

DIOCESAN TEMPORALITY POLICIES

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ASSESSMENTS:

Amarillo Catholic School System Assessment

The Amarillo Parishes are assessed an amount determined by voluntary act of the Amarillo Parishes several years ago.

Cathedraticum and Priest Pension

As of July 1, 2002 the Diocese bills the Parish for a percent of total income as follows:

a. Cathedraticum Tax	9.10%
b. Priest Pension Tax	<u>3.60%</u>
Total	12.70%

** Cathedraticum Tax Rate for Parishes with schools is 7.10%. This allows a 2% rate benefit for those Parishes.

Assessments are based upon a parish's average income for the past three completed and reported fiscal years, with the exception of legacies and bequests, which will be taxed when received at the rate of 6%.

Assessed income includes all income not specifically excluded such as Endowment Fund Principal, Grants or Subsidies. Income from Building Funds is excluded if the Building Fund Campaign was approved by this bishop. This approval will be dependant upon the purpose of the campaign, the duration of the pledges, (no more than 5 years and no fewer than 2) and the expectation that normal parish income will not be reduced. Fund Raising Expense is deducted from Fund Raising Income so as to tax only the net from that source. Insurance Proceeds are not considered income and are to be excluded. All other types of income are included in the total.

City Ministries Assessment

The Amarillo area parishes voluntarily agreed to pay for jail and hospital ministries several years ago. These agreed amounts are now being billed to the same parishes on a monthly basis and called City Ministries Assessments.

Sabbatical/Continuing Education Assessment

Parishes with \$100,000 or more income are assessed \$600.00 annually, parishes with \$50,000 to \$99,999 income are assessed \$400.00 annually, parishes with income of less than \$50,000 are assessed \$200.00 annually and missions or stations are assessed \$100.00 annually. These amounts are to be assessed one-twelfth each month. Basically, funds not to be used for Sabbatical will be used for Priests Continuing Education.

UCA Quota Deficiencies and Pledge Deficiencies

The Bishop, with input from the Diocesan Finance Council, the Diocesan Presbyteral Council and a committee containing pastors and lay people, sets a UCA Quota each year. If a Parish has pledges for less than their Quota, it is called a deficiency quota and must be paid by the parish. The business office bills in equal monthly amounts in a separate UCA receivable.

At the end of the fiscal year the Development Office announces a final billing of pledges and any uncollected pledges under the quota will be billed to the parishes on the May 31 accounts receivable statement. Any money received after the Development Office final billing is given as a direct credit on the Diocesan receivable from the Parish. However, any pledge receipts that exceed parishes original Quota will be kept by the Diocese.

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West Texas Catholic Assessment

The Parish is billed .60 cents per issue of West Texas Catholic from a list kept by the Development Office and it is kept current by changes reported by the Parish.

It is mandatory that every family unit contributing a minimum of \$10 to the UCA automatically be placed on the West Texas Catholic mailing list.

All money collected by a Parish for the West Texas Catholic should be deposited by the Parish and is offset against the assessments expense they have paid to the Diocese. Do not send those collections to the Diocese.

BISHOP DEFALCO RETREAT CENTER:

Scheduling

Any diocesan parish, organization, or groups of individuals are welcomed to reserve the retreat center for their use. Reservation of the facility is done on a first-come basis. It is essential to schedule in advance in order to insure the availability of a specific date or for a larger selection of dates.

If a specific date one desires is not available, the center will work to provide mutually agreed upon alternative dates.

Deposit Policy

Like any retreat and conference center, the Bishop DeFalco Retreat center does require a deposit in order to reserve a date and use of the facility. The amount of the deposit is based on 25 % of the estimated cost of the scheduled event.

Cancellation Policy

Any scheduled event that is cancelled forfeits its deposit if the center does not have ample time or a group to replace it. Any group that cancels an event and forgets to notify the retreat center also forfeits its deposit. In the case of diocesan meetings, a charge will be billed according to estimated billing for the proposed meeting.

Guaranteed Numbers

In order to be a good steward of resources and to keep costs for our guests to a minimum, the retreat center must be notified of meals and rooms needed one week prior to the scheduled event. This will be the guaranteed number for billing purposes. Additional numbers may be added less than one week prior to the event, if space allows.

Overnight Stays

If you would like to spend a night at the center, it is very important to notify the staff as soon as possible. Contrary to a hotel, the center is not staffed 24 hours a day, seven days a week. In order to have a clean room and access to the building, arrangements need to be made in advance. Anyone showing up without advance notice may not find a clean room and/or access to the retreat center.

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Conditions of Use

No smoking or use of alcohol is allowed in the center. There will be an automatic \$75.00 cleaning fee charged and added to the bill for any room in which smoking occurs. Additionally, since our smoke detector system is connected directly to the local fire department, any fire department response fees incurred due to smoking within the facility will be charged and added to the bill. Any tampering of a smoke detector in the facility will be reported to the fire marshal, who can fine the individual/group a minimum of \$2000.00.

BUILDING POLICIES:

Procedures For the Pastor & Parish Building Committees

Any new building and/or repairs in excess of \$25,000 require approval of the diocesan building committee.

Any new building and/or repairs between \$10,000 and \$24,999 require approval of the bishop. Regulations are as follows;

1. Request approval of the Bishop in writing by citing the needs and/or justification for the desired structure.
2. Before any initial planning, determine if there are any deed restrictions on the land by referring to the Title Opinion or Owner's Title Policy.
3. Contact the Business Office with a request to meet with the Finance Council. This will involve completing an Application for Construction/Renovation, which is available from the Business Office.
4. Meet with Finance Committee to establish the budget for the project, and the maximum amount that can be spent.
5. Next meet with the Diocesan Building Committee (DBC) to discuss the project, the manner of construction, the selection of an Architect, and the Application of the budget, first approved by the Finance Committee, to the desired structure. No commitment with an Architect should be made until after this meeting.
6. Once the Architect is selected and approved, and before any drawings are started, the Architect should prepare and submit through the Diocesan Lawyer, the standard ALA form of agreement between Himself and the Owner (Bishop). This completed and signed Form in triplicate must include the scope of the project, the budget for the structure, architect's fee, and a provision in the contract that the Architect will continue work until project is within the approved budget at no additional fee. If applicable, a Master Plan will be a part of this contract and will be included in the fee.

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7. If structure is a Church, Architect should submit plans to the Diocesan Office of Worship for review and recommendations prior to preparation of final working drawings.
8. Before any large building project begins, the Architect shall secure soil tests by a qualified soils engineer at the expense of the parish, school or other institution.
9. With Architect and his preliminary plans, meet with the Diocesan Building Committee to obtain approval of the basic design and master plan lay-out, if necessary. Upon approval, Architect will be instructed to prepare final plans and specifications.
10. Upon completion of plans and specifications, the Architect and parish Building Committee will schedule a final meeting with the Diocesan Building Committee and jointly approve the list of general contractors for the particular project. The Architect will invite only those approved contractors to bid. All bids are to be opened at the Chancery Office at a date and time established, unless otherwise stipulated at this meeting. All bids must comply with the 4-hour bid limit rule.
11. Specifications must state the bidders must furnish with their proposals:
 - a. Certified Cashier's Check or Bidder's Bond in the sum of 5% of their bid, made payable to the owner.
 - b. A list of sub-contractors in a separate sealed envelope.
 - c. Proposals without the above will not be considered as a legitimate bid.The lowest bid will not necessarily be accepted. The Owner reserves the right to award a contract, regardless of the amount of the bid, to the contractor most likely to complete the project as desired and to provide equitable wages and working conditions.
12. Sometime after the Bid opening, after weighing the alternate bids, time for construction and the list of sub-contractors, the Architect and Parish Building Committee should make known their preference of a General Contractor to the Diocesan Building Committee.
13. Upon approval by the Chief Financial Officer, the Architect will then prepare a contract between the General Contractor and the Owner (Bishop) using the appropriate ALA form. Three copies of the contract are to be submitted together with the 100% Performance Bond, statutory Payment Bond, all certificates of insurance, as per specifications, and Builders Risk policy. All insurance is to be obtained from reputable companies approved by the Owner.
14. The Bishop, who is recorded as the Owner of all real property, must sign all contracts for new construction.
15. The Architect is to file a copy of the Material and Payment Bond with the County Clerk's Office where the job is located. This is in harmony with Article 547d of the Revised Civil Statutes of Texas, commonly known as the Hardeman Act. This Statutory Payment Bond is to be signed by the Bishop. For failure to have the Material or Payment Bond filed for record by the Architect, he will be held responsible for any loss to the Diocese.

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16. No building material or machinery may be moved on to Church property, and no digging excavation, or work of any kind will be permitted until all insurance and the surety bond have been purchased and filed and the contract has been signed by the Bishop and returned to the General Contractor. At that time, the Architect will issue a letter to begin work, which will establish the completion date.
17. The Architect or Parish Building Committee shall approve all payments to the contractor if there is no Architect.
18. All Change Orders are to be sent to the Parish Building Committee after being approved by the Architect, prior to beginning work. The Committee must give approval before the Architect authorizes a Change Order.
19. Final Payment: Before Final payment is approved:
 - a. A letter from the pastor and/or the Parish Building Committee is required indicating their satisfaction and that the work has been done according to the contract
 - b. The contractor must provide a release of lien statement of his acceptance of the Project
 - c. The contractor must submit guarantees and “As Built” plans to the architect for distribution to the pastor, Parish Building Committee and Diocesan Building Committee
20. After completion, the pastor must inform the Diocesan Insurance Office of the value of the contents placed within the structure
21. Provisions for Design and Construction projects: For small projects, the Diocesan Building Committee may approve the concept of a firm to design and construct a building. The Diocesan Building Committee must approve preliminary and final plans prior to the signing of a contract. The Diocesan Building Committee then may select an unbiased architect to conduct three inspections on the project and report to the Committee. The inspection fee will be determined by the Committee and paid by the parish. It is the responsibility of the “Design and Build” firm to request these inspections:
 - a. Foundation, prior to pour
 - b. Framing, before sheet rocking
 - c. Final, upon completion

IF YOU HAVE ANY QUESTIONS, OR THE ABOVE IS NOT CLEAR, PLEASE CALL THE CHIEF FINANCIAL OFFICER FOR CLARIFICATION.

These regulations are subject to addition or revision at any time

DIOCESAN TEMPORALITY POLICIES

Rules for Architects and Contractors

These Rules are adopted as the rules for the Amarillo Diocesan Building Committee and shall be utilized to modify or supplement the requirements of AIA Document A201, General Conditions of the Contract Supplement for Construction. The Rules are intended to be incorporated into any Construction Contract involving diocesan property.

1. OWNER. The "Owner" herein refers to the Bishop of Amarillo, the Most Reverend John W. Yanta and his successors in office.
2. BID BOND. Bidders must furnish with their proposals a Certified Cashier's check or Bidder's Bond in the sum of 5% of their bid, made payable to the Owner.
3. PERFORMANCE BOND. The General Contractor will be required to furnish a 100% Performance Bond conditioned upon the faithful performance of the Contract. Said bond shall be solely for the protection of the Owner.
4. PAYMENT BOND. The General Contractor will be required to furnish a 100% Material and Payment bond for the protection of those supplying labor and materials in the execution of the Contract.
5. EACH BOND shall be executed by a corporate surety or corporate sureties duly authorized to do business in the State of Texas, acceptable to the Owner, and on AIA forms.
6. THE CONTRACT FOR CONSTRUCTION shall be prepared by the Architect using the appropriate AIA form and approved by the diocesan attorney. A copy of the 100% Performance Bond, Payment bond and the Certificate of Insurance, shall be attached to each of four (4) copies of the Contract.
7. INSURANCE. The Contractor shall secure and maintain throughout the duration of this Contract coverage hereinafter listed in such amounts as may be necessary to protect himself and the interests of the Owner against all hazards or risks of loss hereinafter specified. The form and limits of such insurance together with the underwriter thereof in such case, shall be acceptable to the Owner, but regardless of such acceptance it shall be the responsibility of the Contractor to maintain adequate insurance coverage at all times. Failure of the Contractor to maintain required coverage shall be a default under the contract.

Satisfactory certificates of insurance as stated in Section 7 of this Contract shall be filed with the Owner prior to starting any construction work on this Contract. The certifications shall state that 30 days advance written notice must be given to the Owner before any policy covered thereby is changed or cancelled.

- 7.1 WORKERS COMPENSATION AND EMPLOYER'S LIABILITY: This insurance shall protect the Contractor against all claims under the applicable state Worker's compensation laws. The Contractor shall also be protected against claims for injury or disease of employees, which, for any reason, may not fall within the provisions of a workers' compensation law. This policy shall include an "all states" endorsement and a "waiver of subrogation."

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- 7.5 **BUILDERS RISK /INSTALLATION FLOATER**: The Owner will provide, at Owner's expense, Builder's Risk insurance on construction projects up to \$4 million against the perils of fire, lightning, windstorm, hurricane, hail, explosion, riot, civil commotion, smoke, aircraft, land vehicles, vandalism and malicious mischief in the amount of insurance equal at all times to the insurable value of materials delivered and labor performed.

In the event the project is in excess of \$4 million, the Contractor shall obtain, at his expense, Builder's Risk as described above for the full value of the Contract. If the Contractor provides Builder's Risk, the policy shall name Owner as an additional insured.

This insurance shall be specific as to coverage and not considered as contributing insurance with any permanent insurance maintained on the present premises.

The Contractor shall provide installation floater insurance to protect the Contractor and the Owner from all insurable risk of physical loss or damage to materials and equipment not otherwise covered under builder's risk insurance, while in warehouses or storage areas, during installation, during testing, and after the work is completed. Installation floater insurance shall be of the "all risk" type, including theft and flood, with coverage's designed for the circumstances that may occur in the particular work included in this Contract. The coverage shall be for an amount not less than the insurable value of the work at completion, less the value of the materials and equipment insured under the builder's risk insurance. The value shall include the aggregate value of the Owner-furnished equipment and materials to be erected or installed by the Contractor not otherwise insured under builder's risk Insurance.

Installation floater insurance shall provide for losses to be payable to the Contractor and the Owner as their interest may appear. The policy shall contain a provision that in the event of payment for any loss under the coverage provided, the Insurance Company shall have no rights of recovery against the Contractor or the Owner.

If the aggregate value of the Owner-furnished and Contractor-furnished equipment is less than \$10,000, such equipment may be covered under builder's risk insurance, and installation floater insurance may be omitted.

Certificates of insurance covering installation floater insurance shall quote the insuring agreement and all exclusions as they appear in the policy; or in lieu of certificates, copies of the complete policy may be submitted.

8. **DEFENSE OF SUITS**: Contractor agrees to indemnify and to hold Owner harmless from and against any and all damages, claims, demands, suits, judgments, costs including reasonable attorney's fees, and expenses for or on account of damage to property of any person, firm, corporation, or other legal entity, or death of or injury to

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any person or persons (including but not limited to, employees or agents of either party, Contractor, Subcontractors, Workmen, Material men or Contractors) arising from or caused by, or in connection with the performance of, or failure to perform any agreement, covenant or activity provided for hereunder, however same may be caused.

8.1 In the event the Owner is involved in any Litigation related to the Contractor and its Subcontractors, the Contractor will pay the Owner's costs including attorney's fees regardless of which party wins a judgment.

9. STATE SALES TAX: The Owner qualifies for exemption from State and Labor Sales Tax. The Contractor will be furnished the certification necessary to obtain the tax exemption.

10. GENERAL PROCEDURE:

10.1 GENERAL: The following are standards procedure for construction as set forth by the Building Committee of the Diocese of Amarillo.

10.2 NOTICE TO PROCEED: After the Contract for Construction has been approved by the Building Committee and signed by the Bishop, the Architect will issue a "Notice to Proceed." No building material or machinery may be moved on to Church property and no digging, excavation, or work of any kind will be permitted before the date indicated on the Architect's "Notice to Proceed." A completion date will be established on said notice.

10.3 CHANGE ORDERS: Change orders, approved by the Architect, must be approved by the Parish Building Committee or Diocesan Fiscal Manager before any work described on the Change Order is performed.

10.4 PAYMENTS TO THE CONTRACTOR: "Application and Certificate for Payment" shall be prepared by the Contractor and submitted to the Architect in four (4) copies on a monthly basis as defined in the Construction Contract. After approval by the Architect it is submitted to the Parish Building Committee for approval. The Parish Building Committee forwards the Certificate for Payment to the Pastor who issues a check in payment to the Contractor. After the Contractor receives payment the original is receipted and returned to the Parish Building Committee for file. The above procedure will be followed until final payment is made.

10.5 FINAL PAYMENT: Before Final Payment is approved the following requirements must be met:

10.5.1 The Pastor and/or the Parish Building Committee must provide a letter indicating their satisfaction that the work has been completed according to the terms of the Contract.

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- 10.5.2 The Contractor must provide a release of lien statement that all bills have been paid for labor and materials and that there are no outstanding claims of any kind against him on the project.
- 10.5.3 The Contractor must submit guarantees, “as-built plans” and manufacturer’s equipment operation manuals to the Architect for distribution to the Pastor and Parish Building Committee and the Diocesan Building Committee.
- 10.6. Waiver: The Amarillo Diocesan Building Committee and with the approval of the Diocesan attorney have the right to waive or modify any of the rules under circumstances deemed appropriate by them.

CASH, BANK ACCOUNTS AND INVESTMENTS:

All bank accounts, savings accounts, stocks, bonds and other investments controlled or owned by a Parish or School must be listed on the Parish or School Balance Sheet. This includes Altar Society, Men’s Club, Youth and any other accounts connected with the church. The Pastors must be authorized as a sole signer on any and all accounts. The Diocese mandates that checking disbursements by anyone other than the pastor or administrator require two signatures.

The Bishop directs that a parish keep enough cash in the parish operating account to take care of monthly needs and to deposit the excess in the Deposit & Loan Fund at the Diocese. Auxiliary accounts such as Altar Society, Men’s Club, Youth and others, may but are not required to put the money in the Deposit and Loan. This should yield a higher rate of return than if deposited elsewhere.

The Deposit & Loan Fund has a dual purpose. One is to allow Diocesan parishes to borrow money at lower rates than could be obtained from other lending sources. Another is to allow pooling of all funds, not loaned to Diocesan Entities, at a bank Trust Department for safety and higher rates of return than can be obtained by individual parishes.

CENTRALIZED ACCOUNTING SERVICES:

It is essential that parishes, schools and other institutions have timely and accurate information in order to make wise financial decisions. The Diocese of Amarillo requires that all parishes, schools and other institutions submit monthly financial data to the Central Accounting Office. The various institutions are given some options concerning the manner in which this financial information is provided to the diocese.

The first option is to utilize the Central Accounting Office to prepare the reports by providing them with the necessary information in the form of a manual check and deposit journal, bank statements and reconciliation’s, CYMA or Quicken data disk, etc.

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From this information, centralized accounting will prepare any necessary adjustments and return printed monthly financial statements. In addition to the current financial statements you may also receive upon request, a report of comparison of last years' financial data to the current year. Centralized Accounting can also enter your parish budget and provide actual vs. budget statements. A copy of the general ledger will be provided at year-end with a list of adjustments for your permanent records. If a ledger is needed more frequently, it will be provided upon request.

There will be a nominal monthly fee for this service. For most parishes or schools, including cafeteria if applicable, the charge will be as shown in Appendix B. Routine questions and phone support are included in the fee.

The second option is to provide a backup data disk of Quick Books Pro or Cyma Software and thereby avoid any fees for centralized accounting. This may be submitted via E-mail, PCAnywhere, or mail. The following requirements must be met in order to use this option.

