

# **XAVERIAN BROTHERS**

*(CONGREGATION OF THE BROTHERS OF ST. FRANCIS XAVIER)*

## **A STATEMENT OF POLICIES, PROCEDURES & PROTOCOLS ON MATTERS OF SEXUAL ABUSE OF A MINOR**

### **Introduction**

The Xaverian Brothers are committed to dealing with issues of sexual misconduct by its members in an open and straightforward manner. The Congregation will promote and protect the safety of children and families, women and men. It will promote healing where it is needed, guidance when it is called for, with firm justice and mercy towards all and a determination to do what is needed to correct and prevent sexual misconduct.

The policies, procedures, and protocols that follow are based on and guided by the Conference of Major Superiors of Men' Standards on sexual abuse of minors applied to a lay religious institute of men. The Xaverian Brothers intend to protect the rights of all parties concerned. This Statement must be carried out in a spirit of fraternal charity and real Christian compassion for the alleged victim and his or her family, for the accused and his religious brothers, and for the welfare of the community in which the accused resides and performs his ministry.

The Statement that follows is intended specifically for the Xaverian Brothers in the United States but the principles contained in the statement apply to the Xaverian Brothers in every country. However, cultural differences and different legal systems may require different procedures and protocols.

## **I. STANDARDS OF CONDUCT FOR MINISTRY WITH MINORS**

The following standards are intended to assist Brothers in making decisions about interactions with minors primarily in Church sponsored and affiliated programs, but also, as applicable, in other activities involving minors. They are not designed to address interactions within families.

This applies to all professed Brothers, novices, and postulants in the United States.

A minor is anyone under the age of 18. The term may, depending upon circumstances, include adults who could be considered vulnerable to abuse because of physical or mental disabilities.

1. Prohibited Behaviors Under All Circumstances
  - a. Using, possessing, or being under the influence of illegal drugs while with minors.
  - b. Providing or allowing minors to consume alcohol or illegal drugs.
  - c. Speaking to minors in a way that is or could be considered by any observer as harsh, threatening, intimidating, shaming, derogatory, demeaning, or humiliating.
  - d. Discussing sexual activities with minors unless it is a specific job requirement and the brother is trained to discuss these matters.
  - e. Engaging in any sexually oriented conversations with minors unless the conversations are part of a legitimate lesson and discussion for minors regarding human sexuality issues. This provision includes use of different social media to entice, groom or influence a minor to meet you.
  - f. Exchanging sexually oriented or morally inappropriate materials of any kind (magazines, videos, films, clothing, internet, etc.)
  - g. Sleeping in the same beds, sleeping bags or small tents with minors.
  - h. Engaging in sexual contact with minors. Sexual contact is defined as vaginal intercourse, anal intercourse, oral intercourse or the touching of an erogenous zone of another (including but not limited to the thighs, genitals, buttocks, pubic region or chest) for the purpose of sexually arousing or gratifying either person.
2. Off-site Events
  - a. Brothers are prohibited from transporting minors without written permission of their parent or guardian.
  - b. Minors should be transported directly to their destination. For longer trips where stops are necessary for comfort or for meals, stops need to be planned and known to parents or guardians in advance of a trip. Unplanned stops should be avoided unless required for safety or necessity.
  - c. Brothers are prohibited from having unrelated minors stay at their residence.
  - d. Changing and showering facilities or arrangements for Brothers should if at all possible be separate from facilities or arrangements for minors.
3. Physical Contact
  - a. Brothers are prohibited from using physical discipline. No form of physical discipline is acceptable. This includes spanking, slapping, pinching, hitting, or

any physical force as retaliation or correction for inappropriate behaviors by minors.

b. The following forms of affection are generally regarded as appropriate examples for Brothers in ministry roles with minors:

- Hugs
- Pats on the shoulder or back
- Hand shakes
- High-fives and hand slapping
- Verbal praise
- Touching hands, faces, shoulders and arms.
- Arms around shoulders
- Holding hands while walking with small children
- Sitting beside small children
- Kneeling or bending down for hugs with small children
- Holding hands during prayer

c. The following are examples of affection that are not to be used by Brothers:

- Inappropriate or lengthy embraces
- Kissing on the mouth
- Holding minors of kindergarten or older age on the lap
- Touching buttocks, chests, genital areas, knees or legs of minors
- Showing affection in isolated areas
- Being in bed with a minor
- Wrestling with minors
- Tickling minors
- Piggyback rides
- Any type of massage
- Any form of unwanted affection
- Suggestive compliments that relate to physique or body development

4. Training for Brothers Who Work in or Are Associated With Programs Involving Minors

Brothers shall review these Policies, Procedures and Protocols and agree in writing to comply with them.

