



**Policy of the
Diocese of Charlotte
Concerning Ministry-Related
Sexual Misconduct by
Church Personnel**

Revised July 1, 2003

The Diocese of Charlotte
1123 South Church Street
Charlotte, NC 28203
(704) 370-6299

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To All Diocesan Personnel:

I am pleased to forward to you a revised “Policy of the Diocese of Charlotte Concerning Ministry Related Sexual Misconduct by Church Personnel.” This policy is an updated version of the June 1, 1999 revision and includes mandates contained in the “Charter for the Protection of Children and Young People” adopted June 14, 2002 by the U.S. Bishops during their national meeting in Dallas, Texas and their subsequent November 13, 2002 meeting in Washington, D.C. With the issuance of this revision, the June 1, 1999 revised policy is no longer in effect.

This policy applies to priests, deacons, religious, seminarians, lay employees and volunteers, and covers not only the sexual abuse of minors, but also other forms of sexual misconduct. It is required that pastors and school, agency or departmental managers ensure that all of their associates, employees and volunteers receive a copy of this policy, and that all to whom it is given read and become acquainted with it.

Sincerely,

*Reverend Monsignor Mauricio W. West
Diocesan Administrator*

TABLE OF CONTENTS

Purpose of the Policy	.....	3
Introduction	.....	4
Commentary	.....	5
I. Definitions	.....	6
II. General Provisions	.....	7
III. Reporting Requirements	.....	9
IV. Applications – Lay Personnel	.....	10
V. Applications – Clergy, Seminarians And Religious	.....	10
VI. Procedures When Allegations Are Made Against A Lay Employee Or Volunteer	.....	11
VII. Procedures When Allegations Are Made Against Clergy, Religious Or Seminarians In Service To The Diocese	.....	12
VIII. Education	.....	14
IX. Media And Communications	.....	14
X. Sanctions	.....	15
Acknowledgement of Receipt	.....	16

PURPOSE OF THE POLICY

The purpose of this policy is to provide the Diocese of Charlotte with an official procedure for dealing with an allegation of sexual misconduct by church personnel.

Nothing in this policy is intended to prevent or relieve any person or group of persons, whether they be clergy, religious, seminarian, employee or volunteer, from reporting any allegation of the sexual abuse of a minor to the proper civil authorities as mandated by law, unless to do so would violate the priest/penitent relationship.

The Diocese of Charlotte will cooperate fully with any investigation by civil authorities and will also thoroughly investigate all allegations to ascertain the truth.

INTRODUCTION

A common mission of all of us is to be holy. A holy people will not allow one of its members to be a victim of ministry related sexual misconduct. It is with this in mind that the Diocese of Charlotte issues this policy, which affirms that, all human suffering as well as the weaknesses and imperfections of human beings deserve a response that is rooted in love, concern and compassion.

The term ministry related sexual misconduct as used throughout this policy refers to three related forms of misconduct. The first, which is sexual contact between church personnel and a child, is more commonly called sexual abuse. The second, which is sexual contact between church personnel and another adult, is more commonly called sexual misconduct. The third, which is unwanted sexual conduct or language, is more commonly called sexual harassment. All three of these are addressed herein together as ministry related sexual misconduct because they each involve an abuse of power or authority by those in ministry/service to the diocese. It is understood that any action of a sexual nature that is directed toward a child will be considered sexual abuse.

The Diocese of Charlotte is committed to dealing expeditiously, openly, fairly and compassionately with allegations of ministry related sexual misconduct by church personnel. In order to achieve this commitment, the following policy and procedures have been adopted and are to be implemented with dispatch, justice and equity. The Diocese of Charlotte will willingly cooperate with civil authorities as to the extent possible in all circumstances. In addition, there may be cases where the tenets of the Catholic religion, the prescriptions of Canon Law, or the greater good of all concerned require that action at variance with the provisions of this policy be taken; therefore, the Chancery reserves the right to interpret, revise or replace this policy as it deems necessary. The necessary observance of the canonical norms internal to the Church is not intended in any way to hinder the course of any civil action that may be operative. At the same time, the Church reaffirms her right to enact legislation that is binding on all her members concerning the ecclesiastical dimensions of the delict of sexual abuse of minors.

