



Clergy Privacy FAQs

New York



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.

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What is the clergy-penitent privilege in New York? “Unless the person confessing or confiding waives the privilege, a clergyman, or other minister of any religion or duly accredited Christian Science practitioner, shall not be allowed [sic] disclose a confession or confidence made to him in his professional character as spiritual advisor.” N.Y. C.P.L.R. § 4505.

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, New York’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 or maltreatment	<p>New York’s child abuse statute does not list “clergy” as mandated reporters although Christian Science practitioners are specifically listed as such. N.Y. Soc. Serv. Law § 413(a).</p> <p>“In addition to those persons and officials required to report suspected child abuse or maltreatment, any person may make such a report if such person has reasonable cause to suspect that a child is an abused or maltreated child.” N.Y. Soc. Serv. Law § 414.</p>
Abuse of endangered adults	<p>Clergy are not explicitly mandated reporters of abuse of endangered adults. However, “[a]ny person who in good faith believes that a person eighteen years of age or older may be an endangered adult or in need of protective or other services” and reports that abuse or testifies about that abuse is protected from civil liability. N.Y. Soc. Serv. Law §473-b.</p>
Abuse of vulnerable persons	<p>New York’s vulnerable persons abuse statute does not list clergy as mandated reporters of vulnerable adult abuse although Christian Science practitioners are specifically listed as mandatory reporters. N.Y. Soc. Serv. Law § 488(5)(a).</p> <p>A “vulnerable person” is defined as “a person who, due to physical or cognitive disabilities, or the need for services or placement, is receiving services from a facility or provider agency.” N.Y. Soc. Serv. Law § 488(15).</p>
Abuse of persons in residential care facilities	<p>A clergyperson, or other minister of any religion or duly accredited Christian Science practitioner, is not a mandatory reporter of abuse of persons in residential care facilities. See NY CLS Pub Health § 2803-D(1). However, “. . . any other person may make such a report if he or she has reasonable cause to believe that a person receiving care or services has been physically abused, mistreated or neglected in the facility”. NY CLS Pub Health Law § 2803-D(2).</p>

