

**DIOCESE OF SCRANTON**  
**INDEPENDENT SURVIVOR COMPENSATION PROGRAM**  
**FOR**  
**CLAIMS OF CLERGY SEXUAL ABUSE OF MINORS**  
**PROTOCOL**

**January 22, 2019**

**I. PURPOSE AND OVERVIEW**

This Independent Survivor Compensation Program (the "ISCP") follows in the wake of numerous initiatives already implemented by the Diocese of Scranton (the "Diocese") to address the problem of sexual abuse of minors alleged against clergy and others related to the Diocese. The ISCP is designed to compensate eligible victims of abuse.

During past years, the Diocese has received various individual complaints alleging sexual abuse by clergy and others related to the Diocese. 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 claims that were previously submitted to the Diocese as well as claims not previously reported to the Diocese.

The Program has been designed by two nationally recognized claims administration experts, Kenneth R. Feinberg and Camille S. Biros (the "Administrators"). The Administrators are independent and responsible for all decisions relating to the administration, processing and evaluation of individual claims submitted to the Program. Through this Program, the Diocese wishes to acknowledge the wrongs endured by survivors, the Diocese's failure to prevent that harm, and to offer an opportunity to submit claims for sexual abuse of minors. Each eligible claimant (the "Claimant") who participates in this Program - which is purely voluntary - will have the opportunity to receive compensation.

The effective date of the ISCP is January 22, 2019 and is available to all Claimants regardless of when they were harmed. The claim of sexual abuse must be directed against clergy, lay teachers or employees of the Diocese of Scranton, which operates in Lackawanna, Luzerne, Bradford, Susquehanna, Wayne, Tioga, Sullivan, Wyoming, Lycoming, Pike, and Monroe counties.

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 that this Program was first announced, November 8, 2018. Claim forms and other relevant Program information will be sent to each potentially eligible Claimant.

The exclusive claims period for filing a claim pursuant to this Protocol shall be January 22, 2019 through September 30, 2019. All individual claims submitted to the ISCP must be postmarked within this period.

Individuals who did not report their claim of clergy sexual abuse to the Diocese before November 8, 2018, may nevertheless register to participate in this Program on the Program's website

[www.ScrantonDioceseISCP.com](http://www.ScrantonDioceseISCP.com) between January 22, 2019 and July 31, 2019. To register, potentially eligible Claimants need to provide their name, contact information, and a summary description of the nature of the claim, including the dates and location of the abuse and name of the perpetrator. Upon registration, the Administrators will perform an initial eligibility review and will then send each potentially eligible Claimant a packet of information including a Claim Form. All claims must be submitted by September 30, 2019. In addition, new allegations of abuse received through this Program will be reported to the appropriate District Attorney and to the Diocese for review. To ensure that no person credibly accused of child sexual abuse remains in ministry, if a claim of abuse is brought against a cleric presently in ministry,<sup>1</sup> the Diocese will follow its usual policy<sup>2</sup> for such allegations.

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 purpose free of charge.

## **II. INDEPENDENT OVERSIGHT COMMITTEE**

An Independent Oversight Committee has reviewed this Protocol, and will oversee and periodically review the implementation and administration of the ISCP. The following individuals will serve as members of the Oversight Committee: Robin A. Engels, MA, MSW, LCSW, Robert Gillespie, Jr., and Ralph H. Meyer.

Neither the Oversight Committee nor the Diocese has authority to modify or reject any individual claim determination governing eligibility or compensation awarded by the Administrators, and neither will function as an appeal board for any Claimant. At the conclusion of the claims administration process, the Oversight Committee will review the process as a whole and make appropriate recommendations to the Diocese.

## **III. ELIGIBILITY REQUIREMENTS**

### **A. Eligible Claimants**

The persons eligible to participate in this Program are: a) individuals who allege they were sexually abused as a minor by clergy (whether incardinated within the Diocese of Scranton or a member of a religious order serving within the Diocese of Scranton), lay teachers or employees associated with the Diocese of Scranton, or b) the Legal Representative (as defined below) of those Claimants. The following additional criteria apply:

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<sup>1</sup> "In ministry" includes a priest or deacon with full faculties of the Diocese.

