



# Clergy Privacy FAQs

## Oregon



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 clergy-penitent privilege in Oregon?** “A member of the clergy may not be examined as to any confidential communication made to the member of the clergy in the member’s professional character unless consent to the disclosure of the confidential communication is given by the person who made the communication.” Or. Rev. Stat. § 40.260 (2).

**2** **Who is “clergy”?** “Member of the clergy’ means a minister of any church, religious denomination or organization or accredited Christian Science practitioner who in the course of the discipline or practice of that church, denomination or organization is authorized or accustomed to hearing confidential communications and, under the discipline or tenets of that church, denomination or organization, has a duty to keep such communications secret.” Or. Rev. Stat. § 40.260(1)(b).

**3** **What is a “confidential communication”?** ‘Confidential communication’ means a communication made privately and not intended for further disclosure except to other persons present in furtherance of the purpose of the communication.” Or. Rev. Stat. § 40.260(1)(a).

**4** **Who can claim the privilege?** The communicator generally holds the privilege. Or. Rev. Stat. § 40.260(2) (stating disclosure cannot be made “unless consent to the disclosure of the confidential communication is given by the person who made the communication”). However, “[e]ven though the person who made the communication has given consent to the disclosure, a member of the clergy may not be examined as to any confidential communication made to the member in the member’s professional character if, under the discipline or tenets of the member’s church, denomination or organization, the member has an absolute duty to keep the communication confidential.” Or. Rev. Stat. § 40.260(3).

<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.

## 5

**How are clergy excepted from, or included in, Oregon’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>	<p>Clergy members are on the list of public or private officials who are mandated reporters of child abuse. See Or. Rev. Stat. § 419B.005(5)(h).</p> <p>“Any public or private official having reasonable cause to believe that any child with whom the official comes in contact has suffered abuse or that any person with whom the official comes in contact has abused a child shall immediately report or cause a report to be made . . .” Or. Rev. Stat. § 419B.010(1).</p> <p>However, a member of clergy is not required to report such information communicated by a person if such communication is privileged. Or. Rev. Stat. §419B.010.</p>
<b>Elder abuse</b>	<p>Clergy members are on the list of public or private officials who are mandated reporters of elder abuse. See Or. Rev. Stat. § 124.050(9)(f).</p> <p>“Any private or public official having reasonable cause to believe that any person 65 years of age or older with whom the official comes in contact has suffered abuse, or that any person with whom the official comes in contact has abused a person 65 years of age or older, shall report or cause a report to be made . . .” Or. Rev. Stat. § 124.060.</p> <p>However, a member of clergy is not required to report such information communicated by a person if such communication is privileged. Id.</p>
<b>Abuse of certain adults</b>	<p>Clergy members are on the list of public or private officials who are mandated reporters of abuse of certain adults under Or. Rev. Stat. § 430.735(12)(e).</p> <p>“Any public or private official who has reasonable cause to believe that any adult with whom the official comes in contact has suffered abuse, or that any person with whom the official comes in contact has abused an adult, shall report or cause a report to be made . . .” Or. Rev. Stat. § 430.765(1).</p> <p>However, a member of clergy is not required to report such information communicated by a person if such communication is privileged. Or. Rev. Stat. § 430.765(2).</p> <p>An “Adult” for purposes of this section is defined as “a person 18 years of age or older: (a) With a developmental disability who is currently receiving services from a community program or facility or was previously determined eligible for services as an adult by a community program or facility; (b) With a severe and persistent mental illness who is receiving mental health treatment from a community program; or (c) Who is receiving services for a substance use disorder or a mental illness in a facility or a state hospital.” Or. Rev. Stat. §430.735(2).</p>