

Diocese of Reno

Policy on Sexual Misconduct

Introduction

In 1993, the Diocese of Reno-Las Vegas published its first formal written policy on sexual misconduct. This policy covered misconduct by all clergy and employees of the Diocese, as well as volunteers serving in the various offices and parishes of the Diocese. The original policy provided for the reporting to civil authorities of all allegations of sexual misconduct in accord with Nevada Law and required the fingerprinting of all clergy and employees of the Diocese. Following the designation of Northern Nevada as a separate Diocese, the policy was reviewed and re-published in 1999 and the requirement for the fingerprinting of all volunteers who had regular activities with children was added.

In June 2002, the bishops of the United States met in Dallas, Texas, and adopted the Charter for the Protection of Children and Young People. The Charter mandates that every diocese must have a sexual misconduct policy that conforms to the standards adopted by the bishops at that meeting. The Charter focuses on ministering to the victims of clergy sexual abuse and ensuring that they are properly cared for. The Diocese of Reno, with the assistance of the Diocesan Review Board, has completed this revision of its sexual misconduct policy.

This policy affirms that the obligation to protect all persons, especially children and young people, and to prevent sexual abuse, flows from the mission and example of Jesus Christ himself, in whose name all ministers of the Church serve. The Diocese of Reno is committed to doing everything in its power to prevent sexual misconduct on the part of its various ministers and volunteers. In cases where misconduct has already occurred, the Diocese is committed to healing the trauma suffered by victims and their families by actively reaching out to them in ways that promote healing and reconciliation.

Policy

The church expects those it employs and those who volunteer service to live chaste and moral lives with regard to the gift of sexuality. Accordingly, any sexual misconduct by church personnel, volunteers or clergy of the Diocese of Reno is contrary to Christian morals and principals and is outside the scope of the duties of church ministry and employment. Inappropriate sexual activity abuses the power and authority of the pastoral role of all those who work for and serve the church.

All clergy, church personnel and volunteers must comply with applicable church, state and local laws regarding incidents of actual, alleged or even suspected sexual misconduct. This document outlines procedures to implement this policy. In addition, the Diocese of Reno has adopted norms and procedures for cases of sexual abuse by clerics (priests and deacons) against minors. These local norms are adapted from the national Essential Norms for Diocesan/Eparchial Policies Dealing with Allegations of Sexual Abuse of Minors by Priests or Deacons. The norms do not encompass situations of misconduct against adults, nor misconduct perpetrated by church personnel or volunteers. However, the present policy covers all situations of sexual abuse and misconduct by priests, deacons, other church personnel and volunteers.

Definitions

Clerics and Other Church Personnel

Clerics covered by this policy include the following:

1. Priests incardinated in the Diocese of Reno.
2. Priests residing or working in the diocese who are religious incardinated in their community.
3. Priests and deacons of other jurisdictions who seek assignment for work in this diocese or who seek incardination in this diocese.
4. Permanent and transitional deacons incardinated in this diocese.

Other church personnel covered by this policy include the following:

1. All women and men religious who have an official ministry in the diocese.
2. All non-ordained persons to whom a participation in the exercise of pastoral care of a parish is entrusted according to the Code of Canon Law, c. 517 § 2 (i.e., parish life administrators).
3. All seminarians who seek ordination as clerics of the diocese after being admitted to candidacy.
4. All personnel of diocesan campus ministry programs.
5. All paid personnel, employees and those who contract for services in the offices of the diocese, parishes, schools or other facilities, in campus ministry programs.
6. All who volunteer in diocesan offices, parishes, schools or other facilities, in campus ministry programs, or who work with minors under the age of 18.

Sexual Harassment

Sexual harassment is addressed in a separate policy promulgated by the Diocese on October 1, 1999.

Sexual Misconduct

As used in this policy, "sexual misconduct" means either of two forms of misconduct by clergy, church personnel or volunteers:

Child abuse

Any sexual abuse or sexual exploitation of a minor under 18 by a cleric or other church personnel that is an external, objectively grave violation of the sixth commandment or a violation of Chapter 432B of the Nevada Revised Statutes.

