

# ARCHDIOCESE OF SAINT PAUL AND MINNEAPOLIS

## CLERGY BULLETIN

March 15, 2007

VOLUME XXXII, Number 3

### **JUSTICE IN EMPLOYMENT** **(Second Revision)**

#### **PREAMBLE**

Reverend and dear Fathers and Deacons, and our dedicated employees,

The Archdiocese of Saint Paul and Minneapolis seeks to create an environment of openness, mutuality and respect among and between all those who come to work for this local Church

This effort is well reflected in the following words: "Work is more than a way to make a living. It is an expression of our dignity and a form of ongoing participation in God's creation. It is a means by which people contribute to the common good. Because work is so important, people have the right to decent and productive work and to fair wages. Workers have a proportionate responsibility to work conscientiously and justly for the compensation and benefits they receive. They have the right to economic initiative and to basic freedoms within the marketplace. As a general principle of economic justice, Catholic teaching asserts that the economy exists to serve people, not the other way around." (Reviving the Common Good, A Pastoral Letter on Social Justice -- Archbishop John R. Roach, January, 1991).

These policies are a response not only to the need for good management and employment practices, but are also a response to God's call through scripture, tradition, doctrine and experience to employ justly.

These policies are also based on the following four key principles established in the teaching of the Church on labor enunciated in papal encyclicals:

1. **The Value and Dignity of the Human Person.** Pope John Paul II stated "work is a good thing, because through work people not only transform nature, adapting it to their needs, but they also achieve fulfillment as human beings and indeed, in a sense, become more fully human." (*Laborem Exercens*).

2. **The Common Good.** The common good embraces the sum total of those conditions of social living whereby people are enabled more fully and readily to achieve their own fulfillment (*Mater et Magistra*).

3. **Justice.** Anyone who ventures to speak to people about justice, must first be just in their eyes. This in the work place occurs when workers contribute competently and conscientiously to the mission and when employers establish policies and systems to provide wages and benefits sufficient to support a family in dignity (*Economic Justice For All*).

4. **Participation.** Participation in a system in which one has membership is a legitimate expectation of individuals which has been demonstrated to lead to greater efficiency and better service to members. Participation of everyone in the running of the enterprise should be promoted (*Gaudium et Spes*).

These policies call for establishing clear expectations throughout the entire period of employment; and further, they acknowledge respectfully the rights and responsibilities of all concerned when and if separation becomes necessary.

## INTRODUCTION

The original *Justice in Employment* policy became effective on January 1, 1999. The experience of the intervening eight years has strongly reinforced our conviction that the above principles are the appropriate framework for accomplishing our goal of openness, mutuality and respect among and between all those who work for this local Church. At the same time, the experience gained during those eight years has prompted us to make certain adjustments, to clarify language, and to sharpen the focus of some provisions. In the hope that they will continue to strengthen the development of working relationships based on trust and mutual respect within the Church, we hereby adopt these revised policies and procedures, which shall become effective July 1, 2007.

These policies apply to all employees of the Archdiocesan Corporation, parishes within this archdiocese, and their related schools, as well as those institutions specifically designated by me. Those who make up the staff of the Archdiocesan Corporation and parishes and schools consist of lay people, as well as priests and religious women and men. This mixture adds a richness to the quality of ministry in the Church. It also creates complex relationships where application of personnel policies is concerned.

Although all Archdiocesan employees, as well as parish and school staffs, are called to minister to the People of God, there are some distinct differences that must be recognized in terms of the more legally oriented employment relationships. The Code of Canon Law establishes superseding or sometimes overriding relationships between a bishop and priests and also regulates the relationships of religious to the Church. It is in the context of these relationships that the "employment" status of priests and religious is qualified from a legal point of view. Because the Archdiocese values consistency and fairness in administration, all staff members are asked to observe these policies except when and if the Code of Canon Law sets forth different regulations or policies.

