



JEFF ANDERSON &
ASSOCIATES



Anderson Summary

of Diocesan Compensation Programs

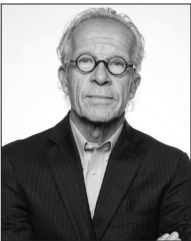
Supporting Sexual Abuse Survivors for Decades

Jeff Anderson & Associates, P.A.

Jeff Anderson & Associates pioneered the use of civil litigation to seek justice for survivors of childhood sexual abuse. The attorneys have advocated for survivor rights across the country for many decades, having filed their first lawsuit on behalf of a child sexual abuse survivor in the early 1980s. In addition to seeking legal accountability, the firm has supported survivors of abuse by bringing public awareness to the cause and they have testified before numerous state legislatures endorsing reforms to the statute of limitations. Through its work, Jeff Anderson & Associates seeks to bring hope, healing, accountability, and justice to survivors of sexual abuse.

In most cases, childhood sexual abuse goes unreported or victims/survivors break their silence many years after the abuse occurs. While there are many legal barriers to prosecuting those responsible for the abuse, our firm has worked to overcome these barriers for more than 30 years. As pioneers of child protection through civil litigation, we are aggressively committed to this cause and capable of handling the most complex legal issues in courts across the United States.

We are smart, tough, and relentless, but the virtue that ultimately sets us apart is our compassion. We are people who feel deeply and work tirelessly in response to an unjust world. We have a reputation for being the best at what we do and that begins and ends with our ability to support, protect, and guide survivors along their journey toward justice and healing. As sexual abuse lawyers we have represented thousands of survivors of sexual abuse against individual offenders and the intuitions that harbor these offenders. We are engaged with a national network of attorneys who share our mission, and when we take a case, we exhaust every imaginable resource in order to serve our clients’ needs.



Jeff Anderson



Darrow Anderson



Stacey Benson



Molly Burke



Mike Finnegan



Trusha Patel Goffe



Elin Lindstrom



Josh Peck



Mike Reck



Jennifer Stein



Taylor Stippel



I. Background on the California Compensation Program and Its Administrators

On May 14, 2019, the Archdiocese of Los Angeles and the Dioceses of Sacramento, San Bernardino, San Diego, Orange, and Fresno announced the creation of a voluntary, third-party-administered compensation program for survivors of clergy sexual abuse. The program will be managed by attorney Kenneth Feinberg and his assistant, Camille Biros.

The California Dioceses' compensation program will not be the first clergy abuse compensation fund administered by Feinberg and Biros. Since 2016, Feinberg and Biros have been appointed to manage compensation programs for clergy abuse survivors in Roman Catholic Archdioceses and Dioceses across the states of New York, New Jersey, and Pennsylvania. These programs have gone by various names, including the "Independent Reconciliation and Compensation Program" and "Independent Victim Compensation Program."

Indeed, Feinberg has been nicknamed the "Master of Disasters"¹ as a result of his years of experience in administering compensation programs for crime victims. With respect to survivors of child sexual abuse, Feinberg led a mediation program designed to compensate survivors of child sexual abuse perpetrated by Jerry Sandusky at Penn State University. Prior to doing so, he led programs to compensate victims of the September 11, 2001 terrorist attacks; Virginia Tech shooting; BP oil spill; Sandy Hook shooting; Aurora, Colorado shooting; and Boston Marathon bombing.

¹Ross Barkan, *Meet Ken Feinberg, the Master of Disasters*, Observer (Mar. 9, 2016), <https://observer.com/2016/03/meet-ken-feinberg-the-master-of-disasters/>.

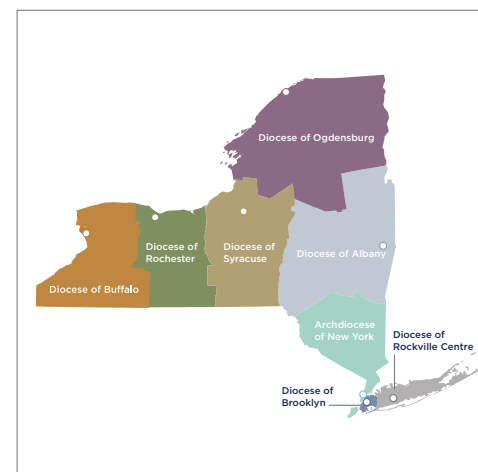
II. Jeff Anderson & Associates' Experience with Compensation Programs

Jeff Anderson & Associates has passionately advocated for survivors of clergy sexual abuse in the courtroom for over 35 years. More recently, our firm has represented over 150 survivors of clergy sexual abuse in the six compensation programs in the State of New York, as well as similar programs in New Jersey and Pennsylvania. The vast majority of these programs were administered by Feinberg, with whom our firm has been familiar since we shepherded survivors through the Penn State mediation program administered by Feinberg years ago. In representing clients in the compensation programs, our firm communicates directly with Feinberg and Biros, and advocates diligently for our clients' interests.