- The standard chart of accounts must be **strictly** adhered to.
- Record all transactions for parish/school accounts. Including Altar Society, Youth, Special Events, Building Funds, etc.
- The parish/school must record all adjustments related to checking or savings accounts, including Deposit & Loan funds.
- Record all adjustments related to Diocesan assessments and other Accounts Payable.
- Verify that computer balances equal balances on related statements.
- Provide copies of all bank statements and reconciliation's by mail or fax.
- Quick Books Pro **must be kept to the current versions** that are used at the Centralized Accounting Office. This is for the purpose of compatibility.

A copy of the general ledger will be provided at year-end with a list of adjustments that you **must** enter before submitting the July accounting information of the new year.

IF EXTENSIVE SUPPORT IS NEEDED ON THIS SECOND OPTION YOU WILL BE BILLED A FEE IN COMPARISON TO STANDARD LOCAL ACCOUNTING RATES.

The parish may choose either option at any time. However, if you do choose to change options please contact the Centralized Accounting Office for assistance. We intend to do everything we can to make any transition as smooth as possible.

Regular and accurate financial reporting is the primary goal. Therefore, if the requirements are not being met in a satisfactory manor, the parish will be asked to return to the previous centralized accounting method.

Regardless of the option you choose, we **must insist on timely reporting**. Information must be received at the DPC by the **15th of the following month**, July 31st for yearend. Information not received by the end of the following month will result in a **\$25 penalty for each month** it is late.

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Accounts Receivable-Schools/Daycare Centers

Schools, pre-schools, and daycares are required to book to the general ledger the balance owed on the accounts receivables as of the last day of the month. When submitting the monthly accounting records to the Centralized Accounting Office you should include at least the back page of an aging report for verification. If you do not have accounts receivable software that integrates to the general ledger you will need to contact Centralized Accounting office for assistance.

General Accounting Information and Requirements:

Parishes can make their accounting less burdensome by limiting the number of bank accounts they use. Ideally, only one operating account is necessary and one for holding restricted funds which are to be held and spent in the future for specified purposes. Advice on simplifying bookkeeping procedures is available from Centralized Accounting office.

The Parish or School is to furnish Centralized Accounting at the Diocese, a copy of each Federal Quarterly Form 941 Payroll Report by the end of the month following the Quarter End. The Form 941 must be completed even in locations with only the priest receiving a W-2.

The Parish or School is to furnish Centralized Accounting at the Diocese, a copy of each Federal Annual W-2 and W-3 within a month after filing.

The total in adding up the four quarterly 941's should agree with the totals on the Form W-3

1099 Forms

Federal law requires a church or school to furnish a form 1099 to each individual/sole proprietor, or partnership, for payments in excess of \$600.00. It is **not necessary** to issue a 1099 form if the vendor is **incorporated**. To assure that you are in compliance it is recommended that you have each vendor fill out form W-9 (Request for Taxpayer Identification Number and Certification, Appendix I) and keep for your files.

The Parish or School is to furnish Centralized Accounting, a copy of each Federal Annual Form 1099 and 1096 within a month after filing.

Deciding between Contract Labor or Employees

Generally, an employer-employee relationship exists under the principles if the person for whom the services are performed has the right to control and direct both **what must be done** and **how it must be done**, that **person generally is an employee**. It does not matter, in making the determination, that the employee is given considerable discretion in the manner in which the work is done; if the employer has the legal right to control the method, as well as the result of what is done; an employer-employee relationship exists. An example would be someone performing yard work. If they furnish their own equipment, do similar work for other clients and can freely change the time that they perform the service, then they are clearly contract labor. The individual who uses the church's equipment and is expected to perform the work by a certain day and time is clearly an employee.

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CONCEALED WEAPONS POLICY

Concealed weapons are banned from all Catholic Church buildings in the Diocese of Amarillo except when carried by law enforcement officers in performance of their duties.

The purpose of Catholic facilities is to serve human life in all its stages from conception until natural death. The presence of any weapon that could cause physical harm would be incompatible with this purpose.

COPYRIGHT PROTECTIONS

Music and computer programs are generally copyrighted and may not be reproduced without the permission of the copyright owner. This includes making photocopies of songs or “loaning” a software disc or borrowing one.

CONTRACT REVIEW POLICY

The Diocese of Amarillo has a Contract Review Policy, which was enacted August 1, 1997. For a copy of the policy, call the Diocesan Business Office.

1. All contracts for \$10,000.00 or more are to be reviewed and approved by the Diocesan Fiscal Manager and Diocesan Attorney as a condition of obtaining the Bishop’s signature.
2. All leases for Diocesan property must be reviewed and approved by the Diocesan Fiscal Manager and Diocesan Attorney as a condition of obtaining the Bishop’s signature.
3. All contractors and service people who do work on Diocesan property shall be required to carry three (3) types of insurance, (regardless of size of the contract).
 - a. Public Liability
 - b. Workers Compensation or acceptable accident/ERISA/employer’s liability insurance covering their employees
 - c. Automobile Liability
4. Certificates of Insurance shall be obtained verifying coverage for all three types of insurance and naming the parish/institution, and the Diocese as additional insured’s.
5. Each parish/institution shall use the standard construction contract available in the Diocesan Business Office.
6. Written professional service contracts shall be used when contracting for services of architects and engineers. The contracts must be reviewed and approved by the Diocesan Fiscal Manager and Diocesan Attorney before being submitted to the Bishop for his signature. The contracts shall require the professionals to provide evidence of professional and public liability insurance to the Diocese.

DEPOSIT POLICY AND RELATED PARISH IMPLICATIONS

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It is important to note that the Diocese records collections in the Deposit and Loan and collections on accounts receivable as of the date we deposit the money. Therefore if you write a check to the Diocese on the last day or two of the month, it may not reach us until the following month. Consequently it will show on your records in the month the check is written and will not show up on your statement from the Diocese until the next month.

It is recommended that you write checks earlier in the month to avoid this, if it is a problem to you.

For your information, the Diocese deposits checks on the day received and very rarely holds checks for any reason.

ESTABLISHMENT OF ENDOWMENT OR TRUST FUNDS

When TRUST or ENDOWMENTS are set up within the Diocese, they should meet the Canonical Control Standards as prescribed by the Bishop. Funds raised within the Diocese by, through or in connection with a Parish or School, should not be put into a TRUST or ENDOWMENT ENTITY which does not meet the standards of Canonical Control.

The Bishop's written permission is required to set up such Trust or Endowment Entities and permission will be given only after prior approval of the Trust or Endowment Instrument by the Diocesan Attorney.

DRUG AND ALCOHOL ABUSE POLICY

The purpose of this policy is to eliminate drug abuse and its effects from the workplaces of the Diocese of Amarillo to bring about a safer and more healthful environment in these places. This policy extends to all areas where work relating to diocesan activities is carried on in a parish, school, or other institution owned or operated by the Diocese of Amarillo.

The use, possession for consumption, concealment, sale, and transportation of illegal drugs, illegal inhalants, and alcoholic beverages during working hours (including overtime hours) is forbidden.

Depending on the type of drug involved, any one working for the diocese found to be violating this policy will be subject to disciplinary action by the appropriate superior and such action can include dismissal.

Any one working for the diocese wishing to participate in any treatment program should consult with his or her superior or the Chief Financial Officer of the diocese. Some treatment programs are covered, wholly or in part, by medical insurance.

The Diocese of Amarillo, as an employer for workers' compensation purposes, does not now have any drug-testing program in force, whether for existing employees or new employees. It does, however, reserve the right to institute one, at its discretion.

A copy of this policy is to be given to all existing employees of the diocese and also to any new employees within thirty (30) days after their assumption of work.

GRANT APPLICATION POLICY

The Diocese of Amarillo depends heavily upon grants from various foundations to fund many of its ministries. All of these grants are applied for by the Development Office only

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after they have done extensive work in researching the foundation and preparing the application. The Development Office has spent years building relationships with the foundations and the result of that long work is proven by their success in obtaining annual grant income exceeding \$1,000,000 in recent years. The continuation of this success is dependent upon ongoing research and the development and maintenance of relationships of accountability and trust.

It is critical that all grant applications be made through the Development Office. If you are interested in having a grant application developed, please contact Nancy Koons for information on how to begin the process.

Solicitation of funds from within the community through donations from local business is encouraged: these are not grant applications. Catholic Schools, in particular, are encouraged to make these contacts and develop these relationships. It is important, however, that you notify the Development Office of any gifts of \$1,000 or more.

Once again, all grant applications made to any foundation (including local foundations) or regional or national corporations or organizations must be made through the Development Office.

FINANCE COUNCILS

In view of the canonical requirements that persons with particular expertise be allowed to participate in parish pastoral and Finance Councils, and with the hope of restricting membership to those with minimal requirements of demonstrable expertise, effective immediately, membership on these councils is restricted to:

1. Practicing Catholics in full communion with the Church, and if married, married in the Catholic Church
2. Knowledgeable in the areas of business, finance, accounting or law

Finance council members are appointed to serve for a term of three years and may be appointed for consecutive terms. Their duty is to assist the pastor or administrator by advising him on matters affecting the temporal goods of the parish. Specific duties are as follows:

1. Assist in preparing the annual parish budget and recommend its approval
2. Review of parish financial reports
3. They must be consulted on all expenditures in excess of \$10,000. While the pastor should not lightly disregard their advise, they are advisors only and the pastor is not required to adhere to their advise. In no case may the pastor follow their advise if it is in conflict with diocesan regulations

INSURANCE: PROPERTY, CASUALTY, ETC.

Property Insurance Coverage

All parishes, schools and other diocesan institutions must participate in the property and casualty insurance program through Catholic Mutual. It is important to note that all institutions are provided with an annual "Statement of Values" showing which properties are covered and the value covered. In the event of a catastrophe Catholic Mutual will only pay up to the amount shown on the Statement of Values. It is important therefore that this value be reviewed each year

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to make sure the institution will be able to replace the property with the insurance proceeds.

In reviewing the property values it may also be appropriate to lower values to demolition cost or some other value if the parish will not replace the building if it is destroyed because needs have changed. Significant lowering of values must have the approval of the Chief Financial Officer of the Diocese of Amarillo.

Special Events Coverage

Every rental use of a Parish or School Building by anyone or for any purpose, other than a Parish or School function, requires the Parish or School to submit to the Diocese an insurance form and a fee of \$65.00 at least 14 days before the event is to take place. There are no exceptions to this requirement. This fee is payable to the Diocese of Amarillo.

Workman's Compensation Coverage

Each Diocesan Priest is to be carried on Catholic Mutual Workman Compensation Policy. All Diocesan lay employees are to be carried on Catholic Mutual Workman Compensation Policy.

INTERNAL CONTROLS

The purpose of this section is to identify some areas where weak controls could lead to employee fraud and to offer guidance to parishes/institutions on the establishment of specific internal controls to improve these areas. The areas identified are common to every organization. The section is not intended to describe internal control procedures for every business transaction. Basically, all of the procedures discussed in this section have two major aims:

- To protect assets (e.g., cash, investments, and property)
- To ensure that the accounting records are accurate and complete

Since all parishes and their related organizations are different in size and in organizational structure, application of the policies, practices, procedures, and techniques discussed will vary. There are, however, a number of basic elements of internal control that should be part of any system. Each diocese should evaluate its business cycles to design elements of an internal control system.

Once the basic elements are covered, organizations need to design internal controls for the following business cycles:

- Financial planning and control
- Cash management
- Payroll
- Purchasing

The elements of a "revenue" cycle in a church structure are covered in the cash management cycle noted above since most types of revenue are converted to cash very quickly.

Basic Elements Of Internal Control

Honest and Capable Employees

Recent frauds perpetrated on parishes have been committed by employees having a great deal of trust. Certainly, any system is critically dependent on the people who use it. If the people are dishonest or incompetent, even the finest system will not perform properly. Honest and capable

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employees can and do function effectively even in situations where other elements of internal control are lacking. The following suggestions may help in deterring employee dishonesty and apply to volunteers as well as paid employees:

1. Require annual vacations of employees to help ensure that any fraud requiring their constant attention would be discovered during their absence. This requires cross training to ensure work continues during such absences.
2. Catholic Mutual provides fidelity insurance on employees in positions of trust. The standard coverage is \$100,000.
3. Establish and educate personnel on your conflict-of-interest policy to prevent potential abuse. At a minimum, dealings with relatives or a volunteer's business should require the approval of the pastor.
4. Know your personnel. Watch for signs that an employee is spending more than his/her salary would seem to allow.
5. Investigate all employees adequately before their employment as part of the hiring process.

Delegation and Separation of Duties

Employees must know what they are to do and what others are responsible for. Job descriptions should be used to further explain proper delegation.

Most important is a clear separation of duties. You need to provide for an appropriate segregation of duties between the custody of and the accountability for assets. This segregation should preclude any one person from performing all aspects of a function. As an example, the person who counts the money should not be the one who prepares the deposit.

Also, authorizing transactions must be segregated from recording the transactions. Generally, involving more people in the accounting system reduces the potential for fraud, unless, of course, there is collusion. In situations where this is impractical due to financial constraints, a responsible officer, finance council member or trustee who is not involved in the daily record-keeping should oversee the accounting activities.

Within a parish, the pastor is the ultimate internal control checkpoint. He needs to review supporting documents if he doesn't understand why a disbursement is being made. He also needs to review weekly deposits and understand why there are fluctuations.

Procedures for the Processing of Transactions

Specific procedures will be discussed later as they relate to business cycles. In general, a basic element of internal control is proper authorization. It is imperative that the day-today operating authority be delegated to the appropriate manager(s) with specific guidelines to follow (for example, the maximum amount of a disbursement to be approved).

Suitable Documents and Accounting Records

Accounting records and documents should be maintained to provide an audit trail. One major

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objective of an internal accounting control system is to provide reasonable assurance that the financial records reflect all financial transactions that have occurred. The recording of all transactions must be correct as to quantity and dollar amount, and must be made in the proper accounting period. The supporting documentation should be

- simple and easy to use to help reduce error;
- numbered to help keep physical control over the documents;
- as few in number as possible to minimize confusion; and
- designed to ensure that they will be properly completed.

Physical Control Over Assets and Accounting Records

The safeguarding of assets is an important aspect of a system of internal control. Accounting records can be protected by physical barriers, such as locked rooms or drawers accessible only to select individuals. The safeguarding of assets, however, is much more than just establishing physical control. The system should also provide documentation authorizing the movement of assets into or out of an organization. Original accounting records, whether kept on paper or in a computer, cannot be kept at an individual's home, however it is appropriate to keep backup copies off of parish property.

In addition to accounting records, all physical assets should be properly secured. For example, furniture and equipment should be numbered and inventoried. It is also very important that pastors and associates keep records of their personal property as distinguished from parish property.

An important subset of physical controls is security for the information system. It is crucial that access to computer equipment and the computer software necessary to process accounting information be controlled. Computer files should be backed up and stored off-site, and fireproof safes should be used to store important documents. Given the rapid changes being made in this information age, pastors must be cognizant of the importance of emphasizing controls over the use of its information technology.

Independent Verification of Performance

Procedures to reconcile actual transactions with those transactions that have been recorded are another element of internal control. The taking of a physical inventory or the reconciling of a bank account to the general ledger are two methods for such activity.

No one can objectively evaluate his/her own performance effectively, and no one can record large numbers of transactions with perfect accuracy. Supervisors must periodically assess the performance of their subordinates to help ensure that any accounting and internal control system is functioning properly. If internal auditors are used, they should report to the audit committee or finance council.

SPECIFIC CONTROLS

Financial Planning and Control Cycle

Parish officials must insist that their financial managers have an adequate system of planning and control. Generally, they must have mechanisms in place to ensure that the parish can meet unexpected financial obligations and has the resources to take advantage of unexpected opportunities that may arise. Specifically, all entities should be required to adhere to a prescribed

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budget process, resulting in an annual budget at a minimum. Furthermore, periodically entities should report operating results versus budgeted amounts. Additionally, it is recommended that a long-range budget be adopted, typically a five-year financial plan. Proper planning also dictates that cash-flow forecasts be prepared periodically, and all excess cash placed in the Diocesan Deposit and Loan Fund.

With regard to financial control, Pastors have the responsibility of ensuring that adequate accounting records are maintained and that the financial operations are running smoothly, as planned and anticipated. The following features should be used to achieve these goals:

1. Monthly Comparative Financial Statements. These reports must be prepared on a timely basis so that appropriate action can be taken should the actual results of operations vary materially from the budget.
2. Chart of Accounts. The Diocesan Chart of Accounts must be utilized. This chart of accounts contains a list of accounts, numbers, and names for all asset, liability, fund balance, revenue, and expense accounts. Additionally, the chart should contain a description of each account and guidance on when each should be used.
3. Policy and Procedures Manuals. These manuals are necessary to train new employees in the operation of any accounting system and to ensure that similar transactions are handled in similar manners.

Cash Management Cycle

The controls to be discussed for the cash management cycle will include those over cash/non-cash assets that are readily convertible into cash (e.g., marketable securities, receivables, and liabilities whose liquidation will require the use of cash, such as accounts payable and notes payable).

Bank Accounts

1. The number of bank accounts should be strictly limited to those absolutely required. Obviously, the fewer the accounts, the greater the control and the smaller the opportunity for errors or wrongdoing.
2. All accounts should be opened in the name of an entity, never an individual. The mailing address should not be a private residence. Only the pastor should be permitted to open and close bank accounts.
3. Authorized check signers should be very limited. Checks in excess of a certain dollar amount (e.g., \$1,000) should require the signature of two responsible individuals. Facsimile signatures should be prohibited unless controlled by a check-signing machine with a numerical sequence counter. No signature stamps should be allowed.
4. Bank statements should be reconciled to the accounting records each month in a timely manner. This is essential to determine if any unauthorized checks were

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issued or receipts stolen. The statement should be reconciled by someone other than the check signers and those controlling the checking account. The individual responsible for reconciling the account should receive the bank statement unopened. The actual reconciliation should be compared with the financial statements by a separate responsible individual (e.g., internal auditor, finance council member) at least annually.

5. All wire transfers should be preauthorized by two responsible individuals.

Cash Disbursements

1. All cash disbursements should be made with prenumbered checks, with the exception of petty cash. Using checks for all major cash payments ensures that the disbursement is authorized and there is a permanent receipt. The check should be prenumbered so that it is accounted for properly. This procedure helps to prevent the issuance of a check that is not recorded in the cash disbursement journal. Additionally, presigned checks should not be allowed.
2. If a mistake is made when preparing a check, the check should be voided before preparing a new one. The voided check should then be altered to prevent its use, retained to make sure all prenumbered checks are accounted for, and filed with other checks for a permanent record. The stock of unused checks should be safeguarded and regularly inventoried.
3. Check signing should be the responsibility of individuals having no access to the accounting records. Pastors must be authorized sole signers on all accounts, including those of parish organizations such as the men's club, etc. The bookkeeper, parish secretary or other person keeping the records can never be an authorized signer. Appropriate alternate signers would be a permanent deacon, member of the finance council or neighboring pastor.
4. Checks should be drawn according to procedures prescribing adequate supporting documentation. To ensure that disbursements are supported by invoices that have been properly authorized, this documentation should include at least a proper original invoice.
5. All supporting documents should be canceled or marked "paid" once a disbursement is made to avoid double payments. Payments should not be made on statements or balance-due billings unless underlying invoices are included.
6. All checks should be mailed promptly and directly to the payee. The person mailing the check should be independent of those requesting, writing, and signing it.

Cash Receipts

1. When the mail is opened, a list of collections should be made. The person opening the mail and preparing the list should be independent of the accounting function. A responsible official should periodically compare the list with the journal record and the bank deposit.

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2. Cash and check receipts should be deposited intact daily.
3. Billing invoices should be prenumbered to make sure they are all accounted for. There must also be physical control over invoices so that they are not improperly used. (This control will be more applicable to parish school who bill for tuition).

