

ARCHDIOCESE OF NEWARK AND THE DIOCESES OF CAMDEN, METUCHEN, TRENTON AND
PATERSON

INDEPENDENT VICTIM COMPENSATION PROGRAM
ADDRESSING CLAIMS OF CLERGY SEXUAL ABUSE OF MINORS

PROTOCOL

for

*Compensation of Certain Individual Claims of Clergy Sexual Abuse of Minors Previously
Reported or Submitted*

June 15, 2019

I. PURPOSE

This Victims Compensation Program follows in the wake of initiatives already implemented by the Archdiocese of Newark and the Dioceses of Camden, Metuchen, Trenton and Paterson, which are part of the ecclesiastical Province of Newark, (collectively the "NJ Dioceses") to address the problem of the sexual abuse of minors alleged against clergy of the Dioceses¹. Claimants who assert claims of sexual abuse against a member of a religious order or other diocese or archdiocese are not eligible to participate in this Program.

This Protocol outlines the eligibility criteria requirements and the process for these individuals to submit and resolve claims alleging such sexual abuse. This Protocol governs only those reports and complaints made to the NJ Dioceses as of the date of this Final Protocol by individuals who have not previously received monetary compensation from the NJ Dioceses, as well as those who have made claims for compensation to the NJ Dioceses but whose claims have not yet been resolved. These claims will be considered Phase I of a two-phase Program.

The effective date of the IVCP is June 15, 2019 and is available to all Claimants regardless of when they were harmed. The claim of sexual abuse must be directed against clergy of one of the NJ Dioceses as described above. Claims will be handled in the order in which they are received, starting with claims of sexual abuse that were reported to the Diocese prior to the date of this Protocol. Claim forms and other relevant Program information will be sent to each potentially eligible Claimant.

Additional complaints alleging sexual abuse of a minor not previously reported to the NJ Dioceses shall be considered during Phase II of this Program. Individuals who wish to participate in Phase II may immediately register with the Administrators on the Program website by providing their names, contact information and a summary description of the nature of the claim, including the dates, time, location of the alleged abuse and name of the alleged perpetrator. Such information will be

¹ Recognizing that sexual abuse of a minor is a horrific crime, since 2002, and the adoption of the Bishops Charter for the Protection of Children and Young People, the Dioceses of the Province implemented a number of safeguards and procedures designed to keep children safe. For example, any cleric against whom an allegation of sexual abuse of a minor is substantiated - no matter when the abuse occurred - is permanently removed from ministry. The Dioceses advise every victim of such clergy abuse to immediately report the abuse to the appropriate law enforcement authorities, and the relevant Diocese likewise reports allegations of such abuse to the appropriate county prosecutor pursuant to the 2002 Memorandum of Understanding between the Attorney General of New Jersey and the county prosecutors, and the Dioceses of the Province. The Dioceses offer counseling to victims of clergy abuse, and they have also implemented a robust and dedicated safe environment program which has conducted background checks on employees and volunteers, and have provided mandatory safe environment training to anyone who works with children.

maintained in strict confidence in conjunction with Phase II of this Program except that it is to be forwarded to the office of the County Prosecutor where the abuse occurred by both the registrant and the NJ Dioceses for initial review. If deemed potentially eligible by the Administrators, these individuals will be sent information regarding the Phase II claims process. These claims will be considered Phase II of the Program.

The deadline for registration of Phase II allegations with the Program is October 31, 2019.

The filing deadline for both Phase I and Phase II Claims is December 31, 2019.

A. Administrators

The NJ Dioceses have asked Kenneth R. Feinberg and Camille Biros (the “Administrators”) to design, implement and administer a Program for the submission, evaluation, and settlement of individual reports of sexual abuse of a minor previously brought to the attention of the various NJ Dioceses, as well as claims asserted as of the date of this Final Protocol. This resulting Protocol creates a compensation program under which the independent Administrators will process and evaluate claims to determine: a) whether the submitted claim meets the eligibility requirements and, if so, b) the compensation to be paid such eligible claimant.

Participation in the Program is completely voluntary and does not affect any rights the claimant may have until and unless the claimant accepts the compensation amount and signs a Release after required consultation with a lawyer.

B. Approach

The following non-exclusive principles apply to the operation of this Protocol.