Having guided survivors through both the litigation process and the compensation programs across multiple states, we have a unique understanding of the compensation programs' complexities and pitfalls. While the compensation programs may provide for a more expeditious outcome than litigation, they lack the protocol necessary to promote the transparency and accountability that survivors deserve. Information flows one way in the compensation programs – from the survivor to the program administrators – and dioceses are not required to disclose their knowledge of and documents pertaining to their sexually abusive clerics. Further, if a survivor accepts a settlement offer in the compensation program, he or she must release the right to file a lawsuit related to the abuse in the future. This is a particularly serious decision for survivors in California, where the legislature is considering a bill that would allow survivors of child sexual abuse more time to seek justice by bringing a lawsuit related to the abuse.

While the compensation programs present an option for survivors and may be the right choice for some, they are not the best choice for everyone. These programs present offers and opportunities that need to be analyzed with the greatest care. We are here to support, stand with, and guide survivors as they navigate the compensation programs in the State of California.

III. Overview of the New York Compensation Programs



After the Archdiocese of New York announced its compensation program in October 2016, dioceses across the state of New York launched similar programs. These programs share similarities – each offers compensation to certain survivors of clergy sexual abuse; each provides that if a survivor accepts a settlement offer, the survivor releases his or her right to take legal action against the diocese in the future; and none provides for the mutual exchange of information that a civil lawsuit facilitates. While the programs are similar in many respects, they differ in significant ways. The following sections discuss each of the compensation programs that has been announced to date in the State of New York.

IV. Compensation Programs in the State of New York

A. Archdiocese of New York Compensation Program



The Archdiocese of New York announced the creation of its compensation program on October 6, 2016. The compensation program was a “two-phase program” administered by Feinberg and Biros.

To apply for compensation in the Archdiocese of New York compensation program, survivors were required to fill out a claim form and describe the abuse they suffered. The compensation program was deemed to be confidential, and information submitted by survivors to the program was used and disclosed only for the following purposes: “(1) [p]

rocessing the claimant’s claim for compensation; (2) [a]dministering the Program, including the prevention of fraud; (3) [t]he protection of children under the Safe Environment Program.”² Survivors were not bound by any confidentiality provision and could freely share information regarding the process and compensation determination.

Phase I of the compensation program was open only to survivors of child sexual abuse who had reported their abuse to the Archdiocese of New York prior to the program being announced, or the legal representatives of such survivors. Many survivors who had reported to the Archdiocese in the past received paperwork inviting them to participate in Phase I of the compensation program. Phase II of the compensation program was open to survivors of child sexual abuse who had not reported their abuse to the Archdiocese, or the legal representatives of such survivors. For both Phase I and Phase II, only survivors of child sexual abuse perpetrated by “clergy of the Archdiocese,” or the legal representatives of such survivors, were eligible to participate. One of the requirements for each phase of the compensation program was that a survivor or his or her attorney report to local law enforcement. The following survivors, among others, were not eligible to participate in either Phase I or Phase II of the compensation program: (i) survivors of abuse perpetrated by religious order clergy or clergy of another diocese; and (ii) survivors who previously entered into a settlement agreement resolving their claim.

Eligible survivors could participate in the compensation program without waiving their right to take legal action against the Archdiocese of New York. However, if a survivor was offered a settlement in the program and chose to accept it, the survivor had to sign a release waiving his or her right to take legal action against the Archdiocese in the future.

Feinberg and Biros considered a number of factors in determining whether to accept or reject a survivor’s claim, including the following:

- “The extent to which the individual claimant and/or the Archdiocese are able to document and corroborate the nature, frequency, and time of the alleged sexual abuse.
- Whether or not the allegations of sexual abuse are consistent with the allegations made by other individuals concerning known recidivist perpetrators.

- Whether or not, in evaluating all of the facts and circumstances supporting the allegations, i.e., the context of the claim, there is sufficient circumstantial evidence to find eligibility and provide a designated level of compensation.
- Whether or not contemporaneous notification of the alleged abuse was made by the individual claimant to church officials, law enforcement authorities, parents, friends and/or others.
- Whether or not there exists medical or counseling records relevant to the alleged abuse.”
- Whether or not there exists any information and/or pertinent findings offered by the appropriate Office of the District Attorney.
- Whether or not the Administrators find the claims of the individual to be credible after a complete review of all relevant documentation provided by the claimant, the Archdiocese, and any doctors and psychiatrists retained by the individual claimant.”

Feinberg and Biros considered the following factors in determining the amount of compensation to be paid to survivors in the compensation program:

- “The nature, extent and frequency of the sexual abuse alleged by the individual claimant.
- Whether or not the individual claimant alleges aggravating circumstances e.g., age of the claimant, severity of abuse, location of abuse, threats of physical harm and/or retaliation, significant, verifiable and life-altering psychological damage, etc.
- The credibility of the claimant based upon all of the facts and circumstances.”

Survivors who participated in the compensation program had a right to be heard by the program administrators, in person or by phone, prior to the administrators making a determination on their claims. However, the protocol did not provide for appeals of the administrators’ determination or negotiation as to settlement amount.

