

**THE COLORADO
INDEPENDENT RECONCILIATION AND REPARATIONS PROGRAM
FOR THE
ARCHDIOCESE OF DENVER, THE DIOCESE OF COLORADO
SPRINGS AND THE DIOCESE OF PUEBLO (“IRRP”)
FOR CLAIMS OF SEXUAL ABUSE OF MINORS BY PRIESTS**

PROTOCOL

October 7, 2019

I. PURPOSE AND OVERVIEW

The Colorado Dioceses (including the Archdiocese of Denver, the Diocese of Colorado Springs and the Diocese of Pueblo, collectively the “Colorado Dioceses”), are implementing a program—the Independent Reconciliation and Reparations Program (“IRRP” or “Program”)—to provide support and compensation for victims/survivors abused as minors by priests or bishops of the Colorado Dioceses.¹ 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 a committee of community leaders who are not affiliated with the Colorado Dioceses.

Through this Program, the Colorado Dioceses wish to acknowledge the wrongs endured by victims/survivors, the Colorado Dioceses’ failure to prevent that harm, and offer an opportunity to submit claims for compensation 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 reparations (i.e., compensation).

The effective date of the Program is October 7, 2019. The deadline for submission of claims is January 31, 2020. Individuals who have previously sought assistance from the Office of Child and Youth Protection (the “OCYP”) of any of the Colorado Dioceses or who previously reported a claim of clergy sexual abuse of a minor to the Colorado Dioceses, prior to the date of this Protocol, will be sent a Claims Packet 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 clergy sexual abuse previously reported to the Colorado Dioceses (prior to the date of this Protocol).

Individuals who have not previously sought assistance from the OCYP of any of the Dioceses may register for the program during the period October 7, 2019 through November 30, 2019 through the

¹ Since 2003 each of the Colorado Dioceses has offered care and services to victims/survivors, and have taken steps to prevent the sexual abuse of minors including mandatory training for all clergy, staff and volunteers who have regular contact with children. This program is an extension of those efforts. For more information about the numerous reforms each of the Colorado Dioceses has put in place to protect children, please see <https://archden.org/child-protection/>; http://www.diocs.org/Departments/Child_and_YouthProtection; <https://dioceseofpueblo.org/safe-environment>.

Program’s website (www.ColoradoDiocesesIRRP.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 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, the Attorney General’s Office, the Special Master engaged by the Attorney General’s Office, and the Colorado Diocese where the priest or bishop was incardinated or assigned 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,² the Colorado Dioceses will follow their established policies³ for such allegations.

The exclusive claims filing period for all claims (previously reported claims and newly registered and reported claims) will be October 7, 2019 through January 31, 2020.

The IRRP will begin operation on October 7, 2019. The claim of clergy sexual abuse must be directed against a priest or bishop who was “in ministry” with one of the Colorado Dioceses at the time of the alleged abuse. Claimants who assert claims of sexual abuse directed against a member of a religious order or clergy of any other archdiocese or diocese are not eligible to participate in this Program, but the responsible religious order, archdiocese or diocese will be notified of the claim. 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 reparations 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 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 (the “IOC”) has reviewed and approved this Protocol. The Oversight Committee may, in its discretion, meet periodically and review the implementation and administration of the IRRP. The following individuals will serve as members of the Oversight Committee:

Senator Hank Brown, Chair

Honorable Jeanne Smith

Judge David Crockenberg (retired)

² “In ministry” includes a priest or bishop with full faculties with one of the Colorado Dioceses.

³ The Archdiocese of Denver policies are available here: <http://archden.org/wp-content/uploads/2014/04/Report-Abuse-or-Neglect-Brochure-English.pdf>. The Diocese of Colorado Springs policies are available here: <http://www.diocs.org/Departments/Child-and-Youth-Protection/Procedures-for-Reporting-Sexual-Misconduct>. The Diocese of Pueblo policies are available here: <http://www.dioceseofpueblo.org/how-to-make-a-report>.

Nancy Feldman

Laura Morales

Neither the IOC nor the Colorado Dioceses have authority to modify or reject any individual claim determination governing eligibility or reparations 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 IRRP. The IOC will review the Administrators' final public report in advance, and will confirm that the IRRP was implemented and administered in accordance with the Protocol.