- The Administrators will evaluate claims submitted with the required documentation in a prompt and fair manner.
- Any documentation previously submitted to the NJ Dioceses in connection with claims of sexual abuse will be made available to the Administrators consistent with this Protocol, including information from the accused and any other pertinent information contained in the files maintained by any of the NJ Dioceses.
- The Program Administrators are independent. Consistent with the terms and conditions of this Protocol, any final decision rendered by the Administrators pertaining to an individual claim will be fully binding on the particular Diocese which has no authority to reject any final decisions rendered by the Administrators.
- Acceptance of payment from the Administrators will require the claimant to execute a full Release of liability, as discussed below.
- The Compensation Program is administered by Mr. Feinberg and Ms. Biros, neutral fund Administrators responsible for all decisions relating to the administration, processing, and evaluation of individual claims submitted to the Administrators.

II. ELIGIBILITY REQUIREMENTS

The only claimants who may submit claims to the Administrators during Phase I are (a) individuals who, as of the date of this Final Protocol, have submitted complaints or reports alleging sexual abuse committed by clergy of one of the NJ Dioceses, or (b) the Legal Representative (as defined below) of such a claimant. All other claimants may immediately register with the Administrators (via the Program website) to participate in Phase II of this Program which is intended to address claims received after the date that this Program is implemented. (The deadline for registering a Phase II claim with the Program is October 31, 2019. The deadline for filing an individual Phase I or Phase II claim pursuant to this Protocol is December 31, 2019.)

The following groups are not eligible to participate in the Program: (1) persons who have had their claims adjudicated by a court or an arbitrator; (2) persons who previously entered into a settlement

agreement resolving the claim of clergy sexual abuse; and, (3) an individual with a claim of clergy sexual abuse against a member of a religious order or priest of another Diocese.

The "Legal Representative" of the individual Claimant shall mean: (1) in the case of a Claimant who is currently a minor, a parent or legal guardian authorized under law to serve as the minor's legal representative; (2) in the case of an incompetent or legally incapacitated individual Claimant, a person with proof that he or she has been duly appointed as the Claimant's legal representative in accordance with applicable law; (3) in the case of a Claimant who was deceased prior to the effective date of the Program or a Claimant who submitted a claim while alive but passed away during the claims process, the spouse, descendant, relative or other person who is authorized by law to serve as the decedent's legal representative; or (4) an attorney authorized to represent the Claimant, in which case the Claimant must provide a retention agreement signed by both the Claimant and the attorney.

For an individual claimant to be eligible for compensation under this Protocol ("Eligible Claimants"), the following eligibility requirements must be met:

- The individual claimant must have previously submitted a complaint or report to one or more of the NJ Dioceses alleging that he or she was sexually abused by a cleric of one of the NJ Dioceses during the time that he or she was a minor.
- The individual claim of clergy sexual abuse may not be directed against a member of a religious order, or priests not incardinated in the Archdiocese of Newark, or the NJ Dioceses of Camden, Metuchen, Trenton or Paterson, and such a claim is ineligible pursuant to this Protocol.
- The individual claimant must not have previously entered into a settlement agreement resolving the claim of clergy sexual abuse. Such a claimant is ineligible pursuant to this Protocol.
- The submission of a Phase II individual claim to the County Prosecutor where the abuse occurred, by the claimant and the NJ Dioceses, is a prerequisite for compensation pursuant to this Program. However, a finding of criminal liability is not required as a precondition for compensation pursuant to this Program.
- The Administrators must find that the facts and circumstances of the claim of clergy sexual abuse demonstrate that the allegations are credible and provide sufficient corroboration and proof to justify the payment of compensation.
- The Administrators must determine, in their sole discretion, after reviewing all of the information submitted as required herein, that the alleged clergy sexual abuse of a minor is likely to have occurred.

Whether or not an individual claimant is determined by the Administrators to be eligible for compensation pursuant to this Protocol, each individual claimant may voluntarily request and receive pastoral counseling, and/or psychological counseling at the option of the individual claimant. Such counseling will be paid by the pertinent Diocese and administered pursuant to that Diocese's counseling policy, if applicable.

III. METHODOLOGIES FOR CALCULATING COMPENSATION

A. Acceptance or Rejection

Among the factors the Administrators will consider in evaluating individual claims are the following:

- The extent to which the individual claimant and/or the relevant Diocese are able to document and corroborate the nature, frequency and time of the alleged sexual abuse.
- Whether or not the allegations of sexual abuse are consistent with allegations made by other individuals concerning known recidivist perpetrators.
- Whether or not, in evaluating all of the facts and circumstances supporting the allegations, i.e., the context of the claim, there is sufficient circumstantial evidence to find eligibility and provide a designated level of compensation.
- Whether or not contemporaneous notification of the alleged abuse was made by the

individual claimant to church officials, law enforcement authorities, parents, friends and/or others.