Communication of information in the compensation program flowed one way – from survivors to the program administrators. Survivors who participated in the compensation program were asked to provide information regarding the nature of the abuse they suffered and its impact on them, but the Archdiocese was not required to provide survivors with information regarding its knowledge of alleged abusers’ dangerous propensities, patterns of abuse, or current whereabouts. Survivors were also unable to learn what information, if any, the Archdiocese had provided to the program administrators regarding the survivors’ claims. This one-way flow of information stands in stark contrast to the mutual exchange of information that takes place through the discovery process in a civil lawsuit, wherein a survivor is entitled to ask for information regarding the Archdiocese’s knowledge of his or her abuser, as well as documents pertaining to the abuser.

² Archdiocese of New York Independent Reconciliation and Compensation Program Protocol, https://www.nyarchdiocese-ircpsettlementprogram.com/ords/m_453841_0001/f?p=NYARCH:PAGE-HOME (last visited May 31, 2019). All quoted material from Part IV.A of this brochure is taken from the protocol cited in this footnote.

B. Diocese of Brooklyn Compensation Program



Following the lead of the Archdiocese of New York, the Diocese of Brooklyn announced the launch of its compensation program on June 22, 2017. The Diocese of Brooklyn compensation program was administered by Feinberg and Biros.

To apply for compensation in the Diocese of Brooklyn compensation program, survivors were required to fill out a claim form and describe the abuse they suffered. The compensation program was deemed to be confidential, and information submitted by survivors to the compensation

program was used and disclosed

only for the following purposes: “(1) [p]rocessing the claimant’s claim for compensation; (2) [a]dministering the Program, including the prevention of fraud; (3) [t]he protection of children under the Safe Environment Program.”³ Survivors were not bound by any confidentiality provision and could freely share information regarding the process and compensation determination.

Like the Archdiocese of New York compensation program, the Diocese of Brooklyn compensation program was a “two-phase Program.” Phase I of the compensation program was open only to survivors of child sexual abuse who had reported their abuse to the Diocese of Brooklyn prior to the program being announced, or the legal representative of such survivors. Phase II of the compensation program was open to survivors of child sexual abuse who had not reported their abuse to the Diocese of Brooklyn, or the legal representatives of such survivors. For both Phase I and Phase II, only survivors of child sexual abuse perpetrated by “clergy of the Diocese,” or the legal representatives of such survivors, were eligible to participate. One of the requirements for each phase of the compensation program was that a survivor or his or her attorney report to local law enforcement. The following survivors, among others, were not eligible to participate in either Phase I or Phase II of the compensation program: (i) survivors of abuse perpetrated by religious order clergy or clergy of another diocese; (ii) survivors who previously entered into a settlement agreement resolving their claim; and (iii) survivors who “previously filed complaints with the Diocese and, after investigation, the Diocese determined the Complaints to be non-credible.”

Eligible survivors could participate in the Diocese of Brooklyn compensation program without waiving their right to take legal action against the Diocese of Brooklyn. However, if a survivor was offered a settlement in the compensation program and chose to accept it, the survivor had to sign a release waiving his or her right to take legal action against the Diocese in the future.

The factors for determining whether the administrators would accept or reject a survivor’s claim, as well as the amount of any compensation offered, were substantially the same as the factors used by the administrators in the Archdiocese of New York compensation program.

Survivors who participated in the Diocese of Brooklyn compensation program had a right to be heard by the program administrators, in person or by phone, prior to the administrators making a determination on their claims. However, the protocol did not provide for appeals of the administrators’ determination or negotiation as to settlement amount.

As in the Archdiocese of New York compensation program, communication flowed only from survivors to the compensation program administrators. However, in the Diocese of Brooklyn compensation program, unlike the Archdiocese of New York compensation program, the Diocese acted as a gatekeeper for determining which survivors were eligible for compensation in the compensation program. Where the Diocese had previously deemed a survivor’s claim non-credible, that survivor was ineligible to participate in the compensation program without being provided an explanation of why he or she was deemed non-credible in the first instance.

For example, survivor Thomas Davis was deemed ineligible to participate in Phase II of the Diocese of Brooklyn compensation program after the Diocese’s Review Board found his claim of abuse against Msgr. Otto Garcia not credible.⁴ Mr. Davis showed tremendous courage in being interviewed by the Diocese and sharing his story for the first time, only to learn that he would not be permitted to file a claim in the Diocese’s “independent” program because of the Diocese’s determination. In this way, the Diocese of Brooklyn excluded many survivors from participating in the compensation program, which was then the only option for survivors in New York.

C. Diocese of Rockville Centre Compensation Program



The Diocese of Rockville Centre announced the creation of its compensation program on October 16, 2017. The program was administered by Feinberg and Biros.

To apply for compensation in the Diocese of Rockville Centre compensation program, survivors were required to fill out a claim form and describe the abuse they suffered. The compensation program was deemed to be confidential, and information submitted by survivors to the compensation program was used and disclosed only for the following purposes:

“(1) [p]rocessing the claimant’s claim for compensation; (2) [a]dministering the Program, including the prevention of fraud; (3) [t]he protection of children under the Safe Environment Program; (4) [t]o meet any applicable requirements the Diocese and/or the Religious Order may have for reporting to or responding to law enforcement authorities (e.g., the District Attorney’s office and/or the police department, the Attorney General’s Office, etc.); (5) [t]he Diocese’s or the Religious Order’s investigation of the claim by outside investigators and/or examination by their internal review boards.”⁵ Survivors were not bound by any confidentiality provision and could freely share information regarding the process and compensation determination.