The Diocese of Charlotte presents these guidelines not because of past failures, not to cause alarm or fear, but rather to set forth a clear policy for the protection of our priests, deacons, seminarians, religious, laity and victims. The policies and procedures that the diocese has adopted reflect our experience and the studies of many others and must always be construed in the light of the gospel and the principle, salus animarum suprema lex, that is, the well being of the people is our primary obligation.

COMMENTARY

In June 2002, the American bishops approved the first draft of the *Essential Norms for Diocesan/Eparchial Policies Dealing with Allegations of Sexual Abuse of Minors by Priests or Deacons (Essential Norms)*, and a *Charter for the Protection of Children and Young People. (Charter)*. The *Charter* addressed the Church's commitment to respond effectively, appropriately and compassionately to cases of the sexual abuse of minors by priests, deacons or other Church personnel. The bishops promised to reach out to the victims of sexual abuse of minors by anyone serving the Church in ministry, employment or as a volunteer. The *Essential Norms* and the *Charter* served as the basis for this revision of the sexual misconduct policy of the Diocese of Charlotte.

In order to be considered law binding on all bishops in the United States, the draft *Essential Norms* was forwarded to the Vatican for approval (*recognition*). The Vatican acknowledged the grave dimensions of the crisis in the Church in the United States, but was concerned that the *Essential Norms* as submitted in June lacked a balance between the rights of the alleged victims and the accused, and denied the accused the right to due process. To some degree, the proposed *Essential Norms* contradicted established church law. A joint commission comprised of four representatives from the Vatican and four American bishops was appointed to revise the *Essential Norms* to "give effective protection to minors and establish a rigorous and precise procedure to punish, in a just way, those who are guilty of such abominable offenses."

On November 13, 2002, the United States bishops meeting in Washington approved the revised *Essential Norms* as submitted by the joint commission, with some minor changes. In addition, the bishops approved the *Charter*, revising it to bring it into conformity with the *Essential Norms*. Respecting always the reputation and privacy of the individuals involved, the bishops said that they would act as openly with the public as possible. They are committed to respond to the pastoral, spiritual and emotional well-being of victims and their families and to work with priests, civil authorities, educators, churches, and community organizations to provide safe environments for children and youth.

As a result of the bishop's actions, the *Policy of the Diocese of Charlotte Concerning Ministry-Related Sexual Misconduct by Church Personnel* has been revised. This policy is believed to be in full compliance with the *Essential Norms* as approved by the Vatican on December 8, 2002, the revised *Charter*, and canon and civil law.

I. DEFINITIONS

1. **Sexual Abuse:** The exploitation of a child for the sexual gratification of an adult. Sexual abuse includes acts of incest, rape or sexual offenses in any degree, sodomy and unnatural or perverted sexual practices, lewd or indecent acts or proposals, including exhibitionism, touching or fondling, permitting or encouraging a child to participate in acts of pornography or prostitution.
2. **Child:** Any person under the age of eighteen (18).
3. **Sexual Misconduct:** (a) The touching of a private part of another person. Private parts can include the genital or anal areas, the groin, the inner thigh, the buttocks, or the bosom of a female. Touching means either a single incident in which church personnel intentionally brings a part of his/her body or another object into physical contact with a private part of another person, or repeated incidents of the same type, whether intentional or unintentional; (b) Any conduct and/or relationship of a sexual nature that can bring scandal.
4. **Sexual Harassment:** Unwanted attention, ogling, words, pictures, jokes or comments of a sexual nature that are directed towards an individual or in the general environment.
5. **Church Personnel:** Includes bishops, priests, deacons, religious, lay employees and lay volunteers involved in ministry or work for the Diocese of Charlotte.
6. **Bishop:** The canonically appointed Bishop of Charlotte, or, in the case of a vacancy, the Diocesan Administrator. For purposes of this policy, the Bishop or Diocesan Administrator may act personally or through a designated representative.
7. **Administrative Leave:** For purposes of this policy, is defined as the temporary relieving the accused of assigned duties. The application varies depending on the employment, volunteer, or canonical status of the accused. Administrative leave does not infer guilt or innocence.
8. **Chancery:** The administrative branch of the Diocese of Charlotte under the authority of the Bishop or Diocesan Administrator.