Sexual exploitation

Any kind of immoral sexual interaction between a cleric or other church personnel and any other person, including but not limited to a person who is receiving pastoral assistance from that church representative, no matter who initiates the conduct. This includes consensual sexual relations.

These two forms of misconduct are addressed by this policy. Both are contrary to the doctrines, moral teaching and canon law of the Catholic Church. In addition, both involve abuse of power or authority that causes injury to another.

This diocesan policy regarding sexual misconduct is intended to address violations of civil,

criminal and canon law. Sexual misconduct that violates the criminal law can subject the perpetrator to a prison sentence, a monetary fine, or both. Sexual misconduct may also be the basis for a civil suit for monetary damages. Finally, sexual misconduct that violates canon law may also subject the perpetrator to canonical penalties. If the perpetrator is a cleric, he may even be dismissed from the clerical state if the case so warrants. The Code of Canon Law and the laws of the State of Nevada give legal definitions for these forms of misconduct. These definitions may be found in the Appendix of this policy.

The Church's Care for Those Who Allege Sexual Misconduct

Following the example of Jesus, the Church has a special concern for those who are most vulnerable. The Diocese of Reno is committed to reaching out to victims and their families by providing counseling, spiritual assistance, support groups and other appropriate social services. The goal of this outreach is to furnish pastoral care that will result in healing for all directly involved.

Upon receipt of any report of sexual abuse or misconduct, the diocese will act immediately and effectively to reach out to victims and their families. After meeting with the appropriate diocesan official to discuss the nature of the claim, a Victim Assistance Coordinator will be made available to aid in the victim's immediate pastoral care. The Coordinator will help the victim find appropriate counseling and other help, and will also help the victim throughout the process described in this policy. In addition, the Bishop or his representative will offer to meet with the victims and their families in order to listen and offer solidarity.

Incidents of sexual misconduct, particularly with minors, have a negative impact on the victim, the victim's family and the perpetrator, as well as the parish and the whole church. Anyone who has been abused by a cleric or other church personnel has the right to expect meaningful pastoral assistance from the Church to assure that person's holistic healing. Treatment for individual victims will vary. Diocesan support will be determined in proportion to the defined course of therapy. The Diocese of Reno assures its reasonable assistance as the need arises.

At all times, it is expected that an allegation be brought by one directly involved or that person's parent or legal guardian, that it be based on fact, and that it be an honest representation of the truth. Sexual misconduct or abuse is a tragedy. When someone is falsely accused, it is also a tragedy, as irremediable damage is done to the accused and to society.

In responding to victims of sexual misconduct by clergy or other church personnel, it is necessary to acknowledge that the church is human. Healing is needed by all in the church, and we all need to be part of the healing process. It is important for clerics and all church ministers to be sensitive to the needs and feelings of those who allege sexual misconduct and are found to be victims of abuse.

The Church's Care of Priests and Deacons

All persons are called to live a chaste life in accordance with their particular state in life. Clerics are obliged to observe perfect and perpetual continence, and are therefore subject to special canonical penalties in the area of sexual misconduct. The vocational choice to remain celibate for the sake of the kingdom of heaven has implications for the legitimacy of a cleric's behavior in the area of sexuality. He must be careful about the morality of his actions, as well as about the

way his conduct reflects on his commitment to the observance of celibate chastity. This is reflected in Canon 277.

Canon 277 § 1 Clerics are obliged to observe perfect and perpetual continence for the sake of the kingdom of heaven and therefore are bound to celibacy, which is a special gift of God by which sacred ministers can adhere more easily to Christ with an undivided heart and are able to dedicate themselves more freely to the service of God and humanity.

§ 2 Clerics are to behave with due prudence towards persons whose company can endanger their obligation to observe continence or give rise to scandal among the faithful.

Clerics who are ordained as married men, such as permanent deacons or men ordained to the priesthood with special permission of the Apostolic See, are canonically bound to continence with all persons except their wives.

Sexual misconduct has the potential for causing considerable harm to all those involved, as well as to the Church and the credibility of all its priests. The nature of the priest's role in the church and within the parish community requires a sacred trust between the priest and parishioners. This trust is essential for his effectiveness as a pastor. Sexual misconduct on the part of a cleric violates this trust. It is also a source of great scandal to Catholics and non-Catholics alike, because clerics have made a commitment to perfect and perpetual continence.