The Rockville Centre compensation program was initially conceived as a “two-Phase program,” with Phases I and II having substantially the same eligibility criteria as those phases of the Diocese of Brooklyn compensation program. Notably, the Diocese of Rockville Centre compensation program followed the lead of the Diocese of Brooklyn compensation program in deeming ineligible survivors who “previously filed complaints with the Diocese and, after investigation, the allegations were found to be non-credible or unsubstantiated.”

⁴ For additional information regarding Mr. Davis’ claim, see Linda Stasi and Dan Good, *Monsignor Otto Garcia Was Tasked with Handling Pedophile Priests in the Brooklyn Diocese – But Now a Man Is Accusing Him of Abuse*, New York Daily News (Feb. 14, 2019), <https://www.nydailynews.com/new-york/ny-metro-otto-garcia-brooklyn-diocese-accused-abuse-20190213-story.html>.

⁵ *Diocese of Rockville Centre Independent Reconciliation and Compensation Program Protocol*, https://www.rockvillecentrediocesaircp.com/ords/m_453841_0001/f?p=RCDIOC:PAGE-HOME. All quoted material in Part IV.C of this brochure is taken from the protocol cited in this footnote.

³ *Diocese of Brooklyn Independent Reconciliation and Compensation Program Protocol*, https://www.brooklyndiocesaircp.com/ords/m_453841_0001/f?p=BRDIOC:PAGE-HOME. All quoted material in Part IV.B of this brochure is taken from the protocol cited in this footnote.

In January 2019, the Diocese of Rockville Centre compensation program expanded to include a third phase. Phase III was open to survivors of child sexual abuse (i) perpetrated by “a member(s) of a Religious Order(s) who, at the time of the abuse, was working in a parish, school or charitable agency (past or present) of the Diocese under contract or official assignment with the Diocese”; and (ii) who were abused “in the course of the Religious Order member’s duties required under such Diocesan contract or official assignment.” The legal representative of such a survivor could also file a claim in the compensation program. Phase III deemed ineligible survivors “who previously filed a complaints [sic] of sexual abuse against a member of a Religious Order and, after investigation, the Diocese, or the Religious Order, determined the complaint to be non-credible,” among other survivors.

Eligible survivors could participate in the Diocese of Rockville Centre compensation program without waiving their right to take legal action against the Diocese of Rockville Centre or religious order. However, if a survivor was offered a settlement in the compensation program and chose to accept it, the survivor had to sign a release waiving his or her right to take legal action against the Diocese or religious order in the future.

The factors for determining whether the administrators would accept or reject a survivor’s claim, as well as the amount of any compensation offered, were substantially the same as the factors used by the administrators in the Archdiocese of New York and Diocese of Brooklyn compensation programs.

Survivors who participated in the Diocese of Rockville Centre compensation program had a right to be heard by the program administrators, in person or by phone, prior to the administrators making a determination on their claims. However, the protocol did not provide for appeals of the administrators’ determination or negotiation as to settlement amount.

As in the Archdiocese of New York and Diocese of Brooklyn compensation programs, communication flowed only from survivors to the compensation program administrators. And like the Diocese of Brooklyn, the Diocese of Rockville Centre (and, in the case of Phase III, religious orders) acted as a gatekeeper for determining which survivors were eligible for compensation in the Diocese of Rockville Centre compensation program. Where the Diocese (and, in the case of Phase III, the religious order) had previously deemed a survivor’s claim non-credible, that survivor was ineligible to participate in the compensation program without being provided an explanation of why he or she was deemed non-credible in the first instance.

D. Diocese of Syracuse Compensation Program



The Diocese of Syracuse announced the formation of its compensation program on February 14, 2018. The program was administered by Feinberg and Biros.

To apply for compensation in the Diocese of Syracuse compensation program, survivors were required to fill out a claim form and describe the abuse they suffered. The compensation program was deemed to be confidential, and information submitted by survivors to the compensation program was used and disclosed only for the following purposes: “(1) [p]rocessing the claimant’s claim for compensation; (2) [a]

dministering the Program, including the prevention of fraud; (3) [t]he protection of children under the Safe Environment Program.”⁶ Survivors were not bound by any confidentiality provision and could freely share information regarding the process and compensation determination.

The Diocese of Syracuse compensation program had just one “phase.” The program was open only to survivors who were sexually abused as minors by “clergy member[s] of the Diocese” and had reported the abuse to the Diocese prior to the program being announced, as well as the legal representatives of such survivors. One of the requirements of the program was that a survivor or his or her attorney report to local law enforcement. The following survivors, among others, were deemed ineligible to participate in the Diocese of Syracuse compensation program: (i) survivors who did not report their abuse to the Diocese of Syracuse prior to February 14, 2018; (ii) survivors of abuse perpetrated by religious order clergy or clergy of another diocese; (iii) survivors who previously entered into a settlement agreement resolving their claim; and (iv) survivors “who previously filed complaints with the Diocese and, after investigation, the Diocese determined the complaints to be non-credible.”