II. GENERAL PROVISIONS

1. Compassion requires that primary attention be given to the alleged victim of ministry related sexual misconduct. In that regard, the Diocese of Charlotte will appoint an Assistance Coordinator who will, on notification of an allegation, contact the alleged victim of ministry related sexual abuse of minors for the purpose of offering immediate pastoral care. In addition, the Assistance Coordinator will contact the alleged victim's family with an offer of spiritual help and pastoral counseling. If the need for counseling or medical help for the alleged victim or his/her family is indicated, this too shall be offered, but without admission of guilt or of any liability on the part of the Diocese of Charlotte. The Assistance Coordinator will also ensure that proper assistance and support is offered to faith communities directly affected by ministry related sexual misconduct. When an intervention causes the removal of a priest, deacon, seminarian, religious, employee or volunteer from a parish, mission, agency, school, institution or organization of the Diocese of Charlotte, the Assistance Coordinator will provide necessary concern and direction to the parishioners and/or remaining staff.
2. The Canonically appointed Bishop of Charlotte, or, in the case of a vacancy, the Diocesan Administrator, will appoint a Promoter of Justice. This must be a person of undamaged reputation. He/She will intervene in contentious cases to seek justice and vindicate the public good in penal cases. Functioning as the prosecutor, the Promoter of Justice brings the action, brings forth the evidence, argues the case, and appeals, if necessary.
3. The Canonically appointed Bishop of Charlotte, or, in the case of a vacancy, the Diocesan Administrator, will appoint or retain an investigator who is competent in sexual misconduct investigative procedures and techniques. More than one investigator may be appointed or retained. An investigative file will be established by the investigator for each reported allegation of sexual misconduct referred to him/her and shall contain all material gathered during the investigation. When the investigation has been completed, the investigator will prepare a complete written account of the allegations and findings and give it to the Chancery where it will be filed in a secure and confidential manner.
4. Any accused person who admits to, or on whom an appropriate investigation substantiates an allegation of sexual abuse of a minor will be permanently removed from ministry, employment and/or volunteer status. If the accused is a priest or a deacon, this may include the loss of the clerical state.
5. In instances where the accused is not convicted, not found liable by a court of competent jurisdiction, not found guilty by a civil or diocesan investigation, or does not admit to sexual abuse or misconduct, the Chancery will make a determination as to whether or not the accused will be returned to ministry, employment or volunteer status.

6. The Diocese of Charlotte will not require an attempt at reconciliation between an alleged abuser and victim. The involvement of any diocesan personnel in non-authorized reconciliation efforts will be treated as a violation of this policy.
7. The Diocese of Charlotte will not enter into any confidentiality agreement with any sexual abuse victim/survivor except for grave and substantial reasons brought forward by the victim/survivor. If done, these reasons will be noted in the text of the agreement.
8. No pastor, associate pastor or director of any diocesan rectory, institution or facility is permitted to grant full or part-time residence, or regular weekend ministry to an extern priest, a transitional or permanent deacon, or a religious without prior approval from the Chancery. Short-term hospitality in conformity with these norms is at the discretion of the pastor or director. For other individuals, no one may be extended hospitality as a resident, full or part-time, without approval from the Chancery.
9. An individual Review Board composed of at least five (5) persons of outstanding integrity and good judgment will be appointed by the Chancery. The majority of the review board members will be laypersons who are not employees of the Diocese of Charlotte. Membership will include at least one priest, one civil lawyer (not the diocesan attorney), and an individual having particular expertise in the detection and treatment of the sexual abuse of minors. The Assistance Coordinator and the Promoter of Justice will attend and participate in discussions in board meetings, but without vote. The members will be appointed for a term of five years, which can be renewed. Terms will be staggered. The functions performed by the Review Board are to be confidential, consultative and advisory, not adversarial and adjudicative, and are to be directed toward the protection of minor children, and the integrity of the priesthood and the Church. The responsibilities of the board will include the review of allegations of ministry related sexual abuse of minors, all actions taken in response to those allegations, ensurance of the integrity of the process, advice as to the need for pastoral care for affected individuals, and advice and recommendations to the bishop regarding the implementation of any aspect of this policy. Other cases of ministry related sexual misconduct may be referred to the Board for review and counsel. The board may advise the bishop in his determination of the suitability of an individual for ministry; however, the bishop's ultimate authority to determine an individual's fitness for ministry, or to remove an unfit person from assignment, temporarily or permanently, is not circumscribed by the advice of the Review Board, the findings of the investigation, inquiries or consultations with experts, or the procedures and definitions contained in this policy. The board will also periodically evaluate the effectiveness of this policy and propose revisions, if a need is indicated.
10. After having an outside agency conduct a background investigation, the Diocese of Charlotte will evaluate the background check report received on all church

personnel who have regular contact with children. Additionally, the diocese will have investigated, screen and evaluate the background of candidates for ordination in deciding their fitness for ordination.