Petty Cash

An imprest petty cash fund with one custodian should be used. The imprest fund involves replenishing petty cash only when properly approved vouchers are presented justifying all expenditures. For accountability, only one person should be in charge of the fund.

Marketable Securities

1. The custody of marketable securities should be segregated from accounting for marketable securities. Also, physical safeguards should be established for investments on hand.
2. Independent custodians and investment managers should be utilized whenever possible. An investment policy that identifies those authorized to buy/sell securities, as well as specific guidelines on the organization's portfolio mix (e.g., percentage of fixed income vs. equity), should also be on hand. Additional diligence should be exercised for funds held or managed by monitoring performance through independent published data or by obtaining services of independent professionals.
3. Two individuals should be present whenever securities or other valuables are inspected, and securities should be periodically compared with a schedule of marketable securities or valuables.
4. Activity of purchases/sales reconciled with brokers' or statements.

Receivables (Typically only used in a parish school)

1. All handling of cash should be segregated from the maintenance of receivable records. Checks should be restrictively endorsed upon opening prior to processing accounts receivable applications.
2. Periodically, the detail of the accounts receivable/notes receivable/pledges receivable subsidiary records should be compared with the control account and reconciled by an independent person. Accounts should also be periodically confirmed by the debtor.
3. All adjustments for discounts or allowances should have specific approval.
4. All adjustments for bad debts should have special approval. Additionally, a record of all bad debts written off should be maintained and periodically reviewed to minimize the danger of collections being received and not recorded.

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5. The accounts should be aged regularly and the delinquent accounts periodically reviewed by a responsible official.
6. Custodial accounts and amounts received for others should be adequately segregated in the activity records and transmitted to the ultimate recipient on a timely basis. Whenever possible, amounts reported by contributors (such as parishes forwarding special collections) should be reconciled or compared with amounts ultimately disbursed to the agency.

Payables

The accounts payable/notes payable procedures are clearly related to the procedures for cash disbursements and payroll. The control concern is to make certain that all liabilities are properly recorded and ultimately paid. Controls are also necessary to ensure that account distributions are proper. There should be a proper segregation of duties over the performance of the functions of comparing receiving reports, purchase orders and invoices and the handling of the actual disbursement functions. For disbursements that are not normally accompanied by an invoice (e.g., payment on a note), the authorization should come from a responsible official.

Payroll

Still another important element of a well-designed system of internal control involves the people who perform and execute the established policies and procedures. Personnel policies should be adopted to ensure that only reasonably competent and honest persons are hired and retained. While the selection of honest, capable employees does not ensure that errors or irregularities will not occur, such selection will enhance the likelihood that they will not.

Typically, there are four functions that are accomplished through the payroll cycle. They are:

- Personnel administration and employment file maintenance
- Timekeeping and payroll preparation
- Payment of payroll
- Preparation of payroll tax returns and payment of taxes

Personnel Administration and Employment File Maintenance. This function includes interviewing candidates, checking references, and hiring qualified personnel. The process produces personnel records and wage information. The most important internal controls in personnel involve the formal method of informing the timekeeping and payroll preparation personnel of the authorization of new employees, the authorization of initial and periodic changes in pay rates, and the establishment of termination dates for employees. Segregation of duties over these procedures is particularly important. No individual with access to payroll records or checks should also be permitted access to personnel records.

Timekeeping and Payroll Preparation.

This function directly affects payroll expense for the period. It includes preparation of time cards by employees, if required; the summarization and calculation of gross pay, deductions, and net pay; the preparation of payroll records; and the preparation of payroll checks.

Of primary concern is control over the preparation of payroll checks. Anyone who is responsible for preparing the checks or for inputting data should be prevented from summarizing the records and signing or distributing payroll checks.

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The summarization and calculation of the payroll can be controlled by well-defined policies. For example, payroll policies should require that an independent person recalculate actual hours worked, review for the proper approval of overtime, and recheck pay rate and calculations. This can be done through spot checks.

Adequate control over posting time on the time cards includes the use of a time clock or the signature of a supervisor on the employee's timesheet attesting to the number of hours worked.

Payment of Payroll. The signing and distribution of the checks must be properly handled to prevent their theft. The controls should include limiting the authorization for signing the checks to a responsible employee who does not have access to timekeeping or the preparation of the payroll, the distribution of the payroll by someone who is not involved in the other payroll functions, and the immediate return of unclaimed checks for redeposit. If a check-signing machine is used, the same controls are required; in addition, the check-signing machine must be carefully monitored.

It is advisable that the organization use an imprest payroll account to prevent the payment of unrecorded payroll transactions. An imprest payroll account is a separate checking account in which a small balance is maintained. A check for the exact amount of each net payroll is transferred from the general account to the payroll checking account immediately prior to the distribution of the payroll. The advantages of an imprest account are that it limits the organization's exposure to payroll fraud, allows the delegation of payroll check-signing duties, separates routine payroll expenditures from other expenditures, and facilitates cash management.

Preparation of Payroll Tax Returns and Payment of Taxes. The careful, timely preparation of all payroll tax returns and the payment of taxes are necessary to avoid penalties and criminal charges. The most important control is the preparation of these returns based on a well-defined set of policies that carefully indicate when each form must be filed, as well as when specific payroll taxes are due. Independent verification by a competent individual is also an important control to prevent errors and potential liability for additional taxes and penalties.

Purchasing Cycle

There are typically four primary functions in the purchasing or acquisition cycle. They are

- Processing purchase orders
- Receiving goods and services
- Recognizing the liability
- Processing and recording cash disbursements

Processing Purchase Orders. The request for goods or services is the starting point for the cycle. Proper authorization for acquisitions is an essential part of the function because it ensures that the goods or services purchased are for an authorized purpose, and it prevents the purchase of excessive or unnecessary items. It is essential, therefore, that purchasing authority be established.

For capital or other major expenditures, a competitive bidding process should be established.

After the acquisition request has been approved, the order must be initiated to purchase the goods or services. Where it is cost beneficial, a purchase order system should be used. All purchase orders should be prenumbered and should include sufficient columns and spaces to minimize the likelihood of unintentional omissions on the form when goods are ordered. A responsible official

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should check to see if available budget dollars remain to support the purchase.

Receiving Goods and Services. The receipt of goods or services from the vendor is a critical point in the cycle, because it is the point when the associated liability is usually first recognized. When goods are received, adequate control requires an examination for descriptions, quality, and condition. The individual responsible for the examination should prepare a receiving report verifying that all is in order.

Recognizing the Liability. The proper recognition of the liability for the receipt of goods and services requires accurate and prompt recording. The accounts payable disbursements personnel are responsible for verifying the propriety of acquisitions and for recording them in the accounts payable register or system. When the vendor's invoice is received, the descriptions, price, quantities, terms and freight on the invoice should be compared with the information on the purchase order and, where applicable, the receiving report. Typically, extensions and footings are verified, and an account distribution is entered on the invoice. Budget authorization and availability should also be examined.

Processing and Recording Cash Disbursements. As previously discussed, the most important controls in the cash disbursement function include the signing of checks by an individual with proper authority, separation of responsibilities for signing the checks and performing the accounts payable function, and careful examination of the supporting documentation by the check signer.

The checks should be prenumbered and care should be taken to physically control blank, voided, and signed checks before they are mailed. Finally, it is important to have a method of canceling the supporting documents to prevent their reuse as support for another check at a later time. A common method is to have a "paid" stamp for the supporting document that includes the number of the account the disbursement is charged to and the check number.

CONCLUSION

As noted, a system of internal controls consists of both general and specific policies. The system should be documented so that all personnel will know what is expected of them and will be properly trained to carry out their responsibilities. The policies should become part of a permanent corporate record along with such supplementary policies as an accounting manual and travel policies. Of course, such documents are useful only if they are periodically updated.

INTERNET USE POLICY

The Diocese's goal in using the Internet is to improve communication among diocesan and parish personnel; to provide information to a larger audience; and to allow access to the wealth of information available on the Internet to parish and diocesan personnel.

The Internet should be viewed as a tool to further the purposes and goals of the diocese, which is the work of the Roman Catholic Church. It is therefore imperative that members conduct themselves in a responsible, ethical, and polite manner while using the Internet.

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The intent of the diocese's Acceptable Use Policy is to ensure that all uses of the Internet are consistent with the purposes of the diocese. The policy does not attempt to articulate all required or proscribed behavior by its members. The Internet is an open network in both implementation and spirit. Technical measures could have been invoked to constrain Internet use, but they would have limited the utility of the Internet. Instead, in any specific situation, each individual's judgment of appropriate conduct is relied upon. To assist in such judgment, the following general guidelines are offered:

1. All use of the Internet through diocesan accounts must be in support of the work of the church and the diocese.
2. Any use of the Internet through diocesan accounts for illegal purposes, or in support of illegal activities, is prohibited.
3. Any use of the Internet through diocesan accounts to communicate threatening, abusive, sexually oriented/explicit or obscene language or material is prohibited.
4. Any use of diocesan e-mail accounts or web sites for commercial purposes is prohibited.
5. Any use of diocesan e-mail accounts or web sites for partisan political lobbying is prohibited.
6. No use of the Internet shall serve to disrupt the use of the network by other users.
7. All material viewed on web sites should be considered copyrighted and not available for reproduction, unless specifically stated otherwise or unless specific permission is granted for reproduction. All parishes, schools and offices operating under the auspices of the Amarillo Diocese may reproduce all material on the diocesan web site, www.amarillodiocese.org.
8. Only the authorized user(s) of the account should use diocesan e-mail accounts for the authorized purpose. Only authorized personnel should use passwords allowing entry into secured sections of the diocese's web site.
9. All communications and information accessible via the Internet should be assumed to be private property. Permission should be received before a user posts information released by other individuals or parishes. Users should also make every effort to validate information and sources before posting information, and to list sources when passing along information received.
10. Users are strongly encouraged to maintain virus protection software on their computers used for telecommunications.
11. Schools and any other entities that allow children to have access to the Internet must have safeguards to ensure that children cannot access inappropriate material.

All diocesan-related conferences (chat rooms) and bulletin boards will be moderated.

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LAY EMPLOYEE BENEFITS:

Retirement (401k) Plan

The Diocese of Amarillo has a 401(k) plan which must be offered to all employees regularly employed 15 hours or more per week (750 hours per year). Employees may defer from 2% to 100% of their compensation, (subject to federal limitations, \$11,000 as of 2002, including provisions for “catch up” contributions) for investment in the plan. While employees may join the plan and defer earnings as soon as they are employed, the employing location is not required to make any contributions until after the employee has worked for one year and a minimum of 750 hours in a year. Once the employee becomes eligible the employing location will match the first 2% of employee deferrals. They will also pay an additional 3% whether or not the employee defers anything, provided they have worked for 750 hours within the calendar year.

Group Health and Life Insurance:

Each Parish or School is required to offer Group Insurance to every non part time employee who works 30 hours or more per week unless a signed waiver is submitted to the Diocese. The employee must be added to the Plan within 30 days after the date of employment. If submitted later than 30 days, the employee must wait until the next “open enrollment.”

1. The Parish shall bear all of the cost.
2. Schools shall bear 50% of the cost and their employees must bear 50% of the cost.

The Diocese bills an administration fee of \$10.00 per month per employee to each parish and school. This fee is to help defray the cost of providing employee benefits to the parishes and schools.

MASS INTENTIONS AND STIPENDS

It is Diocesan policy to not mix mass intention funds with parish operating funds. A separate account should be used to deposit mass intention funds. When the mass obligations have been met, the funds should be disbursed to the priest having said the mass. Expenditures should always be made to a priest, not to someone designated by the pastor. Priests may, by written documentation only, direct that mass stipend be disbursed directly to the parish general funds or other parish account in lieu of receiving them himself.

PARISH FACILITIES POLICY

This policy covers the use of parish facilities by parish and non-parish organizations and groups.

1. If an event is not PARISH SPONSORED, it is considered to be sponsored by a non-parish organization, even though many of its members are members of the parish. (An individual parish family is a non-parish organization.) The KNIGHTS OF COLUMBUS is a non-parish organization.
2. All functions of any kind sponsored by a non-parish organization, wherein it is intended and represented that alcoholic beverages will be served or consumed, will require an application for approval to the pastor/administrator. The pastor/administrator may

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condition his approval upon the requirement that the non-parish organization provide security guards and other reasonable requirements.

3. No guns/weapons are allowed on Diocesan owned properties (i.e.: parish/school) for any type of function unless carried by policemen or sheriff deputies. Security guards may carry night sticks, but no guns.
4. For all approved events, the non-parish organization must provide a Certificate of Liability Insurance naming the parish and the DIOCESE OF AMARILLO as additional insured with a minimum of \$500,000 . Bodily Injury, Property Damage, and Liquor Liability. This insurance may be via Catholic Mutual Group or any other reputable insurance carrier. The Certificate of Insurance must be delivered to the parish and the Diocesan Business Office at least 15 days prior to the scheduled event.
5. Notwithstanding anything to the contrary, only beer and/or wine may be served by non-parish sponsored organizations. The sponsor must provide proof of liquor liability insurance naming the parish and the DIOCESE OF AMARILLO as additional insured. No one under the age of 21 can be served liquor. No one under the age of 21 may consume liquor on parish property.
6. In the event a parish is sponsoring an event wherein liquor is being provided, the parish has the responsibility to appoint bartenders. The bartenders may be volunteers or members of the parish. All bartenders must be instructed that they must refuse to serve liquor to any person who they believe has had enough liquor to become intoxicated. The bartenders shall control the liquor being dispensed and consumed. No one under the age of 21 can be served liquor. No one under the age of 21 may consume liquor on parish property.
7. The parish pastor/administrator has the right to add further restrictions to these diocesan requirements if he deems fit in a particular circumstance. He may not, however, dispense from any requirement in this policy.
8. Although it is not required, it is a good idea to have a rental agreement covering the use of parish facilities by non-parish organizations or individuals. These agreement can contain the terms of this policy as well as local concerns like responsibility for clean-up, hours of use, etc.

POLITICAL ACTIVITY GUIDELINES

Section 501©(3) of the Internal Revenue Code prohibits Catholic organizations that are exempt under its provisions from participating or intervening in political campaigns on behalf of or in opposition to any candidate for public office. Despite this prohibition on political campaign activity, there are number of educational activities in which Catholic organizations can engage during election campaigns.

Included in this policy as Appendix J is a copy of the Political Activity Guidelines from the USCCB Office of the General Counsel. This document is designed to assist Catholic organizations in distinguishing activities that are permitted during election campaigns from activities that are prohibited. The line between what is permitted and what is prohibited is not always clear. Certain activities are fact-specific or present close questions that will require the advice of legal counsel. Catholic organizations are urged to consult diocesan legal counsel, as appropriate, prior to engaging in any activity about which there are questions.

DIOCESAN TEMPORALITY POLICIES

PRIESTS SALARY, ALLOWANCES AND REIMBURSEMENTS:

Priests serving in active ministry are to receive the following salary, allowances and reimbursement:

1. Salary: \$1,197.00 per month (2002-2003). Cost of living increase is added to the salary at the beginning of each fiscal year.
2. Food: \$437.00 (2002-2003) per month fiat income or equivalent in reimbursement from the parish/institution for all grocery receipts not to exceed allotted amount per month. Cost of living increase is added to this allowance at the beginning of each fiscal year.
3. Social Security reimbursement of parish/institution salary: parish/institution reimburses 1/2 amount owed by priest; priest pays the other 1/2. Priest is to submit a copy of the SE voucher to parish/institution for reimbursement at each quarterly payment in April, June, September and January. Those priests who work in prisons, hospitals or other secular institutions must pay the total amount of social security of their salary from these secular institutions.
4. Stipends/Stole offering: priest keeps all.
5. Liturgical celebration coverage: \$25.00 minimum offering per Mass or other liturgical celebration (e.g. communal sacrament of reconciliation) plus mileage.
6. Continuing education: parish/institution pays up to \$800.00 per year for books, professional conferences and workshops. If the costs for these items do not add up to \$800.00, the priest cannot take the difference. This amount does not rollover to the following year.
7. Professional periodical subscriptions and ministry related magazines (local newspaper, Catholic news, Catholic periodical, homily help, etc.): parish/institution pays for 5 per year.
8. Auto Expenses: priest purchases his own vehicle and pays for all car payments. Priest pays all expenses when he takes business mileage as determined by the federal government. If he does not take any business mileage, he can submit receipts so that parish/institution pays for all basic maintenance, registration, insurance and gas. Please see diocesan policy on vehicle's liability insurance.
9. Parish/institution phones: priest pays for all private long distance calls.
10. Parish/institution e-mail Internet access~ parish/institution pays all.
11. Cellular phone or pager (if needed)~ parish/institution pays for most basic service; priest pays for all private calls over the allotted time.
12. Private phone for private use~ priest pays all.

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13. Medical (check up & hospitalization): priest pays entire insurance deductible per year; parish/institution pays the total co-payment. However, if the priest sought service outside of the Preferred Provider Organization (PPO), he is responsible for the entire co-payment for that service or procedure.
14. Dental: priest pays entire insurance deductible per year; parish/institution pays the total co-payment.
15. Hearing aids: priest pays all.
16. Eye examination. glasses and/or contact lenses: priest pays all in accordance with insurance policy.
17. Prescription medication: priest pays all of insurance co-payment.
18. Over the counter medication: priest pays all (*).
19. Pets & supplies: priest pays all or for any damage done to church (diocesan) property by pets.
20. Hair cut and personal grooming: priest pays all.
21. Rectory's toiletries, laundry supplies (bedding, soaps, bathroom tissue, facial tissue, air freshener, cleaning chemicals, dish detergents, paper towels, trash bags, aluminum foil, etc.): parish/institution pays all.
22. Dry cleaning for liturgical vestments~ professional attire & basic laundry cost: parish/institution pays all.
23. Dry cleaning for personal items: priest pays all.
24. Personal toiletries (cologne tooth paste tooth brush dental floss shampoo mouth wash deodorant razor hair-growth tonic, etc): priest pays all (*).
25. Alcohol (wine hard liquor & beer): priest pays all.
26. Cook (if available) & cleaning person for rectory: parish pays all.
27. Membership in health club & weight-loss program: priest pays all.
28. Postage: priest pays for all private correspondences.
29. Cable TV or satellite service (if available): parish/institution pays for basic cable or basic satellite service.
30. Moving expense: paid by parish/institution to which the priest is moving.

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31. Mandatory canonical yearly retreat: parish/institution pays all expenses incurred at a retreat center for one canonical (5 continuous days) retreat for those years when there is no diocesan sponsored retreat. This includes room and board. Parish/institution pays up to \$200.00 for transportation.
32. Vacation: In accordance with Church law, the priest is entitled to one month of paid vacation per calendar year. The priest pays all travels, lodging and other personal expenses. The parish/institution pays for a priest substitute to take care of all pastoral and liturgical ministries. (See number 5)
33. Christmas Bonus: 10 % of one month's salary from parish/institution.
34. Personal professional attire (suits, clerical shirts vestments etc): priest pays all items that he personally owned.
35. Additional work to a full time assignment in a parish/institution: if a priest, who is already assigned full time to a parish or institution, has an additional assignment (e.g. another parish, mission or ecclesiastical office), he is entitled to some additional remuneration for the additional work done in the said parish/institution. It must be noted, however, that the priest assigned to an additional position has much greater responsibility than a substitute does. Additional compensation is negotiated with the parish/institution in consultation with the dean and approved by the bishop, keeping in mind justice and equity to priest and the parish/institution.

* Unless included in the allotted monthly amount for grocery reimbursement (see number 2 above).