- Whether or not there exist medical or counseling records relevant to the alleged abuse.
- Whether or not there exists any information and/or pertinent findings offered by the appropriate County Prosecutor.
- Whether or not the Administrators find the claims of the individual to be credible after a complete review of all relevant documentation provided by the claimant, the pertinent Diocese, and any doctors and psychiatrists retained by the individual claimant.

B. Amount of Compensation

Among the factors the Administrators will consider in determining the amount of compensation to be paid to any Eligible Claimant, are the following:

- The nature, extent and frequency of the sexual abuse alleged by the individual claimant.
- Whether or not the individual claimant alleges aggravating circumstances e.g., age of the claimant, severity of abuse, location of abuse, threats of physical harm and/or retaliation, significant, verifiable and life-altering psychological damage, etc.
- The credibility of the claimant based upon all of the facts and circumstances.

Pursuant to this Protocol, the Administrators - in their sole discretion - shall determine the appropriate compensation to be offered each eligible individual claimant.

C. Documentation Requirements

All individuals submitting a claim pursuant to this Protocol must submit a completed Claim Form as provided by the Administrators. Each claimant must submit the documentation requested on the Claim Form, and any other corroborating information sufficient both to substantiate the Claim and satisfy Protocol requirements, including eligibility requirements, and to allow the Administrators to review, process, and evaluate the submitted claim. All documentation previously provided to the relevant Diocese will be made available to the Program Administrators.

If the claim is being submitted by an attorney or a legal representative, then the attorney or legal representative will be responsible for submitting the necessary documentation relating to the represented claimant and the Administrators will communicate solely with the attorney or legal representative. If so represented, claimants must provide the Administrators with a retention agreement signed by both the claimant and the attorney. Legal representatives must supply proof of representative capacity - such as a power of attorney, guardianship, appointment as guardian or attorney ad litem, custodial parent, or the equivalent - as is required to establish authority to act in a representative capacity under the law of the resident state of the minor.

Specific documentation and proof requirements will be defined on the Claim Form. Additional documentation may be required at the discretion of the Administrators

D. Filing for Compensation

1. Equal Access and Fair Adjudications in the Claims Process

All claimants will be treated with respect, dignity, and fairness, without regard to race, color, sexual orientation, national origin, religion, gender, or disability. The Administrators will manage the process so that all claimants can equally access the Program's claim submission process so that claims will be adjudicated fairly. Individuals with disabilities will be given the opportunity to effectively communicate their claims and to request special process accommodations to the Administrators. Accommodations will be made for individuals with language barriers to ensure that they will have meaningful access to the process and to the Program.

2. Process and Procedures

The Administrators will send each victim/survivor who has previously reported a claim of abuse to the NJ Dioceses a packet of information about the Program with a copy of the Claim Form. Those that have not previously reported a claim of abuse can register on the Program website for an initial review by the Administrators of the basic facts of the claim. If the Administrators determine that the individual is a potentially eligible claimant, he or she will receive the Claim Form and accompanying Program information. This Protocol and the Frequently Asked Questions (“FAQ’s”) will be available on the Program Website to all interested parties. Program materials may be translated into Spanish upon request.

Claimants will mail the completed Claim Forms via overnight courier (a pre-paid courier voucher will be included in each Claimant's packet) to the Program Administrators at the following address:

New Jersey Dioceses IVCP
c/o The Law Offices of Kenneth R. Feinberg, PC
1455 Pennsylvania Avenue, N.W., Suite 390
Washington, DC 20004

In order for the claim to be eligible for payment, all claimants must voluntarily consent to participate in the Program and agree to be bound by its terms, but shall not release any legal rights until such compensation is determined, the claimant is notified, the claimant accepts the compensation and executes a binding Release. If the Claimant decides to accept the compensation offered through this Program, the Claimant will sign a Release of all past and future claims relating to the abuse at the conclusion of this process. Before signing such a Release, the Claimant will be required to consult with an attorney for the sole purpose of advising the Claimant concerning the language and binding nature of the Release. If the Claimant does not have an attorney, the Administrators shall provide an attorney to consult with the Claimant for this sole purpose free of charge.

The Administrators will work directly with all claimants as reasonably requested to make sure that all claims are submitted by the December 31, 2019 deadline.

The Administrators cannot provide tax or legal advice to those receiving payments pursuant to this Protocol. The Administrators recommend consultation with a tax advisor concerning any questions regarding tax liability for payments pursuant to this Protocol.