11. Allegations against the Bishop are beyond the scope of this policy. Any such allegation shall be directed to the Vicar General who will contact the Papal Nuncio and the appropriate civil authority.
12. Pastors and agency or department heads are responsible for ensuring that all clergy, seminarians, religious, employees and volunteers under their authority are given a copy of this policy. The original of the signed and dated *Acknowledgement of Receipt of Sexual Misconduct Policy* must be sent to the diocesan Human Relations Department within fourteen (14) calendar days of the date of assignment, hire, or beginning volunteer service. Copies should be kept by the parish, mission, school, agency, department or institution.

III. REPORTING REQUIREMENTS

1. All cases of alleged, known or suspected ministry related sexual abuse of a minor must be reported to the proper civil authority. Any person having actual knowledge of, or reasonable cause to suspect an incident of ministry related sexual abuse by any church personnel of the Diocese of Charlotte is to immediately report the incident to the Chancery, unless to do so would violate the Sacrament of Penance. The Chancery will then report the incident to the proper civil authority. After notifying the proper civil authority, the Chancery will immediately notify the Assistance Coordinator, the Promoter of Justice, and the Review Board. Following this, the individual reporting the incident to the Chancery will be notified of the particulars regarding the filing of the incident with civil authority. This reporting requirement is not intended to supersede the right of a victim or witness to individually make a report to public authorities, but is to ensure proper, complete and timely reporting to the proper civil authority. At the time of reporting, the diocese will request to be kept informed as to the progress of that authority's investigation. Should an individual choose to make a report to civil authorities, the requirement to make a report to the Chancery is not removed.
2. A lack of information, or the lack of consent of the alleged victim, the victim's parent(s) or legal guardian, or the person(s) providing the information is not to prevent the immediate reporting of the allegation of abuse to civil authorities.
3. At the time of reporting an incident of alleged sexual misconduct to the Chancery, the person making the report will be asked to complete the diocesan form, *Report of Suspected Ministry Related Sexual Misconduct by Church Personnel*.

4. Any act of retaliation or discrimination against an individual who reports or complains of ministry related sexual misconduct is strictly prohibited and will not be tolerated by the Diocese of Charlotte.

IV. APPLICATIONS – LAY PERSONNEL

1. During the application process, the diocesan form, *Application for Lay Employment*, must be completed and submitted by all lay applicants for any paid position in the Diocese of Charlotte. If the applicant is hired, the application is to be kept in the individual's Official Personnel File.
2. During the application process, the diocesan forms, *Application for Lay Employment* and *Volunteer Profile*, must be completed and submitted by all persons volunteering for positions that involve supervised or unsupervised ministry or work with children. If the volunteer is assigned to a position, the forms are to be kept in the individual's personnel folder.
3. During the application process, the diocesan form, *Notification And Release*, must be completed and submitted by all lay applicants for any paid or volunteer position giving authorization to the Diocese of Charlotte to request investigative background inquiries that give information as to the applicant's character, work habits, performance and experience. The original background check release form must be forwarded to the diocesan Human Relations Department immediately upon receipt. The Human Relations Department will conduct the background check and will notify the requesting parish, mission, school, department, agency or institution of the results within five (5) business days of receipt of the report. All original background check information will be kept by the Human Relations Department.

V. APPLICATIONS – CLERGY, SEMINARIANS AND RELIGIOUS

1. Before beginning any duty, all clergy seeking assignment to perform ministry in a stable, official capacity in the Diocese of Charlotte for more than thirty (30) days, must complete and submit the diocesan form, *Application by A Priest/Deacon Seeking Assignment to the Diocese of Charlotte*, which includes a signed certification and unqualified recommendation by the individual's current Bishop or Provincial as to his performance and character. The Chancery will conduct the background check. All forms and background information will be kept in files maintained by the Chancery.