The policies contained in this document issued under my authority as the Archbishop, as well as other policies issued by a pastor or supervisor, as long as they are consistent with the basic intent of this document, form the basis of the employment relationship. These policies supersede and cancel any policies, procedures or other employment contracts when inconsistent with this document. These policies are considered the basic terms and conditions of employment. Each individual's application file should include the employer's offer of employment, a position description, a completed employment application and a signed and dated receipt of these policies.

I mandate these policies as the spiritual and religious leader of all Catholics in this diocese. This mandate shall not change or amend the status of employees as employees of the civil corporation by whom they are employed. In short, employees of our parishes, related schools and other institutions designated by me to whom these policies apply shall not be considered employees of the Archdiocese.

The policies do not cover two groups, who typically would not be deemed employees. They are individuals hired for specific projects, such as a study of the particular department or operation, which would have a specific termination date; and individuals hired for a specific task on a part-time basis, such as athletic coaches, tutors, and the like. To make their status clear, an employer has the right to exempt those persons falling in the above two categories from the application of this *Justice in Employment* policy. If appropriate, such individuals may be offered term contracts for the duration of the project for which they are retained. This term contract will be governed solely by its provisions, including provisions relating to termination. In the absence of a written contract, whatever oral agreement is reached with such an employee, will similarly control the terms of the engagement, including termination.

By accepting a position or continuing in a position on or after the effective date of these policies, an employee shall be deemed to have accepted these policies and their application, including mandatory arbitration.

Sincerely yours in Christ,

The Most Reverend Harry J. Flynn, DD  
Archbishop of Saint Paul and Minneapolis

## **EQUAL EMPLOYMENT OPPORTUNITY**

### **Policy**

It is the policy of the Archdiocese of Saint Paul and Minneapolis to provide equal employment opportunity to all qualified persons without regard to race, color, religion, creed, sex, marital status, disability, age, national origin, veteran status and status with regard to public assistance. Employment practices are intended to assure that all individuals are recruited, hired, assigned, advanced, compensated, and retained on the basis of their qualifications, and treated equally in these and all other respects without regard to race, color, religion, creed, sex, marital status, disability, age, national origin, veteran status and status with regard to public assistance. Exceptions to this non-discrimination policy may be necessary when based upon a bona fide occupational qualification.

### **Procedures**

#### **I. RECRUITMENT**

The effective recruiting of qualified candidates requires that the employer use a current position description. Current information about compensation and benefits should be provided to the candidates. The use of a Search Committee is suggested, where appropriate, to assist in the selection process.

#### **II. SELECTION PROCESS**

- A) Prior to making the final selection for employment, the candidate's eligibility must be verified according to the Immigration Reform and Control Act of 1986.
- B) According to Clergy Bulletin Volume XVIII, Number 5, the employer must conduct a background check through the appropriate sources for all candidates for employment within the Archdiocese.
- C) When appropriate, an offer of employment may be extended subject to the successful completion of a physical examination, but only when the examination tests for essential job related abilities and only when all persons conditionally offered employment for the same position are required to undergo the same examination.

### III. OFFER OF EMPLOYMENT

Once a hiring decision is made and an offer is extended to the applicant, the employer should avoid delays. To minimize the potential for confusion or misunderstanding, an offer made by phone must be confirmed in writing. The written offer normally should contain at least the following information:

Position title  
 Reporting relationship (name of supervisor)  
 Starting date and effective date of employment, if different  
 Length of probationary period  
 Beginning compensation  
 Benefit information  
 Any special arrangements  
 Date for orientation  
 Acknowledgment that the employee relationship is subject to the provisions of  
*Justice in Employment*

### IV. EMPLOYEE DEFINITION

The word “employee” as used in these policies means a regular employee, and not a probationary employee, unless the policy refers specifically to probationary employees, as in Section V.

The employer must designate all employees as non-exempt under the Fair Labor Standards Act (FLSA) unless the employer can document that the position as performed is exempt and the employer wants to treat the position as exempt.