Eligible survivors could participate in the Diocese of Syracuse compensation program without waiving their right to take legal action against the Diocese of Syracuse. However, if a survivor was offered a settlement in the compensation program and chose to accept it, the survivor had to sign a release waiving his or her right to take legal action against the Diocese in the future.

The factors for determining whether the administrators would accept or reject a survivor’s claim, as well as the amount of any compensation offered, were substantially the same as the factors used by the administrators in the previously announced New York compensation programs.

Survivors who participated in the Diocese of Syracuse compensation program had a right to be heard by the program administrators, in person or by phone, prior to the administrators making a determination on their claims. However, the protocol did not provide for appeals of the administrators’ determination or negotiation as to settlement amount.

As in the previously announced New York compensation programs, communication flowed only from survivors to the compensation program administrators. And like the Diocese of Brooklyn and Diocese of Rockville Centre, the Diocese of Syracuse acted as a gatekeeper. Where the Diocese previously deemed a survivor’s claim non-credible, that survivor was ineligible to participate in the compensation program without being provided an explanation of why he or she was deemed non-credible in the first instance.

⁶ *Diocese of Syracuse Independent Reconciliation and Compensation Protocol*, <https://www.syracusediocese.org/about-us/ircp/protocol/>. All quoted material in Part IV.D of this brochure is taken from the protocol cited in this footnote.

E. Diocese of Ogdensburg Compensation Program



The Diocese of Ogdensburg announced the creation of its compensation program on March 1, 2018. The program was administered by Feinberg and Biros.

To apply for compensation in the Diocese of Ogdensburg compensation program, survivors were required to fill out a claim form and describe the abuse they suffered. The compensation program was deemed to be confidential, and information submitted by survivors to the compensation program was used and disclosed only for the following

purposes: “(1) [p]rocessing the claimant’s claim for compensation; (2) [a]dministering the Program, including the prevention of fraud; (3) [t]he protection of children under the Safe Environment Program.”⁷ Survivors were not bound by any confidentiality provision and could freely share information regarding the process and compensation determination.

The Diocese of Ogdensburg compensation program had just one “phase.” The program was open only to survivors who were sexually abused as minors by “clergy member[s] of the Diocese” and had reported the abuse to the Diocese prior to the program being announced, as well as the legal representatives of such survivors. One of the requirements for of the program was that a survivor or his or her attorney report to local law enforcement. The following survivors, among others, were deemed ineligible to participate in the Diocese of Ogdensburg compensation program: (i) survivors who did not report their abuse to the Diocese of Ogdensburg prior to March 1, 2018; (ii) survivors of abuse perpetrated by religious order clergy or clergy of another diocese; (iii) survivors who previously entered into a settlement agreement resolving their claim; and (iv) survivors “who previously filed complaints with the Diocese and, after investigation, the Diocese determined the complaints to be non-credible.”

Eligible survivors could participate in the Diocese of Ogdensburg compensation program without waiving their right to take legal action against the Diocese of Ogdensburg. However, if a survivor was offered a settlement in the compensation program and chose to accept it, the survivor had to sign a release waiving his or her right to take legal action against the Diocese in the future.

The factors for determining whether the administrators would accept or reject a survivor’s claim, as well as the amount of any compensation offered, were substantially the same as the factors used by the administrators in the previously announced New York compensation programs.

Survivors who participated in the Diocese of Ogdensburg compensation program had a right to be heard by the program administrators, in person or by phone, prior to the administrators making a determination on their claims. However, the protocol did not provide for appeals of the administrators’ determination or negotiation as to settlement amount.

Communication flowed only from survivors to the compensation program administrators. Like the Diocese of Brooklyn, Diocese of Rockville Centre, and Diocese of Syracuse compensation programs, the Diocese of Ogdensburg acted as a gatekeeper. Where the Diocese previously deemed a survivor’s claim non-credible, that survivor was ineligible to participate in the compensation program without being provided an explanation of why he or she was deemed non-credible in the first instance.

⁷ *Diocese of Ogdensburg Independent Reconciliation and Compensation Program Protocol*, https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=4&ved=2ahUKEwiYv9zJ_cXiAhVEwlkKHdN3Am0QFjADegQIBRAC&url=https%3A%2F%2Fwww.ogdensburgdioceseircp.com%2Fords%2Fm_453841_0001%2Fprod%2Fr%2F103%2Ffiles%2Fstatic%2Fv68%2Fp1-protocol-english.pdf&usg=AOvVaw2P3-4zgM5GquH4F0vU3QvP. All quoted material in Part IV.E of this brochure is taken from the protocol cited in this footnote.

F. Diocese of Buffalo Compensation Program



The Diocese of Buffalo announced the creation of its compensation program on March 1, 2018. The program was administered by former New York State Supreme Court Justice Jerome Gorski and former New York State Surrogate Judge Barbara Howe.