Food Allowance, Food Purchases, Food Reimbursements

Diocesan policy provides that a priest is allowed to take a food allowance of \$437.00 per month OR to have the parish pay for food consumed in the rectory in an amount not to exceed \$437.00 per month.

The food allowance of \$437.00 is to be put on the priest's W-2 as additional compensation. The IRS allows food to be purchased for the rectory without including it on the W-2 as compensation, only because eating in the rectory is "**FOR THE CONVENIENCE OF THE EMPLOYER.**" Personal food consumed in restaurants and reimbursed by the parish are "**NOT FOR THE CONVENIENCE OF THE EMPLOYER**" and must be added to the priest's W-2 as additional compensation.

Whether the priest takes the allowance, is reimbursed for actual expense, or purchases food for the rectory, the parish obligation for the priest's food is for only \$437.00 per month or \$5,244.00 per year. The parish should keep all food receipts that represent food purchased for the rectory.

The food allowance should be charged to account # 771, **CLERGY FOOD ALLOWANCE**. Food, not consumed at the rectory, or restaurant food reimbursed should be charged to this account.

Account # 771.1 needs the name changed to "**FOOD PURCHASES FOR RECTORY.**" Only food purchased for the rectory should be charged to this account.

At year-end, the total of accounts #771 and #771.1 added together should not exceed \$5,237.00. If it does and the accounts are properly used, the priest has been overpaid and should refund the

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parish the amount it takes to cover the excess of \$5,237.00.

Self-Employment Tax Reimbursement

A Priest is allowed to be reimbursed for one-half of the Federal Self-Employment tax paid by the Priest each year on his personal income tax return. A copy of the Federal Form SE showing the total amount paid should support this deduction. A copy of the Form SE should be mailed to the Diocese, (see appendix A for sample). The reimbursement may be paid on a monthly or quarterly basis and then adjusted based upon the actual Self-Employment tax as shown on Form SE.

This Self-Employment tax reimbursement is additional compensation to the priest and must be added to his W-2 form.

It is permissible for priests to be receiving their self-employment tax reimbursement just prior to making their quarterly estimated tax payments to the IRS. If this is done then the priests must reimburse the parish for any overpayments or be reimbursed by the parish for underpayments of the tax based upon their actual Form SE.

REAL ESTATE, REPAIR & RENOVATION POLICIES

Any time a Parish or School acquires a piece of Real Estate, the deed to the property must be put in the name of "Bishop John W. Yanta of the Roman Catholic Diocese of Amarillo, or his successors in office." In Texas, Oil & Gas Royalty Interests are considered real estate and all deeds and division orders should be made to "Bishop John W. Yanta of the Roman Catholic Diocese of Amarillo or his successors in office." In the case of Oil & Gas Royalties being received by the Diocese, those received on behalf of a Parish or School are deposited directly into a Deposit & Loan Fund Account designated by the Parish or School.

All Real Estate Construction or Purchases or Acceptance of Gifts of the same requires written approval of the Bishop before acquiring, beginning construction or acceptance of any gifts. It is the policy of the Diocese that no purchase or construction of Buildings will be approved unless at least 40% of the cost is on hand at the date the building is purchased or construction begins.

Any anticipated single expenditure by a Parish or School of \$10,000.00 or more must be approved in writing by the Bishop before an obligation is incurred.

All renovation or modification of any Diocesan Real Estate should be reported to the Diocesan Department of Insurance and Human Resources. Written clearance from that office stating that no asbestos or environmental problems exist must be received before any construction or renovation or major repair is started.

RELIGIOUS COMPENSATION

The following policy regarding the compensation of religious sisters working in our institutions is founded on seeking a just and equitable salary, comparable to other workers in the Church today. Too often, because of the vow of poverty these fine sisters have professed, we tend to pay them less and in the end, their religious order carries a large burden for its elderly sisters that can be overwhelming.

Therefore, the following compensation schedule for religious sisters is to be implemented in the Diocese of Amarillo.

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1. Salary: A minimum of \$12,000.00 a year; payable on a 12-month basis.
2. Social Security: Social Security will be paid at the going rate.
3. Retirement: 5 % of the salary or \$600.00 per year will be paid into retirement.
4. Health Insurance: Health insurance will be paid to the religious order at the going rate of their policy or the going rate of the diocesan policy (currently \$320.00 per month).
5. Housing: Suitable housing will be provided.
6. Car: If the sister does not have a car, a car will be provided with all expenses paid. If the sister has a car, either the entire expenses, (i.e.,) gas, oil, repairs, insurance, etc. will be paid, or the current rate of reimbursement per mile (currently 32.5 cents per mile) will be paid monthly. The sister must have a current valid Texas drivers license.
7. Cost of Living Increase: An annual cost of living increase will be implemented at the going rate (currently 3% annual).

There will be no exceptions to this policy without the bishop's permission. If you cannot initially afford to hire a sister according to the compensation schedule described in this policy, you must submit in writing to the bishop (for his approval), how this policy will be implemented within a three (3) year period of time.

The compensation schedule for sisters working part time will be based on a percentage of a full time employee's minimum monthly salary. For example, a sister working 30 hours a week would earn \$9,000.00 annually base salary. Benefits will begin at a minimum of 30 hours per week.

Payment of the salary and benefits will be made on the last business day of the month for which that person has worked.

This policy for the compensation of the religious sisters working in the Diocese of Amarillo has been approved and is hereby promulgated.

RESTRICTED DONATIONS AND THE ACCOUNTING TREATMENT THEREOF

The receipt of restricted monies can cause a complex and perplexing accounting problem.

To use the simplest, consistent and most effective method of accounting for such monies, it has been determined, effective January 1, 1997, to put into practice a new set of procedures for restricted funds received. Each parish and or school is instructed to open a new bank checking account to which all restricted monies shall be deposited. If the funds are substantial and will be held a long time, they should be put into a restricted Deposit & Loan Fund account at the Diocese. This separate account or accounts will be the sole representation of restricted funds. The restrictions on these funds may be satisfied by direct disbursement for the restricted purpose or if satisfied some other way, the equivalent funds should be transferred to the parish or school operating account.

The funds deposited into the restricted account should normally be credited into the accounts reflective of their nature, such as contributions, fund-raising income, etc. Funds received

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normally should not be credited to an expense account. In rare situations it may seem proper to credit an expense account, but approval for such treatment should be obtained from centralized accounting before doing so. No further use of revenue or expense accounts with the word restricted will be needed.

A subsidiary record needs to be kept by the parish or school showing the various restricted categories, monthly receipts of and expenditures from those funds. This will be relatively easy as long as a separate account is used. Assistance from centralized accounting is available to help everyone understand how to account for the restricted funds.

At the end of each fiscal year centralized accounting will classify restricted assets into the following accounts.

Unrestricted Net Assets
Temporarily Restricted Net Assets
Permanently Restricted Net Assets

Parishes and schools are asked not to make entries to these accounts without consulting centralized accounting.

UNRESTRICTED NET ASSETS are those to which no restriction applies.

TEMPORARILY RESTRICTED NET ASSETS are those that are restricted until some event has occurred, such as the money was spent for the intended purpose or the donor voluntarily instructs the restriction be abandoned.

PERMANENTLY RESTRICTED NET ASSETS are endowed funds on which only the income can be used and not the principal.

All income, including restricted funds, received by a Parish is taxable unless special exclusion is given, such as the Bishops exclusion of funds raised in the Endowment Campaign.

SEXUAL ABUSE POLICY

1. Policy. It is the policy of the Roman Catholic Diocese of Amarillo (hereinafter “the Diocese”) that the sexual abuse of any person, adult or child, is contrary to Catholic principles and is outside the scope of duties or employment of all personnel of the Diocese. All personnel of the Diocese must comply with applicable state laws regarding incidents of actual or suspected sexual abuse, and with the following requirements.
2. Distribution. A copy of this Policy shall be provided to all personnel of the Diocese, who shall execute an acknowledgement in the following form, which shall be placed and maintained in appropriate personnel or other files of the Diocese, (full form in Appendix E):

I hereby acknowledge that I have received on _____(date), a copy of the Policy Prohibiting Sexual Abuse in the Diocese, dated _____ that I have read the Policy, understand its meaning, and agree to conduct myself in accordance with the Policy and further understand that failure to do so shall be grounds for disciplinary action or termination.

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Name _____

Date _____

A similar acknowledgment will be obtained from new personnel of the Diocese prior to the performance of any duties on behalf of the Diocese.

- 2.1 A copy of any amendments to this policy shall likewise be provided to all personnel, and acknowledgments for such amendments shall be obtained and filed.
3. State Laws. Attached as Appendix F is a copy of the reporting requirements of state law relating to incidents of sexual abuse.
4. Education. Personnel of the Diocese are encouraged to attend educational programs on the prevention of sexual abuse and how to recognize sexual abuse. The Diocese may require attendance at such educational programs for designated personnel.
5. Background and Reference Checks. All prospective personnel of the Diocese shall complete a questionnaire (Appendix G) before assuming any duties with the Diocese. Lay personnel who were employed after July 1, 1990, must also complete the questionnaire to continue in employment.
 - 5.1 The questionnaire shall require, at a minimum, information on any civil or criminal complaint of physical abuse or sexual abuse filed against the applicant, and the record of any medical treatment or psychiatric treatment involving physical abuse or sexual abuse. The questionnaire shall also include a listing of previous employers for at least the last five (5) years.
 - 5.2 The questionnaire must be signed by the individual and witnessed, and shall include a statement that the information provided in the questionnaire is true and complete.
 - 5.3 The questionnaire shall contain a release whereby the individual authorizes previous employers of the individual to provide personal information to the Diocese and authorizes the release, where necessary, of pertinent medical, employment and law enforcement records.
 - 5.4 The Superintendent of Schools shall be responsible for obtaining and reviewing the questionnaires for school staff. The Pastors shall be responsible for obtaining and reviewing questionnaires for parish employees other than school staff. The chief administrator of other Diocesan entities shall be responsible for obtaining and reviewing their employees' questionnaires.
6. Obligation to Report. All personnel of the Diocese who have knowledge of, or who have reasonable cause to suspect, an incident of sexual abuse involving personnel of the Diocese shall report the incident in the following manner; if the incident involves a minor, the report must be made in compliance with applicable state laws as well:
 - 6.1 A prompt verbal report of the incident shall be made to the Bishop (or in his absence, an appropriate Diocesan official, such as the Vicar General or Chancellor), and, where requested, a written report shall also be made. (A copy of the in—house reporting form is attached hereto as Appendix H.)

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- 6.2 The Bishop, the appropriate Diocesan Official and the Diocesan Attorney shall make a determination on whether they reasonably believe that the allegation is well founded. If the above-mentioned persons reasonably believe the allegation may be true and not frivolous, then the allegation shall be referred to the Review Committee. However, if the incident does not involve a minor, the Bishop may act in an administrative manner.
7. Investigation By Review Committee of Incident Reports. Each referred incident will be promptly investigated by the Review Committee, with care taken not to interfere with any criminal or canonical investigation, and with a high level of care, concern and confidentiality for the alleged victim, the family of the alleged victim, the person reporting the incident, and the accused party.
- 7.1 The investigation shall be conducted by the Review Committee appointed by the Bishop, which shall include clergy, religious (if appropriate), and laity. The number of members of this Review Committee should not exceed the number warranted by the circumstances. The procedures of Canons 1717—1719 of the 1983 Code of Canon Law are to be observed.
- 7.2 This Review Committee shall as soon as practicable seek information from those who can furnish information about the incident and see to it that the accused party's immediate superior is informed.
- 7.3 The accused party must be immediately relieved of responsibilities to the Diocese and placed on leave pending outcome of the internal and any outside investigation.
- 7.4 Written material dealing with internal investigations of reported incidents of sexual abuse shall be marked confidential and kept in the secret archives of the Diocesan Pastoral Center.
8. Action when accusation is determined well founded. When the accused party is a cleric or religious and admits to or does not contest the accusation, or the accusation of an incident of sexual abuse is determined to be well—founded by the Review Committee, the Bishop or other designated or delegated official shall decide whether to proceed in accord with the canonical judicial procedure or simply to issue the decree in accordance with Canon 1718 of the Code of Canon Law. If the Bishop or other designated official ratifies the finding of the Review Committee and determines to proceed by decree, then the accused shall be disciplined in accordance with the canons of the 1983 Code of Canon Law, paying special attention to Canons 1395 and 277.3.3

When the accused party is a layperson and admits to or does not contest the accusation, or the accusation of an incident of sexual abuse is determined to be well—founded by the Review Committee, the Bishop or other designated or delegated official shall take suitable disciplinary action, which may include termination from employment or any position of responsibility with the Diocese.

8.1 When the Committee appointed by the Bishop reasonably believes an incident of sexual abuse occurred involving personnel of the Diocese, contact by a designee of the Bishop with the alleged victim and family should be immediately initiated. Contact should be made out of concern without admission of the veracity of any accusation. Medical and psychological assistance and, in appropriate instances, economic assistance may be offered.

8.2 Any media contact or inquiries regarding an incident of sexual misconduct must

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be directed to the Bishop.

8.3 Appropriate records shall be kept of each incident of sexual abuse reported and of the investigation and result thereof.

9. Definitions. For the purpose of this policy:

9.1 “Sexual abuse” shall be defined as it is defined in Section 34.012, (1), (E) through(H) in the Texas Family Code, and in addition, shall include any physical molestation of a sexual nature.

9.2 “Minor” is defined as any individual younger than eighteen (18) years of age.

9.3 “Diocese” means not only Diocesan offices in the strict sense, but embraces all parishes, missions and institutions of the Diocese reporting to the Bishop, with the exception of Catholic Family Services, Inc., which has its own sexual abuse policy.

9.4 “Personnel” includes all personnel of the Diocese as defined above, including clerics, religious, lay or other employees.

SEXUAL HARASSMENT POLICY

It is the policy of the Diocese of Amarillo that all who work for or visit any parish or agency of the Diocese of Amarillo shall be treated with dignity and not be subjected to embarrassing or demeaning conduct by any employee or agent of the Diocese of Amarillo. It is the purpose of this policy to promote a healthy work environment, and in order to do so; any allegation of harassment will be treated seriously and will be reviewed and investigated in a prompt and thorough manner. Allegations of harassment will be treated in as confidential a manner as possible, but the need to investigate and, if appropriate, to redress, will predominate.

It is recognized that not every allegation can necessarily be proven. This policy is designed to provide appropriate support and assistance to the alleged victim and the alleged harasser during an investigative process. The best result of this policy would be reconciliation between the person alleged or confirmed to have been harassed and the person alleged or confirmed to have harassed.

The following conduct, singly or in combination, is forbidden:

1. Derogatory comments or slurs of a personal nature about a person’s appearance, physique, origin, or characteristics.
2. Jokes that are known to be or should be known to be offensive to the person who hears them or is the subject of them.
3. Harshly belligerent or threatening words.
4. Offensive questions of a personal nature about a person’s private conduct or habits.
5. Unwelcome sexual advances or requests for sexual favors, repeated offensive sexual

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flirtation, advances, or propositions, graphic verbal commentary or sexually degrading words to describe an individual or an individual's body, and the continued use of sexually oriented words in the presence of an individual to whom such words are known or should be known to be offensive.

6. Deliberately impeding or blocking another's movements, or intimidating interference with normal work or movement.
7. Derogatory, demeaning, or inflammatory posters, cartoons, written words, signs, drawings, pictures, novelties, or gestures.
8. Any unwarranted or unwanted physical contact with another person, especially with those parts of a person considered private.
9. Any attempt, implicitly or explicitly, to convey to individual that the granting of sexual favors is a term or condition of employment, or that the granting of such favors becomes the basis for employment decisions, or that their refusal will create an intimidating, hostile, or offensive working environment.

It is part of this policy that there will be no retaliation or reprisal for filing a complaint of harassment unless it is determined that the complaint was filed maliciously without reasonable cause.

The following procedure is to be used by one who believes he or she has been or is being subjected to harassment in the terms described above:

1. If you believe you have been harassed, you may elect to express your displeasure to the individual harassing you before reporting his or her conduct to the proper authority. If the one harassing you does not cease the conduct that is objectionable to you, or if the harassment is of such a nature that you choose not to speak to the harasser or that you judge that effort futile, then you may report the conduct that displeases you to your immediate supervisor or the head of the institution where the harassment took place.
2. Such reports may be made in writing and signed by the one alleging harassment. If you choose to make the report orally, a verbatim account of your report will be made which you will review, revise as necessary, and approve as accurate by signing it.
3. Your immediate supervisor or the head of the institution upon receipt of the report will initiate an investigation of the complaint. This will include a meeting with the person alleged to have harassed, sharing with him or her the nature of the allegations as well as the person bringing the allegations. If the harassment is of such a serious nature that a harmonious working—place cannot be maintained, the head of the department may place the alleged harasser on paid administrative leave for the course of the investigation.
4. An attempt will be made to resolve the matter amicably by seeking the cooperation of both parties in putting an end to the conduct about which the complaint has been filed. If this results in a solution satisfactory to both parties, nothing further needs to be done. If this attempt is not successful, the investigation continues.

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5. A written report of the findings of the investigation will be made available to the parties involved. The report will include an opinion and conclusion as to whether the alleged harassment occurred and other relevant information. If the finding is that no harassment occurred, no record of the allegation will be kept, but if the conclusion is that harassment did take place, then that will be noted in the harasser's records.
6. If the report has been investigated by the immediate supervisor of the person harassed rather than the head of the institution, then the supervisor will give a detailed report, together with a recommendation for the disposal of the case, to the head of the institution, who will then follow the procedure described below.
7. In the case where the head of the institution is the one who is alleged to have made the harassment, then the matter is to be reported to the Bishop of the Diocese of Amarillo or his delegate, who will investigate the matter in the same way described above.

If the Investigation results in a finding that harassment did take place, the head of the institution, or if it is the head of the institution who is alleged to have made the harassment, the Bishop or is delegate, will determine what, if any disciplinary action should be taken. The disciplinary action will relate to the nature, context, and the seriousness of the harassment, and can include all disciplinary actions up to and including immediate termination, except that in the case where the head of the institution is alleged to have made the harassment, the Bishop will determine the disciplinary action.

If the complaint of harassment is false and appears to be made maliciously without reasonable cause, then the head of the institution, or where the head of the institution is alleged to have made the harassment, may file a report to that effect in the employment record of the one making the complaint and take such disciplinary action as seems proper and appropriate.

TAXES, STATE AND FEDERAL

Employment Taxes

Churches, including church schools and the Diocese of Amarillo, are not required to participate in the Unemployment Compensation Program. This exemption does not apply to social services agencies and other institutions. Accordingly, churches and church schools are not required to pay unemployment taxes, but our employees are not eligible for unemployment benefits if they are fired or laid off.

If you receive a form from the Unemployment Compensation Office just note that the employee was a church employee and accordingly not eligible for unemployment compensation.

Property Taxes

Texas Property Tax Code Section 11.20 allows a religious organization an exemption on its real property primarily used as a place of regular religious worship and/or used as a residence for clergy, as long as it derives no income from that use. A mineral interest owned by a church or vacant land would not qualify for this exemption. If the property owned by the religious

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organization does not meet the qualifications of Sec. 11.20, the chief appraiser of the local appraisal district may not grant an exemption for the property.

Sales and Use Taxes

As non-profit organizations, the Diocese of Amarillo, our churches, schools and other ministries are eligible for exemption from sales taxes for items used in our operations. New vendors will normally require a copy of our annual ruling from the Internal Revenue Service, (appendix C), and a completed sales tax exemption form, (appendix D).

Please note that this exemption is only available for items used by the church or other institution and not for items purchased for individuals, including priests.