Some forms of sexual misconduct are the products of a psychological illness or disorder. Although some of these disorders may improve with treatment, past experience has shown that treatment followed by reassignment has too often resulted in repeated patterns of abuse. Accordingly, the bishops of the United States are committed to permanently removing from ministry any priest or deacon who has committed even a single act of sexual abuse against a minor. As Pope John Paul II observed, "There is no place in the priesthood or religious life for those who would harm the young."

It is therefore the policy of this Diocese that each priest be afforded the necessary education, formation and growth opportunities to maintain a healthy, celibate lifestyle. Should an allegation of sexual misconduct arise, the diocese will show compassion toward the priest as well as to the person making the accusation.

Any allegation of sexual misconduct will be taken seriously by the diocese and the process of investigation will be initiated immediately. The Diocese of Reno will cooperate with civil authorities and adhere to reporting requirements of civil law, if applicable. While this process will involve several official representatives of the diocesan bishop who will investigate and evaluate the evidence, the bishop will make all final decisions regarding both the priest and the others involved in the situation. For cases involving allegations of sexual abuse of a minor by a cleric, the bishop will make his final decision having consulted the diocesan review board. The bishop will exercise responsibility for getting to the truth of a difficult situation and for searching for appropriate remedies, while exercising the compassion of Christ.

The Church's Care of Church Personnel

The Diocese of Reno has similar concern for any sexual misconduct or abuse that may be

perpetrated by a non-ordained person who is employed by the church or serving in a recognized pastoral ministry. Trust is fundamental in all ministerial relationships. Any proven abuse of the power and authority of a pastoral role by sexual misconduct or abuse is cause for employer-initiated termination. In addition, the Diocese of Reno will cooperate with civil authorities and adhere to reporting requirements of civil law, if applicable.

The process concerning investigation and action as described in this policy will be followed if any such allegation is made. The diocese will assume appropriate responsibility in accordance with the relationship it has with the accused. The diocese will ensure that all canonical and civil rights are upheld, including that of the accused and the victim.

Investigative Procedure

When an allegation of sexual misconduct is made, the person reporting the complaint is to be told that the diocese has a policy and procedures to be followed. The person reporting the complaint is to be referred to the Administrator of Intake and Complaint Investigations (the "Administrator"). To facilitate reporting incidents of sexual misconduct or abuse, information concerning how to contact the Administrator directly will be readily available in printed form and will be publicized within the Diocese.

Upon receipt of an allegation, the Administrator will comply with all civil reporting requirements. If the Administrator believes that the safety of children requires immediate withdrawal of the accused from his ministerial assignment, he will so advise the Bishop. The Bishop may place the accused on administrative leave at any time during the process.

The bishop will appoint an investigator or an investigative team (hereafter, "Investigative Team") to investigate such allegations. The Administrator shall call upon the Investigative Team to gather information regarding the allegation. The Investigative Team shall conduct the preliminary investigation of the complaint and shall prepare a confidential written report of its findings. The Team's report will not be made available to the person making the allegations. At all times during the investigation of the matter, care will be taken lest anyone's good name—including that of the victim and of the accused—be endangered by the investigation.

For cases involving allegations of sexual abuse of a minor by a cleric, the bishop has also appointed a review board to advise him in his assessment of allegations and in his determination of the suitability of the accused for ministry. Upon completion of the team's report, the review board is to review the report and meet and confer concerning the report.

The board will determine whether the Administrator's preliminary actions were appropriate and what further action must be taken at this time, including whether further investigation is necessary to assist the board. Once the board has all the information it needs, it will deliberate upon whether the allegations are credible, and will advise the bishop of its determinations and conclusions.

For cases not involving allegations of sexual abuse of a minor by a cleric, the Review Board will not be called upon. Instead, the bishop will consider the report of the Investigative Team and will determine whether the allegations seem credible.