<sup>2</sup> The relevant policy is available at <http://www.dioceseofscranton.org/wp-content/uploads/2017/06/Diocese-of-Scranton-Sexual-Abuse-Policy-Revision-2015-TMM-Final-Amended-3.pdf>

- For new allegations first reported after November 8, 2018, the Claimant must first report the allegation of abuse in writing (with a copy submitted to the Administrators) to the appropriate District Attorney's Office in order to participate in this Program. A finding of criminal liability by the District Attorney is not required for participating in this Program. All new allegations of abuse received through this Program will also be reported to the appropriate District Attorney by the Diocese as required by law and Diocesan policy.
- The Claimant must not have previously entered into a settlement agreement resolving the same claim of clergy sexual abuse against the Diocese and/or a member of clergy.
- The Claimant must not have previously litigated his/her claims to resolution against the Diocese or any related entities. However, a Claimant whose claims were dismissed or resolved solely on the grounds that they were barred by the Pennsylvania statute of limitations and no other basis, remains eligible to participate in the Program.
- The Administrators will determine, in their sole discretion after reviewing all of the information submitted, whether the allegations of sexual abuse of a minor are credible and likely to have occurred. To do so, the Administrators will consider appropriate factors, including but not limited to:
  - The level of documentation, corroboration, or other circumstantial evidence regarding the nature, frequency, time, and other details of the alleged sexual abuse. Such evidence would include medical or counseling records relevant to the abuse and contemporaneous notification of the abuse by the Claimant to church officials, law enforcement authorities, parents, friends or others.
  - Whether or not there exists any information and/or pertinent findings offered by the appropriate Office of the District Attorney or other law enforcement agency.
  - 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 and the Diocese.

B. Legal Representatives of Eligible Claimants

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.

Legal representatives must provide proof of representative capacity – such as a power of attorney, guardianship, appointment as guardian or attorney ad litem, or the equivalent – as is required to establish authority to act in a representative capacity under the law of the resident state of the decedent, minor, or incompetent or legally incapacitated individual.

#### **IV. CLAIMS ADMINISTRATION PROCESS**

##### **A. Guiding Principles**

The following non-exclusive principles apply to the administration of claims in the ISCP:

- The Administrators are independent. Any decision rendered by the Administrators as to any claim will be fully binding on the Diocese. The Diocese has no authority to reject the Administrators' determination as to any claim. Further, the Administrators' determination may not be appealed to the Oversight Committee, the Diocese, or any other party or entity.
- The Administrators will evaluate each eligible claim in a prompt and fair manner.
- Participation in this ISCP is completely voluntary and does not affect any rights the Claimant may have until and unless the Claimant accepts the compensation and signs a Release after consultation with a lawyer.<sup>3</sup>
- All Claimants will be treated with respect, dignity, and fairness, without regard to race, color, sexual orientation, national origin, religion, gender, or disability. To ensure claims will be adjudicated fairly, the Administrators will manage the process so that all Claimants can equally access the Program's claim submission process. Individuals with disabilities will be given the opportunity to effectively communicate their claims and to request special process accommodations. Accommodations will be made for individuals with language barriers to ensure that they have meaningful access to the process and to the Program.

##### **B. Claim Submission Process**

The Administrators will send each victim/survivor who has previously reported a claim of abuse to the Diocese 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 basic facts of the claim. If the Administrators determine that the individual is a potentially eligible claimant, they will receive the Claim Form and accompanying Program information. A list of Frequently Asked Questions will also be made available to Claimants. Program materials may be translated into Spanish upon request.

**All Claim Forms must be completed and postmarked no later than September 30, 2019.** Claim

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<sup>3</sup> As explained below, a lawyer will be provided free of charge to Claimants to receive this consultation for purposes relating to the Release only. Further, because participation in this Program is voluntary for the Diocese and every Claimant, none of the aspects of this Program give rise to any actionable legal claim of any kind by any Claimant.

Forms should be mailed via overnight courier (a pre-paid courier voucher will be included with each packet) to the Independent Claims Administrators at the following address:

The Independent Survivor Compensation Program for the  
Diocese of Scranton  
c/o Feinberg Law Offices  
1455 Pennsylvania Avenue, NW – Suite 390  
Washington, DC 20004

Claimants must complete and submit a completed Claim Form and should submit the documentation requested on the Claim Form and any other corroborating information sufficient both to substantiate the claim and satisfy the Protocol requirements. The Administrators will then review, process, and evaluate the claim. If the claim is being presented by a Legal Representative, then the Legal Representative will be responsible for submitting the necessary documentation relating to the represented Claimant.

For claims of abuse previously reported to the Diocese, the documentation previously provided to the Diocese regarding that claim will be provided to the Administrators. Additional documentation may be requested at the discretion of the Administrators. Both the Claimant and the Diocese will be afforded the opportunity to submit to the Administrators any information deemed relevant to the evaluation and determination of the claim before the final disposition of the claim.

If a Claimant submits an incomplete claim (*i.e.*, the Claimant failed to include required documentation or failed to sign the Claim Form), the Administrators will notify them, explain the additional information that is needed, and work with the Claimant to assist in submitting a complete claim.

### C. Compensation

Based upon all of the information available, the Administrators will evaluate each claim to determine the monetary compensation that should be paid to an eligible Claimant. The Administrators may involve and oversee additional staff, as needed, to carry out their duties.