5. Supervision of Programs That Involve Minors

Formal programs for minors in which Brothers are involved should be supervised by at least two adults where appropriate.

## **II. REPORTING PROCEDURES**

1. A Brother shall report known or suspected sexual abuse of someone who is currently a minor to civil authorities where the abuse occurred. A Brother shall report known or suspected abuse of someone who is no longer a minor in accordance with the civil laws of the state in which the abuse was alleged to have occurred.

2. A Brother employed in a ministry involving minors that has its own policies on reporting abuse to civil authorities fulfills his reporting obligations under section one above by following the employer's policies. In addition, the Brother shall report any suspected or known abuse of minors or vulnerable adults directly to the General Superior.
3. If abuse of a minor is confirmed through investigation, civil authorities shall be re-contacted and a follow-up report will be submitted, if requested. If further investigation indicates the allegation is not credible, civil authorities will also be contacted.
4. If the alleged victim is a minor at the time the allegation is received, his or her identity will be provided to civil authorities as required by law in the state where the abuse occurred. If the alleged victim is an adult at the time the allegation is received and consents, his or her identity will be provided to the civil authorities where the abuse occurred. If the alleged victim is an adult at the time the allegation is received and does not consent to having his or her identity revealed, the alleged victim's identity will not be disclosed, but the allegation will be reported to the employer and Congregation. If state law where the abuse occurred requires reporting even if the victim is opposed, the abuse will be reported to civil authority.
5. The Congregation will create a file of allegations at the time an allegation is received. The file will contain information about how an allegation was handled.

### **III. RESPONDING TO INCIDENTS AND ALLEGATIONS**

The process described below for responding to specific allegations may need to be modified according to the nature of the allegation, the needs of the alleged victim and the circumstances of the accused Brother.

1. Initial Response
  - a. The General Superior or his delegate shall receive allegations of sexual abuse and coordinate assistance, as appropriate, to anyone who brings an allegation of abuse by a Brother.
  - b. The General Superior or his delegate shall complete a preliminary report which should include the following:
    - Name of the alleged victim
    - Age of alleged victim
    - Address and phone number of alleged victim
    - Name of alleged perpetrator
    - Approximate dates of alleged abuse
    - Nature, type and location of alleged abuse
    - Any additional relevant details

- c. Upon receipt of an allegation, the General Superior will follow Congregational reporting procedures (see Section II, Reporting Procedures).
- d. The General Superior or his delegate will offer to meet in person with the alleged victim if he or she so desires. The Superior will maintain a compassionate and pastoral manner regardless of the demeanor of the alleged victim.
- e. The General Superior or his delegate will notify the accused Brother of the allegation and its substantial details and see that he receives the necessary support and assistance.
- f. The General Superior or his delegate will inform the accused Brother of his right to seek canonical and civil counsel and will assist him in getting this counsel.

## 2. Internal Investigation

- a. During investigations by civil authorities or by the Congregation, the Brother under investigation will be temporarily removed from ministry responsibilities and duties.
- b. The General Superior through the Congregation's legal counsel will have an investigator gather information regarding the allegations.
- c. The General Superior will inform the Review Board in accordance with its policies, procedures and protocols for receiving and reviewing cases.
- d. When a Brother admits to or is found guilty under the law of sexual misconduct, the Congregation will assist in providing pastoral care to any victims and their families.
- e. Congregational investigations will be documented and stored in the office of the General Superior or his delegate and a summary of the investigation findings will be placed in the personnel file of the Brother under investigation.
- f. The investigator will:
  - let it be known in advance that he/she is working on behalf of the Congregation's legal counsel and not the accused Brother and that conversations may not be subject to any privilege that would prevent revelation to legal authority.
  - let it be known that he/she will not be the one to provide pastoral care.

