



Clergy Privacy FAQs

Delaware



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.¹ 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.

1 **What is the cleric-penitent privilege in Delaware?** “An individual has a privilege to refuse to disclose and to prevent another from disclosing a confidential communication between the individual and the cleric while the cleric is serving as the individual’s spiritual adviser.” D.R.E. 505(b).

2 **Who is a “cleric”?** “Cleric” is defined as “a minister, priest, rabbi, accredited Christian Science practitioner or other similar functionary of a religious organization, or a person that an individual who consulted that person for spiritual advice reasonably believed to be a cleric.” D.R.E. 505(a)(1).

3 **What is a “confidential communication”?** A communication is “confidential” if “made privately and not intended for further disclosure except to other persons present in furtherance of the purpose of the communication.” D.R.E. 505(a)(2).

4 **Who may claim the privilege?** “The individual may claim the privilege on the individual’s own behalf. The cleric is presumed to have authority to claim the privilege on the individual’s behalf. If the individual is incompetent or deceased, then an authorized personal representative may claim the privilege on the individual’s behalf.” D.R.E. 505(c).

¹ 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.

How are clerics excepted from, or included in, Delaware’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
Child abuse	<p>“Any person, agency, organization or entity who knows or in good faith suspects child abuse or neglect shall make a report in accordance with § 904 of this title.” Del. Code Ann. tit. 16, § 903(a).</p> <p>“No legally recognized privilege, except that between . . . priest and penitent in a sacramental confession, applies to situations involving known or suspected child abuse, neglect, exploitation, or abandonment and does not constitute grounds for failure to report as required by § 903 of this title or to give or accept evidence in any judicial proceeding relating to child abuse or neglect.” Del. Code Ann. tit. 16, § 909(a).</p>
Abuse of impaired adult	<p>“Any person having reasonable cause to believe that an adult person is impaired or incapacitated as defined in § 3902 of this title and is in need of protective services as defined in § 3904 of this title shall report such information to the Department in the manner and format published by the Department.” Del. Code Ann. tit. 31, § 3910.</p>

