

Clergy Privacy FAQs



Nebraska



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 clergy-penitent privilege in Nebraska?** “A person has a privilege to refuse to disclose and to prevent another from disclosing a confidential communication by the person to a clergyman in his professional character as spiritual advisor.” Neb. Rev. Stat. § 27-506.

2 **Who is “clergy”?** “A clergyman is a minister, priest, rabbi, or other similar functionary of a religious organization, or an individual reasonably believed so to be by the person consulting him.” Neb. Rev. Stat. § 27-506.

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.” Neb. Rev. Stat. § 27-506.

4 **Who may claim the privilege?** “The privilege may be claimed by the person, by his guardian or conservator, or by his personal representative if he is deceased. The clergyman may claim the privilege on behalf of the person. His authority so to do is presumed in the absence of evidence to the contrary.” Neb. Rev. Stat. § 27-506.

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 clergy excepted from, or included in, Nebraska’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	Clergy are not listed as mandatory reporters of child abuse or neglect. Nebraska allows “any other person” that has “reasonable cause” to suspect child abuse to report. Neb. Rev. Stat. § 28-711(1).
Abuse of vulnerable adults	<p>Under Nebraska’s statutory scheme for reporting abuse of a vulnerable adults, certain professionals must report. However, those reporting specifically excludes “a member of the clergy.” Neb. Rev. Stat. § 28-372(1).</p> <p>A “vulnerable adult” is defined as “any person eighteen years of age or older who has a substantial mental or functional impairment or for whom a guardian or conservator has been appointed under the Nebraska Probate Code.” Neb. Rev. Stat. § 28-371.</p>