If the bishop finds that an allegation does not appear to be credible, no canonical action will be instituted in the diocesan tribunal. The bishop may suspend the investigation, direct that the investigative team conduct further investigation, or may request the accused to submit to psychological testing or counseling. The bishop will see to it that the accused and the person who brought the allegation are notified of the conclusion of the investigation.

Notwithstanding that a claim is determined to be unfounded, if it is determined that the accused has acted imprudently, the investigative team (or the review board, if applicable) may recommend to the bishop that the activities of the accused be restricted and that the person be supervised, monitored or counseled. If the accused is a diocesan priest or deacon, the diocesan bishop makes all decisions regarding the priest, taking care that his canonical and civil rights are upheld. If the accused is a member of a religious order, the bishop and the ordinary of the religious order will make the appropriate decisions. Similarly, the bishop will take appropriate action if the accused is not a cleric.

Action Phase

For Cases Involving Sexual Abuse of Minors by Clerics:

When there is sufficient evidence that sexual abuse of a minor has occurred, the Congregation for the Doctrine of the Faith (“CDF”) shall be notified. The bishop shall then apply the precautionary measures mentioned in Can. 1722—i.e., remove the accused from sacred ministry or from any ecclesiastical office or function, impose or prohibit residence in a given place or territory, and prohibit public participation in the most holy eucharist pending the outcome of the process. This canon requires that the promoter of justice must be heard and the accused must be cited before these precautionary measures are applied.

This action of the bishop will not be made public, because the accused has a right to confidentiality. At the same time, those closest to the cleric’s official assignment, including parishioners, have a right to be told of the bishop’s decision, but not the details the allegation.

The CDF will direct the bishop how to proceed, unless it calls the case to itself because of special circumstances. If the case would otherwise be barred by prescription (the canonical statute of limitations), because sexual abuse of a minor is a grave offense, the Bishop shall apply to the CDF for a dispensation from the prescription, indicating appropriate pastoral reasons. If the CDF remands the case for adjudication at first instance before the local tribunal, the promoter of justice shall initiate the appropriate canonical action by filing a libellus in the tribunal, and shall prosecute the same to its conclusion in accordance with the Code of Canon Law.

The alleged offender may be requested to seek, and may be urged voluntarily to comply with, an appropriate medical and psychological evaluation at a facility mutually acceptable to the diocese and the accused, as long as this does not interfere with any investigation by civil authorities. The accused is never obliged to submit to such evaluation or treatment, however.

Care will always be taken to protect the rights of all parties involved, particularly those of the person claiming to have been sexually abused and the person against whom the charge has

been made. When an accusation has proved to be unfounded, every step possible will be taken to restore the good name of the person falsely accused.

Even a single act of sexual abuse of a minor by a priest or deacon shall result in permanent removal from ministry under the Norms. The Bishop will offer the offending cleric professional assistance for his own healing and well being, and for the purpose of prevention.

For Cases Involving Sexual Abuse or Misconduct by Clerics with Adults:

If the evidence shows the allegations are credible, the bishop must decide 1) whether a process to inflict or declare a penalty can be initiated, and if so, 2) whether this is expedient; 3) whether a judicial process must be used or the matter must proceed by way of extra-judicial decree (i.e., administrative process) (Can. 1718).

Administrative Process. Canon 1720 provides for an administrative process for imposing a penal decree; i.e., the bishop may circumvent the normal judicial process.

Judicial Process (Cann. 1717-1728). The bishop may give the acts of the investigation to the promoter of justice to initiate a judicial action in the tribunal. The action will proceed as provided in the Code of Canon Law. Such cases are not referred to the CDF.

For All Other Types of Cases:

If the accused is not a cleric, the diocese will exercise appropriate action in accord with its relationship with the accused and the particular circumstances of the situation.

All diocesan employees are employees at will, with the exception of teachers, who execute an annual contract. Accordingly, the relevant norms and procedures in the diocesan employee handbook and the teacher handbook are incorporated into this policy by reference.

If the accused is not an employee, the diocese will take appropriate action to ensure that he or she does not volunteer again in any capacity that would put others at risk for repeated sexual misconduct.