To apply for compensation in the Diocese of Buffalo compensation program, survivors were required to fill out a claim form and describe the abuse they suffered. The compensation program was deemed to be confidential,

and information submitted by survivors to the program was used and disclosed only for the following purposes: “(a) [p]rocessing the claimant’s claim for compensation; (b) [a]dministering the Program, including the prevention of fraud; (c) [t]he protection of children under the Diocese’s Safe Environment Program; (d) [n]ew allegations will be subject to review and discussion by and with investigative bodies within the Diocese; (e) [c]omplying with any applicable legal requirements, including that certain allegations of sexual abuse against minors must be reported to the appropriate law enforcement agencies.”⁸ Survivors were not bound by any confidentiality provision and could freely share information regarding the process and compensation determination.

The Diocese of Buffalo compensation program was open to survivors of child sexual abuse “who had previously [i.e., prior to March 1, 2018] submitted complaints to the Diocese alleging that they were sexually abused as a minor by clergy of the Diocese,” as well as the legal representatives of such survivors. Although the Diocese of Buffalo compensation program protocol appeared to exclude survivors of abuse perpetrated by religious order clergy, an attorney for the Diocese stated: “Recognizing that there may be circumstances in which a diocese could have some responsibility for an order priest, our program, unlike many other programs, does not categorically exclude claims concerning alleged abuse by an order priest.”⁹ The apparent conflict between the compensation program protocol and the Diocese’s public representations created confusion as to which survivors were eligible to participate in the program. Finally, like other compensation programs, the Diocese of Buffalo compensation program deemed ineligible survivors who had previously entered into a settlement agreement resolving their claim, among other survivors.

Eligible survivors could participate in the compensation program without waiving their right to take legal action against the Diocese of Buffalo. However, if a survivor was offered a settlement in the compensation program and chose to accept it, the survivor had to sign a release waiving his or her right to take legal action against the Diocese in the future.

Justice Gorski and Judge Howe considered a number of factors in determining whether to accept or reject a survivor’s claim, including the following:

- “Whether or not the clergy against whom the claimant alleges sexual abuse is a member of the Diocese, as opposed to a member of a religious order or priest of another diocese.
- The extent to which the claimant and/or the Diocese are able to document and corroborate the nature, frequency, and time of the alleged sexual abuse.

⁸ *Diocese of Buffalo Independent Reconciliation and Compensation Program Protocol*, <https://buffalodiocese.org/ircp>. All quoted material in Part IV.F of this brochure, with the exception of the material cited in footnote 9, is taken from the protocol cited in this footnote.

⁹ Dan Herbeck, *Will Buffalo Diocese Pay Victims of Sex Abuse by Religious Order Priests?* The Buffalo News (July 22, 2018), <https://buffalonews.com/2018/07/22/will-buffalo-diocese-pay-victims-of-sex-abuse-by-religious-order-priests/>.

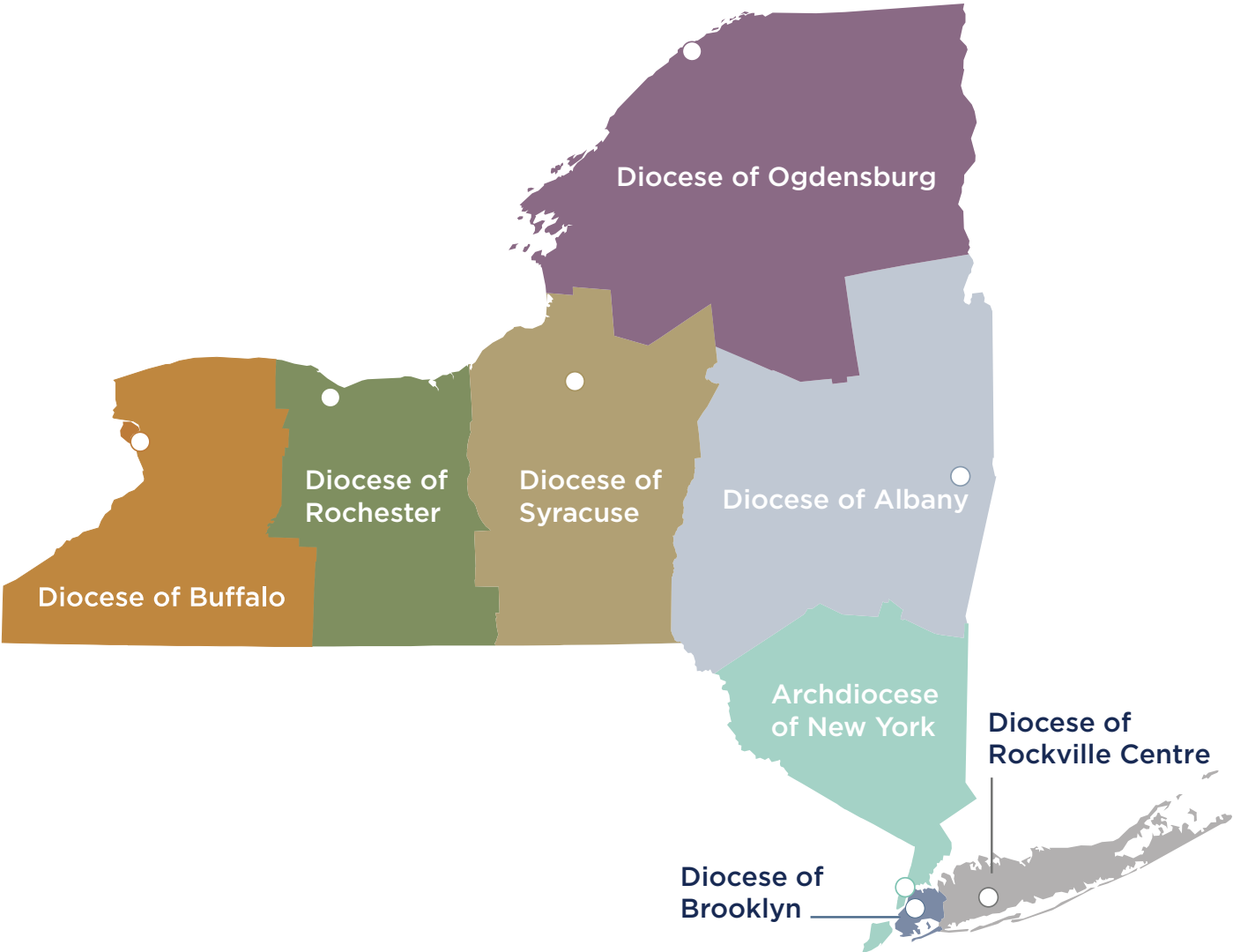
- Whether or not the allegations of sexual abuse are consistent with allegations made by other individuals concerning known alleged abusers.
- Whether or not there is evidence establishing that the Diocese had prior notice of the alleged abuser’s propensity for such sexual abuse.
- Whether or not, in evaluating all of the facts and circumstances supporting the allegations, i.e., the context of the claim, there is sufficient circumstantial evidence to find eligibility and provide a designated level of compensation.
- Whether or not contemporaneous notification of the alleged abuse was given by the claimant to Church officials, law enforcement authorities, parents, friends, and/or others.
- Whether or not there exist medical or counseling records relevant to the alleged abuse.
- Whether or not the Administrators find the claims of the individual to be credible after a complete review of all relevant documentation provided by the claimant and the Diocese.”