TRAVEL AND ENTERTAINMENT REGULATIONS

The IRS has strict rules governing travel and entertainment expenses and the documentation that they require. If these rules are not followed than the travel and entertainments expenses will be deemed as personal income to the individual and taxes will be assessed on the income. While it will be unlikely that the IRS will audit a churches records, it is very likely that they will audit an individual. If, while auditing one priest or other church employee, they find a pattern of not following the regulations, including documentation, they could very well expand their audit to all similarly situated individuals in the diocese.

The doctrine underlying the rules is that the expenditure must be ordinary and necessary and is either directly related to the purpose of the organization or is associated with the purpose of the organization. Documentation of the expense therefore needs to include the names of all people being entertained, the business purpose of the meeting and the topics discussed.

Publication 463 from the IRS provides a detailed guideline for allowable Travel, Entertainment, Gift and Car Expenses and is available at the IRS Web Site, www.irs.gov. The Business Office has copies of the publication and will be glad to provide assistance.

VEHICLE SAFETY POLICY

The Diocese of Amarillo has a Vehicle Safety Policy, which was enacted August 1, 1997.

Care should be exercised in selecting individuals who are required or asked to operate a vehicle on behalf of the Diocese. All operators of vehicles on behalf on the Diocese must possess a current, valid drivers license for the type vehicle they will be operating and be at least 21 years of age.

Drivers should have a clean driving record for at least the past three years. There are questionnaire forms for both employed and volunteer drivers to answer before they operate a vehicle on behalf of the Diocese. These questionnaires can be found in the VEHICLE SAFETY POLICY, or you can call the Business Office to obtain the policy and/or forms. Completed questionnaires should be kept on file in the parish/school/day care center/retreat center/student center/pastoral center office.

All privately owned vehicles used on behalf of the Diocese (**THIS INCLUDES PRIEST'S PERSONAL VEHICLES**) must be insured according to Texas law with liability limits of not less

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than \$100, 000/\$300, 000. It is expected that all drivers and passengers will adhere to the Texas Safety Belt Laws and Regulations.

WAGE POLICY

Parishes and Schools set their own wage policies, but must adhere to all Federal and State laws governing such.

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APPENDIX A – SAMPLE FORM SE

SCHEDULE SE (Form 1040) <small>Department of the Treasury Internal Revenue Service (99)</small>	Self-Employment Tax ▶ See instructions for Schedule SE (Form 1040). ▶ Attach to Form 1040.	OMB No. 1545-0074 2000 Attachment Sequence No. 17
Name of person with self-employment income (as shown on Form 1040) Rev. John Doe		Social security number of person with self-employment income ▶ 123 :45 :6789

Who Must File Schedule SE

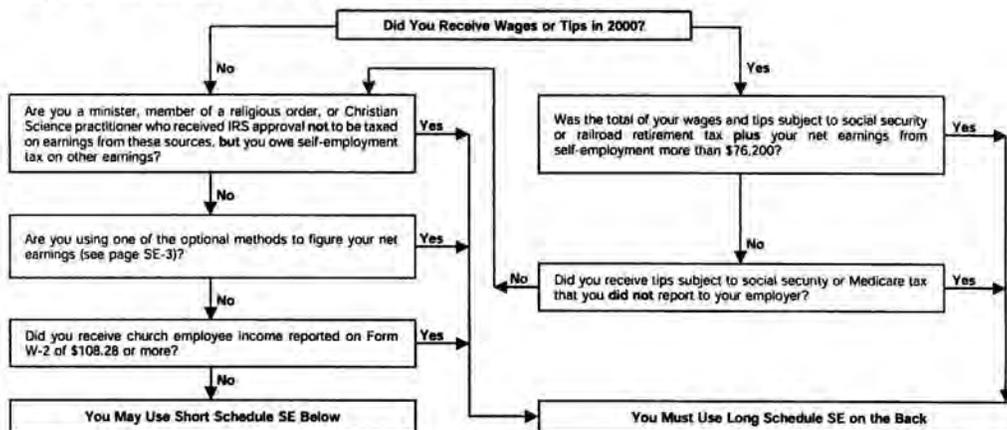
You must file Schedule SE if:

- You had net earnings from self-employment from **other than** church employee income (line 4 of Short Schedule SE or line 4c of Long Schedule SE) of \$400 or more **or**
- You had church employee income of \$108.28 or more. Income from services you performed as a minister or a member of a religious order **is not** church employee income. See page SE-1.

Note. Even if you had a loss or a small amount of income from self-employment, it may be to your benefit to file Schedule SE and use either "optional method" in Part II of Long Schedule SE. See page SE-3.

Exception. If your only self-employment income was from earnings as a minister, member of a religious order, or Christian Science practitioner **and** you filed Form 4361 and received IRS approval not to be taxed on those earnings, **do not** file Schedule SE. Instead, write "Exempt-Form 4361" on Form 1040, line 52.

May I Use Short Schedule SE or Must I Use Long Schedule SE?



Section A—Short Schedule SE. Caution: Read above to see if you can use Short Schedule SE.

1 Net farm profit or (loss) from Schedule F, line 36, and farm partnerships, Schedule K-1 (Form 1065), line 15a	1		
2 Net profit or (loss) from Schedule C, line 31; Schedule C-EZ, line 3; Schedule K-1 (Form 1065), line 15a (other than farming); and Schedule K-1 (Form 1065-B), box 9. Ministers and members of religious orders, see page SE-1 for amounts to report on this line. See page SE-2 for other income to report	2	21,000	
3 Combine lines 1 and 2	3	21,000	
4 Net earnings from self-employment. Multiply line 3 by 92.35% (.9235). If less than \$400, do not file this schedule; you do not owe self-employment tax	4	19,393	
5 Self-employment tax. If the amount on line 4 is: • \$76,200 or less, multiply line 4 by 15.3% (.153). Enter the result here and on Form 1040, line 52. • More than \$76,200, multiply line 4 by 2.9% (.029). Then, add \$9,448.80 to the result. Enter the total here and on Form 1040, line 52.	5	2,967	
6 Deduction for one-half of self-employment tax. Multiply line 5 by 50% (.5). Enter the result here and on Form 1040, line 27	6	1,484	

DIOCESAN TEMPORALITY POLICIES

APPENDIX B - RATES FOR BOOKKEEPING SERVICES

For parishes and schools requiring less than two hours per month	\$50
Two to four hours per month	\$100

For those requiring more than four hours per month, there will be an additional \$25 per hour charge.

Parishes, schools & other institutions who have elected to do their own bookkeeping and submit disks or E-mails will be charged at the rate of \$50/hour if they require excessive corrections or assistance.

DIOCESAN TEMPORALITY POLICIES

APPENDIX C - ANNUAL IRS RULING

Internal Revenue Service
District Director

Department of the Treasury

P. O. Box 2508
Cincinnati, OH 45201

Date: June 28, 2001

Person to Contact:
Myrna Huber #31-07276
Telephone Number:
877-829-5500
FAX Number:
513-263-3756

Mrs. Deirdre Dessingue
Associate General Counsel
United States Conference
of Catholic Bishops
3211 4th Street, N.E.
Washington, D.C. 20017-1194

Dear Mrs. Dessingue:

In a ruling dated March 25, 1946, we held that the agencies and instrumentalities and all educational, charitable and religious institutions operated, supervised, or controlled by or in connection with the Roman Catholic Church in the United States, its territories or possessions appearing in *The Official Catholic Directory* 1946, are entitled to exemption from federal income tax under the provisions of section 101(6) of the Internal Revenue Code of 1939, which corresponds to section 501(c)(3) of the 1986 Code. This ruling has been updated annually to cover the activities added to or deleted from the Directory.

The Official Catholic Directory for 2001 shows the names and addresses of all agencies and instrumentalities and all educational, charitable, and religious institutions operated by the Roman Catholic Church in the United States, its territories and possessions in existence at the time the Directory was published. It is understood that each of these is a non-profit organization, that no part of the net earnings thereof inures to the benefit of any individual, that no substantial part of their activities is for promotion of legislation, and that none are private foundations under section 509(a) of the Code.

Based on all information submitted, we conclude that the agencies and instrumentalities and educational, charitable, and religious institutions operated, supervised, or controlled by or in connection with the Roman Catholic Church in the United States, its territories or possessions appearing in *The Official Catholic Directory* for 2001 are exempt from federal income tax under section 501(c)(3) of the Code.

Donors may deduct contributions to the agencies, instrumentalities and institutions referred to above, as provided by section 170 of the Code. Bequests, legacies, devises, transfers or gifts to them or for their use are deductible for federal estate and gift tax purposes under sections 1055, 2106, and 2522 of the Code.

DIOCESAN TEMPORALITY POLICIES

Appendix C: Annual IRS Ruling (page 2)

-2-

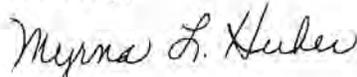
Mrs. Deirdre Dessingue

Beginning January 1, 1984, unless specifically excepted, you and your subordinates must pay tax under the Federal Insurance Contributions Act (Social Security taxes) for each employee who is paid \$100 or more in a calendar year. You and your subordinates are not liable for the tax under the Federal Unemployment Tax Act (FUTA).

By May 31, 2002, please send four copies of *The Official Catholic Directory* for 2002 to the IRS TE/GE in Cincinnati, four copies to the Service Center in Ogden, two copies to the EO Divisions in Baltimore, Brooklyn, Dallas, Chicago, St. Paul, Atlanta, and Los Angeles, and six copies to the IRS National Headquarters.

The conditions concerning the retention of your group exemption as set forth in our previous determination letter of August 17, 1983, remain in full force and effect.

Sincerely,



for John E. Ricketts, Director, TE/GE
Customer Account Services

DIOCESAN TEMPORALITY POLICIES

APPENDIX D – SALES TAX EXEMPTION FORM

01-339 (Back)
(Rev. 11-95/3)

TEXAS SALES AND USE TAX EXEMPTION CERTIFICATION

Name of purchaser, firm or agency	
Address (Street & number, P.O. Box or Route number)	Phone (Area code and number)
City, State, ZIP code	

I, the purchaser named above, claim an exemption from payment of sales and use taxes for the purchase of taxable items described below or on the attached order or invoice form:

Seller: _____

Street address: _____ City, State, ZIP code: _____

Description of items to be purchased or on the attached order or invoice:

Purchaser claims this exemption for the following reason:

I understand that I will be liable for payment of sales or use taxes which may become due for failure to comply with the provisions of the Tax Code: Limited Sales, Excise, and Use Tax Act; Municipal Sales and Use Tax Act; Sales and Use Taxes for Special Purpose Taxing Authorities; County Sales and Use Tax Act; County Health Services Sales and Use Tax; The Texas Health and Safety Code; Special Provisions Relating to Hospital Districts, Emergency Services Districts, and Emergency Services Districts in counties with a population of 125,000 or less.

I understand that it is a criminal offense to give an exemption certificate to the seller for taxable items that I know, at the time of purchase, will be used in a manner other than that expressed in this certificate and, depending on the amount of tax evaded, the offense may range from a Class C misdemeanor to a felony of the second degree.

Purchaser sign here	Title	Date
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NOTE: This certificate cannot be issued for the purchase, lease, or rental of a motor vehicle.
THIS CERTIFICATE DOES NOT REQUIRE A NUMBER TO BE VALID.
Sales and Use Tax "Exemption Numbers" or "Tax Exempt" Numbers do not exist.

This certificate should be furnished to the supplier. Do **not** send the completed certificate to the Comptroller of Public Accounts.

DIOCESAN TEMPORALITY POLICIES

APPENDIX E – SEXUAL ABUSE POLICY AND ACKNOWLEDGEMENT

1. Policy. It is the policy of the Roman Catholic Diocese of Amarillo (hereinafter “the Diocese”) that the sexual abuse of any person, adult or child, is contrary to Catholic principles and is outside the scope of duties or employment of all personnel of the Diocese. All personnel of the Diocese must comply with applicable state laws regarding incidents of actual or suspected sexual abuse, and with the following requirements.
2. Distribution. A copy of this Policy shall be provided to all personnel of the Diocese, who shall execute an acknowledgement in the following form, which shall be placed and maintained in appropriate personnel or other files of the Diocese:

I hereby acknowledge that I have received on _____(date), a copy of the Policy Prohibiting Sexual Abuse in the Diocese, dated _____ that I have read the Policy, understand its meaning, and agree to conduct myself in accordance with the Policy and further understand that failure to do so shall be grounds for disciplinary action or termination.

Name _____

Date _____

A similar acknowledgment will be obtained from new personnel of the Diocese prior to the performance of any duties on behalf of the Diocese.

2.2 A copy of any amendments to this policy shall likewise be provided to all personnel, and acknowledgments for such amendments shall be obtained and filed.

3. State Laws. Attached is a copy of the reporting requirements of state law relating to incidents of sexual abuse.
4. Education. Personnel of the Diocese are encouraged to attend educational programs on the prevention of sexual abuse and how to recognize sexual abuse. The Diocese may require attendance at such educational programs for designated personnel.
5. Background and Reference Checks. All prospective personnel of the Diocese shall complete a questionnaire before assuming any duties with the Diocese. Lay personnel who were employed after July 1, 1990, must also complete the questionnaire to continue in employment.

5.1 The questionnaire shall require, at a minimum, information on any civil or criminal complaint of physical abuse or sexual abuse filed against the applicant, and the record of any medical treatment or psychiatric treatment involving physical abuse or sexual abuse. The questionnaire shall also include a listing of previous employers for at least the last five (5) years.

5.2 The questionnaire must be signed by the individual and witnessed, and shall include a statement that the information provided in the questionnaire is true and complete.

DIOCESAN TEMPORALITY POLICIES

Sexual Abuse Policy & Acknowledgment, continued;

5.3 The questionnaire shall contain a release whereby the individual authorizes previous employers of the individual to provide personal information to the Diocese and authorizes the release, where necessary, of pertinent medical, employment and law enforcement records.

5.4 The Superintendent of Schools shall be responsible for obtaining and reviewing the questionnaires for school staff. The Pastors shall be responsible for obtaining and reviewing questionnaires for parish employees other than school staff. The chief administrator of other Diocesan entities shall be responsible for obtaining and reviewing their employees' questionnaires.

6. **Obligation to Report.** All personnel of the Diocese who have knowledge of, or who have reasonable cause to suspect, an incident of sexual abuse involving personnel of the Diocese shall report the incident in the following manner; if the incident involves a minor, the report must be made in compliance with applicable state laws as well:

6.1 A prompt verbal report of the incident shall be made to the Bishop (or in his absence, an appropriate Diocesan official, such as the Vicar General or Chancellor), and, where requested, a written report shall also be made. (A copy of the in—house reporting form is attached hereto as Appendix H.)

6.3 The Bishop, the appropriate Diocesan Official and the Diocesan Attorney shall make a determination on whether they reasonably believe that the allegation is well founded. If the above-mentioned persons reasonably believe the allegation may be true and not frivolous, then the allegation shall be referred to the Review Committee. However, if the incident does not involve a minor, the Bishop may act in an administrative manner.

7. **Investigation By Review Committee of Incident Reports.** Each referred incident will be promptly investigated by the Review Committee, with care taken not to interfere with any criminal or canonical investigation, and with a high level of care, concern and confidentiality for the alleged victim, the family of the alleged victim, the person reporting the incident, and the accused party.

7.1 The investigation shall be conducted by the Review Committee appointed by the Bishop, which shall include clergy, religious (if appropriate), and laity. The number of members of this Review Committee should not exceed the number warranted by the circumstances. The procedures of Canons 1717—1719 of the 1983 Code of Canon Law are to be observed.

7.2 This Review Committee shall as soon as practicable seek information from those who can furnish information about the incident and see to it that the accused party's immediate superior is informed.

7.3 The accused party must be immediately relieved of responsibilities to the Diocese and placed on leave pending outcome of the internal and any outside investigation.

7.4 Written material dealing with internal investigations of reported incidents of sexual abuse shall be marked confidential and kept in the secret archives of the Diocesan Pastoral Center.

DIOCESAN TEMPORALITY POLICIES

Sexual Abuse Policy & Acknowledgment, continued;

8. Action when accusation is determined well founded. When the accused party is a cleric or religious and admits to or does not contest the accusation, or the accusation of an incident of sexual abuse is determined to be well—founded by the Review Committee, the Bishop or other designated or delegated official shall decide whether to proceed in accord with the canonical judicial procedure or simply to issue the decree in accordance with Canon 1718 of the Code of Canon Law. If the Bishop or other designated official ratifies the finding of the Review Committee and determines to proceed by decree, then the accused shall be disciplined in accordance with the canons of the 1983 Code of Canon Law, paying special attention to Canons 1395 and 277.3.3

When the accused party is a lay person and admits to or does not contest the accusation, or the accusation of an incident of sexual abuse is determined to be well—founded by the Review Committee, the Bishop or other designated or delegated official shall take suitable disciplinary action, which may include termination from employment or any position of responsibility with the Diocese.

8.1 When the Committee appointed by the Bishop reasonably believes an incident of sexual abuse occurred involving personnel of the Diocese, contact by a designee of the Bishop with the alleged victim and family should be immediately initiated. Contact should be made out of concern without admission of the veracity of any accusation. Medical and psychological assistance and, in appropriate instances, economic assistance may be offered.

8.2 Any media contact or inquiries regarding an incident of sexual misconduct must be directed to the Bishop.

8.4 Appropriate records shall be kept of each incident of sexual abuse reported and of the investigation and result thereof.

10. Definitions. For the purpose of this policy:

9.1 “Sexual abuse” shall be defined, as it is defined in Section 34.012, (1), (E) through(H) in the Texas Family Code, and in addition, shall include any physical molestation of a sexual nature.

9.2 “Minor” is defined as any individual younger than eighteen (18) years of age.

10.3 “Diocese” means not only Diocesan offices in the strict sense, but embraces all parishes, missions and institutions of the Diocese reporting to the Bishop, with the exception of Catholic Family Services, Inc., which has its own sexual abuse policy.

9.4 “Personnel” includes all personnel of the Diocese as defined above, including clerics, religious, lay or other employees.

DIOCESAN TEMPORALITY POLICIES

APPENDIX F - STATE LAW REGARDING REPORTING OF SEXUAL ABUSE

SUBTITLE E. PROTECTION OF THE CHILD

CHAPTER 261. INVESTIGATION OF REPORT OF CHILD ABUSE OR NEGLECT

SUBCHAPTER A. GENERAL PROVISIONS

§ 261.001. Definitions

In this chapter:

(1) "Abuse" includes the following acts or omissions by a person:

(A) Mental or emotional injury to a child that results in an observable and material impairment in the child's growth, development, or psychological functioning;

(B) Causing or permitting the child to be in a situation in which the child sustains a mental or emotional injury that results in an observable and material impairment in the child's growth, development, or psychological functioning;

(C) Physical injury that results in substantial harm to the child, or the genuine threat of substantial harm from physical injury to the child, including an injury that is at variance with the history or explanation given and excluding an accident or reasonable discipline by a parent, guardian, or managing or possessor conservator that does not expose the child to a substantial risk of harm;

(D) Failure to make a reasonable effort to prevent an action by another person that results in physical injury that results in substantial harm to the child;

(E) Sexual conduct harmful to a child's mental, emotional, or physical welfare;

(F) Failure to make a reasonable effort to prevent sexual conduct harmful to a child;

(G) Compelling or encouraging the child to engage in sexual conduct as defined by Section 43.01, Penal Code;

(H) Causing, permitting, encouraging, engaging in, or allowing the photographing, filming, or depicting of the child if the person knew or should have known that the resulting photograph, film, or depiction of the child is obscene as defined by Section 43.21, Penal Code, or pornographic;

(I) The current use by a person of a controlled substance as defined by Chapter 481, Health and Safety Code, in a manner or to the extent that the use results in physical, mental, or emotional injury to a child; or

DIOCESAN TEMPORALITY POLICIES

State Law Regarding Reporting of Sexual Abuse, continued:

(J) Causing, expressly permitting, or encouraging a child to use a controlled substance as defined by Chapter 481, Health and Safety Code.