Ordained Clergy Incardinated In a Religious Community or Another Diocese

All priests and deacons not incardinated in the Diocese of Reno who intend to exercise pastoral ministry in this diocese must receive faculties from the diocesan bishop. The Bishop of Reno will not grant faculties to a cleric without full disclosure of the cleric's current status. No cleric can be transferred for residence to this diocese unless the Bishop of Reno has received the necessary information regarding any past act of sexual abuse of a minor by the cleric. (Essential Norms, ¶ 12.) In addition, the bishop will not grant faculties to a cleric unless that cleric is established to be free from a history of any other kind of sexual misconduct.

A transferring cleric and his superior are to be fully informed that the cleric will be expected to abide by the policies and norms in effect in this diocese concerning sexual misconduct. Should a valid allegation arise against a priest or deacon incardinated elsewhere, he will be immediately removed from his official ministry in this diocese.

Seminarian Formation

Students sponsored by the diocese and studying in seminaries for ordination to the priesthood to serve the Diocese of Reno are to receive appropriate screening, academic courses and components in their formation programs to achieve in-depth psychosexual development with special emphasis on making moral choices in accord with church teaching.

Bibliography

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United States Conference of Catholic Bishops, Washington D.C.
Canonical Delicts Involving Sexual Misconduct and Dismissal from the Clerical State, February 1995

Charter for the Protection of Children and Young People, June 2002

Essential Norms for Diocesan/Eparchial Policies Dealing with Allegations of Sexual Abuse of Minors by Priests or Deacons, Approved December 8, 2002, Effective March 1, 2003

Applicable Canons from the Code of Canon Law

Can. 1387 – Penalizes a priest who solicits a penitent to sin against the sixth commandment, whether in the act or on the occasion or under the pretext of confession. Such priest shall be punished with suspension, prohibitions and deprivations in accord with the seriousness of the offense; in more serious cases, he is to be dismissed from the clerical state.

Can. 1389 – Provides that one who abuses ecclesiastical power or function is to be punished in accord with the seriousness of the act or omission, not excluding deprivation from office, unless a penalty for such abuse has already been established by a law or a precept.

Can. 1395 – Prohibits a cleric from living in concubinage or remaining in another external sin against the sixth commandment that produces scandal. Such cleric shall be suspended, but if he persists, other penalties may be added gradually, including dismissal from the clerical state. § 2. If a cleric commits an offense against the sixth commandment with force or threats or publicly or with a minor, the cleric is to be punished with just penalties, including dismissal from the clerical state if the case so warrants.

Can. 1399 – This is a general norm stating that in addition to the other defined canonical crimes or delicts, an external violation of a divine or an ecclesiastical law can be punished by a just penalty only when the particular seriousness of the violation demands punishment and there is an urgent need to preclude or repair scandal. This canon is applicable to both clerics and lay persons.

Applicable Laws of the State of Nevada

Child Abuse – Nevada Revised Statutes § 432B.010. et seq.

A child is defined as a person under eighteen (18) years of age. Abuse or neglect of a child means physical or mental injury of a non-accidental nature, sexual abuse (incest, lewdness with a child under fourteen (14) years of age, annoyance or molestation of a minor, sadomasochistic abuse, sexual assault, statutory sexual seduction, or open or gross lewdness) or sexual exploitation (to solicit for or engage in prostitution, view pornographic film or literature, or to engage in filming, videotaping or photography, or modeling or live performance before an audience which involves any sexual conduct with a child), or negligent treatment or maltreatment that harms or threatens a child's welfare.

This law requires that a report must be made by any of the following persons within twenty-four (24) hours after there is reason to believe that a child has been abused or neglected:

Physician, dentist, chiropractor, nurse, counselor or other person providing medical services;

1. Personnel of hospital or other similar institution;
2. Clergyman, UNLESS ACQUIRED KNOWLEDGE FROM OFFENDER DURING CONFESSION;
3. Social worker and administrator, teacher, librarian or counselor of school;
4. Any person who maintains or is employed by any child care facility;
5. Any person licensed to conduct a foster home;
6. Any person who maintains, is employed by, or is a volunteer for an agency which advises persons regarding child abuse or neglect.

A report may be made by any other person.