2. All individuals seeking acceptance as a seminarian in the Diocese of Charlotte must complete and submit the diocesan form, *Personal Questionnaire for Applicants for the Seminary*, which will include authorization for the Office of Vocations to request investigative background as to the individual's fitness for ordination. The diocesan Office of Vocations will conduct the background check. All forms and background information will be kept in files maintained by the Chancery.
3. All religious seeking assignment to perform ministry in a stable, official capacity in the Diocese of Charlotte for more than thirty (30) days, must complete and submit the diocesan form, *Application by Members of Religious Institutes Seeking Assignment to the Diocese of Charlotte*, which includes a signed certification and unqualified recommendation by the individual's current Bishop or Provincial as to his/her performance and character. The Chancery will conduct the background check. All forms and background information will be kept in files maintained by the Chancery.
4. Secular clergy seeking an official assignment, and religious clergy who are not being postulated for assignment by a religious superior, may be required to undertake a psychological examination.
5. Any clergy, religious or seminarian seeking assignment, transfer or residence from the Diocese of Charlotte to another diocese or to a religious community will have an accurate and complete description of his/her record forwarded by the Diocese of Charlotte to the local ordinary or superior of his/her new residence, including anything in his/her background indicating that he/she would be a danger to children or young people or likely to engage in sexual harassment or misconduct.

VI. PROCEDURES WHEN ALLEGATIONS ARE MADE AGAINST A LAY EMPLOYEE OR VOLUNTEER

1. On receiving an allegation of ministry related sexual misconduct, if the allegation is sexual abuse of a minor, the Chancery will immediately report the allegation to the proper civil authority, request to be kept informed of their investigation, notify the accused of the nature of the allegation, and assign an investigator who will conduct an immediate investigation into the matter. Unless required by law, allegations of sexual misconduct and/or sexual harassment will not be reported to civil authority, but all other requirements and procedures in this policy will be followed. The involvement of the Assistance Coordinator, the Promoter of Justice, and the Review Board will be included where and when necessary but in all cases of sexual abuse. In cases of sexual abuse, the accused will be placed on administrative leave (with pay for paid employees) pending the outcome of the investigation.

2. The accused will be advised of the investigative process, of their right to civil and canonical counsel, and their right to appear before the Review Board with counsel and/or other advocate.
3. No diocesan investigation will interfere with any civil investigation, and will be conducted with a high level of Christian pastoral care for the alleged victim, his/her family, the person reporting the incident, the accused, and all other persons whose lives are touched by this incident.
4. If required, the Review Board will meet as soon as practical once the investigation has been completed and will carefully examine all information gathered during the investigation. After due deliberation, the board will either request additional information/interviews or advise the bishop of their recommendation(s).
5. If the investigation finds that there is no reasonable cause to believe that the allegation is true, the accused and the person making the allegation will be notified and the matter will be closed. The Chancery will make a determination as to whether or not the accused will be restored to duty at his/her original position, to another position, to the same location or to another location. The Diocese of Charlotte will do all that is possible to restore the good name of the accused.
6. If the investigation finds that there is reasonable cause to believe that the allegation is true, the accused and the person making the allegation will be notified of that finding and the accused's employment or volunteer relationship with the Diocese of Charlotte will be terminated immediately. The diocese will encourage the individual to seek an appropriate treatment program.
7. It is the responsibility of the accused to obtain and finance his/her own private counsel.

VII. PROCEDURES WHEN ALLEGATIONS ARE MADE AGAINST CLERGY, RELIGIOUS OR SEMINARIANS IN SERVICE TO THE DIOCESE

1. On receiving an allegation of ministry related sexual misconduct, if the allegation is sexual abuse of a minor, the Chancery will immediately report the allegation to the proper civil authority, notify the accused of the nature of the allegation, place the accused on administrative leave thereby relieving him/her of any ecclesiastical ministry or function, and conduct an immediate investigation into the matter. Unless required by law, allegations of sexual misconduct and/or sexual harassment will not be reported to civil authority, but all other requirements and procedures in this policy will be followed. The involvement of the Assistance Coordinator, the Promoter of Justice, and the Review Board will be included