(2) "Department" means the Department of Protective and Regulatory Services.

(3) "Designated agency," means the agency designated by the court as responsible for the protection of children.

(4) "Neglect" includes:

(A) The leaving of a child in a situation where the child would be exposed to a substantial risk of physical or mental harm, without arranging for necessary care for the child, and the demonstration of an intent not to return by a parent, guardian, or managing or possessory conservator of the child;

(B) The following acts or omissions by a person:

(i) placing a child in or failing to remove a child from a situation that a reasonable person would realize requires judgment or actions beyond the child's level of maturity, physical condition, or mental abilities and that results in bodily injury or a substantial risk of immediate harm to the child;

(ii) failing to seek, obtain, or follow through with medical care for a child, with the failure resulting in or presenting a substantial risk of death, disfigurement, or bodily injury or with the failure resulting in an observable and material impairment to the growth, development, or functioning of the child;

(iii) the failure to provide a child with food, clothing, or shelter necessary to sustain the life or health of the child, excluding failure caused primarily by financial inability unless relief services had been offered and refused; or

(iv) placing a child in or failing to remove the child from a situation in which the child would be exposed to a substantial risk of sexual conduct harmful to the child; or

(C) the failure by the person responsible for a child's care, custody, or welfare to permit the child to return to the child's home without arranging for the necessary care for the child after the child has been absent from the home for any reason, including having been in residential placement or having run away.

(5) "Person responsible for a child's care, custody, or welfare" means a person who traditionally is responsible for a child's care, custody, or welfare, including:

(A) a parent, guardian, managing or possessory conservator, or foster parent of the child;

(B) a member of the child's family or household as defined by Chapter 71;

DIOCESAN TEMPORALITY POLICIES

State Law Regarding Reporting of Sexual Abuse, continued;

(C) a person with whom the child's parent cohabits;

(D) school personnel or a volunteer at the child's school; or

(E) personnel or a volunteer at a public or private child-care facility that provides services for the child or at a public or private residential institution or facility where the child resides.

(6) "Report" means a report that alleged or suspected abuse or neglect of a child has occurred or may occur.

(7) "Board" means the Board of Protective and Regulatory Services.

(8) "Born addicted to alcohol or a controlled substance" means a child:

(A) who is born to a mother who during the pregnancy used a controlled substance, as defined by Chapter 481, Health and Safety Code, other than a controlled substance legally obtained by prescription, or alcohol; and

(B) who, after birth as a result of the mother's use of the controlled substance or alcohol:

(i) experiences observable withdrawal from the alcohol or controlled substance;

(ii) exhibits observable or harmful effects in the child's physical appearance or functioning; or

(iii) exhibits the demonstrable presence of alcohol or a controlled substance in the child's bodily fluids.

Added by Acts 1995, 74th Leg., ch. 20, § 1, eff. April 20, 1995. Amended by Acts 1995, 74th Leg., ch. 751, § 86, eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 575, § 10, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1022, § 63, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, § 19.01(26), eff. Sept. 1, 1999.

SUBCHAPTER B. REPORT OF ABUSE OR NEGLECT; IMMUNITIES

§ 261.101. Persons Required to Report; Time to Report

(a) A person having cause to believe that a child's physical or mental health or welfare has been adversely affected by abuse or neglect by any person shall immediately make a report as provided by this subchapter.

(b) If a professional has cause to believe that a child has been abused or neglected or may be abused or neglected or that a child is a victim of an offense under Section 21.11, Penal Code, the professional shall make a report not later than the 48th hour after the hour the professional first suspects that the child has been or may be abused or neglected or is a victim of an offense under Section 21.11, Penal Code. A professional may not delegate to or rely on another person to make

DIOCESAN TEMPORALITY POLICIES

State Law Regarding Reporting of Sexual Abuse, continued:

The report. In this subsection, "professional" means an individual who is licensed or certified by the state or who is an employee of a facility licensed, certified, or operated by the state and who, in the normal course of official duties or duties for which a license or certification is required, has direct contact with children. The term includes teachers, nurses, doctors, day-care employees, employees of a clinic or health care facility that provides reproductive services, juvenile probation officers, and juvenile detention or correctional officers.

(c) The requirement to report under this section applies without exception to an individual whose personal communications may otherwise be privileged, including an attorney, a member of the clergy, a medical practitioner, a social worker, a mental health professional, and an employee of a clinic or health care facility that provides reproductive services.

(d) Unless waived in writing by the person making the report, the identity of an individual making a report under this chapter is confidential and may be disclosed only:

(1) as provided by Section 261.201; or

(2) to a law enforcement officer for the purposes of conducting a criminal investigation of the report.

Added by Acts 1995, 74th Leg., ch. 20, § 1, eff. April 20, 1995. Amended by Acts 1995, 74th Leg., ch. 751, § 87, eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 162, § 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 575, § 11, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1022, § 65, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, § 6.29, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1150, § 2, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1390, § 21, eff. Sept. 1, 1999.

§ 261.102. Matters to be Reported

A report should reflect the reporter's belief that a child has been or may be abused or neglected or has died of abuse or neglect.

Added by Acts 1995, 74th Leg., ch. 20, § 1, eff. April 20, 1995. Amended by Acts 1995, 74th Leg., ch. 751, § 88, eff. Sept. 1, 1995.

§ 261.103. Report Made to Appropriate Agency

(a) Except as provided by Subsection (b), a report shall be made to:

(1) any local or state law enforcement agency;

(2) the department if the alleged or suspected abuse involves a person responsible for the care, custody, or welfare of the child;

DIOCESAN TEMPORALITY POLICIES

State Law Regarding Reporting of Sexual Abuse, continued:

(3) the state agency that operates, licenses, certifies, or registers the facility in which the alleged abuse or neglect occurred; or

(4) the agency designated by the court to be responsible for the protection of children.

(b) A report may be made to the Texas Youth Commission instead of the entities listed under Subsection (a) if the report is based on information provided by a child while under the supervision of the commission concerning the child's alleged abuse of another child.

Added by Acts 1995, 74th Leg., ch. 20, § 1, eff. April 20, 1995. Amended by Acts 1995, 74th Leg., ch. 751, § 89, eff. Sept. 1, 1995.

Amended by Acts 1999, 76th Leg., ch. 1477, § 24, eff. Sept. 1, 1999.

§ 261.104. Contents of Report

The person making a report shall identify, if known:

(1) the name and address of the child;

(2) the name and address of the person responsible for the care, custody, or welfare of the child; and

(3) any other pertinent information concerning the alleged or suspected abuse or neglect.

Added by Acts 1995, 74th Leg., ch. 20, § 1, eff. April 20, 1995. Amended by Acts 1995, 74th Leg., ch. 751, § 90, eff. Sept. 1, 1995.

§ 261.105. Referral of Report by Department or Law Enforcement

(a) All reports received by a local or state law enforcement agency that allege abuse or neglect by a person responsible for a child's care, custody, or welfare shall be referred immediately to the department or the designated agency.

(b) The department or designated agency shall immediately notify the appropriate state or local law enforcement agency of any report it receives, other than a report from a law enforcement agency, that concerns the suspected abuse or neglect of a child or death of a child from abuse or neglect.

(c) In addition to notifying a law enforcement agency, if the report relates to a child in a facility operated, licensed, certified, or registered by a state agency, the department shall refer the report to the agency for investigation.

(d) If the department initiates an investigation and determines that the abuse or neglect does not involve a person responsible for the child's care, custody, or welfare, the department shall refer the report to a law enforcement agency for further investigation.

DIOCESAN TEMPORALITY POLICIES

State Law Regarding Reporting of Sexual Abuse, continued;

(e) In cooperation with the department, the Texas Youth Commission by rule shall adopt guidelines for identifying a report made to the commission under Section 261.103(b) that is appropriate to refer to the department or a law enforcement agency for investigation. Guidelines adopted under this subsection must require the commission to consider the severity and immediacy of the alleged abuse or neglect of the child victim.

Added by Acts 1995, 74th Leg., ch. 20, § 1, eff. April 20, 1995.

Amended by Acts 1997, 75th Leg., ch. 1022, § 66, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1477, § 25, eff. Sept. 1, 1999.

§ 261.1055. Notification of District Attorneys

(a) A district attorney may inform the department or designated agency that the district attorney wishes to receive notification of some or all reports of suspected abuse or neglect of children who were in the county at the time the report was made or who were in the county at the time of the alleged abuse or neglect.

(b) If the district attorney makes the notification under this section, the department or designated agency shall, on receipt of a report of suspected abuse or neglect, immediately notify the district attorney as requested and the department or designated agency shall forward a copy of the reports to the district attorney on request.

Added by Acts 1997, 75th Leg., ch. 1022, § 67, eff. Sept. 1, 1997.

§ 261.106. Immunities

(a) A person acting in good faith who reports or assists in the investigation of a report of alleged child abuse or neglect or who testifies or otherwise participates in a judicial proceeding arising from a report, petition, or investigation of alleged child abuse or neglect is immune from civil or criminal liability that might otherwise be incurred or imposed.

(b) Immunity from civil and criminal liability extends to an authorized volunteer of the department or a law enforcement officer who participates at the request of the department in an investigation of alleged or suspected abuse or neglect or in an action arising from an investigation if the person was acting in good faith and in the scope of the person's responsibilities.

(c) A person who reports the person's own abuse or neglect of a child or who acts in bad faith or with malicious purpose in reporting alleged child abuse or neglect is not immune from civil or criminal liability.

Added by Acts 1995, 74th Leg., ch. 20, § 1, eff. April 20, 1995. Amended by Acts 1995, 74th Leg., ch. 751, § 91, eff. Sept. 1, 1995.

DIOCESAN TEMPORALITY POLICIES

State Law Regarding Reporting of Sexual Abuse, continued;

§ 261.107. False Report; Penalty

(a) A person commits an offense if the person knowingly or intentionally makes a report as provided in this chapter that the person knows is false or lacks factual foundation. An offense under this section is a Class A misdemeanor unless it is shown on the trial of the offense that the person has previously been convicted under this section, in which case the offense is a state jail felony.

(b) A finding by a court in a suit affecting the parent-child relationship that a report made under this chapter before or during the suit was false or lacking factual foundation may be grounds for the court to modify an order providing for possession of or access to the child who was the subject of the report by restricting further access to the child by the person who made the report.

(c) The appropriate county prosecuting attorney shall be responsible for the prosecution of an offense under this section.

Added by Acts 1995, 74th Leg., ch. 20, § 1, eff. April 20, 1995. Amended by Acts 1995, 74th Leg., ch. 751, § 92, eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 575, § 2, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1022, § 68; Acts 1999, 76th Leg., ch. 62, § 6.30, eff. Sept. 1, 1999.

§ 261.108. Frivolous Claims Against Person Reporting

(a) In this section:

(1) "Claim" means an action or claim by a party, including a plaintiff, counterclaimant, cross-claimant, or third-party plaintiff, requesting recovery of damages.

(2) "Defendant" means a party against whom a claim is made.

(b) A court shall award a defendant reasonable attorney's fees and other expenses related to the defense of a claim filed against the defendant for damages or other relief arising from reporting or assisting in the investigation of a report under this chapter or participating in a judicial proceeding resulting from the report if:

(1) the court finds that the claim is frivolous, unreasonable, or without foundation because the defendant is immune from liability under Section 261.106; and

(2) the claim is dismissed or judgment is rendered for the defendant.

(c) To recover under this section, the defendant must, at any time after the filing of a claim, file a written motion stating that:

DIOCESAN TEMPORALITY POLICIES

State Law Regarding Reporting of Sexual Abuse, continued;

(1) the claim is frivolous, unreasonable, or without foundation because the defendant is immune from liability under Section 261.106; and

(2) the defendant requests the court to award reasonable attorney's fees and other expenses related to the defense of the claim.

Added by Acts 1995, 74th Leg., ch. 20, § 1, eff. April 20, 1995.

§ 261.109. Failure to Report; Penalty

(a) A person commits an offense if the person has cause to believe that a child's physical or mental health or welfare has been or may be adversely affected by abuse or neglect and knowingly fails to report as provided in this chapter.

(b) An offense under this section is a Class B misdemeanor.

Added by Acts 1995, 74th Leg., ch. 20, § 1, eff. April 20, 1995.

SUBCHAPTER C. CONFIDENTIALITY AND PRIVILEGED COMMUNICATION

§ 261.201. Confidentiality and Disclosure of Information

(a) The following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

(1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and

(2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

(b) A court may order the disclosure of information that is confidential under this section if:

(1) a motion has been filed with the court requesting the release of the information;

(2) a notice of hearing has been served on the investigating agency and all other interested parties; and

(3) after hearing and an in camera review of the requested information, the court determines that the disclosure of the requested information is:

(A) essential to the administration of justice; and

(B) not likely to endanger the life or safety of:

DIOCESAN TEMPORALITY POLICIES

State Law Regarding Reporting of Sexual Abuse, continued:

- (i) a child who is the subject of the report of alleged or suspected abuse or neglect;
 - (ii) a person who makes a report of alleged or suspected abuse or neglect; or
 - (iii) any other person who participates in an investigation of reported abuse or neglect or who provides care for the child.
- (c) In addition to Subsection (b), a court, on its own motion, may order disclosure of information that is confidential under this section if:
- (1) the order is rendered at a hearing for which all parties have been given notice;
 - (2) the court finds that disclosure of the information is:
 - (A) essential to the administration of justice; and
 - (B) not likely to endanger the life or safety of:
 - (i) a child who is the subject of the report of alleged or suspected abuse or neglect;
 - (ii) a person who makes a report of alleged or suspected abuse or neglect; or
 - (iii) any other person who participates in an investigation of reported abuse or neglect or who provides care for the child; and
 - (3) the order is reduced to writing or made on the record in open court.
- (d) The adoptive parents of a child who was the subject of an investigation and an adult who was the subject of an investigation as a child are entitled to examine and make copies of any report, record, working paper, or other information in the possession, custody, or control of the state that pertains to the history of the child. The department may edit the documents to protect the identity of the biological parents and any other person whose identity is confidential.
- (e) Before placing a child who was the subject of an investigation, the department shall notify the prospective adoptive parents of their right to examine any report, record, working paper, or other information in the possession, custody, or control of the state that pertains to the history of the child.
- (f) The department shall provide prospective adoptive parents an opportunity to examine information under this section as early as practicable before placing a child.
- (g) Notwithstanding Subsection (b), the department, on request and subject to department rule, shall provide to the parent, managing conservator, or other legal representative of a child who is the subject of reported abuse or neglect information concerning the reported abuse or neglect that would otherwise be confidential under this section if the department has edited the

DIOCESAN TEMPORALITY POLICIES

information to protect the confidentiality of the identity of the person who made the report and any other person whose life or safety may be endangered by the disclosure.

(h) This section does not apply to an investigation of child abuse or neglect in a home or facility regulated under Chapter 42, Human Resources Code.

Added by Acts 1995, 74th Leg., ch. 20, § 1, eff. April 20, 1995. Amended by Acts 1995, 74th Leg., ch. 751, § 93, eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 575, § 12, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1022, § 69, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1150, § 3, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1390, § 22, eff. Sept. 1, 1999.

§ 261.202. Privileged Communication

In a proceeding regarding the abuse or neglect of a child, evidence may not be excluded on the ground of privileged communication except in the case of communications between an attorney and client.

Added by Acts 1995, 74th Leg., ch. 20, § 1, eff. April 20, 1995.

DIOCESAN TEMPORALITY POLICIES

APPENDIX G – PERSONAL DATA QUESTIONNAIRE

- 1 NAME: _____

2. ARE YOU PRESENTLY EMPLOYED BY THE DIOCESE OF AMARILLO?
Yes _____ No _____

3. IF NO, WHAT POSITION ARE YOU SEEKING? _____

4. Has a civil or criminal complaint ever been filed against you alleging physical abuse or sexual abuse by you? YES _____ NO _____
If yes, give a short explanation of the complaint with the date, place and nature of the incident of the complaint and its disposition.

5. Have you been discharged from employment? YES _____ NO _____
if yes, for each discharge please state the name of the employer, address, date of discharge and reason thereof, with any explanation you care to give. _____

6. Have you ever terminated your employment for reasons relating to allegations of physical or sexual abuse by you? YES _____ NO _____
If yes, give a short explanation of the allegations with the date, place and nature of the allegations, the disposition of the allegations, and the name, address and telephone number of your employer at the time. _____

7. Have you ever received any medical treatment, physical or psychological, for reasons involving physical abuse or sexual abuse by you? YES _____ NO _____
If yes, give a short description of the treatment, including date(s), nature and location(s), identifying the treating professional with name, address and telephone number. _____

8. Please list name, address, and dates of employment for previous employers during the past five years.

The information I have provided on this questionnaire is accurate to the best of my knowledge and may be verified by the Diocese. I hereby agree that the Diocese may contact former employers to provide the Diocese records of prior employment and release them from liability for so doing, and I agree to sign the necessary releases for the Diocese to obtain medical, judicial and law enforcement records and information pertinent to matters addressed in this questionnaire if requested.

Signed _____ Date _____

Witness _____ Date _____

DIOCESAN TEMPORALITY POLICIES

APPENDIX I – FORM W-9

Form W-9 (Rev. November 1999) Department of the Treasury Internal Revenue Service	<h3 style="margin: 0;">Request for Taxpayer Identification Number and Certification</h3>	Give form to the requester. Do NOT send to the IRS.																																												
Please print or type	Name (If a joint account or you changed your name, see Specific Instructions on page 2.)																																													
	Business name, if different from above. (See Specific Instructions on page 2.)																																													
	Check appropriate box: <input type="checkbox"/> Individual/Sole proprietor <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Other																																													
	Address (number, street, and apt. or suite no.)	Requester's name and address (optional)																																												
City, state, and ZIP code	List account number(s) here (optional)																																													
Part I Taxpayer Identification Number (TIN) Enter your TIN in the appropriate box. For individuals, this is your social security number (SSN). However, if you are a resident alien OR a sole proprietor, see the instructions on page 2. For other entities, it is your employer identification number (EIN). If you do not have a number, see How to get a TIN on page 2. Note: If the account is in more than one name, see the chart on page 2 for guidelines on whose number to enter.																																														
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Part III Certification Under penalties of perjury, I certify that:																																														
1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and 2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding.																																														
Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. (See the instructions on page 2.)																																														
Sign Here	Signature ►	Date ►																																												
Purpose of form. A person who is required to file an information return with the IRS must get your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA. Use Form W-9, if you are a U.S. person (including a resident alien), to give your correct TIN to the person requesting it (the requester) and, when applicable, to:																																														
1. Certify the TIN you are giving is correct (or you are waiting for a number to be issued), 2. Certify you are not subject to backup withholding, or 3. Claim exemption from backup withholding if you are an exempt payee.																																														
If you are a foreign person, IRS prefers you use a Form W-8 (certificate of foreign status). After December 31, 2000, foreign persons must use an appropriate Form W-8.																																														
Note: If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.																																														
What is backup withholding? Persons making certain payments to you must withhold and pay to the IRS 31% of such payments under certain conditions. This is called "backup withholding." Payments that may be subject to backup withholding include interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding. If you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return, payments you receive will not be subject to backup withholding. Payments you receive will be subject to backup withholding if:																																														
1. You do not furnish your TIN to the requester, or 2. You do not certify your TIN when required (see the Part III instructions on page 2 for details), or 3. The IRS tells the requester that you furnished an incorrect TIN, or 4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or																																														
5. You do not certify to the requester that you are not subject to backup withholding under 3 above for reportable interest and dividend accounts opened after 1983 only. Certain payees and payments are exempt from backup withholding. See the Part II instructions and the separate Instructions for the Requester of Form W-9 .																																														
Penalties Failure to furnish TIN. If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect. Civil penalty for false information with respect to withholding. If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty. Criminal penalty for falsifying information. Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment. Misuse of TINs. If the requester discloses or uses TINs in violation of Federal law, the requester may be subject to civil and criminal penalties.																																														
Cat. No. 10231X		Form W-9 (Rev. 11-99)																																												

DIOCESAN TEMPORALITY POLICIES

Appendix J – Political Activity Guidelines

U.S. Catholic Bishops - Office of General Counsel

Political Activity Guidelines for Catholic Organizations

February 29, 2000

Section 501©(3) of the Internal Revenue Code prohibits Catholic organizations that are exempt under its provisions from participating or intervening in political campaigns on behalf of or in opposition to any candidate for public office. Despite this prohibition on political campaign activity, there are number of educational activities in which Catholic organizations can engage during election campaigns.