Justice Gorski and Judge Howe considered the following factors in determining the amount of compensation to be paid to survivors in the compensation program:

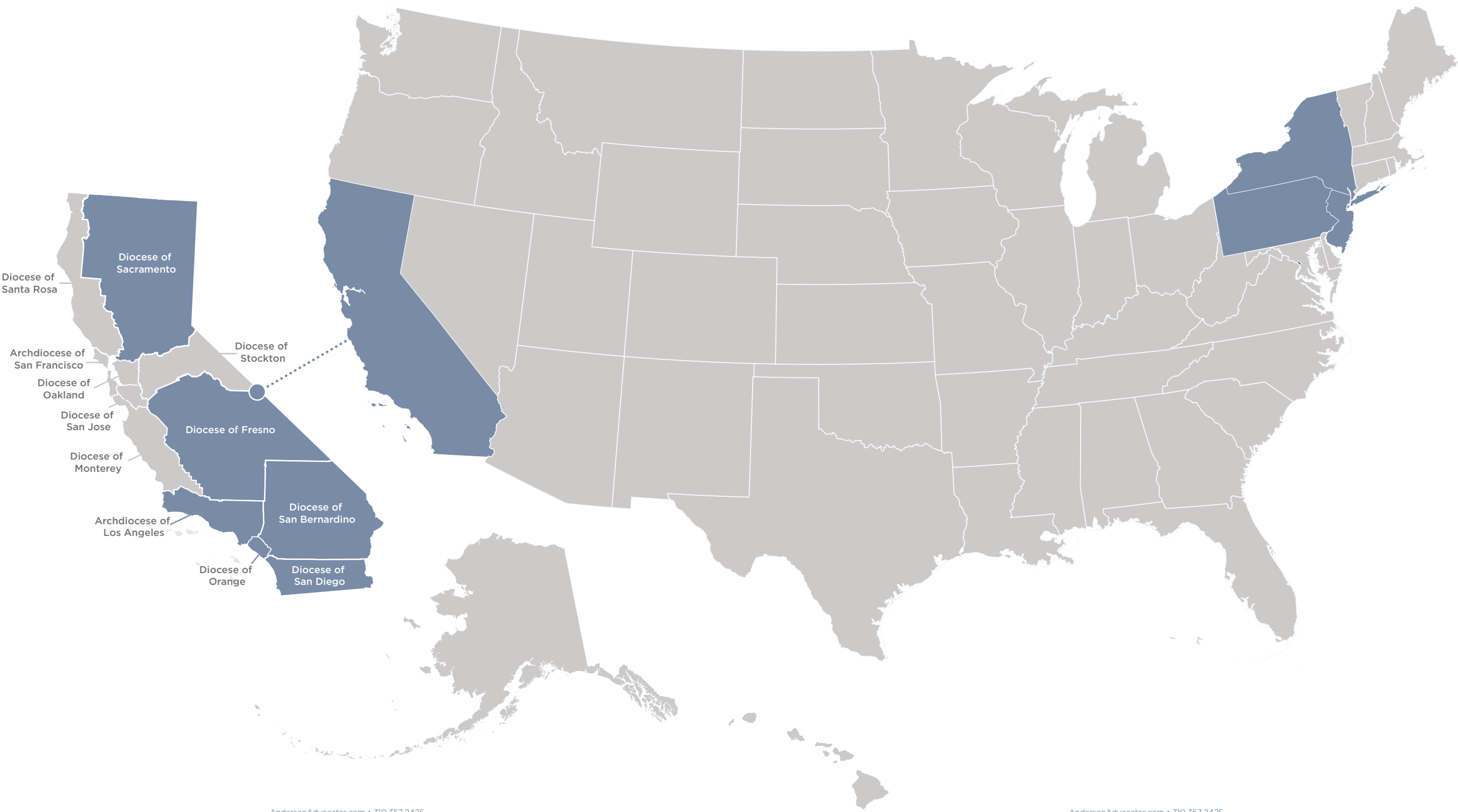
- “The nature, extent, and frequency of the sexual abuse alleged by the claimant.
- Whether or not the claimant alleges aggravating circumstances, such as: (i) [t]he age of the claimant; (ii) [t]he severity of abuse; (iii) [t]he location of abuse; (iv) [t]hreats of physical harm and/or retaliation; and/or (v) [s]ignificant, verifiable, and life-altering psychological damage.
- The credibility of the claimant based upon all of the facts and circumstances.
- The nature, extent, and amount of any past, current and/or ongoing pastoral, counseling or other assistance provided to the claimant by the Diocese.”