Pursuant to this law, the report must be made to a law enforcement agency, an agency who provides protective services (local office of welfare division, authorized county agency), or the State of Nevada Department of Human Resources, Welfare Division. During business hours, a report may be made to Washoe County Child Protective Services (775-328-2300), or after business hours and on the weekend, to the Crisis Center (toll-free telephone number 1-800-992-5757). The report may be made verbally, either in person or by telephone, and should contain the following: the name, age, and address of the child; the name and address of person responsible for child's care; the nature and extent of the abuse or neglect; any evidence of previously known or suspected abuse or neglect of the child; and the name, address and relationship of the person alleged to have committed the abuse.

It is recommended that any verbal report be confirmed by a letter with a copy directed to the Diocesan Administrator of Intake and Complaint Investigations, 290 South Arlington, Suite 200, Reno, Nevada 89501.

Other Prohibited Acts

Sexual Assault

NRS §§ 200.364-200.366 deal with the crime of sexual assault, formerly known as rape. If the

assault results in SUBSTANTIAL BODILY HARM to the victim, the punishment is imprisonment in the state prison for: 1) life without the possibility of parole; 2) life with the possibility of parole only after serving fifteen (15) years; or 3) a definite term of forty (40) years with the possibility of parole only after serving fifteen (15) years. See NRS § 200.366(2)(a). If NO SUBSTANTIAL BODILY HARM results to the victim, the punishment is imprisonment in the state prison for: 1) life with the possibility of parole only after serving ten (10) years or 2) a definite term of twenty-five (25) years with the possibility of parole only after serving ten (10) years. See NRS § 200.366(2)(b).

Where the victim is a child under the age of sixteen (16) and the act results in SUBSTANTIAL BODILY HARM, the punishment is life imprisonment without the possibility of parole. But where the assault results in NO BODILY HARM to the victim, the punishment is for: 1) life imprisonment with the possibility of parole only after serving twenty (20) years in a state prison or 2) a definite term of twenty (20) years with the possibility of parole only after serving five (5) years. See NRS § 200.366(3).

Finally, where the victim is a child under the age of fourteen (14) and NO SUBSTANTIAL BODILY HARM has occurred, the punishment is life imprisonment with the possibility of parole only after serving twenty (20) years. See NRS § 200.366(3)©).

Statutory Sexual Seduction

Statutory sexual seduction, formerly known as statutory rape, occurs when someone over the age of twenty-one (21) or over the age of eighteen (18) but under the age of twenty-one (21) engages in sexual conduct with someone under the age of seventeen (17). Offenders over the age of twenty-one (21) are charged with a class C felony. See NRS § 200.368(1). The class C felony requires the imposition of at least one (1) year but not more than five (5) years of imprisonment in a state prison and a discretionary fine up to \$10,000.00. See NRS § 193.130(2)(c).

Where the offender is over the age of eighteen (18), but under the age of twenty-one (21), the offender is charged with a gross misdemeanor. See NRS § 200.368(2). Gross misdemeanors impose a punishment is mandatory imprisonment in a county jail for not more than one (1) year and a fine of not more than \$2000.00. See NRS § 193.140.

Solicitation of a Minor

The crime of solicitation of a minor is defined as solicitation of a minor to engage in any sexual act commonly known as the “infamous crime against nature” (sodomy or oral sex between persons of the same sex). If the minor is under the age of fourteen (14) and engages in the solicited acts, the punishment is life imprisonment in a state prison with the possibility of parole only after ten (10) years are served. See NRS § 201.195(1)(a)(1). Where the victim is over the age of fourteen (14) the crime is a class D felony and punishable by at least one (1) year but not more than four (4) years in a state prison. See NRS § 201.195(1)(a)(2); see also NRS § 193.130(2)(d). If the victim did not engage in such act and it is the first offense, the punishment is mandatory imprisonment in a county jail for not more than one (1) year and a fine of not more than \$2,000.00. See NRS § 201.195(1)(b)(1); see also NRS § 193.140. However, if the conviction is not a first offense, the offender is charged with a class D felony, punishable by at least one (1) year but not more than four (4) years in a state prison. See NRS § 201.195(1)(b)(2);

see also NRS § 193.130(2)(d).