- obtain statements from the parties and any witnesses and through counsel keep the General Superior or his delegate informed of the proceedings.
- g. When he has received the completed investigation report, the General Superior or his delegate will present the results to the Brother for his response.

### 3. Decision Making

- a. Upon the conclusion of the investigation, the General Superior will decide on an appropriate response if the allegation has been substantiated. The response could include some or all of the following:
- Psychological and medical assessment and intervention
  - Restrictions on community life, personal activities, and use of social media.
  - Limitations imposed on ministerial activities
- b. In cases where the allegation has been substantiated, the General Superior will contact the diocese to communicate the nature of the allegation and to inform the diocese of the response of the General Superior to the allegation.
- c. In cases where an allegation is substantiated, the Brother may not return to public ministry.
- d. If, during the course of implementing these procedures, civil or criminal proceedings are initiated against the accused Brother, these procedures may be suspended immediately, to be resumed, if deemed necessary, only after the completion of the civil or criminal proceedings.
4. If an allegation against a Brother is shown to be false, the Congregation will use all its best efforts to help the Brother restore his good reputation. A Brother will not be precluded from using means provided by law to assist him in restoring his reputation.

## **IV. REVIEW BOARD**

The Congregation participates in the Review Board established by Region III of the Conference of Major Superiors of Men in the United States (CMSM). The Congregation has incorporated as appropriate and applicable for a lay congregation the policies, procedures and protocols of CMSM.

## **V. SUPERVISION AND CARE OF BROTHERS WHO HAVE ABUSED**

The purpose of these procedures is to:

- Assure others, especially children and minors, of all reasonable measures to prevent future occurrence;
- Provide a structure within which the Brother can continue his life as a vowed Xaverian Brother;
- Provide appropriate care for the Brother and the opportunity for such personal conversion and rehabilitation as may be needed;
- Guide the General Superior and his representatives, the Brother, and his local community in determining work, place of residence, and other appropriate activities;
- Encourage the Brother's local community in welcoming and supporting the brother in his desire to continue his life as a Brother within this framework.

The following elements need to be adapted in a Safety or Wellness Plan for each accused Brother, depending on such factors as severity of the accusation(s), notoriety, age and health of the Brother, and the recommendations of the Review Board. The plan must be developed in writing for each Brother, reviewed by the Board, and shared with the Brother, the General Superior, and, as appropriate, Brothers in his local community. Finally, the plan is to be signed by the Brother and the General Superior, and his monitor.

### **1. Evaluation and Therapy**

- a. A Brother, credibly accused, generally will be asked to undergo a professional risk assessment evaluation as to his psychological condition and proclivity to harmful behavior in the future.
- b. Subsequent to that evaluation, the Brother may be asked to participate in such in-patient and/or out-patient treatment as recommended by the evaluating professionals and the Review Board.
- c. The Brother shall report to the General Superior or his representative monthly, describing his progress relative to his Safety or Wellness Plan.
- d. Any information about a Brother who has been accused shall be kept confidential by those receiving it, except as required by law to be revealed.

### **2. Public Ministry as a Brother**

- a. The accused Brother shall not be allowed to function publicly in external ministry.
  - b. No distinctive religious attire shall be allowed for the Brother who has abused a minor.
3. Appropriate Work
- a. If physically and mentally able, the Brother should engage in appropriate work in support of the ministries of the Congregation or in other service to people in need.
  - b. Where appropriate, Brothers restricted or removed from public ministry may need vocational assessment and/or occupational counseling to assist in determining meaningful and useful work.
4. Place of Residence
- a. Any restricted Brother is allowed to live only in a Brothers' community away from a school or in another appropriate supervised place of residence, as determined by the General Superior.
  - b. No separate apartment, private home, or other similar domicile where the Brother would live alone is allowed as a regular residence for the Brother.
5. Community Support and Community Roles
- a. The local community can and should play an important part in helping a Brother who has been restricted and who wishes to continue his life as a Brother.
  - b. It is appropriate for a mentor to be appointed to assist the Brother and support him in his efforts to maintain his program of care and treatment.
  - c. The General Superior or his designee, shall, as appropriate, inform the community in which such a Brother shall live of the fact that the Brother is so restricted and the appropriate specific terms of his Safety/Wellness Plan, so that the community can assist him and the Congregation in following his Safety/Wellness Plan.
6. Contact with Minors
- a. Under no circumstances shall a Brother credibly accused of abuse of a minor be allowed to be in contact with minors without the ongoing supervision of other adults present at the time.