- **EXEMPT EMPLOYEE:** An employee in a position that can be documented as meeting the tests for one of the exempt classifications as defined by the Fair Labor Standards Act. This would normally be individuals in jobs that meet both the duties and salary tests for executive, professional, or administrative positions.
- **NON-EXEMPT EMPLOYEE:** All other employees who are not able to be classified as exempt under the FLSA must have their hours of work recorded, be paid for all time worked and be paid overtime (time and a half) when their hours worked in a work week are over 40/48 hours.

Those parish church employees who work for, and are on the staff of, the parish are paid overtime at the rate of time and one-half after 48 hours in a 7 day week (which is the Minnesota standard); those parish employees who are employees of the parish school or of other non-parish institutions (e.g., credit union, etc.) must be paid overtime at the rate of time and one-half after 40 hours in a 7 day week. Employers may choose to pay overtime after 40 hours in all cases, if preferred.

## V. PROBATION OR IN-TRAINING PERIOD

Unless otherwise specified in writing, all new employees are subject to an initial training period of up to three (3) calendar months. If a longer initial training period is required, it will be specified in writing. When circumstances warrant, certain new employees may have an extended probationary period.

The training period permits the employer to evaluate the employee's performance and provides an opportunity for the employee to assess whether the position is appropriate for his/her interests and skills. During this time, the employee is considered an at-will employee and may be terminated for any non-discriminatory reason. The employee's immediate supervisor must conduct written evaluations at the end of the second and third month of employment and prior to a change of status to regular employment.

The approval of the employer and his/her designate (i.e., supervisor) is required before an employee may be upgraded from an in-training employee to a regular employee status. The upgrade must be in writing and must state the effective date of the change from in-training status to regular employee status. The written upgrade approval also must be made a part of the employee's personnel file. Benefit eligibility will be the same for the in-training period as it is for all regular employees unless the benefit program itself (e.g. retirement program, etc.) states otherwise.

Similarly, in fulfillment of the spirit and intent of these policies, probationary employees should, to the extent practical, be accorded the necessary assistance to become regular employees. However, this does not affect their status as "at will" employees, that is, employees who may be terminated without cause at any time.

## **ORIENTATION**

### **Policy**

An effective orientation makes a positive and lasting impression and can have a significant impact on a person's success or failure during the first few weeks of employment. It is most important to have someone welcome a new person to the work environment, introduce that person, provide important information, and answer questions. Hospitality eases the stress of initiation and enhances a new person's adaptation process.

### **Procedures**

An orientation package should be provided to new personnel. Helpful information may include:

- Mission statement
- Expectations regarding attitudes, behavior, and practices which promote the mission of the parish or institution
- Organization chart
- Diagram of the facilities
- Policy handbook
- Information on benefits
- Other information to help the new employee feel welcome
- A signed and dated receipt should be received for the policy handbook.

## **WORK MINISTRY/PLANNING AND REVIEW**

### **Policy**

Performance analysis and evaluation is built on a foundation of careful planning, employee involvement, use of objective job-related criteria, commitment to employee development and candid communication about performance between the employee and the supervisor.

Through observation and dialogue with the employee about expectations and job related issues, the supervisor and the employee work to establish an environment in which mutual respect may develop and work related issues may be resolved.

### **Procedures**

The supervisor and the employee establish criteria for performance analysis based on information contained in the position description. They also establish the priorities to be accomplished and the relative importance of duties and responsibilities.

A performance analysis should be conducted at least once a year. There may be a need for more frequent meetings during the first year of employment or in a new assignment. Supervisors should be attentive to the need for additional interaction during transition periods. Performance-related meetings should be conducted privately and allow enough time for all important matters to be discussed. The employee has the right to comment, in writing, on his or her performance analysis. Any conclusions reached by the employee and the supervisor should be in writing to assure understanding and clarity.

A copy of both the performance analysis and employee comments will be retained by both parties and will become a part of the individual's personnel file.

