



# Clergy Privacy FAQs

## Utah



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 Utah?** A person has a privilege to refuse to disclose, and to prevent another from disclosing, any confidential communication: (1) made to a cleric in the cleric's religious capacity; and (2) necessary and proper to enable the cleric to discharge the function of the cleric's office according to the usual course of practice or discipline. Utah R. Evid. 503(b).

**2** **Who is a "cleric"?** "Cleric" means "a minister, priest, rabbi, or other similar functionary of a religious organization or an individual reasonably believed to be so by the person consulting that individual." Utah R. Evid. 503(a)(1).

**3** **What is a "confidential communication"?** "Confidential Communication" means a communication: (a) made privately; and (b) not intended for further disclosure except to other persons in furtherance of the purpose of the communication. Utah R. Evid. 503(a)(2).

**4** **Who may claim the privilege?** "The privilege may be claimed by: (1) the person who made the confidential communication; (2) the person's guardian or conservator; (3) the person's personal representative if the person is deceased; and (4) the person who was the cleric at the time of the communication on behalf of the communicant." Utah R. Evid. 503(c).

<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.

**How are clerics excepted from, or included in, Utah’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
<p><b>Child abuse or neglect</b></p>	<p>“Except as provided in Subsection (2), when any individual. . . has reason to believe that a child has been subjected to conditions or circumstances that would reasonably result in abuse or neglect, that individual shall immediately report the alleged abuse or neglect to the nearest peace officer, law enforcement agency, or office of the division . . .</p> <p>(2) Subject to Subsection (3), the notification requirement described [above] does not apply to a member of the clergy, with regard to any confession made to the member of the clergy while functioning in the ministerial capacity of the member of the clergy and without the consent of the individual making the confession, if: (a) the perpetrator made the confession directly to the member of the clergy; and (b) the member of the clergy is, under canon law or church doctrine or practice, bound to maintain the confidentiality of that confession.</p> <p>(3)(a) When a member of the clergy receives information about abuse or neglect from any source other than confession of the perpetrator, the member of the clergy is required to report that information even though the member of the clergy may have also received information about abuse or neglect from the confession of the perpetrator.</p> <p>(b) Exemption of the reporting requirement for a member of the clergy does not exempt the member of the clergy from any other efforts required by law to prevent further abuse or neglect by the perpetrator.”</p> <p>Utah Code Ann. § 62A-4a-403.</p>
<p><b>Abuse, neglect, or exploitation of elder or dependent adults</b></p>	<p>“A person who has reason to believe that a vulnerable adult has been the subject of abuse, neglect, or exploitation shall immediately notify Adult Protective Services intake or the nearest law enforcement agency.” Utah Code Ann. § 62A-3-305(1).</p> <p>Utah Code Ann. § 62A-3-301(30) defines “vulnerable adult” as “an elder adult, or a dependent adult who has a physical or mental impairment which substantially affects that person’s ability to: (a) provide personal protection; (b) provide necessities such as food, shelter, clothing, or mental or other health care; (c) obtain services necessary for health, safety, or welfare; (d) carry out the activities of daily living; (e) manage the adult’s own financial resources; or (f) comprehend the nature and consequences of remaining in a situation of abuse neglect, or exploitation.”</p> <p>Unlike with child abuse reporting, there are no specific carveouts for clergy who learn of elder abuse during confession.</p>

