For instance, the investigator may conduct interviews with the alleged offender, the parent(s) or legal guardian(s) of the parties, and/or other individuals who may have observed the alleged conduct or may have other relevant knowledge.

During the investigation, the investigator will keep both parties apprised of the status of the investigation, to the extent permitted under the Family Educational Rights and Privacy Act (FERPA). The complainant will not be required to appear in the same room as the accused. Because the complainant and the accused are likely to be minor students, there will be no direct cross examination by the students or their parents.

Upon receiving a complaint, the investigator will consider whether any interim measures should be taken during the investigatory phase of the complaint process to protect the complainant from further harassment, discrimination, violence, or retaliation.

For example, the investigator, in conjunction with the Pastor, School Principal and other members of the Leadership team, may determine that it is necessary to make modifications in class schedules for the complainant or alleged perpetrator, assign a hall/classroom monitor, provide academic support or recalculate certain course grades for the complainant, impose an interim suspension or alternative placement for the alleged perpetrator.

The Schools and Parishes of the Diocese of Springfield-Cape Girardeau must make a good faith effort to conduct a fair, impartial investigation in a timely manner. In certain situations, the investigation may require additional time to complete. When applicable, an investigator may take into account the results of any investigations conducted by the Children's Division or law enforcement agency.

In determining whether there has been a violation of policy, an investigator will consider a variety of factors, including but not limited to the nature of the conduct, the age and maturity of the parties, the frequency of the conduct, the relationship between the parties, whether the conduct was sufficiently severe, pervasive and persistent, and adversely affects the complainant; or creates a hostile or abusive environment.

Upon completion of the investigation, the investigator will prepare a report that summarizes the evidence gathered, states whether there was a policy violation, and the recommendations.

According to Federal Regulations, schools may choose between the preponderance of the evidence or a clear and convincing standard. However, "the standard of evidence for evaluating a claim of sexual misconduct should be consistent with the standard the school applies in other misconduct cases." The determination will be based on the totality of the circumstances and will be based on the 'preponderance of the evidence' (i.e., it is more likely than not that a policy violation occurred), and will not take into account any 'past relationships' of the complainant.

The investigator's recommendations may include discipline of the alleged offender up to and including warning, education and counseling, exclusion, suspension or expulsion if a student; awareness training, suspension or termination of employment if an employee; or dismissal if a volunteer; and in egregious situations or when required by law, reported to law enforcement officials.

Both parties will then be provided written notice of the outcome of the investigation. Notification must include any initial, interim, or final decision by the institution; any sanctions imposed by the institution; and the rationale for the result and the sanctions.

For all proceedings in elementary and secondary schools, the school should inform the reporting party (parents or the legal guardians of students under the age of 18 and directly to students who are 18 years of age or older), whether it found that the alleged conduct occurred, any individual remedies offered to the reporting party or any sanctions imposed on the responding party that directly relate to the reporting party, and other steps the school has taken to eliminate the hostile environment, if the school found one to exist.

If either party is dissatisfied with the outcome, he or she may appeal to the Pastor or the Principal by filing a written notice of appeal within five (5) school days of the date of the written notice of the outcome of the investigation.

Within 10 (ten) school days of receiving the notice of appeal, the Pastor, School Principal or other designated authority will review the report prepared by the investigator, the investigator's file, and any other documents or materials provided by the parties and affirm, reverse, or revise the determination and recommendations of the investigator. To the extent the Pastor or School Principal determines the parties should be heard, the complainant will not be required to appear in the same hearing room as the accused.

Where there has been a policy violation, the Diocese of Springfield-Cape Girardeau will make every reasonable effort to stop any conduct in violation of these policies and prevent recurrence. Where appropriate, the Diocese of Springfield-Cape Girardeau will also take steps to remedy the effects of any violation. Any remedial measures will be determined on a case-by-case individualized basis.

Confidentiality and Recordkeeping

The Diocese of Springfield-Cape Girardeau will make all reasonable efforts to protect the privacy of all parties involved in an investigation and to keep the complaint and investigation confidential.

Confidentiality of the filing of complaints, the identity of subjects and witnesses of any complaint and of any action taken as a result of such complaint is essential to the effectiveness of this policy. Only those individuals necessary for the investigation and resolution of the complaint shall be given information about it.

The right to privacy and confidentiality of complainants, subjects, witnesses, and investigators will be vigorously protected and violations of such confidentiality may itself be grounds for disciplinary action; however, confidentiality cannot be guaranteed. Certain information involving minors and students may or may not be protected, as specific details may be revealed when necessary and in order to fully investigate the complaint.

In accordance with its regular recordkeeping practices, the Diocese of Springfield-Cape Girardeau Office of Child and Youth Protection will maintain records of all complaints of harassment, discrimination, violence, or retaliation.

False Claims of Harassment, Discrimination, Violence, and/or Retaliation

In order to cover all possibilities of misconduct, the Diocese of Springfield-Cape Girardeau reserves the right to take disciplinary actions for individuals who have falsely accused another of harassment, discrimination, violence, and/or retaliation. This does not mean that a complaint will be considered "false" solely because it cannot be corroborated.

The Diocese of Springfield-Cape Girardeau requires that any known or suspected child abuse or neglect be immediately reported to the Missouri Child Abuse and Neglect Hotline 800-392-3738 or 844-CAN-TELL. Making a report to MO CA/N does not preclude any further investigations.

Failure to report suspected child abuse or neglect by a person legally required to do so may subject the person to probation, a fine, and/or imprisonment {RSMO 210.115, Reports of abuse; 210.135, Immunity from liability; 210.140, Privileged Communication not Recognized, Exception; 210.165 Penalty for Violation; 352.400, Ministers Duty to Report}.

Additionally, in accordance with RSMO 210.165.2, any person who intentionally files a false report of child abuse or neglect is guilty of a Class A Misdemeanor.

Conclusion

The Diocese of Springfield-Cape Girardeau has developed these policies to ensure that all minors involved in parish and diocesan youth activities or enrolled in our Catholic Schools can participate, grow and learn in an environment that is safe, compassionate, caring, and Christ-like, free from harassment, discrimination, violence, and/or retaliation. The Diocese of Springfield-Cape Girardeau will make every reasonable effort to ensure that all necessary persons are familiar with these policies and procedures and aware that any complaint in violation of such policies and procedures will be investigated and resolved appropriately.

In addition to any individuals previously mentioned in this policy, complaints of harassment, discrimination, violence, or retaliation may be submitted to any of the following administrators:

Pastor:

Principal:

Assistant Principal:

Superintendent of Catholic Schools:

Director, Office of Child and Youth Protection:

APPROVED on June 1, 2018 by Most Reverend Edward Rice, Diocese of Springfield-Cape Girardeau. Revised 2019, 2020, 2021. The Diocese of Springfield-Cape Girardeau and its Affiliates reserve the right to make changes to this policy at any time and at its sole discretion, and interpret and administer the policy in light of changing circumstances and events.