

**INDEPENDENT COMPENSATION PROGRAM (ICP) BY THE
ARCHDIOCESE OF LOS ANGELES, DIOCESE OF FRESNO, DIOCESE OF ORANGE,
DIOCESE OF SACRAMENTO, DIOCESE OF SAN BERNARDINO,
AND DIOCESE OF SAN DIEGO
FOR VICTIM-SURVIVORS OF SEXUAL ABUSE OF MINORS BY PRIESTS**

DRAFT PROTOCOL¹

I. PURPOSE AND OVERVIEW

The Archdiocese of Los Angeles and the Diocese of Fresno, Diocese of Orange, Diocese of Sacramento, Diocese of San Bernardino, and Diocese of San Diego (the “Dioceses”), serving millions of Catholics across California, are implementing a Program – the **Independent Compensation Program (“ICP” or “Program”)** – to provide support and compensation for victims/survivors sexually abused as minors by priests of the Dioceses.²

The Program has been designed by two nationally recognized claims administration experts, Kenneth R. Feinberg and Camille S. Biros (the “Administrators”). The Program reflects input from victims/survivors and has been approved by an independent oversight committee comprised of community leaders who are not affiliated with the Dioceses.

Through this Program, the Dioceses acknowledge the wrongs endured by victims/survivors and any failure on the part of the Dioceses’ to prevent that harm, and offer an opportunity to submit claims for compensation for sexual abuse of minors. The Program addresses victim/survivors who were abused by Diocesan priests as minors; claims from those abused by religious order or extern priests will be forwarded to the religious order and to the Dioceses to address in accord

¹ This is a draft of the protocol governing the ICP. Dates and additional information regarding members of the Independent Oversight Committee will be updated at a future date.

² Since 2003 each of the Dioceses has had in place an Office for Child and Youth Protection (in some dioceses it is referred to as the Victim Assistance Office) based on a deep concern for victims/survivors sexually abused as minors by clergy. The OCYP in each Diocese has reached out to victims/survivors and assisted those impacted regardless of the legal status or time-barred nature of the potential claim. Since their establishment, each OCYP has served hundreds of people and paid for therapy and care. The Dioceses have also implemented Safe Environment Programs. Each Diocese audits all parishes, schools, and youth-serving entities and provides required training for all clergy, staff, and volunteers who have regular contact with children. For more information about the numerous programs each of the Dioceses have put in place to protect children, please see: <http://www.la-archdiocese.org/org/protecting>; <https://dioceseoffresno.org/safe-environment>; <https://www.safercbo.org>; <https://www.scd.org/safe-environment>; <https://safeawareness.wordpress.com>; <https://www.diocese-sdiego.org/en-us/diocese/diocesemaincontacts/safeenvironment.aspx>.

with their policies. 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 Program is [_____]. The deadline for submission of claims is [_____].

Individuals who have previously notified the Dioceses of an allegation of sexual abuse of a minor or sought assistance from the Office of Child and Youth Protection (“OCYP”) of any of the Dioceses, except for those individuals who have affirmatively instructed the OCYP that they do not wish to receive any further communication from the OCYP or the Diocese, will be sent a Claims Packet by the Administrators, which will include the Program Protocol, the Claim Form and the Frequently Asked Questions. Claims will be handled in the order in which they are received, starting with claims of sexual abuse by priests previously reported to the Dioceses (prior to the date of this Protocol).

Individuals who have not previously sought assistance from the OCYP of any of the Dioceses also may register with the ICP through the Program’s website from _____ through _____ (www.CaliforniaDiocesesICP.com). The Program is available to all Claimants regardless of when they were harmed. 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(s) 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. In addition, new allegations of abuse received through this Program will be reported to local law enforcement officials by the Diocese where the priest was incardinated and by the registrant. To ensure that no person credibly accused of child sexual abuse remains in ministry, if a claim of abuse is brought against a priest presently in ministry,³ the Dioceses will follow their established policies for such allegations.⁴

The exclusive claims filing period for all claims (previously reported complaints and newly-registered and reported complaints) will be [_____ through_____].