III. ELIGIBILITY REQUIREMENTS

A. Eligible Claimants

The persons eligible to receive compensation in this Program are: a) individuals currently alive who allege they were sexually abused as a minor by a priest or bishop of the Archdiocese of Denver, the Diocese of Colorado Springs, or the Diocese of Pueblo; or b) the Legal Representative (as defined below) of such Claimant. The following additional criteria apply:

- The claim of sexual abuse of a minor must be directed against a priest or bishop of the Colorado Dioceses only. Claims of sexual abuse of a minor directed against a member of a religious order, clergy of any other archdiocese or diocese, or a lay person, are not eligible under this Program.
- For new claims not previously reported to law enforcement or the Colorado Dioceses, the Claimant must first report the claim of abuse in writing (with a copy submitted to the Administrators) to a law enforcement agency to participate in this Program. A finding of criminal liability by the law enforcement agency 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 Claims Administrators for assistance. All new allegations of abuse received through this Program will also be reported to the appropriate law enforcement agency by the Colorado Dioceses as required by law and the Colorado Dioceses' policies.
- The Claimant must not have previously entered into a settlement agreement resolving the claim of sexual abuse of a minor against a priest or bishop of the Colorado Dioceses.
- The individual Claimant must not have previously litigated his/her claims to final resolution against the Colorado Dioceses or any related entities. However, Claimants whose claims were dismissed or barred by a court on the grounds that the Colorado statute of limitations had expired and no other basis remain eligible to file a claim with the Program.
- The Administrators, based on their extensive experience in administering and evaluating claims, 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 Colorado 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 written confirmation signed by both the Claimant and the attorney that the attorney is so authorized.

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 IRRP:

- The Claims Administrators are independent. Any decision rendered by the Administrators as to any claim will be fully binding on the Colorado Dioceses. The Colorado 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 Colorado Dioceses, or any other party or entity.
- The Administrators will evaluate each eligible claim in a prompt and fair manner.
- Participation in the IRRP is completely voluntary and does not affect any rights the Claimant may have until and unless the Claimant accepts the reparations and signs a Release after consultation with a lawyer.
- 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 eligible victim/survivor who has previously sought assistance from the OCYP of any Colorado Dioceses or who previously reported a claim of clergy sexual abuse of a minor to the Colorado Dioceses and who has not previously settled their claims with such Diocese, a packet of information about the Program with a copy of the Claim Form. Those who have not previously sought assistance from the OCYP of any of the Dioceses or have not previously reported a claim of clergy sexual abuse of a minor to the Colorado Dioceses can register on the Program website in order to begin the 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 will be translated into Spanish upon request.

All Claim Forms must be completed and postmarked no later than January 31, 2020. Claim 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:

Colorado Independent Reconciliation and Reparations Program
c/o The Law Offices of Kenneth R. Feinberg PC
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 abuse previously reported to any of the Colorado Dioceses, the documentation previously provided to the Colorado Dioceses regarding that claim will be provided to the Administrators. By submitting a claim to the Program, the Claimant consents to the Administrators accessing this information and documentation. Additional documentation may be requested at the discretion of the Administrators. Both the Claimant and the Colorado 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 failed to include required documentation or failed 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. Reparations

Based upon all of the information available, the Independent Claims Administrators will evaluate each claim to determine the monetary reparations 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, by skype, telephone or video conference, to further discuss his or her claim. Requests to meet with the Administrators should be sent by email to the Administrators. These meetings and will be scheduled at a mutually convenient time and will be held via Skype, teleconference or video conference. The Administrators may also request a meeting with a Claimant or his or her representative at a reasonable mutually convenient time, 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 reparations 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 as a result of the abuse.
- The credibility of the claim based upon all of the facts and circumstances.

All new claims against a cleric presently in active ministry will not be adjudicated 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 adjudicating a claim during the pendency of any criminal or diocesan investigations.⁴

The Administrators, in their sole discretion, shall determine the reparations 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 IOC, Colorado Dioceses or any other party or entity.

3. *Payments*

Upon the Claimant's acceptance of the Independent Claims Administrators' determination and

⁴ The Administrators will consider the outcome of any 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.

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 IRRP and agree to be bound by its terms. No such agreement will be enforceable until the Claimant is made aware of the awarded amount and executes the final Release. 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 Colorado Dioceses. 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 developed by the Administrators that has been approved in advance by the Colorado 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, 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 Colorado Dioceses, 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 anyone, including but not limited to law enforcement officials.

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. Statute of Limitations

To ensure that Claimants are not forfeiting any legal rights while participating in the Program, the Colorado Dioceses agree that any applicable statute of limitations will be tolled from the time a Claimant registers to participate in the Program or submits a claim form, whichever is earlier, until 60 days after the Claimant receives the Administrator's final decision regarding his or her claim, including the amount of offered reparations.

E. Program Integrity

For the purpose of protecting the integrity of the Program and resources for legitimate Claimants, the Independent 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 may 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.

F. Privacy

This Program is confidential.⁵ By filing a claim with the IRRP, the Claimant or his or her representative agree that information submitted by a Claimant and the Colorado 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 Colorado 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 Colorado 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 his or her representatives during or after the Program.

To protect the privacy of Claimants that participate in the IRRP, 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, reparations, and their experience with the Program.

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

⁵ 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 Colorado law. *See* C.R.S. § 13-22-307. However, no aspect of this Program shall preclude or limit the Claimant's ability to report and discuss allegations of abuse publicly or with law enforcement officials.