- b. This prohibition would include eating in restaurants, going to the movies, riding in automobiles, private conferences, community parlors, bedrooms, and communication through different forms of social media.

7. Travel, Vacation, Retreat

- a. Vacations alone or with minors, even supervised, shall not be permitted, and vacations should be restricted to Brothers' communities or travel with another Brother who has never been accused.
- b. Retreats in locations alone shall not be permitted.
- c. Other travel, including the use of vehicles, may be restricted.

8. Publications and Publicity

- a. Restrictions on publications, letters to the editor, web-pages, radio and television appearances, and e-mail may be appropriate.

Sensitivity for victims would dictate caution with regard to photographs of accused Brothers displayed in Congregational publications. Participation in Congregational events will be restricted especially where participants usually take photos or video recordings.

9. Information for the General Membership and Others

- a. The General Superior, in consultation with the Review Board, will determine whether and/or how to inform the Congregational membership – in general terms – of those Brothers who have been restricted.
- b. The General Superior, in consultation with the Review Board, will determine whether and/or how to inform others who may have a need to know – in general terms – of those Brothers who have been restricted.

## **VI. FORMATION**

The Congregation has a responsibility to provide those in formation with guidance in their spiritual, emotional, intellectual and psychological development. Part of this charge is realized in candid, informative and integrative sex education. Formation directors in particular need to be thoroughly aware of the issue of sexual abuse both to assist candidates who have been sexually abused during their youth and to understand what factors place some candidates at high risk of becoming sexual abusers of minors.

With this in mind, the Congregation commits itself to the following:

1. The Congregation will evaluate the background of all candidates and will employ adequate screening and evaluative techniques (including mental and physical exams, the resources of law enforcement, and other community agencies) to decide the fitness of candidates for admission to initial formation programs.
2. The Formation Directors of the Congregation are charged with developing a frank and integrative sex education program to guide Brothers in the formation in their psychological development.

*These policies, procedures, and protocols were originally adopted in 2005, reviewed in 2009 in light of the CMSM revised standards, and reviewed again in 2012 after a further CMSM revision of the standards. Several amendments were made to clarify language in some sections and the full document was restated and implemented by the General Council of the Congregation in October, 2012.*

**Appendix To**

**POLICIES, PROCEDURES & PROTOCOLS ON  
MATTERS OF SEXUAL ABUSE OF A MINOR  
of the  
Xaverian Brothers**

**This addition is intended to illustrate and explain how the Congregation's policies, procedures and protocols (Policies) are consistent with the CMSM standards as they have evolved through different revisions up to 2012. This appendix was amended and restated in full in 2012.**

### Standard 3

#### DESCRIPTION OF THE XAVERIAN SYSTEMS OF SUPPORT AND ACCOUNTABILITY

The Xaverian Brothers in the United States have a variety of ongoing programs of support and accountability.

1. Most Brothers live in community settings, and most communities have a coordinator/director.
2. Almost a third of the Brothers in the United States participate in small International Groups which meet two or three times a year for prayer, reflection, support, and accountability. These groups have been extremely effective for the Brothers who participate.
3. In 2009, the Leadership Team of the Congregation conducted a program of personal and individual interviews for each Brother in the United States. Since 2009, the Leadership has been regularly involved with the Brothers on a full range of religious, health, and living issues. Specific programs on different life issues have occurred and continue at the Congregation's two retirement facilities where many of our men reside.
4. The Congregation's Leadership communicates with the employers of its members on its accountability and support structures and its expectation to be informed about the conduct of its members. This communication will usually be in letter form when a member begins an employment relationship. As circumstances change follow-up letters may be sent to an employer. Copies of these letters will be maintained by the Congregation.
5. When non-Xaverian religious or clergy live in a Xaverian community they will be provided a copy of the abuse statement and informed that they are expected to adhere to it as a condition to remain living in a Xaverian residence.