## **RESOLUTION OF WORK RELATED ISSUES**

### **Policy**

Experience teaches us that even among people of good will, differences may arise concerning the employment relationship. Most of these issues should and can be resolved through the procedures provided below.

Employees have a right to seek a timely resolution of work-related issues. For purposes of this policy, a work-related issue may be defined as an unresolved complaint or dispute, disagreement, misunderstanding or expressed dissatisfaction on the part of the employee, relating to the conditions of employment or to the meaning and application of these written policies.

While the provisions which follow are intended to provide a process to resolve work-related issues, they are not intended to prevent employees from having access to their pastor, or their supervisor. The persons involved can make necessary modifications in keeping with the overall policy of timely resolution.

Employees who believe that an employment condition or the application of any of the policies outlined in this manual is unjust or inequitable may employ the following provisions. In pursuing this procedure, employees are assured freedom from restraint, interference, coercion, discrimination or reprisal. Keeping in mind the purpose of the *Justice in Employment* policy, the procedures employed in resolving work-related issues should be characterized by honesty and respect, as all involved strive to preserve and strengthen appropriate professional and human relationships.

### **Procedures**

- I. The employee and the immediate supervisor first should discuss thoroughly the work-related issue(s) to achieve a mutually satisfactory resolution. If discussion does not resolve the matter, the employee should, within thirty days or some other mutually agreed upon period of time, give the immediate supervisor a written statement summarizing the nature of the work-related issue under consideration, and proposing suggestions for its resolution. The proposed remedy should reflect clearly the attitudes, behavior and practices which promote the mission of the parish or institution.

If resolution is not reached within ten (10) working days after the supervisor receives the written statement, the employee may request further discussion at the next supervisory level. The higher supervisor will investigate the dispute and respond to the employee in writing within ten (10) working days after receiving the written complaint.

The higher supervisor, with the consent of the parties, may form an ad hoc committee to consult with the parties to achieve a consensus resolution. The members of this committee shall be obligated to maintain confidentiality, unless otherwise required by law.

- II. It is expected that the parties will use local level processes which are available to them. Counsel may be sought from appropriate Archdiocesan officials or other knowledgeable experts. However, this consultation ordinarily should not displace the local process. Any questions about application or interpretation of these policies should be directed to the Archdiocesan Office of the Chancellor.
- III. If resolution is not achieved at the local level, the parties should seek resolution through the conciliation process of the Archdiocesan Office of Conciliation. They should exert every effort to resolve their differences through this process, recognizing that each may be required to make concessions to achieve resolution.
- IV. To protect the privacy of those who are involved and to enhance the integrity of the process, all participants involved in the resolution of a work-related issue shall agree to maintain confidentiality, unless otherwise required by law.

Information and documents related to the resolution process shall not be shared with persons who are not directly involved and do not have a legitimate need to know their contents. Parties may confide in and seek appropriate counsel from persons of their choice, with the understanding that these confidants will maintain confidentiality unless otherwise required by law.

## **PROGRESSIVE DISCIPLINE**

### **Policy**

When performance deficiencies are observed, the supervisor will first offer suggestions, criticism or comments to the employee to correct those deficiencies or workplace behavior issues.

If this approach fails to resolve the problem, the supervisor will inform the employee that the supervisor is initiating progressive discipline under JIE. The following series of corrective steps may then be followed. Any step in the procedure may be bypassed if the severity of the circumstances warrant. In the process of implementing the procedures for progressive discipline, the employer is encouraged, but not required, to seek the advice and counsel of a human resources professional qualified in employment related matters and knowledgeable about these policies.

