

CLS GC Forum: Protecting Those at Risk

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I. ECAP Five Pillars

A. Governance

1. Healthy leadership
 - a. Three elements needed for abuse: vulnerable child, would-be offender, and environment that fails to be the capable guardian.¹
 - b. Healthy leadership to address the issue of preparing the ministry to be the capable guardian.
2. Child Protection Program (CPP)
 - a. The combination of governance, oversight, policies, committees, and operations that work together to ensure child safety and response within the organization. Also known as a Child Safety Program.
3. Child safety Coordinator and Child Safety Team
 - a. CSC: Person responsible for managing child safety at the organization.
 - b. There are five basic responsibilities of the CSC:
 - (i) The CSC leads the Child Safety Team.

¹ John Jay College Research Team, *The Causes and Context of Sexual Abuse of Minors by Catholic Priests in the United States, 1950-2010*, p. 5, 16, May 2011, at <http://www.usccb.org/issues-and-action/child-and-youth-protection/upload/The-Causes-and-Context-of-Sexual-Abuse-of-Minors-by-Catholic-Priests-in-the-United-States-1950-2010.pdf>.

- (ii) The CSC is an expert on the organizations CPP.
 - (iii) The CSC ensures continued implementation of the organization's CPP.
 - (iv) The CSC ensures proper reporting protocols are followed when an abuse or neglect allegation is reported.
 - (v) The CSC serves with the Crisis Response Team in the event of an incident.
- c. The Child Safety Team (CST) is a group of individuals responsible for maintaining and improving the organization's CPP.
4. Documented Policies and Procedures
- a. Policies around "passing the trash"
 - b. How are you able to let other organizations know if an employee has been let go for child safety violations? If it's in the employee handbook and they sign off on it—and it's expressed as religious free exercise—should create a contractual understanding of a qualified privilege to discuss.
 - c. "A qualified privilege applies to otherwise defamatory statements when the statements are made in good faith on any subject matter in which the person communicating has an interest, or in reference to which that person has a right or duty, if made to a person having a corresponding interest or duty in a manner and under circumstances fairly warranted by the occasion." (*John v. Estate of Hartgerink*)
 - d. "That is, statements by church members or officials to other members or officials on matters of common interest are protected by a qualified privilege, which means that they cannot be defamatory unless made with actual malice. The court defined actual malice as 'ill—will, hatred, the desire to do another harm, or a wrongful motive. It may also result from reckless or wanton disregard of the rights of others.'"² (Richard Hammar)

² <https://www.churchlawandtax.com/stay-legal/governance/the-discipline-of-church-members/>

5. Annual reviews (at least)
6. Insurance in place
 - a. Make sure insurance adequately covers possible problem areas: sexual abuse lawsuits, Employment Practices Liability Insurance, liability for defamation and similar claims, liability for religious practices, insurance for transporting children

B. Child Safety Operations

1. Supervision and access control
2. Off-site activities; Overnight accommodations and transporting minors / off site activities
3. Special events
4. Communicating with parents
5. Privacy issues for Minors—possible liability
 - a. In many states, laws protect data privacy for minors.³
 - b. The Children’s Online Privacy Protection Act (COPPA)⁴ protects children’s data privacy. You cannot collect or share children’s personal information without consent.
 - c. The Children’s Internet Protection Act (CIPA)⁵ requires participating schools and libraries to use technology to restrict access to harmful content.

³ <https://www.loeb.com/en/insights/publications/2023/08/a-roundup-of-state-laws-related-to-childrens-privacy>

⁴ 15 U.S.C. § 6501-6506.

⁵ https://www.fcc.gov/sites/default/files/childrens_internet_protection_act_cipa.pdf; 20 U.S.C. §§ 6801, 6777, 9134; 47 U.S.C. § 254.