The ICP will begin operation on [_____]. A claim of sexual abuse of a minor by a priest must be directed against a priest of the Dioceses only, which collectively cover 36 counties in California: Amador, Butte, Colusa, El Dorado, Fresno, Glenn, Imperial, Inyo, Kern, Kings, Lassen, Los Angeles, Madera, Mariposa, Merced, Modoc, Nevada, Orange, Placer, Plumas, Riverside, Sacramento, San Bernardino, San Diego, Santa Barbara, Shasta, Sierra, Siskiyou, Solano, Sutter, Tehama, Trinity, Tulare, Ventura, Yolo, and Yuba. Claimants who assert claims of sexual abuse directed against a member of a religious order, a priest of any other archdiocese

³ In ministry means a priest with full faculties with one of the Dioceses.

⁴ The Dioceses’ policies are available on their websites: <http://www.la-archdiocese.org/org/protecting>; <https://dioceseoffresno.org/safe-environment>; <https://www.safercbo.org>; <https://www.scd.org/safe-environment>; <https://safeawareness.wordpress.com>; <https://www.diocese-sdiego.org/en-us/diocese/diocesemaincontacts/safeenvironment.aspx>.

or diocese, any deacon, or lay persons are not eligible to participate in this Program, but these allegations will be reported to the pertinent Diocese and/or religious order so it can be addressed in accord with the Diocese's policies.

Claims will be handled in the order in which they are received. Claim Forms and other relevant Program information will be sent to each known potentially eligible Claimant.

If the Claimant decides to accept the compensation awarded 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 has not retained an attorney, the Administrators will provide an attorney to consult with the Claimant for this purpose only, free of charge.

II. INDEPENDENT OVERSIGHT COMMITTEE

The Dioceses have designated an Independent Oversight Committee ("IOC"), whose members have agreed to serve in an independent oversight role for the ICP. The IOC has reviewed this Protocol and will periodically review the implementation and administration of the ICP. Governor Gray Davis and Maria Contreras-Sweet are the initial members of the IOC. Additional members will join the committee in the future.

Neither the IOC nor the Dioceses have 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 Program, the Administrators will issue a public report pertaining to the ICP. The IOC will review the Administrators' final public report in advance, and will confirm that the ICP was implemented and administered in accordance with this Protocol.

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 a priest of one or more of the Dioceses or b) the Legal Representative (as defined below) of such Claimant. The following additional criteria apply:

- The claim of sexual abuse must be directed against a priest of the Dioceses only, for conduct that is alleged to have taken place during the years the subject diocese has been in existence. Claims of sexual abuse directed against a member of a religious order (male or female), priests of any other archdiocese or diocese, deacons, or a lay person, are not eligible under this Program, but the pertinent Diocese and religious order, as appropriate, will be advised of any such report for follow up action according to its policies.
- For new claims not previously reported to law enforcement or the Dioceses, the Claimant must first report concurrently the claim of abuse in writing (with a copy submitted to the

Administrators) to the appropriate law enforcement agency to participate in this Program. A finding of criminal liability by law enforcement is not required for participating in this Program. Claimants who are uncertain as to which law enforcement agency should be notified of their claim may ask the Administrators for assistance. All new allegations of abuse received through this Program will also be reported to the appropriate law enforcement agency by the Dioceses as required by law and the Dioceses' policies.

- The Claimant must not have previously entered into a settlement agreement resolving the claim of sexual abuse against a priest of the Dioceses.
- The individual Claimant must not have previously litigated his/her claims to final resolution against the Dioceses or any related entities. However, a Claimant whose claims were dismissed or barred by a court on the grounds that the California statute of limitations had expired 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 by a priest 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 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 Dioceses.

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; or (3) 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 supply 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 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 pursuant to the ICP:

- The Claims Administrators are independent. Any decision rendered by the Administrators as to any claim will be fully binding on the Dioceses. The Dioceses have no authority to reject the Administrators' determination as to any claim. Further, the Administrators' determination may not be appealed to the IOC, the Dioceses, or any other party or entity.
- The Administrators will evaluate each eligible claim in a prompt and fair manner.
- Participation in the ICP 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.
- All Claimants will be treated with respect, dignity, and fairness, without regard to age, 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

For each eligible victim/survivor who has previously notified or sought assistance from the OCYP of any of the Dioceses, and who has not affirmatively instructed the OCYP that they do not wish to receive any further communication from the OCYP or the Diocese, the Administrators will send a packet of information about the Program with a copy of the Claim Form. Those who have not previously notified or sought assistance from the OCYP of any of the Dioceses can register on the Program website in order to trigger further preliminary review of eligibility by the Administrators. Upon review, potentially eligible Claimants will receive the Claim Form and accompanying Program information. A list of Frequently Asked Questions will also be made available to Claimants. Program materials translated into Spanish will be available upon request.