### Standard 4

#### BOUNDARIES FOR PROPER USE OF SOCIAL MEDIA AND ELECTRONIC COMMUNICATION WITH MINORS

1. A Brother is to respect appropriate boundaries in all electronic communication, especially with minors.
2. A Brother's electronic communication with a minor is limited to an appropriate and approved ministry purpose. A Brother is to use a ministry-based email account, if possible, for all email communication with minors and their parents. If the ministry site cannot offer an email account, the Brother is to set up an email account for ministry-related communication

that is distinct from his personal email account. A Brother is to keep copies of all emails to and from students and parents and save texts from students and parents in a folder on his phone.

3. A Brother does not enter into any type of communication with a minor that is not within the scope of his ministry, or any communication that would undermine the parent-child relationship or serve to foster an inappropriate relationship with a minor or group of minors.
4. A Brother avoids relationships and communication, particularly with minors, that take on the following characteristics:
  - Relationships that are secretive.
  - Relationships that are exclusive.
  - Relationships that are competitive.
  - Relationships that are obsessive.
5. A Brother may use electronic media for more personal communication with relatives who are minors, provided the relatives' parents are aware of the existence of such communication.
6. Any adult who becomes aware of a boundary violation regarding Electronic Communication and Social Media by a Brother is to notify his ministry site supervisor, his local director, or a member of the Congregational Leadership Team.

#### Standard 5

Since the adoption of these Policies in 2005, the Congregation has conducted a variety of workshops in all the US areas of the Congregation utilizing professionals with expertise in the different aspects of sexual abuse to inform the Brothers about sexual abuse of any persons and their obligations as to conduct, reporting and assisting those abused. Employed Brothers especially in educational facilities participate in regular instruction on sexual abuse. Internally the Congregation's Leadership will present its own programs to the Brothers as appropriate. Well over half of the Brothers are retired and have no regular contact with minors.

#### Standard 6

#### PROTOCOL WHEN A MEMBER VIOLATES XAVERIAN POLICIES REGARDING BOUNDARIES WITH MINORS

If and when a Xaverian Brother knows that another Brother has violated our policies, he should as soon as possible notify either Brother Edward Driscoll or Brother Paul Murray at the Xaverian Generalate who are responsible for responding to concerns about the policy violations regarding boundaries with minors.

In addition to overt abuse any touching or remark that causes a minor to become uncomfortable can be considered a boundary violation.

If and when a Xaverian Brother notices warning signs that another Brother could be violating boundaries, he should also notify either Brother Edward or Brother Paul at the Generalate. Any Brother concerned about the behavior of another Brother toward minors or adults is encouraged to consult the Congregation's Leadership who will assist in addressing any concerns.

#### Standard 7

### PROTOCOL FOR OFFERING ASSISTANCE TO ANY BROTHER WHO IS CONCERNED ABOUT HIS ATTRACTION TO MINORS OR ABOUT POSSIBLE BOUNDARY VIOLATIONS WITH MINORS

Any Xaverian Brother who is concerned about his attractions to minors is encouraged to speak with either Brother Edward or Brother Paul who will offer assistance which could include appropriate evaluation or treatment.

#### Standard 9 & 10

### DESCRIPTION OF ROLE OF PERSON RESPONSIBLE FOR ASSISTING PERSONS WHO HAVE ALLEGEDLY BEEN ABUSED

Brother Edward or his delegate will respond to individuals who have allegedly been abused.

This Brother is versed in the dynamics of sexual abuse, the harmful effects of sexual abuse, how to provide comfort to victims of sexual abuse, how to encourage trust in victims who report being sexually abused as a minor, and how to promote the victim's healing.

Brother Edward will always offer to meet in person with an individual who alleges being sexually abused as a minor at which time he will explain the procedure the Brothers will follow in responding to the allegations.