This document is designed to assist Catholic organizations in distinguishing activities that are permitted during election campaigns from activities that are prohibited. The line between what is permitted and what is prohibited is not always clear. Certain activities are fact-specific or present close questions that will require the advice of legal counsel. Catholic organizations are urged to consult diocesan legal counsel, as appropriate, prior to engaging in any activity about which there are questions.

Because of the manner in which the political campaign activity prohibition was added to the Code³, there is no legislative history to clarify its meaning. The regulations merely recite that “action organizations”, defined as organizations that participate or intervene, directly or indirectly, in any political campaign on behalf of, or in opposition to, any candidate for public office, are not operated exclusively for exempt purposes and cannot qualify for exemption under section 501©(3). [Treas. Reg. § 1.501©(3)-1©(3)(iii)].

On occasion, Catholic organizations may seek to seek to rely upon the regulations and case law interpreting the Federal Election Campaign Act (“FECA”) [2 U.S.C.A. 431 et seq.] to determine whether an activity is permitted under section 501©(3). Such reliance is unwise, since the section 501©(3) prohibition is far more sweeping in scope than the restrictions imposed under FECA. Activities that pass muster under FECA may nonetheless constitute violations of the section 501©(3) political activity prohibition.

DISTINGUISHING BETWEEN LOBBYING AND POLITICAL CAMPAIGN ACTIVITY.

Section 501©(3) of the Internal Revenue Code curtails both lobbying and political activities by Catholic organizations. However, it is important to understand that whereas lobbying is merely limited, political campaign activity is strictly prohibited. There is no de minimis rule applicable to political campaign activity by section 501©(3) organizations. [See Exempt Organizations Handbook (IRM 7751) § 3(10)1(1)].

Lobbying includes both contacting (direct lobbying) and urging the public to contact (grassroots lobbying) members of a legislative body, whether federal, state, or local, for the purpose of proposing, supporting, or opposing legislation or advocating the adoption or rejection of

DIOCESAN TEMPORALITY POLICIES

legislation. [Treas. Reg. § 1.501©(3)-1©(3)(ii)]. Legislation is defined to include any action:

(1) by Congress, a state or local legislative body; or (2) by the public in a referendum, initiative, constitutional amendment or similar procedure. [Treas. Reg. § 1.501©(3)-1©(3)(iii)]. The section 501©(3) lobbying limitation applies both to lobbying that is germane to an organization's tax-exempt purposes and to lobbying that is not. [See Rev. Rul. 67-293, 1967-2 C.B. 185].

Under section 501©(3), Catholic organizations may engage in lobbying activities only if they do not constitute a substantial part of their total activities. Neither the Code nor the regulations define what is "substantial" in this context⁵. In 1976, Congress enacted section 501(h) of the Code, which is an elective provision that established a sliding scale of permissible lobbying expenditures based on an exempt organization's total budget. However, at their own request, churches, conventions or associations of churches, and integrated auxiliaries of churches were made ineligible to elect treatment under section 501(h). [See I.R.C. §§ 501(h)(5) and 4911(f)(2)]. Thus, most Catholic organizations remain subject to the general "substantiality" test, i.e. only an insubstantial amount of their activities can be devoted to lobbying.

Ballot measures, including referenda, initiatives, constitutional amendments, and bond measures, which have become increasingly popular, particularly in the Western states, are considered legislative proposals. Thus, involvement by Catholic organizations in ballot measures, etc., is limited, not prohibited. Catholic organizations may support or oppose ballot measures, etc., in furtherance of their exempt purposes, subject to the relevant lobbying limitation, without jeopardizing exempt status.

WHO IS A CANDIDATE?

The term "candidate" refers to an individual who offers himself or is proposed by others as a contestant for an elective public office, whether national, state or local. Therefore, the political campaign activity prohibition does not prevent exempt organizations from engaging in political activity with respect to candidates for non-elective public office, e.g., an appointive judicial position. However, if the appointment is made or confirmed by a legislative body, IRS will treat activities in support of or in opposition to such appointments as lobbying activities subject to the relevant lobbying limitation. [See G.C.M. 39694 (January 21, 1988)]. In addition, the organization may be liable for tax under section 527. Elective positions in a political party, e.g., for precinct committee, may be considered "public office" if they (1) are created by statute; (2) are continuing; (3) are not occasional or contractual; (4) possess fixed terms of office; and (5) require an oath of office [G.C.M. 39811 (June 30, 1989)].

When an individual "offers himself, or is proposed by others", and thus becomes a candidate for elective public office, must be determined on the basis of all relevant facts and circumstances. Clearly, an individual who has announced his intention to seek election to public office is a candidate. However, even an individual who has not announced an intention to seek election (and indeed never becomes a candidate) can be considered a candidate [TAM 9130008 (April 16, 1991)]. In addition, others may propose an individual as a candidate and take steps to urge his election. The fact that an individual is a prominent political figure alone is insufficient to make him a candidate. "Some action must be taken to make one a candidate, but the action need not be taken by the candidate or require his consent." [1992 IRS Exempt Organizations Continuing Professional Education Technical Instruction Program, p. 408 (hereinafter "1992 CPE Text")].

PERMITTED ACTIVITIES

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The following activities will not jeopardize the tax-exempt status of Catholic organizations, provided they are conducted in accordance with the standards outlined below.

EDUCATING CANDIDATES ON ISSUES

During election campaigns, Catholic organizations may educate candidates about the issues and attempt to change candidates' positions on these issues. If a candidate is an incumbent legislator, whether federal, state, or local, such activity could constitute lobbying activity subject to the general substantiality limits of section 501©(3) or, if applicable, the limits of sections 501(h) and 4911.

EDUCATING VOTERS.

During election campaigns, Catholic organizations may educate voters about the issues. In addition, they may educate voters about candidates' positions on the issues, through such activities as sponsorship of candidate forums, and distribution of voter education materials, including incumbents' voting records and the results of candidate polls or questionnaires. Such activities, if unbiased in content, structure, format, and context, will not violate the political campaign activity prohibition. Bias. Although the Code does not define "bias", as a general rule, activities or publications will be considered biased if they indicate or imply (1) that a candidate agrees or disagrees with a Catholic organization's position, or (2) that a Catholic organization agrees or disagrees with a candidate's position. Whether an activity or publication is biased depends upon all relevant facts and circumstances, including context, format, content, and manner of conduct or publication. All voter education publications and activities should include a statement of their educational purpose and a disclaimer of any intent to endorse or oppose any candidate or political party. Caveat: Be wary of outside groups seeking to distribute their "voter education" materials through Catholic organizations. This includes materials that are accompanied by legal opinions provided to the outside group. Outside voter education materials should be approached with extreme caution. Among other things, the issues covered in these materials usually will not illustrate the wide range of issues of importance to the Church, but rather be of importance only to the preparing group. In addition, their content, format and presentation may not satisfy the requirements of section 501©(3) applicable to Catholic organizations. The organizations preparing these voter education materials may not be section 501©(3) organizations, and thus may not be subject to the political activity prohibition. The fact that it may be permissible for the preparing organization to distribute a voter guide does not make it appropriate for a Catholic organization to do so. Dioceses should consider adopting policies against distribution of any voter education materials that have not been approved or made available by the diocese or state Catholic conference. Be sure to consult with diocesan legal counsel before agreeing to distribute any materials prepared by outside organizations.

INCUMBENTS' VOTING RECORDS.

Whether the publication and distribution of incumbents' voting records violates the political activity prohibition depends on an evaluation of all the relevant facts and circumstances, including: (1) whether incumbents are identified as candidates; (2) whether incumbents' positions are compared to the positions of other candidates; (3) whether incumbents' positions are compared to the organization's positions; (4) the timing, extent, and manner of distribution;

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and (5) the breadth or narrowness of the issues presented in the voting record [1992 CPE Text, pp. 419-20]. IRS has concluded that a section 501(c)(3) organization that published and distributed, during an election campaign, the voting records of all members of Congress on a wide range of subjects, did not violate the political activity prohibition. The organization conducted this activity annually, whether there was an election or not. The voting records contained no editorial opinions and did not indicate approval or disapproval of incumbents' votes [Rev. Rul. 78-248, 1978-1 C.B. 154, Situation 1].

On the other hand, IRS has concluded that the distribution during an election campaign of a biased voting record, i.e. one that indicated the organization's position and whether the legislator voted in accordance with that position, could avoid violating the political campaign activity prohibition only in extremely limited circumstances. The criteria established by IRS are: (1) the voting record must not identify candidates for re-election; (2) its distribution must not be timed to coincide with any election, but rather must be one of a series of regularly distributed voting records; (3) distribution must not be targeted to areas where elections are occurring; and (4) the voting record must not be broadly disseminated to the electorate, but rather disseminated only to a limited group, e.g., members of the organization or subscribers to its publication [Rev. Rul. 80-282, 1980-2 C.B. 178]. Organizations frequently rely upon this ruling to justify wide dissemination of biased voter guides among the electorate. Such reliance is misplaced. In addition, IRS has taken the position that broad distribution of voting records or other voter education materials that do not cover a wide variety of issues violates the political campaign activity prohibition, even in the absence of overt bias [Rev. Rul. 78-248, 1978-1 C.B. 154, Situation 4].

CANDIDATE QUESTIONNAIRES.

Polling or submitting to candidates questionnaires designed to elicit their positions on various issues is a neutral activity, assuming that the questions themselves do not exhibit bias. It is only when the results are disseminated during an election campaign that the political campaign activity prohibition becomes a potential issue. IRS has identified the following criteria for determining whether publication of questionnaire results violates the political campaign activity prohibition: (1) whether the questionnaire is sent to all candidates; (2) whether all responses are published; (3) whether the questions indicate bias toward the organization's preferred answer; (4) whether the responses are compared to the organization's positions on the issues; (5) whether the responses are published as received, without editing by the organization; and (6) whether a wide range of issues is covered [1992 CPE Text, p. 421; Rev. Rul. 78-248, 1978-1 C.B. 154, Situation 4].

IRS has concluded that an organization that published the positions of all candidates in a particular race on a wide variety of issues selected solely on the basis of their importance to the electorate as a whole did not violate the political campaign activity prohibition, where neither the questionnaire nor the voter guide evidenced bias or preference in content or structure [Rev. Rul. 78-248, 1978-1 C.B. 154, Situation 2]. Conversely, publication of responses to a candidate questionnaire that evidenced bias on certain issues did violate the political campaign activity prohibition [Rev. Rul. 78-248, 1978-1 C.B. 154, Situation 3].

Questionnaires should be distributed to all candidates, and all candidates should be encouraged to respond. No other coordination, cooperation, or consultation with candidates, their

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committees, etc. should take place. 6 Failure of all candidates to respond, may, in certain circumstances, require re-evaluation of the appropriateness of disseminating questionnaire responses.

If only one candidate in a particular race responds, the questionnaire responses may not be useable. Catholic organizations should not in any circumstances attempt to develop position statements for candidates that fail to respond. Consult diocesan legal counsel for further analysis of particular fact situations involving candidate questionnaires.

NONPARTISAN VOTER REGISTRATION/GET-OUT-THE-VOTE DRIVES.

Both IRS and the Federal Election Commission [11 C.F.R. §114.4(d)] permit Catholic organizations to sponsor voter registration and get-out-the-vote drives, provided that no bias for or against any candidate, political party, or voting position is evidenced. Such bias would be indicated by distribution of partisan literature or materials indicating the organization's positions in connection with the voter registration or get-out-the-vote drives, by targeting registration or get-out-the-vote drives toward individuals who support the organization's positions or a particular candidate or party, by coordinating with candidates or their committees, etc. Thus, voter registration or get-out-the-vote efforts should not be conducted (1) in cooperation with any political campaign, (2) according to the identity of the candidates, (3) based upon a candidate's or party's agreement or disagreement with the sponsoring organization's positions, or (4) in a manner targeting members of a particular party. Targeting voter registration drives at historically disadvantaged groups, whether based on economic status, race, gender or language, generally should not be objectionable 8.

NONPARTISAN PUBLIC FORUMS, DEBATES, LECTURES.

Catholic organizations may sponsor unbiased public forums, debates, and lectures in which candidates explain their views to the public. The sponsoring organization may not indicate its views on the issues being discussed, comment on candidates' responses, or in any other way indicate bias for or against a particular candidate, party or position [See Rev. Rul. 66-256, 1966-2 C.B. 210]. IRS has identified the following factors as important to a favorable determination on candidate forums: (1) all legally qualified candidates are invited to participate; (2) the questions are prepared and presented by an independent nonpartisan panel; (3) the topics discussed cover a broad range of issues of interest to the public; (3) each candidate has an equal opportunity to present his or her views on the issues discussed; and (5) the moderator does not comment on the questions or otherwise make comments that imply approval or disapproval of any of the candidates [See Rev. Rul. 86-95, 1986-2 C.B. 73; 1992 CPE Text, p. 423].

Generally, all bona fide candidates for a particular office should be invited to participate, since a policy of excluding candidates may evidence bias. However, there are circumstances in which candidates may be excluded. For example, a candidate debate during the primary election campaign may be limited to legally qualified candidates seeking the nomination of a particular political party⁹. In addition, if the field of legally qualified candidates is large, the FEC has indicated that the sponsoring organization may limit participation based upon "pre-established objective criteria". Any debate must include at least two candidates and must not promote or advance one candidate over another. In addition, for a general election, the sponsoring organization may not use nomination by a particular political party as the sole objective criterion

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for participation. [11 C.F.R. § 110.13(b)].

IRS has identified the following criteria for determining whether an exempt organization that fails to invite all legally qualified candidates to its debate has violated the political campaign activity prohibition: (1) whether inviting all legally qualified candidates was impractical; (2) whether the organization adopted reasonable, objective criteria for determining which candidates to invite; (3) whether the criteria were applied consistently and non-arbitrarily to all candidates; and (4) whether other relevant factors indicate the debate was conducted in a neutral, nonpartisan manner [See 1992 CPE Text, p. 424].

CANDIDATES SPEAKING AT CATHOLIC EVENTS.

IRS has indicated that whether a Catholic organization may invite a candidate to speak at one of its events depends upon all the facts and circumstances surrounding the invitation and whether the candidate is invited in her capacity as a candidate or in her individual capacity.

If the individual is invited as a candidate, the criteria for public forums, debates, etc., identified above, apply. IRS has indicated that the nature of the event to which candidates are invited will be considered in determining whether candidates are given the requisite equal access. For example, if one candidate is invited to speak at an organization's national convention, and the opposing candidate is invited to speak at a breakfast attended by only a handful of people, the organization will likely be found to have violated the political campaign prohibition, even if the manner of presentation for both speakers is otherwise neutral. IRS has suggested that a similar result would obtain if a Catholic organization were to invite two opposing candidates "with the knowledge and expectation that one would not accept the invitation because of well-known opposing viewpoints." [1992 CPE Text, p. 431].

If a candidate is invited to speak in her capacity as a public figure or expert, it is unnecessary to provide equal access to other candidates. However, Catholic organizations should take the following precautions to prevent violation of the political campaign activity prohibition: (1) the candidate must speak only in her capacity as expert or public figure; (2) no mention should be made of her candidacy; (3) no campaign activity should occur in connection with the candidate's appearance; and (4) all publicity and other communications regarding the candidate's attendance should identify the capacity in which the candidate is appearing and should not mention her candidacy.

In addition, IRS has stated that if the primary purpose of the invitation is to showcase an individual's candidacy, the organization may still violate the political campaign activity prohibition even if no campaign activity occurs. If an invitation qualifies as a non-candidate invitation, payment of a customary honorarium to the speaker should not result in a violation of the political campaign activity prohibition, unless the payment is intended to support the candidate's campaign. [See 1992 CPE Text, pp. 431-32].

Caveat: Often Catholic organizations do not initiate situations that become problematic from a section 501(c)(3) perspective. Rather, it is the candidate or her campaign organization that requests some accommodation from the Catholic organization, ranging from requests for photo opportunities in a Catholic facility or with the bishop or pastor, to appear at Catholic events, address Catholic organizations, or otherwise gain access to Catholic populations. It is difficult to

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know whether the candidate or her organization is even aware of the limitations that section 501©(3) imposes on Catholic organizations. However, Catholic organization's should inform candidates immediately of their status as section 501©(3) organizations and of the limitations imposed by the political campaign activity prohibition. Because of the inherently fact-specific nature of these situations, consultation with diocesan counsel should be sought immediately to evaluate any particular request.

USING FACILITIES FOR CIVIC OR POLITICAL EVENTS.

For many years, Catholic organizations, particularly schools, have permitted local election authorities to utilize auditorium and gymnasium facilities to serve as polling places on election day. Such activity is a manifestation of civic duty, is nonpartisan, and does not constitute a violation of the section 501©(3) political campaign activity prohibition. The limited leafleting permitted outside polling places under local election rules should not be attributed to the Catholic organization.

From time to time, however, Catholic organizations may also be asked to make their facilities available for partisan political activities, e.g., party conventions or caucuses, candidate rallies, etc. Such requests occur more frequently in areas of the country where alternative large- capacity venues are scarce. Such use of organizational facilities is not per se prohibited, but as a prudential matter should be avoided where alternative venues are available. In order to insure that any partisan activity is not attributed to the Catholic organization, appropriate policies should be developed, including the following: (1) the facility may not be provided free or at a reduced charge; (2) if the facility is made available only to related Catholic users, it should not be made available to the candidate; (3) if the facility is made available for outside users, the facility may be made available to the candidate on the same basis; (4) the facility should be equally available for all candidates, with no preferences for any particular candidate; (4) the Catholic organization should not advertise, promote, or provide other services in connection with an event taking place in its facility. Prudence dictates that if a Catholic organization has never rented its facility, its first rental should not be to a candidate, political party, or PAC.

INDIVIDUAL POLITICAL ACTION.

The political campaign activity prohibition applies to Catholic organizations, not to actions taken by their leaders or members in their individual capacities. However, care should be taken to insure that no misunderstanding arises whether individuals are acting in their organizational or individual capacities. The 1991 IRS-approved press release announcing its settlement with Jimmy Swaggart Ministries, relating to political activity during the 1986 presidential campaign, provided clarification on the issue of when the activities of religious leaders will be attributed to their organizations¹⁰. Generally, if an endorsement or statement of opposition occurs during an official organizational function or in an organization's official publication, e.g., during a worship service or in a diocesan newspaper, the endorsement will be attributed to the organization.