All Claim Forms must be completed and postmarked no later than [_____]. Claim Forms should be mailed via overnight courier (a pre-paid courier voucher will be included with each packet) to the Claims Administrators at the following address:

The Independent Compensation Program (ICP)

for Certain California Dioceses
c/o Feinberg Law Offices
1455 Pennsylvania Avenue, NW – Suite 390
Washington, DC 20004

Claimants are invited to provide documentation identified in the Claim Form, and any other corroborating or supporting information sufficient to substantiate the claim, satisfy eligibility requirements, and allow the Administrators to 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 sexual abuse previously reported to any of the Dioceses, the documentation previously provided to the Dioceses 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 Dioceses will be afforded the opportunity to submit to the Administrators any information deemed relevant to the evaluation and determination of the claim before final disposition of the claim.

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

C. Claim Administration

Based upon all of the information available, the Independent Claims Administrators will evaluate each claim to determine the 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 or after the Administrators' determination. Upon request by the Claimant, the Administrators will be available to meet by Skype, telephone, or video conference, to further discuss the claim. Requests to meet with the Administrators should be sent in writing, by email to the Claimant Services email address at ClaimantServices@CaliforniaDiocesesICP.com or mail to the address shown above, and will be scheduled at a mutually convenient time and location. The Administrators may also request a meeting with a Claimant or his or her representative at a reasonable mutually convenient time and location, though the Claimant is not obligated to attend any such meeting.

2. *Claim Determination*

As relevant to any particular claim, the Administrators 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 and the ongoing effects of the abuse on the Claimant.
- 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.

All new claims against a priest presently in active ministry will not be addressed by the Administrators until all criminal or diocesan investigations are concluded. As to any other claim, it will be in the sole discretion of the Administrators whether to stay or proceed with processing a claim during the pendency of any criminal or diocesan investigations.⁵

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 compensation 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 IOC, Dioceses, or any other party or entity.

3. *Payments*

Upon the Claimant's acceptance of the Claims 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.

4. *Release*

In order for the claim to be eligible for payment, all Claimants must voluntarily consent to participate in the ICP 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 Dioceses. If a Claimant chooses to accept a final payment pursuant to this Program, the Claimant will be required to sign

⁵ The Administrators will consider as one additional factor the outcome of any criminal or internal investigation in determining the claim in addition to all of the other information available. The result of any criminal or internal investigation will not be binding on the Administrators. Likewise, the Administrators' determinations will not be binding on any potential future criminal or internal investigation involving the same or similar allegations or Claimants, and shall not be construed as a finding or an admission of liability or fault.

a full Release, in a form satisfactory to the Dioceses, of all past and future claims against any 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, the Program will provide an attorney, pro bono, 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 Dioceses, their component parishes, and any other 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 report and discuss allegations of abuse with law enforcement agencies or to otherwise disclose information related to the underlying facts of the claim.

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 eligible Claimants, the Claims 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 law enforcement agency for review.**

E. Privacy

This Program is confidential. By filing a claim with the ICP, the Claimant or legal representative agrees that information submitted by a Claimant and the Dioceses 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 performed by the IOC;
- 3) Program-related work, including internal investigations, by the Dioceses and their designees;
- 4) Reports to law enforcement; and

5) The protection of children under the Safe Environment Program.

When documents maintained by the Dioceses become part of a Claimant's file for purposes of this Program, such materials will be reviewed by the Independent Claims 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 legal representatives during or after the Program.

To protect the privacy of Claimants that participate in the ICP, 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. All Claimants agree they are using the services of a third-party administrator in this Program to help them reach a resolution of their claims, and that this Program is entitled to confidentiality and protection from disclosure under California law. See CA Evidence Code §1119. However, there is no confidentiality requirement of any kind for Claimants participating in the Program, and they may share details of their experience with whomever they wish. Nothing in the Protocol or the Release Claimants will be required to sign if they accept the awarded compensation will preclude or limit Claimants from reporting or discussing their claim with law enforcement or anyone else.