#### Standard 11

### REPORTING PROTOCOL

Protocols for responding to reports and allegations of sexual abuse of a minor are contained in the Policies, Procedures and Protocols of the Xaverian Brothers. The Congregation will, as appropriate, inform: the bishop of the diocese where the abuse is alleged to have occurred; the bishop of the diocese where the Brother lived, the Brother's employer and others involved in the

matter. This communication will include ongoing follow-up as the allegations are resolved. The Congregation keeps a record that these communications occurred.

#### Standard 13

Xaverian Brothers are required to report known or SUSPECTED sexual abuse of a minor by another Brother (includes current, former, and deceased Brothers) when the victim is no longer a minor in accordance with the civil laws of the state in which the sexual abuse of a minor was alleged to have occurred.

Individuals who report an alleged abuse to Xaverian Brothers will be advised of their right to report to civil authorities.

#### Standard 14

The Xaverian Brothers will investigate all information concerning sexual abuse provided to the extent possible, including information that is provided anonymously.

#### Standard 15

### COOPERATION WITH CIVIL AUTHORITIES

The Xaverian Brothers will cooperate with civil authorities that are conducting an investigation of an allegation of sexual abuse of a minor and will direct the Congregation's legal counsel to cooperate with civil authorities when its own internal investigation occurs concurrently with a criminal investigation.

#### Standard 16

### DOCUMENTATION OF REPORTS

The Xaverian Brothers will document all reports and allegations of sexual abuse of minors by a Xaverian Brother, and our responses to the reports and allegations, including anonymous allegations and reports.

All documentation shall be kept in one file cabinet that will remain accessible to the General Superior and his delegate and his successors.

## Standard 17

### XAVERIAN REVIEW BOARD

The Xaverian Brothers have a well established Review Board of five professionals who provide advice to Brother Edward Driscoll, Brother Paul Murray, Brother Lawrence Harvey, and Brother John Hamilton on Brothers who have been involved with abuse matters. The Review Board meets with the above Brothers every June to review current safety plans of those Brothers who must live within a Safety/Wellness Plan .

In addition, the Review Board considers all cases of alleged abuse. To facilitate this, they are provided with the following:

1. the original report of sexual abuse of a minor
2. the final report of an investigation
3. all other allegations of sexual misconduct by that Brother
4. any relevant disciplinary actions taken in the past in regard to the Brother and the reasons for the actions.

Some of the reports of allegations are handled by conference call and/or e-mails.

## Standard 18

### INFORMING ORGANIZATIONS, MINISTRIES WHERE THE ABUSE OCCURRED

The Xaverian Leadership informs the leadership of any organization or ministry in which the Brother has admitted to the sexual abuse of a minor and also maintains documentation concerning this communication.

## Standard 19

### SAFETY PLANS

The Xaverian Brothers will maintain a written, personalized Safety Plan for any Brother against whom an allegation of sexual abuse of a minor has been substantiated. The Safety Plan will be updated annually to include an ongoing risk assessment provided by professionals treating the Brother and signed by the Brother, the General Superior, and one other person who is directly involved in the supervision of the Brother.

Appropriate work, and the specific assignment, for the Brother who has sexually abused a minor must be included in the Safety Plan.



Distributing, downloading, or intentionally viewing child pornography of any kind is sexual abuse of a minor according to both civil and canon law. Any Brother who is known to have done this will have a safety plan.

*The International Centre for Missing and Exploited Children* says that child should be defined as “anyone under the age of 18 years.” CHILD PORNOGRAPHY includes, but is not limited to, “any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes,” as well as the use of a child to create such representation.

#### Standard 20

### WORK ASSIGNMENTS

A Brother who has sexually abused a minor will not be permitted to work in any position which allows access to minors, or in any ecclesiastical ministry (ministry under the authority of the diocesan bishop).

#### Standard 21

### REVIEW BOARD MEETS ANNUALLY

The Xaverian Brothers Review Board will review each Safety Plan annually. Once the Review Board responds with written recommendations, the recommendations will be considered by the General Superior and then presented to each Brother with a Safety Plan. Where applicable the Safety Plan will be modified to include appropriate Review Board recommendations. Each Brother’s response will be documented.