- d. It's generally inappropriate for organizations, including ministries, to share personal information about minors. This would be true for minor offenders as well as minor victims.
6. Grooming issues
- a. "Grooming is the process of manipulation by which an offender prepares a child, the adult in the child's life, and the environment for the abuse. The goal of this manipulation is to gain access to the child, gain the child's compliance, and keep the secret. Distinguishing between sexually motivated manipulation and normal adult/child interactions is difficult when people have no knowledge of sex offender dynamics."⁶
 - b. Pushing boundaries—bending or ignoring rules.
 - c. Grooming can include being involved with a child in sports, video games, or music. It can involve giving affection or attention. It can include giving gifts or money. Some of these, at lower levels, are perfectly harmless and normal. It may be easier to spot as it crosses a line of appropriateness.
 - d. Abusers may try to make friends with the family or become a valuable volunteer.
 - e. Abusers may work hard to get access to a particular age or gender, or both.
 - f. They may describe children as "pure" or "innocent," not something the average parent would agree with!
 - g. Watch out for when behavior crosses from appropriate to behavior that is still legal but is not really appropriate. That is the point to catch it and stop it. The next step is unacceptable behavior that is also illegal.
 - h. Be aware of what behavior is NOT grooming, such as healthy parenting, healthy mentoring.

⁶ Children's Advocacy Center of Collin County, Don Powers, "Our Leadership," Children's Advocacy Center of Collin County(blog), 2019, <https://www.caccollincounty.org/who-we-are/our-leadership/>.

7. Peer on peer abuse or boundary violations
 - a. This is likely the most common kind of abuse now, caused by exposure to porn, abuse, and family instability.
 - b. All children involved have been harmed in some way and need help.
 - c. Discussing types of therapy available.
 - d. Reporting problems and getting family cooperation.

C. Screening and Training

1. Waiting period of six months before someone is allowed to help with child programs
2. Applications (character checks, Code of Conduct)
3. Screening (references and waiver of liability, interview, background checks)
 - a. Background checks are a good start.
 - b. Questions during the interview should focus on unacceptable behaviors within a ministry environment (porn, immoral behavior, illegal drug use, excessive alcohol use) within a free exercise context.
 - c. Interview should also ask specifically about child safety violations. Watch for red flags
 - d. Candidates should be required to waive liability for thorough references.
4. Worker training (indicators of abuse, awareness of other possible problems, grooming behaviors, mandatory reporting, internal reporting mechanisms, "No Right to Privacy," ethics. Information sharing, extra-ministry contact and communication (social media))

D. Response

1. Written Incident Response Plan
2. Crisis Response Team and crisis management

3. Receiving Reports from a child
 - a. A child should never be interviewed by an adult not specially trained.
 - b. The adult should just gather minimal information to make a report.
 - c. The adult should be calm and supportive.
 - d. The adult should not promise secrecy.
4. Mandatory and Permissive Reporting and making reports
 - a. Be sure to comply with state law. Here's a 50 state resource that may help.⁷
 - b. Make sure internal reporting happens.
 - c. Report can be complex, and may need legal assistance.
5. Boundary violations and spiritual abuse
6. Concept of child harm:
 - a. Harm to children from adults where harm is not intended
 - b. Harm to children from other children
7. Leadership/Board Involvement
8. When you need to investigate
 - a. Evaluation of whether law enforcement/CPS will investigate
 - b. Are children at risk?
 - c. How serious is the harm alleged?
 - d. What is the position of the person being accused?

⁷ <https://www.childwelfare.gov/resources/states-territories-tribes/state-statutes/?rt=1381>

9. Communication Guidelines and Spokesperson—transparency issues
 - a. Preponderance standard of investigation
 - b. Privacy and confidentiality issues
 - c. Safety issues
 - d. Public right to know?
10. Liability risks including defamation, abuse lawsuits, employment lawsuits
11. Caring for survivors and other stakeholders

II. Resources

1. Accreditation process and more resources at ECAP.net
2. *Handling Allegations in a Ministry: Responses and Investigations*, by Theresa Sidebotham
3. Child safeguarding, investigative responses, and more in Telios Teaches training, at TeliosTeaches.com