### **Procedures**

- I. The immediate supervisor will give the employee an oral warning that may include a time frame for correction of the issue. The immediate supervisor will document the date, time and subject matter of the oral warning.
- II. If the oral warning is not effective in producing the desired results within the specified time frame, the supervisor then will give the employee a written warning at the next review meeting. All written disciplinary statements will include specific information as to the improvement needed and corrective measures required. The supervisor will give a copy of the written warning to the employee and place a copy in the employee's personnel file.
- III. If sufficient improvement does not occur within the noted time frame or if serious work performance or behavior issues warrant immediate attention, disciplinary action in the form of a final written warning and/or a suspension without pay may be taken by the supervisor.
- IV. If lack of sufficient improvement continues or if serious issues warrant immediate action, the supervisor may recommend and then implement dismissal. Prior to dismissal, consultation must take place as required in the section of these policies on Discharge for Just Cause.
- V. Employees who believe that they have been disciplined unfairly may resort to the Policy on Resolution of Work Related Issues.

## **DISCHARGE: JUST CAUSE**

### **Policy**

After an employee is upgraded from probationary or in-training status to the status of a regular employee, the employment relationship which exists between the employer and its employees will be broken only "for cause", that is, if there are valid reasons for taking such an action.

Appropriate reasons for breaking the employment relationship include poor employee performance, improper conduct, violation of work rules and other violations of the employer/employee relationship. In the process of implementing the procedures for discharge, the employer is encouraged, but not required, to seek the advice and counsel of a human resources professional qualified in employment related matters and knowledgeable about these policies.

Prior to discharging any employee for cause, the employer or his or her designate shall seek and follow the advice of an attorney qualified in employment law and familiar with these policies, to ensure that these policies are followed. The required consultation includes review of relevant facts, circumstances, documents, records and other data relating to such employment, as they deem necessary. All such consultations shall be deemed privileged communications, and confidential, and no statements made nor documents produced in such consultations shall be subject to discovery or other disclosure and shall be inadmissible for any purpose, including impeachment, in any subsequent Arbitration under these policies.

The general insurance program requires the consultation with an attorney as described above. Failure to do so prior to a discharge may result in denial of insurance coverage for claims of wrongful termination. If coverage is denied, the defense of the wrongful termination and any award of damages will be the sole obligation of the employer.

### **Procedures**

#### **I. Discharge following progressive discipline:**

Ordinarily, less serious employee performance deficiencies or workplace behavior issues will be addressed through the steps described in the Policy on Progressive Discipline. Discharge may result if progressive discipline fails to bring about desired results. In this case, the employee will be given the facts pertaining to and the reasons for discharge in writing.

#### **II. Immediate discharge without progressive discipline:**

Any of the following acts may result in immediate discharge without progressive discipline:

- A) Illegal discrimination or harassment
- B) Theft, misappropriation, falsification of records
- C) Misconduct at the work place which endangers others
- D) Insubordination or breach of professional ethics
- E) Working under the influence of illegal or controlled substances

- F) Consumption of alcohol (unless authorized) or drugs at work or prior to work, so as to affect the employee's performance.
- G) Public conduct which is inconsistent with the faith, morals, teachings and laws of the Catholic Church
- H) Other gross violations of the employer/employee relationship

If the seriousness of an incident warrants removal of the employee from the premises before consultation is possible, the employee should be suspended without pay pending an investigation and prior to a final decision regarding discharge.

## **REDUCTION IN STAFF OR LAY OFF**

### **Policy**

A reduction in staff or lay off may occur because of a change in the organization's institutional goals or the prevailing economic condition of the employer. A termination under this section is a termination for cause. In the process of implementing the procedures for a reduction in staff or lay off, the employer is encouraged, but not required, to seek the advice and counsel of a human resources professional qualified in employment related matters and knowledgeable about these policies.

Prior to discharging any employee for cause under this section, the employer or his or her designate shall seek and follow the advice of an attorney qualified in employment law and familiar with these policies, to ensure that these policies are followed. The required consultation includes review of relevant facts, circumstances, documents, records and other data relating to such employment, as they deem necessary. All such consultations shall be deemed privileged communications, and confidential, and no statements made nor documents produced in such consultations shall be subject to discovery or other disclosure and shall be inadmissible for any purpose, including impeachment, in any subsequent Arbitration under these policies.