#### Standard 22, 23, & 24

### NECESSARY QUALITIES FOR MONITORS

Brothers or others so designated as monitors of Brothers on Safety Plans will be physically and emotionally capable and adequately trained to perform the duties involved in monitoring.

The Xaverian Brothers hold yearly meetings for all the monitors at which there is ongoing training and clarification regarding their role as monitors. Opportunities are also offered from time to time for the monitors to attend professional meetings that discuss abuse topics and how to assist one who has abused.

The monitors are given ongoing pertinent information about each Brother on a Safety Plan. Certain materials may require release forms.

The General Superior or his delegate will annually evaluate compliance with all Safety Plans, and this must be documented.

#### Standard 25

#### OUTSIDE AUDITORS FOR HIGH RISK BROTHERS

The Congregation may invite outside auditors to conduct unannounced visits to any community where “high risk” Brothers reside to determine adherence to applicable Safety/Wellness Plans. An outside auditor may be another Brother from Leadership or one experienced in the issues reviewed during an unannounced visit.

## Glossary of Terms

**Allegation.** A first-person accusation of sexual abuse usually of a minor brought against a current Member, former Member, or deceased Member which is reported to the Institute through any form of communication, including any that are anonymous.

**Candidate.** An individual who is applying for membership in an Institute.

**Child Pornography.** Any activity which involves a graphic depiction of a minor that is sexually explicit.<sup>12</sup>

**Confidential.** Private information which shall be kept restricted from others and only be disclosed to an authorized person for legitimate reasons of the Institute or because the disclosure is legally required.

**Confidential Documents.** Documents which are given confidential status as defined by the Institute in its policies and procedures and as required by canon and civil law and whose confidential status has been communicated to the Members of the Institute.

**Established Allegation.** Based upon the facts and the circumstances, there is objective certainty that the accusation is true and that an incident of sexual abuse of a minor has occurred.

[This is a definition which keeps it in line with the concept of moral certainty required by the canon law. The judgment of the major superior must be objective, i.e. based upon facts and circumstances discovered in the course of the investigation. It is not based upon a percentage of the evidence, *i.e. most likely true or most likely occurred*, which implies 50 +1% of the evidence. It allows for the canonical principle in moral certitude which states that the judgment of the major superior admits that the contrary (the falsity of the accusation) is indeed possible but highly unlikely or improbable, to the extent that the major superior has no fear that the contrary (the falsity of the accusation) may be true]

**High-Risk Member.** A Member who has sexually abused a minor in the past and is likely to sexually abuse a minor again if left untreated and/or unsupervised.

**Institute.** The individual religious province, association, monastery, abbey, congregation, society or order that is seeking Accreditation.

**Major Superior.** The responsible leader according the proper law of the Institute that is seeking accreditation.

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<sup>12</sup> From a presentation given at the USCCB **Promise to Protect** seminar on September 13, 2007 by Kenneth V. Lansing, which was adapted from his work, *Cyber "Pedophiles": A Behavior Perspective*, Chapter 4 of **Prosecuting Internet Child Exploitation Cases** (James S. Peters ed., US Department of Justice, USA Book): "The legal definition of the term "child pornography" varies from state to state and under federal law. Under most legal definitions, child pornography involves a **visual depiction** of a **child** that is **sexually explicit**. The Federal child pornography law defines a child (minor) as someone who has not yet reached his or her 18<sup>th</sup> birthday."

**Member.** A person for whom an Institute is fully responsible according to its proper law.

**Ministry:**

**Ecclesiastical Ministry.** Any ministry that is under the authority of a diocesan bishop.

**Public Ministry.** Any ministry that is under the authority of a diocesan bishop and/or under the sponsorship of a religious institute.

**Minor.** Anyone under the age of 18.

**Report.** A third-party accusation of sexual abuse of a minor brought against a current Member, former Member, or deceased Member which is conveyed to the Institute through any form of communication, including any that are anonymous.

**Review Board.** An advisory group of individuals not employed by the Institute with unique knowledge, expertise and experience, who provide counsel and recommendations to the Major Superior in situations involving the sexual abuse of a minor.

