

Guidelines for Employment Terminations of Members of Religious Orders Employed in the Diocese of Gallup

The Diocese of Gallup has developed these Guidelines for informational purposes only. THESE GUIDELINES ARE NOT A CONTRACT OF EMPLOYMENT OR A GUARANTEE OF EMPLOYMENT FOR ANY PERIOD OF TIME.

These Guidelines are not intended to create any contractual obligations under the laws of the State of New Mexico between the Diocese of Gallup and members of religious orders employed by the Diocese. The nature of the employment relationship between the Diocese and members of religious orders employed by the Diocese, as well as the circumstances under which those employment relationships may be terminated, are matters governed solely by canon law.

For purposes of these Guidelines, termination of employment is defined as an employee's resignation, discharge or retirement. Leaving a position, whether voluntary or involuntary, is classified as termination.

Termination of employment of lay Catholic school personnel under contract will follow the prescriptions of the contract of each private school along with its policies, regulations and procedures.

Procedures:

1. **DECISION OF THE BISHOP OR OF A MAJOR SUPERIOR:** The Bishop retains the right to dismiss a religious ministering within his Diocese. The Major Superior of religious community retains the right to recall a member of his or her community. Either form of termination may be done at any time and without the disclosure of the reason. This is in accord with canon law 682, paragraph 2.
2. **RESIGNATION:** Employees should give 30 days' written notice of their intent to resign. An exit interview should be conducted with an employee terminating her/his employment with the employer. If possible, someone other than the employee's immediate supervisor should conduct this interview. Helpful information may be gleaned and then used constructively to improve working conditions or to evaluate policies and procedures and to reduce turnover. Additionally, exit interviews may provide departing employees the opportunity to have their questions answered.
3. **REDUCTION OF STAFF:** The programs, apostolates, and ministries of the Catholic Church are designed to meet the overall mission of the Church, while at the same time responding to current local pastoral needs. Because of this, not all programs, apostolates, and ministries are long lasting. Some serve an immediate purpose up to a year or two while others may serve longer.

In addition, much of the work of the Church is directly dependent upon the voluntary contributions of the Catholic community. The availability of financial resources, or the lack thereof, impacts the need for personnel.

When a prospective employee is first interviewed the above contingencies should be made known to him or her. If there needs to be a reduction in staff, every effort will be made to give as much advance notice as possible, but in no case will less than two weeks advance notice be given to employees affected by such a reduction. When it is possible placement help will be provided.

4. **INVOLUNTARY TERMINATION:** Discharge of an employee is within the sole discretion of the employer. Each termination decision involves different facts and circumstances, as well as the record of the employee involved. Therefore, the following suggestions are guidelines only; termination decisions and procedures may vary depending upon the specific facts and circumstances surrounding each termination decision. Generally, the following procedures should be considered when terminating an employee:

- The employer should document the reasons for the termination.
- An exit interview should be conducted with an employee being terminated.
- On the same day as the exit interview the chancellor of the Diocese should be notified of the termination decision and provided with a written report summarizing the reasons for the termination.
- Any employer property in the employee's possession should be returned to the employer before issuing the final paycheck, including but not limited to: telephone and computer equipment, such as cell phones, laptops and disks; money belonging to the employer; credit card and keys. If property of the employer has been lost or damaged by the employee being terminated, the cost of replacing such property should be specified in a written document, signed by the employee, in which the employee authorizes the employer to deduct the specified replacement cost from the employee's final paycheck. In the case of non-exempt employees, the amount deducted shall not reduce the employee's earnings of the final pay period below the current minimum wage. Employees should be informed that the return of the employer's property is mandatory, and that an employee's refusal to do so will result in an entry in the employer's records that the employee was not in good standing at the time of separation, and the employer may pursue legal action against the employee.

Repeated acts of misconduct and/or serious misconduct should result in discharge of employment, generally after consultation by the employee's supervisor with another supervisory-level employee. Serious misconduct includes, but is not limited to, the following:

- Falsification of documents or providing false or misleading information on an application, personnel record, professional or character reference or academic transcript. This also includes the falsification of any records within the employee's control or falsifying documents
- Incompetency, defined as demonstrated inability or loss of ability to perform adequately on the job

- Use of profanity, deceit, dishonesty, uncontrolled anger, disrespect of others, failure to respond to directives or admonition from designate supervisors, and insubordination
- Excessive tardiness or absence from work or unexcused tardiness or absence for non-compelling reasons
- Neglect of duty, which includes failure on the part of an employee to adequately fulfill assigned responsibilities, or failure to carry out specific responsibilities detailed in the employee's job description, assigned by designated supervisors or as commonly recognized and acknowledged as part of the employee's work
- Substance abuse, including the consumption of any alcoholic beverage, illegal drug(s), or any controlled substance (except medication specifically prescribed for that employee by a licensed physician) during working hours
- Failure to observe safety policies including customary safety precautions or Occupational Safety and Health Administration (OSHA) regulations
- Living a life-style incompatible with Catholic moral principles, including not only deviation from sexual morality as defined by the Catholic Church, but also other conduct that offends the morals of the faith community or could be a source of scandal or bad example
- Conviction of a felony or of any crime involving moral turpitude (dishonesty, theft, and possession of any weapon or explosive, are included in this category)
- Conflict of interest, such as publicly espousing views or doctrine contrary to the teachings of the Catholic Church. This includes holding outside employment, personal interest or professional endeavors, which negatively impact the employee's performance of the work, the status or the image of the employer.
- Sexual harassment, defined as "unwelcome sexual advances, either verbal or physical, where (1) submission to the advances is a term or condition of employment; (2) submission to or rejection of the advances is used as the basis for making employment decisions; (3) such conduct interferes with an individual's work performance or creates an intimidating, hostile or offensive working environment
- Breach of confidentiality, which is an inappropriate disclosure detrimental to the Diocese and its agencies or institutions, or to its personnel or clientele. This may include but is not limited to disclosure of information pertaining to personnel, financial and case records.
- Workplace violence defined as threats, physical attacks, or any other acts of aggression or violence in the workplace
- Workplace harassment, discrimination, racial remarks or jokes
- Violation of the policies and procedures outline in the Diocese of Gallup Policy and Procedure Manual

If there are concerns regarding an employee's behavior, conduct or abilities during an orientation period, termination of employment generally should not be considered until steps have been taken to address those concerns with the employee. Such steps might include:

- Review those concerns with the employee

- Issue a written report for the employee's personnel record describing those concerns and the action taken. This report should be reviewed with and signed and dated by the employee, or, if the employee refuses to sign, then witnessed and dated by a third party.

Documentation of disciplinary action or discharge should become part of the employee's personnel record file, including, if the employee requests, a written statement by the employee regarding the incident.

5. **EMPLOYEE RECOURSE:** If an employee disagrees with disciplinary action or with termination of her/his employment, the employee has recourse through the Diocesan conciliation process.