Survivors who participated in the Diocese of Buffalo compensation program had a right to be heard by the program administrators, in person or by phone. However, the protocol did not provide for appeals of the administrators’ determination or negotiation as to settlement amount.

As in the previously announced New York compensation program, communication flowed only from survivors to the compensation program administrators. Although the Diocese of Buffalo compensation program protocol provided that the Diocese could provide information and documentation to the administrators, and could also request to review the supporting documentation provided by a survivor, the protocol did not provide that survivors had a right to see what information or documentation the Diocese turned over to the administrators.



Map of Diocesan Compensation Programs Across the United States



New York Compensation Program

Quick Reference Guide

Archdiocese of New York Compensation Program

- Announced on October 6, 2016
- Administered by Feinberg and Biros
- Included two phases – Phase I for survivors who previously reported to the Archdiocese; Phase II for survivors who did not previously report to the Archdiocese
- Only open to survivors of child sexual abuse perpetrated by diocesan clergy
- Survivors who settled were required to sign release waiving the right to sue the Archdiocese in the future

Diocese of Brooklyn Compensation Program

- Announced on June 22, 2017
- Administered by Feinberg and Biros
- Included two phases – Phase I for survivors who previously reported to the Diocese; Phase II for survivors who did not previously report to the Diocese
- Only open to survivors of child sexual abuse perpetrated by diocesan clergy
- The Diocese acted as a gatekeeper – survivors whose claims the Diocese had previously deemed non-credible were ineligible to participate
- Survivors who settled were required to sign a release waiving the right to sue the Diocese in the future

Diocese of Rockville Centre Compensation Program

- Announced on October 16, 2017
- Administered by Feinberg and Biros
- Included three phases – Phase I for survivors of diocesan clergy who previously reported to the Diocese; Phase II for survivors of diocesan clergy who did not previously report to the Diocese; Phase III for survivors of religious order clergy, regardless of whether the survivor reported to the Diocese or religious order
- The Diocese and religious orders acted as gatekeepers – survivors whose claims the Diocese or religious order had previously deemed non-credible were ineligible to participate
- Survivors who settled were required to sign a release waiving the right to sue the Diocese and religious order in the future

Diocese of Syracuse Compensation Program

- Announced on February 14, 2018
- Administered by Feinberg and Biros
- Included only one phase for survivors who had previously reported to the Diocese
- Only open to survivors of child sexual abuse perpetrated by diocesan clergy
- The Diocese acted as a gatekeeper – survivors whose claims the Diocese had previously deemed non-credible were ineligible to participate
- Survivors who settled were required to sign a release waiving the right to sue the Diocese in the future

Diocese of Ogdensburg Compensation Program

- Announced on March 1, 2018
- Administered by Feinberg and Biros
- Included only one phase for survivors who had previously reported to the Diocese
- Only open to survivors of child sexual abuse perpetrated by diocesan clergy
- The Diocese acted as a gatekeeper – survivors whose claims the Diocese had previously deemed non-credible were ineligible to participate
- Survivors who settled were required to sign a release waiving the right to sue the Diocese in the future

Diocese of Buffalo Compensation Program

- Announced on March 1, 2018
- Administered by former NY State Supreme Court Justice Jerome Gorski and former NY State Surrogate Judge Barbara Howe
- Included only one phase for survivors who had previously reported to the Diocese
- Open to survivors of child sexual abuse perpetrated by diocesan clergy, and certain survivors of child sexual abuse perpetrated by religious order clergy
- Survivors who settled were required to sign a release waiving the right to sue the Diocese in the future



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