**Safety Plan.** A formal, written supervision program for an individual who, it has been established, has sexually abused a minor.

**Sexual Abuse of a Minor.** Contact or interaction between a minor and an adult when the minor is being used for sexual stimulation of the adult. This occurs when an adult engages a minor in any sexual activity, including direct sexual contact as well as sexual non-contact, such as frottage, exhibitionism, and the distribution, downloading, and/or intentional viewing of child pornography.

## **POLICIES FOR MAINTAINING ETHICAL MINISTRY WITH MINORS**

### ***Standards of Conduct for Ministry with Minors***

The following standards (excerpted from the Xaverian Policies, Procedures, and Protocols on Matters of Sexual Abuse of a Minor) are intended to assist brothers in making decisions about interactions with minors in Church sponsored and affiliated programs. They are not designed to address interactions within families.

This applies to all professed brothers, novices, and postulants.

A minor is anyone under the age of 18. The term may include adults served in Church programs who might be considered vulnerable to abuse because of physical or mental disabilities.

6. Prohibited Behaviors Under All Circumstances
  - a. Using, possessing, or being under the influence of illegal drugs while with minors.
  - b. Providing or allowing minors to consume alcohol or illegal drugs.
  - c. Swearing in the presence of minors.
  - d. Speaking to minors in a way that is or could be considered by any observer as harsh, threatening, intimidating, shaming, derogatory, demeaning, or humiliating.
  - e. Discussing sexual activities with minors unless it is a specific job requirement and the brother is trained to discuss these matters.
  - f. Engaging in any sexually oriented conversations with minors unless the conversations are part of a legitimate lesson and discussion for teenagers regarding human sexuality issues.
  - g. Being nude in the presence of minors.
  - h. Exchanging sexually oriented or morally inappropriate printed materials (magazines, videos, films, clothing, etc.)
  - i. Sleeping in the same beds, sleeping bags or small tents with minors.
  - j. Engaging in sexual contact with minors. Sexual contact is defined as vaginal intercourse, anal intercourse, oral intercourse or the touching of an erogenous zone of another (including but not limited to the thighs, genitals, buttocks, pubic region or chest) for the purpose of sexually arousing or gratifying either person.
  
7. Off-site Events
  - a. Brothers are prohibited from transporting minors without written permission of their parent or guardian.
  - b. Minors should be transported directly to their destination. No unplanned stops should be made.
  - c. Brothers are prohibited from having minors stay at their residence. Requests for exceptions should be submitted to the General Superior or another Member of the Leadership Team in writing two weeks prior to the visit.
  - d. Changing and showering facilities or arrangements for Members must be separate from facilities or arrangements for minors.

8. Physical Contact
- a. Brothers are prohibited from using physical discipline in any way for behavior management of minors. No form of physical discipline is acceptable. This includes spanking, slapping, pinching, hitting, or any physical force as retaliation or correction for inappropriate behaviors by minors.
  - b. The following forms of affection are generally regarded as appropriate examples for brothers in ministry roles with minors:
    - Hugs
    - Pats on the shoulder or back
    - Hand shakes
    - High-fives and hand slapping
    - Verbal praise
    - Touching hands, faces, shoulders and arms.
    - Arms around shoulders
    - Holding hands while walking with small children
    - Sitting beside small children
    - Kneeling or bending down for hugs with small children
    - Holding hands during prayer
  - c. The following are examples of affection that are not to be used by brothers:
    - Inappropriate or lengthy embraces
    - Kissing on the mouth
    - Holding minors over four years old on the lap
    - Touching buttocks, chests, genital areas, knees or legs of minors
    - Showing affection in isolated areas
    - Being in bed with a minor
    - Wrestling with minors
    - Tickling minors
    - Piggyback rides
    - Any type of massage
    - Any form of unwanted affection
    - Compliments that relate to physique or body development
9. Training for Brothers Who Work With Minors  
Members shall review the Ministry Policies and agree in writing to comply with the Congregation Standard of Conduct.
10. Supervision of Program That Involve Minors  
Programs for minors in which brothers are involved must be supervised by at least two adults.