



# Clergy Privacy FAQs



## New Jersey

Chaplains and campus ministers can often provide confidential support for people in campus communities who have experienced sexual and domestic violence. Because of mandatory reporting laws and Title IX reporting requirements on campus, privileged communications may provide the most privacy protection for these survivors. Privileged communications may be possible with victim advocates and medical staff on campuses in certain jurisdictions, but sometimes chaplains and campus ministers are the only privileged professionals on campus who are not required to report a disclosed sexual assault.<sup>1</sup> Office on Violence Against Women (OVW)-funded victim service providers (VSPs) who work on campuses need to be able to explain to the people they serve how private any communication with chaplains or campus ministers will be and when these clergy may be required to report abuse, neglect, or sexual assault. These FAQs are meant to help VSPs understand the legal parameters for these communications.

These FAQs describe the clergy-penitent privilege and the mandatory reporting laws in the identified jurisdiction. We include legal citations so that you can read more about the laws and make sure they are current. None of the information in these FAQs is legal advice and you should always check with an attorney about how these laws work in your jurisdiction. The FAQs are a part of our Campus Privacy Toolkit. To receive an electronic copy of the Toolkit, or to ask privacy questions related to your OVW-funded work, please email us at [TA@victimrights.org](mailto:TA@victimrights.org).

**1** **What is the cleric-penitent privilege in New Jersey?** “Any communication made in confidence to a cleric in the cleric’s professional character, or as a spiritual advisor in the course of the discipline or practice of the religious body to which the cleric belongs or of the religion which the cleric professes, shall be privileged. Privileged communications shall include confessions and other communications made in confidence between and among the cleric and individuals, couples, families or groups in the exercise of the cleric’s professional or spiritual counseling role.” N.J. R. Evid. 511; N.J. Stat. Ann. § 2A:84A-23.

**2** **Who is “cleric”?** “Cleric” means “a priest, rabbi, minister or other person or practitioner authorized to perform similar functions of any religion.” N.J. R. Evid. 511; N.J. Stat. Ann. § 2A:84A-23.

**3** **Who may claim the privilege?** “The privilege accorded to communications under this rule shall belong to both the cleric and the person or persons making the communication and shall be subject to waiver only under the following circumstances:

(1) both the person or persons making the communication and the cleric consent to the waiver of the privilege; or

(2) the privileged communication pertains to a future criminal act, in which case, the cleric alone may, but is not required to, waive the privilege.” N.J. R. Evid. 511; N.J. Stat. Ann. § 2A:84A-23.

<sup>1</sup> Even if a communication is protected from campus reporting by clergy privilege, jurisdictions may require clergy to report abuse of minors, elders, and persons with disabilities.

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**How are clergy excepted from, or included in, New Jersey’s mandatory reporting laws?** (This is not necessarily an exhaustive list of the abuse, neglect, or injuries that must be reported in this jurisdiction.)

Type of abuse or neglect	Rule and exceptions
<b>Child abuse</b>	“Any person having reasonable cause to believe that a child has been subjected to child abuse or acts of child abuse shall report the same immediately to the Division of Child Protection and Permanency by telephone or otherwise.” N.J. Stat. Ann. § 9:6-8.10.
<b>Abuse of vulnerable adults</b>	<p>Members of the clergy are not specified as mandatory reporters of abuse of vulnerable adults. N.J. Stat. Ann. § 52:27D-409(a)(1).</p> <p>“Any other person who has reasonable cause to believe that a vulnerable adult is the subject of abuse, neglect or exploitation may report the information to the county adult protective services provider.” N.J. Stat. Ann. § 52:27D-409(a)(2).</p> <p>A “vulnerable adult” is defined as “a person 18 years of age or older who resides in a community setting and who, because of a physical or mental illness, disability or deficiency, lacks sufficient understanding or capacity to make, communicate, or carry out decisions concerning his well-being and is the subject of abuse, neglect or exploitation. A person shall not be deemed to be the subject of abuse, neglect or exploitation or in need of protective services for the sole reason that the person is being furnished nonmedical remedial treatment by spiritual means through prayer alone or in accordance with a recognized religious method of healing in lieu of medical treatment, and in accordance with the tenets and practices of the person’s established religious tradition.” N.J. Stat. Ann. § 52:27D-407.</p>
<b>Abuse of institutionalized elderly person</b>	Members of the clergy are not included on the list of mandatory reporters of abuse of institutionalized elderly persons unless they are employed at a facility. N.J. Stat. Ann. § 52:27G-7.1(a)
<b>Resident of a residential health care facility</b>	Clergy are not specifically mandated to report; however, “[a]ny person who has reasonable cause to suspect that a resident of a residential health care facility, rooming house or boarding house is suffering or has suffered abuse or exploitation, shall report such information in a timely manner to the Commissioner of the Department of Human Services or to the person or agency within the department designated by the commissioner to receive such reports.” N.J. Stat. § 30:1A-3 (b).

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