3. Due Process Procedures and the Right to be Heard

Individual claimants or officials of the relevant Diocese may request a face-to-face personal meeting or telephone meeting with the Administrators prior to their making a determination pursuant to this Protocol. At any time during this process, individual claimants may also request to meet with a Victim's Assistance Coordinator of the relevant Diocese. Both the individual claimant and the relevant Diocese reserve the right to submit to the Administrators any information deemed relevant to the Administrators' evaluation and determination of any individual claim before the final processing, determination and calculation of the claim. Meetings will be scheduled at mutually convenient times and locations. Such a requested meeting will not serve to alter the eligibility, process, or documentation requirements set forth in this Protocol. Requests to meet with the Administrators should be sent by email to the Administrators. (Contact information is on the Claim Form and on the Program website.) In addition, the Administrators may request a meeting with a claimant or his or her representative at a reasonable mutually convenient location.

4. Incomplete or Deficient Claims

If a claimant submits an incomplete or deficient claim, e.g., the claimant failed to include required documentation or failed to sign the Claim Form, a deficiency notification will be sent to the claimant and a representative of the Program will informally work with the claimant in an effort to cure any such deficiencies.

5. Confidential Notification of Program Decision

The Administrators confidentially will send to the claimant, or to the claimant's Legal Representative in the case of a minor, or to the claimant's counsel, as the case may be, the following in writing:

- a. The Administrators' decision regarding the claim.
- b. The settlement amount offered pursuant to this Protocol; and
- c. A Release to be signed by the claimant if the claimant accepts the offered settlement.

Settlement offers pursuant to this Protocol shall be valid for 60 days, after which they are null and void.

6. Payment

Payments will be issued by the Administrators following the final processing of an Eligible Claimant's Claim Form and any requested meeting by the claimant with the Administrators. The Administrators will authorize the payment by check or electronic funds transfer, to each Eligible Claimant. Checks will be sent to claimants by the Administrators via overnight courier service.

E. Privacy

Pursuant to this Protocol, this entire Independent Reconciliation and Compensation Program is deemed to be confidential. By filing a claim with the Program, the claimant and his or her representative agree that information submitted by a claimant and the respective Diocese pursuant to this Program will be used and disclosed only for the following purposes: All privileges (Attorney Client Work Product, Priest Penitent, etc.) will continue to apply.

1. Processing the claimant's claim for compensation.
2. Administering the Program, including the prevention of fraud.
3. The protection of children under the safe environment programs of the NJ Dioceses.

All confidentiality requirements are subject to law, regulation or judicial process.

Participating Claimants may at their sole and voluntary discretion, disclose information in their possession regarding their claim, the claims process and/or the compensation determination of the Administrators.

F. Quality Control Procedures

1. Verification Procedures

For the purpose of detecting and preventing the payment of fraudulent claims, and for the purpose of assuring accurate and appropriate payments to claimants, the Administrators will implement procedures to:

- a. Verify and authenticate claims.
- b. Analyze claim submissions to detect inconsistencies, irregularities, and duplication.

2. Quality Control

The Administrators shall institute all necessary measures designed to evaluate claims review procedures, the accuracy of submissions and the accuracy of payments.

3. False or Fraudulent Claims

Each individual claimant will sign the Claim Form at the time of submission, stating that the claimant certifies - under threat of perjury - that the information provided in the Claim Form is true and

accurate to the best of the claimant's knowledge, and that the claimant understands that false statements or claims made in connection with such submission may result in fines, imprisonment, and/or any other remedy available by law. Suspicious claims will be forwarded to federal, state, and local law enforcement agencies for possible investigation and prosecution. Individual claims submitted pursuant to this Protocol may be forwarded, in appropriate cases, to an appropriate Office of the County Prosecutor for review.

G. General Release

In order for the claim to be eligible for payment, all claimants must voluntarily consent to participate in the Compensation Program and agree to be bound by its terms, including all requirements pertaining to privacy and confidentiality. No such Agreement will be enforceable until the claimant is made aware of the settlement amount. Until a Final Release is executed, each individual claimant retains all rights under the law.

By submitting a claim under this Protocol, a claimant is seeking to resolve all claims against all responsible parties relating to allegations of sexual abuse involving one or more of the NJ Dioceses. If a claimant chooses to accept a final payment pursuant to this Protocol, the claimant will be required to sign a full General Release of all past and future claims against any party relating to such allegations of sexual abuse.

Before signing such a Release, the individual claimant will be required to consult with an attorney selected by the claimant, or the Administrators shall provide an attorney to provide free pro bono legal counseling to the claimant for the sole purpose of advising the claimant concerning the language and binding nature of the Release. The Release will waive any rights the claimant or his/her heirs, descendants, legatees and beneficiaries may have against the respective NJ Dioceses, or any potentially responsible party to assert any claims relating to such allegations of sexual abuse, to file an individual legal action relating to such allegations, or to participate in any legal action associated with such allegations