The political campaign activity prohibition does not prevent officials of Catholic organizations, acting in their individual capacities, from becoming involved in political activity, provided they "do not in any way utilize the organization's financial resources, facilities or personnel, and clearly and unambiguously indicate that the actions taken or statements made are those of the individuals and not of the organization." ¹¹ IRS has also indicated that an organization's officers, directors, trustees or other officials, acting in their individual capacities, may identify

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themselves as officials of the organization “so long as they make it clear that they are acting in their individual capacity, that they are not acting on behalf of the organization, and that their association with the organization is given for identification purposes only.” [1992 CPE Text, p. 435]. Otherwise, an official’s actions may be attributed to his or her organization and may constitute a violation of the political campaign activity prohibition. “Actions and communications by the officials of the organization that are of the same character and method as authorized acts and communications of the organization will be attributed to the organization.” [1992 CPE Text, p. 436]. This means that IRS will attribute to the organization political activity undertaken by representatives of Catholic organizations during worship services or other official events.

The actions of an organization’s employees (other than organizational officials) and members may also be attributed to the organization where there is real or apparent authorization of their actions by the organization. IRS has indicated that agency principles apply in evaluating authorization issues. Actions of employees within the scope of their employment generally will be treated as having been conducted with the organization’s authorization. In addition, individual actions will be attributed to an organization if the organization ratifies those actions or fails to disavow individual actions performed under the organization’s apparent authority. [See 1992 CPE Text, p. 436; G.C.M. 39414 (February 29, 1984)].

PROHIBITED ACTIVITIES

ENDORSEMENTS/STATEMENTS OF OPPOSITION.

Catholic organizations may not make statements, either oral or written, supporting or opposing any candidate for elective public office, any slate of candidates, political party or political action committee (“PAC”). This would include statements made in sermons, church bulletins, or editorials in Catholic newspapers or other periodicals, and distribution of filled-in sample ballots. In addition, Catholic organizations must avoid statements that indirectly support or oppose a particular candidate, e.g., labeling candidates as pro-life or anti-family, using plus (+), minus (-) or similar signs to indicate candidates’ agreement (or lack thereof) with a Catholic organization’s positions on particular issues.

FINANCIAL AND IN-KIND SUPPORT.

A Catholic organization may not provide financial support, including loans, to any candidate, PAC, or political party. Likewise, it may not provide or solicit in-kind support, such as free or selective use of volunteers, paid staff, facilities, equipment, office supplies, mailing lists, etc. Further, a Catholic organization may not solicit financial support for or in opposition to any candidate, PAC or political party, e.g., by taking a collection or passing the basket at an organizational activity, by using the organization’s letterhead to solicit contributions, or by any similar means.

MAILING LISTS.

Providing mailing lists to candidates, political parties, or PACs on a preferential basis or without charge, or lending such lists to candidates, political parties or PACs would violate the political campaign activity prohibition 14. However, IRS has indicated that a section 501©(3) organization “that regularly sells or rents its mailing list to other organizations will not violate

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the political campaign activity prohibition if it sells or rents the list to a candidate on the same terms that the list is sold or rented to others, provided the list is equally available to all other candidates on the same terms.” [1992 CPE Text, p. 433]. To insure that the list is equally available to all candidates, IRS advises that the organization inform candidates of the availability of the list. Prudence dictates that if a Catholic organization has never rented its mailing list, its first rental should not be to a candidate, political party or PAC. Further, the rental of mailing lists to a non-section 501©(3) organization, including a candidate, PAC, or political party, may give rise to unrelated business income tax 15.

SPONSORING PACs.

A PAC is a political action committee whose purpose is to influence the election of any individual to public office, whether as a separate organization or as a segregated fund of an organization. [See I.R.C. § 527]. 16 IRS takes the position that a section 501©(3) organization may not establish or support (financially or otherwise) a PAC [See Treas. Reg. § 1.527-6(g); 1992 CPE Text, p.437]. IRS has indicated that an exempt organization may establish a separate segregated fund to engage in limited “political” activities, such as supporting candidates for nonelective public office, e.g., Supreme Court justice or cabinet officer [G.C.M. 39694 (January 21, 1988)]. However, if the segregated fund were to engage in political campaign activities prohibited under section 501©(3), these activities would be imputed to the organization, and its exemption would be jeopardized. In addition, a section 501©(3) organization that engages in activities to influence the selection or appointment of a candidate for nonelective public office may be liable for tax under section 527.

The FEC has concluded that directors of a charitable organization, may, in their individual capacities, establish an independent PAC, unconnected with the charitable organization [FEC Advisory Opinion 1984-12 (May 31, 1984)]. Although this FEC opinion has no bearing on the exemption issues under section 501©(3), IRS has indicated that the political campaign activity prohibition applies only to exempt organizations and not individuals. Whether creation of a PAC is truly an individual action independent of the section 501©(3) organization is a question of fact. IRS has identified the following factors as suggestive that a PAC is not independent of the section 501©(3) organization: (1) similarity of name between the PAC and the section 501©(3) organization; (2) excessive overlap of directors; and (3) sharing of facilities between the section ©(3) organization and the PAC [1992 CPE Text, p. 438]. Of course, a Catholic organization may not provide financial or other support to any PAC.

Similar issues are raised when a section 501©(3) organization creates a related section 501©(4) organization that conducts political campaign activity either directly or through a PAC. The concern in these situations is whether the section 501©(3) organization is attempting to achieve indirectly what it could not do directly. All facts and circumstances must be evaluated. At a minimum, the section 501©(3) and 501©(4) organizations must maintain separate books and records, and must insure that no tax-deductible 501©(3) contributions are used to support the political activities of the section 501©(4) organization or its PAC 18. [See *Regan v. Taxation with Representation of Washington*, 461 U.S. 540 (1983)]. IRS has identified the following areas of particular concern: (1) the sharing of staff, facilities, or other expenses between the section 501©(3) and section 501©(4) organizations; (2) the conduct of joint activities requiring an allocation of income and expenses; and (3) joint fundraising utilizing the section 501©(3) organization’s name or goodwill [See 1992 CPE Text, pp. 439-40; Cerny article, pp. 5.38-5.44].

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PARTISAN CAMPAIGN MATERIALS.

A Catholic organization should not distribute or authorize distribution of campaign literature, biased voter education material, etc., through member mailings, during worship services, or by other means, whether by its own employees or representatives or by the representatives of a candidate, political party or PAC. Also prohibited is the placement of political signs or placards on the property of Catholic organizations. Since organizations lack authority to control access to public property, e.g., public streets and sidewalks, third-party distribution of partisan materials on adjacent public property should not be imputed to a Catholic organization.

Parking lots deserve special attention, since automobile windshields seem to present irresistible targets for leafleting. Although certain court opinions relating to leafleting in shopping malls and their parking lots may provide some support for a contrary position, generally the parking lots of Catholic organizations should be considered private property. They are easily distinguishable, in terms of both use and access, from community shopping centers and malls. Thus, a Catholic organization should not authorize the distribution of biased or partisan campaign materials in its parking lot.

SPECIAL ISSUES FOR CATHOLIC PRESS

Paid Political Advertising. IRS has indicated that acceptance of paid political ads in newspapers, periodicals, and other publications of Catholic organizations will not necessarily constitute a violation of the political campaign prohibition, if (1) the organization accepts ads on the same basis as other non-political advertising; (2) ads are identified as paid political advertising; (3) the organization expressly states that it does not endorse any candidate; and (4) advertising is available to all candidates on an equal basis [1992 CPE Text, p. 434]. With respect to criterion #4, IRS will pay particular attention to the manner in which the political advertising is solicited. One identified negative factor is solicitation of ads from certain candidates that support an organization's view, but mere acceptance (without solicitation) of ads from other candidates. It is important to emphasize that once a Catholic organization decides to accept a paid political ad, it cannot selectively decline to accept other ads.

Catholic organizations should develop and document their political ad policies through internal memorandum, resolution or publication. Some dioceses have adopted policies to accept political ads only from candidates or their official committees, or to limit the type of candidate information that may be included in such ads. Whatever political ad policy is adopted, it should be followed consistently. All political ads should be clearly identified as paid political ads and the sponsoring organization identified. Of course, no free or reduced rate political ads should be accepted, since this would constitute an in-kind contribution to the candidate. Fees received from political ads are, like other non-related advertising, subject to unrelated business income tax 20.

LETTERS TO THE EDITOR.

Many Catholic periodicals publish letters to the editor. IRS has offered no advice on the issue of letters relating to candidates, election campaigns, etc. By their very nature, letters to the editor do not reflect the opinion of the publishing periodical, but rather the opinions of that periodical's readers. However, since the periodical's editor does select letters for publication, this activity is

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not immune from IRS challenge. Catholic periodicals can take certain steps to lessen the likelihood that letters relating to candidates, election campaigns, and the like will be challenged as violations of the political campaign activity prohibition by: (1) selecting letters based on criteria other than whether they agree with the organization's position; (2) publishing letters reflecting opinions on both sides of an issue; (3) avoiding publication of letters from other organizations that endorse or oppose political candidates; and (4) publishing an express statement that the letters reflect the opinions of their authors and not the periodical or its sponsoring organization.

NEWS STORIES.

Catholic periodicals frequently publish news stories that involve reporting on candidate and campaign activity. This is not per se a violation of the political campaign activity prohibition. The important distinction is between news coverage and attempts to promote or oppose a candidate through editorial policy. Analysis in this area is highly fact-sensitive. However, IRS has identified the following areas of relevant inquiry: (1) how does the publication normally cover news stories; (2) does it have a policy of only covering particular candidates; (3) does it, in fact, cover only particular candidates; and (4) is coverage slanted to show certain candidates in a favorable or unfavorable light? [See 1992 CPE Text, p. 419].

OPINIONS OF COLUMNISTS.

The opinions of various columnists appearing in Catholic periodicals present an attribution issue about which IRS has offered no guidance. However, since the Catholic periodical pays for the columns it runs, either by means of salary or syndication payment, and selects columns it desires to carry, presumably on the basis of opinions expressed, IRS could attribute the political opinions in such columns to the periodical. Syndicated columns and op/ed pieces are not analogous to unsolicited letters to the editor. Accordingly, prudence dictates that Catholic periodicals reject columns endorsing or opposing candidates, whether directly or indirectly, especially where the columnist holds a position within the Church.

INTERNET ACTIVITIES

Since publication of our 1996 legal advice on political campaign activity, the Internet has emerged as an unexpectedly potent force for communication of ideas and information. Many Catholic organizations have come to rely on their web sites as a means of communicating their messages to members, parishioners, and the general public. With respect to the section 501©(3) political activity prohibition, it is important to remember that the Internal Revenue Code does apply in cyberspace. This means that the guidelines contained in this memorandum apply with equal force to a Catholic organization's web site and the content thereof. Thus, for example, the following information posted to a Catholic organization's web site would violate the political campaign activity prohibition: links to candidate, PAC or political party web sites; candidate endorsements or statements of opposition; biased voter guides or links to same; and links to other organizations that support or oppose candidates, etc.

PENALTIES FOR VIOLATING PROHIBITION

The political campaign activity prohibition of section 501©(3) has been interpreted as absolute.

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Accordingly, any violation of the restriction may result in revocation of exempt status and consequent loss of deductible contributions. IRS may also impose additional penalties, as outlined below.

Section 4955 imposes a two-tier excise tax on exempt organizations and their management for political expenditures made in contravention of section 501©(3). The exempt organization is subject to an initial 10% tax on each political expenditure [I.R.C. § 4955(a)(1)], which may be imposed in addition to revocation of exemption 21. If the expenditure is not corrected, an additional tax equal to 100% of the expenditure will be imposed on the exempt organization. [I.R.C. § 4955(b)(1)]. The initial tax may be abated if the organization establishes that the political expenditure was not willful and flagrant.

In addition, a 2½% tax will be imposed on an organization manager who knowingly agrees to a political expenditure, unless such agreement is not willful or is due to reasonable cause. [I.R.C. § 4955(a)(2)]. If the manager refuses to agree to correction, an additional 50% tax is imposed. [I.R.C. § 4955(b)(2)]. For any single political expenditure, the first-tier tax on managers may not exceed \$5,000 and the second-tier tax may not exceed \$10,000. [I.R.C. § 4955©(2)]. For these purposes, “manager” is defined as an officer, director or trustee, or another individual with comparable responsibilities, and includes an employee of the organization having authority or responsibility with respect to the political expenditure. [I.R.C. § 4955(f)(2)].

Further, IRS may seek immediate determination and assessment of income and excise taxes due on account of flagrant political expenditures. [I.R.C. § 6852]. IRS also may bring action in United States District Court seeking an injunction barring further political expenditures. [I.R.C. § 7409(a)(1)]. IRS first must notify the organization of its intention to seek an injunction unless the organization immediately ceases making political expenditures, and must also conclude there has been a flagrant violation of the political activity prohibition and that injunctive relief would be appropriate to prevent further political expenditures. [I.R.C. § 7409(a)(2)].

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The USCC Office of General Counsel is prepared to assist dioceses and their legal counsel in interpreting the political campaign activity prohibition and applying it in particular fact situations. If you have any questions, please contact Deirdre Dessingue, Associate General Counsel by phone at (202) 541-3300, by fax at (202) 541-3337, or by e-mail at ddessingue@nccbuscc.org.

ENDNOTES

As used herein, the term “Catholic organizations” refers to churches and other Catholic-affiliated organizations that are exempt from federal income tax under section 501©(3) of the Internal Revenue Code. This document focuses primarily on the impact of the political campaign activity prohibition of section 501©(3) on the activities of Catholic organizations. Catholic organizations may also be subject to the Federal Election Campaign Act, as well as relevant state and local laws and regulations governing political activity.

The language was introduced by then Senator Lyndon B. Johnson during Senate Floor debate on the 1954 Internal Revenue Code, apparently in response to actions by certain tax-exempt organizations supporting Dudley Dougherty, LBJ’s challenger in the primary election.

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Generally, FECA regulation is triggered by express advocacy of the election or defeat of a clearly identified candidate. On the other hand, section 501©(3) operates on a different and more general standard: intervention or participation in a political campaign on behalf of or in opposition to any candidate, which has been interpreted by IRS to include biased voter guides. See, e.g., *FEC v. Christian Coalition*, 52 F. Supp. 2d 45 (D.D.C. 1999), in which the court concluded that Christian Coalition (a non-501©(3) organization) voter guides did not constitute coordinated expenditures prohibited under the FECA, despite the fact that the voter guides clearly indicated which candidates were preferred by the Christian Coalition. Their FECA acceptability notwithstanding, voter guides evidencing such bias would violate section 501©(3), and would be barred from Catholic dioceses and parishes.

A few cases suggest that the line between what is substantial and what is insubstantial lies somewhere between 5% and 15% of an organization's total activities, as measured by time, effort, expenditure and other relevant factors. See *Murray Seasongood v. Commissioner*, 227 F.2d 907 (6th Cir. 1955) [less than 5% time and effort was NOT substantial]; *Haswell v. U.S.*, 500 F.2d 1133 (Ct.Cl. 1974), cert. denied, 419 U.S. 1107 (1975) [16-20% of budget WAS substantial]. IRS does not endorse any particular percentage safe harbor, but would clearly be more comfortable at the lower end of the spectrum.

See also 11 C.F.R. § 114.4©(5)(i) and (ii) for the FEC rules on candidate coordination. The FEC rules on voter guides prepared by section 501©(3) or ©(4) organizations require the participation of at least two candidates. 11 C.F.R. § 114.4©(5).

See Cerny, M., *Campaigns, Candidates and Charities: Guideposts for All Charitable Institutions*, 19 N.Y.U. Conference on Tax Planning for 501©(3) Organizations (1991), pp. 5.13 - 5.17 (hereinafter "Cerny article"); PLR 9223050 (March 10, 1992) (grants for registering homeless people to vote did not constitute political activity for private foundation). See *Fulani v. Brady*, 809 F.Supp. 1112 (1993), aff'd, *Fulani v. Bentsen*, 35 F.3d 49 (1994); *Fulani v. League of Women Voters Education Fund*, 882 F.2d 621 (2d Cir. 1989).

Public Statement of Jimmy Swaggart, President, Jimmy Swaggart Ministries (December 7, 1991). Id. [emphasis added].

IRS has taken the position, which has been upheld by the courts, that even nonpartisan rating of (elective) judicial candidates as "approved", "not approved", or "approved as highly qualified", on the basis of experience, professional ability, and character, constituted prohibited political campaign activity, even though in certain cases all candidates were "endorsed" as qualified. See G.C.M. 39441 (September 28, 1985); *Association of the Bar of the City of New York v. Commissioner*, 858 F.2d 876 (2d Cir. 1988), cert. denied, 109 S.Ct. 1768 (1989). See TAM 9812001 (August 21, 1996 - Issued March 20, 1998), in which IRS concluded that a loan can be considered a contribution jeopardizing section 501©(3) exempt status, even when market rate interest is charged and the loan is repaid.

During 1999, fifty three public radio stations were criticized for swapping donor lists with the Democratic National Committee and other political organizations. The Minnesota attorney general is seeking civil penalties against Minnesota Public Radio for state law violations resulting from improper use of donor information. It is not known whether IRS has begun examinations relating to violations of the political campaign activity prohibition. See Vol. 27,

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See I.R.C. § 513(h)(1)(B). However, in *Sierra Club v. Commissioner*, 86 F.3d 1526 (9th Cir. 1996), the Court of Appeals for the Ninth Circuit concluded that income from one-time rentals of mailing lists is non-taxable royalty income. IRS is currently reconsidering its position on royalties. A section 501(c)(4) organization, which may engage in political campaign activity provided it is not its primary activity, is not the same as a PAC. See Rev. Rul. 81-95, 1981-1 C.B. 332.

Section 527 of the Code imposes a tax at the highest corporate rate on the political activities of section 501(c) organizations. I.R.C. § 527(b). To avoid imposition of section 527 tax, an organization must form a separate segregated fund to make expenditures for political activities. It may not use its own corporate funds to do so. Based on its legislative history, section 527 has been interpreted as not applicable to section 501(c)(3) organizations. S.Rep. No. 93-1357, 1975-1 C.B. 517, 534. IRS, however, has indicated that the section 527 can apply to section 501(c)(3) organizations. The definition of political activities in section 527 is broader than in section 501(c)(3), since it extends to non-elective public office, which is not restricted by section 501(c)(3). Specifically, section 527 political activities are defined as “the function of influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any federal, state or local public office or office in a political organization.” I.R.C. § 527(e)(2). Accordingly, a section 501(c)(3) organization may establish a separate segregated fund for the limited purpose of conducting political activities within the meaning of section 527 provided these activities are not political campaign activities within the meaning of section 501(c)(3). If the fund meets the requirements of section 1.527-2(b), it will be treated as a political organization subject to the provisions of section 527.

See PLR 9850025 (Issued June 10, 1998 - Released December 11, 1998), in which IRS approved the creation of a subsidiary section 501(c)(4) organization by a Catholic hospital system. The section 501(c)(4) organization was authorized to establish a PAC. However, no section 501(c)(3) hospital system funds were permitted to flow, directly or indirectly, to the PAC.

See, e.g., *Robins v. Pruneyard Shopping Center*, 23 Cal. 3d 899, 592 P.2d 341(1979), *aff'd*, 100 S.Ct. 2035 (1980); *New Jersey Coalition Against War in Middle East v. J.M.B. Realty*, 650 A.2d 757 (1994), *cert. denied*, *Short Hills Associates v. New Jersey Coalition Against War in Middle East*, 516 U.S. 812 (1995).

FECA also requires that the amount charged for political advertising may not exceed the amount charged for use of such space for other purposes. 2 U.S.C.A. § 441d(b).

There are circumstances in which IRS may decide to impose the excise tax penalty in lieu of revocation, based on all the facts and circumstances, including the nature of the political intervention and steps that have been taken to prevent a recurrence. See Final Regulations on Political Expenditures by Section 501(c)(3) Organizations, 60 Fed. Reg. 62209 (December 5, 1995).

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