The archdiocesan insurance policy requires the consultation described above. Failure to do so prior to a discharge may result in denial of insurance coverage for claims of wrongful termination. If coverage is denied, the defense of the wrongful termination and any award of damages will be the sole obligation of the employer.

In the spirit of these policies, an appropriate level of severance will be provided to those affected.

### **Procedures**

After determining the need for a reduction in staff, the employer must decide who will be affected based on valid criteria such as past performance, seniority, education, training and work skills needed by the organization. All employees affected will be advised in writing as to the criteria used and decisions made.

## **ARBITRATION**

### **Policy**

If a controversy between the employee and the employer concerning terms and conditions of employment, other than those relating to Workers' Compensation or Re-employment Insurance Compensation, is not resolved through the Policy on Resolution of Work Related Issues, the employee and employer agree to submit the dispute to final and binding arbitration, in accordance with the procedure explained below, which will be the exclusive remedy available to the parties, and to abide by the decision of the arbitrator. Such arbitrator may determine the extent and scope of any discovery to be permitted.

### **Procedures**

If the employee is not satisfied with the resolution of the complaint or grievance, it is the responsibility of that employee to submit the matter to binding arbitration, which will be the exclusive remedy available to the parties.

Likewise, in those cases in which a former employee wishes to challenge the termination of employment, the former employee agrees to follow the Policy on Resolution of Work Related Issues set forth in these policies concerning the termination. The former employee further agrees that, absent an acceptable resolution through the Policy on Resolution of Work Related Issues, he or she will submit the matter to final and binding arbitration and will abide by the decision rendered, which may include any type of relief available in the civil courts.

Ordinarily, arbitration will be conducted according to the arbitration provisions of the Archdiocesan Office of Conciliation. The arbitrator will determine the extent and scope of any discovery to be permitted.

If either party chooses to arbitrate the matter pursuant to the Minnesota Uniform Arbitration Act and not the Archdiocesan arbitration process, that party, through the Archdiocesan Office of Conciliation, can attempt to agree with the other party on a qualified neutral arbitrator. If that effort fails, then either party, through the Archdiocesan Office of Conciliation, may request appointment of an arbitrator from an outside arbitration service made available for that purpose by the Archdiocesan Office of Conciliation and consistent with the Minnesota Uniform Arbitration Act. The selection of a neutral arbitrator, in such instance, will be according to the provisions and rules established by the outside arbitration service. The fees and expenses of the arbitrator shall be paid by the employer. However, the employee will pay any cost for an attorney for the employee, if one is desired.

RECEIPT OF JUSTICE IN EMPLOYMENT POLICIES

**I HAVE RECEIVED A COPY OF:**

**CLERGY BULLETIN**

<b>MARCH 15, 2007</b>	<b>VOLUME XXXII, NUMBER 3</b>
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**JUSTICE IN EMPLOYMENT**  
**(SECOND REVISION)**

**PAGES 210 G. M. TO 225 G.M.**

**I UNDERSTAND THAT THESE POLICIES SUPERSEDE AND  
CANCEL ANY POLICIES, PROCEDURES, OR OTHER  
EMPLOYMENT CONTRACTS WHEN INCONSISTENT WITH THIS  
DOCUMENT. THESE POLICIES ARE CONSIDERED THE BASIC  
TERMS AND CONDITIONS OF EMPLOYMENT. BY ACCEPTING  
A POSITION OR CONTINUING IN A POSITION SUBSEQUENT TO  
THE EFFECTIVE DATE OF THESE POLICIES, AN EMPLOYEE  
SHALL BE DEEMED TO HAVE ACCEPTED THESE POLICIES  
AND THEIR APPLICATION, INCLUDING MANDATORY  
ARBITRATION.**

**NAME(Print)**\_\_\_\_\_

**SIGNATURE**\_\_\_\_\_

**DATE**\_\_\_\_\_

**This receipt will be placed in my personnel file.**