- where and when necessary. Any administrative leave will be planned and circumstances determined in a way specific to each situation and to each individual in accord with canon 1722. In general, an administrative leave will be time limited, will allow for re-determination at the end of such time limit, will specify living arrangement, location, financial support, and will address treatment, conduct and aftercare.
2. The accused will be asked to undergo appropriate medical and/or psychological evaluation and intervention, unless to do so would interfere with an investigation by civil authorities. Participation of an accused cleric in appropriate professional treatment/counseling is required as a matter of clerical obedience (c.273). Treatment/Counseling referral is for treatment, not punishment. Any future ministry in the Diocese of Charlotte will require in part a full sharing with the Chancery of all information developed in the course of the treatment. Authorization from the accused is required in all cases to allow the treatment providers to communicate openly and freely with the Chancery.
 3. Following evaluation and treatment, if aftercare is prescribed, the accused will be assigned to a priest-monitor who will be a friend in very difficult circumstances and who will ensure that the aftercare program is carried out.
 4. If the diocesan investigation finds that there is no reasonable cause to believe that the allegation is true, the accused and the person making the allegation will be notified and the matter will be closed. The Chancery will make a determination as to whether or not the accused will be restored to duty at his/her original position, to another position, to the same location or to another location. The Diocese of Charlotte will do all that is possible to restore the good name of the accused.
 5. If the accused admits that the allegation is true, if the diocesan investigation finds that there is reasonable cause to believe that the allegation is true, or if a civil investigation finds that the allegation is true, the accused will be permanently removed from ministry. Clergy may request dispensation from the obligations of Holy Orders. If this is not voluntarily requested the Bishop of the Diocese of Charlotte or, in the case of a vacancy, the Diocesan Administrator, may request dismissal of the accused from the clerical state without the consent of the accused. If removal from the clerical state is not applied, i.e. for reasons of advanced age or infirmity, the accused will not be allowed to celebrate Mass publicly, wear clerical garb, or present himself publicly as a priest.
 6. The accused will be encouraged to retain the assistance of civil and canonical counsel. When necessary, the Diocese of Charlotte will supply canonical counsel to the accused. It is the responsibility of the accused to obtain his/her own private counsel.

7. The Diocese of Charlotte is responsible for the diocesan salary of a priest, seminarian or permanent deacon undergoing treatment who has been relieved of his duties and responsibilities in accordance with this policy.
8. In the case of a priest, seminarian, permanent deacon, or religious from another diocese, on receiving an allegation of ministry related sexual misconduct, the Chancery will immediately notify the appropriate bishop or superior of the allegation and of the actions that have been/will be taken by the Diocese of Charlotte.
9. In cases where the accusation is found to be true, the accused will be the primary person responsible for payment of the victim's therapy and attendant expenses, and will be required to reimburse the Diocese of Charlotte for all expenses that are incurred in connection with the matter.

VIII. EDUCATION

1. The Diocese of Charlotte will periodically conduct continuing education sessions for clergy, religious, employees and volunteers that will update them from viewpoints such as new scientific knowledge, church policy, canon law, civil law, moral theology, professional ethics, the pastoral care of victims, recognizing the signs of abuse, and coping with the disclosure of misconduct by a colleague.
2. The Diocese of Charlotte will establish safe environment programs for its parishes, missions, schools, institutions and agencies. Through this program, the diocese will cooperate with parents, civil authorities, educators, and community organizations to provide education and training for clergy, religious, employees, volunteers, children, youth, parents, ministers, educators, and others about ways to make and maintain a safe environment for children, including standards of ministerial behavior and appropriate boundaries.

IX. MEDIA AND COMMUNICATIONS

1. The Diocese of Charlotte is committed to a policy of openness relating to allegations of sexual misconduct by its church personnel. Within the confines of respect for the privacy and the reputation of the individuals involved, the diocese will be as open as possible with members of the media and the community.
2. The Diocese of Charlotte will also cooperate with other churches and ecclesial communities, other religious bodies, institutions of higher learning, social service agencies, support groups for victims/survivors, and other interested organizations in conducting research in the area of sexual misconduct.

3. The Chancery shall be responsible for all media contacts and will appoint a primary spokesperson to handle all media inquiries, all release of information, and all news conference arrangements.

X. SANCTIONS

1. Any church personnel who fails to comply with any of the provisions of this policy will be subject to such action(s) by the Diocese of Charlotte as it deems necessary, up to and including removal or termination from any position with any parish, mission, school, department, agency, institution, or organization which is subject under canon or civil law to the administration, authority or governance of the Diocese of Charlotte.
2. Applicants or volunteers for assignment or positions with any parish, mission, school, department, agency, institution or organization in the Diocese of Charlotte who fail to comply with the provisions of this policy may be denied or removed from any position that is subject under canon or civil law to the administration, authority or governance of the diocese.