Incest

Incestuous relations with linear family members is a class B felony and punishable by imprisonment in the state prison for a minimum term of not less than two (2) years and a maximum term of not more than ten (10) years, and may be further punished by a fine up to \$10,000.00. See § NRS 201.180.

Open and Gross Lewdness & Indecent or Obscene Exposure

Any person who commits any indecent sexual act in a public place with another or upon oneself, will be punished for open or gross lewdness or indecent obscene exposure. The first conviction is a gross misdemeanor. Gross misdemeanors impose a punishment is mandatory imprisonment in a county jail for not more than one (1) year and a fine of not more than \$2000.00. See NRS § 201.210(1)(a); NRS § 201.220(1)(a); see also NRS § 193.140. However, any subsequent offenses are a class D felony, punishable by at least one (1) year but not more than four (4) years in a state prison. See NRS § 201.210(1)(b); NRS § 201.220(1)(b); see also NRS § 193.130(2)(d).

Molesting or Annoying a Minor

A person who annoys or molests or attempts to annoy or molest a minor by soliciting a minor to engage in unlawful sexual conduct is punishable by imprisonment not more than six (6) years but not less than one (1) year in a state prison. However, a first offense under this statute constitutes a misdemeanor. See NRS § 207.260(1). Soliciting, for purposes of this statute, includes direct contact, contact through the use of a telephone, in writing, through the use of a computer or through an advertisement. See NRS § 207.260(1).

Unlawful Use of a Minor in Production of Pornography

The crime of pornography involving minors occurs when any person knowingly uses, encourages, entices or permits a minor to perform in a play, film, photograph, computer-generated image, electronic representation, dance, or other visual performance which requires the minor to simulate or engage in or assist others to simulate or engage in sexual conduct for the performance. See NRS § 200.700 and NRS § 200.710(1). This statute applies to those offenses regardless of whether the minor is aware that the sexual portrayal is part of a performance. See § 200.710(2). If the minor is over the age of fourteen (14), the punishment is life imprisonment in a state facility with the possibility of parole only after five (5) years or for a definite term of fifteen (15) years with the possibility of parole only after five (5) years. See NRS § 200.750(1)(a) and NRS § 200.750(1)(b). However, if the victim is not yet fourteen (14) years of age, the punishment is life imprisonment with the possibility of parole only after ten (10) years. See NRS § 200.750(2).

Possession, Production and Distribution of Child Pornography (State Laws)

A person who knowingly promotes, prepares, advertises, or distributes any sexually explicit material involving a minor is punishable by imprisonment of not less than one year in a state facility, but can be sentenced up to life imprisonment. See NRS § 200.720 and NRS § 200.725.

A person who knowingly and willfully possesses sexually explicit materials involving a person under the age of sixteen (16) is punished by a minimum of one (1) year but not more than six (6) years in a state prison for the first offense. However, subsequent offenses under this statute

require a minimum punishment of one (1) year, but the punishment can be up to ten (10) years. See § NRS 200.730(1) and NRS § 200.730(2).

Civil (Tort) Liability

The prohibited acts listed above involve the area of criminal law. However, even if the prohibited sexual interaction does not result in conviction of a crime under Nevada law, civil liability could be imposed for violations of this Diocesan policy.

1 “Sexual abuse includes contacts or interactions between a child and an adult when the child is being used as an object of sexual gratification for the adult. A child is abused whether or not this activity involves explicit force, whether or not it involves genital or physical contact, whether or not it is initiated by the child, and whether or not there is discernible harmful outcome.” Charter for the Protection of Children and Young People, p.5, n.1 (quoting Canadian Conference of Bishops, *From Pain to Hope*, 1992, p.20). The term is not necessarily to be equated with definitions in civil law. If there is any doubt about whether a given act fulfills this definition, the writings of recognized moral theologians should be consulted and if necessary, the opinion of a recognized expert should be obtained. *Canonical Delicts Involving Sexual Misconduct and Dismissal from the Clerical State*, p.6.

Quoted in the Charter for the Protection of Children and Young People, Art. 5, p.9.