#### *1. Opportunities to Be Heard*

The Claimant will be afforded a voluntary opportunity to be heard before the Administrators' determination. Upon request by the Claimant, the Administrators will be available to meet in-person, by video or skype conference, or by telephone to further discuss his or her claim, but these meetings are entirely voluntary. Requests to meet with the Administrators should be sent by email and will be scheduled at a mutually convenient time and location.

#### *2. Claim Determination*

As relevant to any particular claim, the Administrator may consider the following non-exclusive

factors in determining the compensation to be paid to any eligible Claimant:

- The nature and extent of the harm to the Claimant as a result of the sexual abuse, including but not limited to the emotional and spiritual harm.
- The nature and extent of the Claimant's physical or psychological damage.
- Verifiable documentation of medical, counseling, or prescription expenses incurred as a result of the abuse.
- The credibility of the claim based upon all of the facts and circumstances.

Prior to a final determination by the Administrators, all new claims against a cleric presently in ministry will be investigated by the Diocese in accordance with its policies and procedures.<sup>4</sup>

The Administrators, in their sole discretion, shall determine the compensation to be offered each eligible Claimant. The Administrators will confidentially send the Claimant the following in writing: (1) the Administrators' decision regarding the claim; (2) the amount offered; (3) a Release to be signed by the Claimant if the Claimant accepts the offered compensation; and (4) a Payment Option Form. The Administrators' offer must be accepted by the Claimant within 60 days, after which it will no longer be valid. The Claimant may not appeal or seek to have the Administrators' determination reviewed by the Oversight Committee, Diocese, or any other party or entity.

### 3. *Payments*

Upon the Claimant's acceptance of the Administrators' determination and receipt of the Claimant's signed Release, the Administrators will authorize payment, by check or electronic funds transfer, to each eligible Claimant. Checks will be sent to Claimants via overnight courier service. If so requested by the Claimant, the Administrators will work with the Claimant to offer alternatives to lump-sum payments, such as an annuity to have the money administered by a third party.

### 4. *Release*

In order for the claim to be eligible for payment, all Claimants must voluntarily consent to participate in the ISCP and agree to be bound by its terms. No such agreement will be enforceable until the Claimant is made aware of the awarded amount. Until a final Release is executed, each individual Claimant retains all rights under the law.

By submitting a claim in this Program, a Claimant is seeking to resolve all claims against all responsible parties relating to allegations of sexual abuse involving the Diocese of Scranton. If a Claimant chooses to accept a final payment pursuant to this Program, the Claimant will be required to sign a full Release, in a form satisfactory to the Diocese, of all past and future claims against any

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<sup>4</sup> The Administrators will consider the outcome of any investigation in determining the claim among all of the other information available. The result of any criminal or internal investigation will not be binding on the Administrators in this Program. Likewise, the Administrators' determinations in this Program will not be binding on any potential future criminal or internal investigation involving the same or similar allegations or Claimants.

party relating to such allegations of sexual abuse. Before signing a Release, the Claimant will be required to consult with an attorney selected by the Claimant or, if the Claimant so requests, the Program will provide an attorney to provide free 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 and his/her heirs, descendants, legatees or beneficiaries may have against the Diocese of Scranton and 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. However, the Release will not operate to preclude or limit the Claimant's ability to discuss the allegations, including reporting and discussing the allegations of abuse with law enforcement.

No one affiliated with this Program will provide tax or legal advice to those receiving payments from this Program. Claimants are urged to consult with a tax advisor concerning any questions regarding tax liability for payments pursuant to this Program.

D. Program Integrity

For the purpose of protecting the integrity of the Program and resources for legitimate Claimants, the Administrators will institute all necessary measures to prevent the payment of fraudulent claims, including taking steps to verify claims and analyze submissions for inconsistencies, irregularities, or duplication.

Each Claimant who signs the Claim Form at the time of submission certifies 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 Program may be forwarded, in appropriate cases, to an appropriate Office of the District Attorney for review.

E. Privacy

By filing a claim with the ISCP, the Claimant or his or her representative agree that information submitted by a Claimant and the Diocese pursuant to this Program will be used and disclosed only for the following purposes:

- 1) Processing the Claimant's claim, including procedures for payment;
- 2) Administering the Program, including work by the Oversight Committee;
- 3) Program-related work, including internal investigations, by the Diocese and its designees;
- 4) Reports to law enforcement; and
- 5) The protection of children under the Safe Environment Program.

When documents maintained by the Diocese become part of a Claimant's file for purposes of this Program, such materials will be reviewed by the Administrators to assist in evaluating the claim, but will otherwise remain confidential. These files are not available for inspection, review, and copying by the Claimant or his or her representatives during or after the Program.

To protect the privacy of Claimants that participate in the ISCP, one year after the conclusion of the Program all personal information provided by the Claimant during this process will be destroyed, except to the extent otherwise required by law.

Participating Claimants may, at their sole and voluntary option, disclose information in their possession regarding their claim, compensation, and their experience with the Program.

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