



**POLICY AND PROCEDURAL GUIDELINES
RELATING TO SCREENING OF CHURCH PERSONNEL**

Approved by Bishops, September 18, 2010

I. INTRODUCTION

The (Arch)diocese of _____ is committed to the safety and well being of those we serve. Each individual is created with a God-given dignity. Therefore, the (Arch)diocese condemns all forms of abuse or neglect of all people of all ages.

II. GLOSSARY OF TERMS

For the purposes of these policies:

A. “CHURCH PERSONNEL” shall mean all of the following:

- 1) **“CLERGY”**: Shall mean all priests and deacons who have faculties of the (Arch)diocese.
- 2) **“EMPLOYEE”**: Shall mean any lay individual who is employed by or engaged in ministry who is given payment for services (any form of compensation, whether monetary or otherwise) rendered in which the obligation to withhold for payroll tax (FICA, Medicare and withholding) exists, whether part-time or full-time. This definition shall include all such persons whether employed by the (Arch)diocese, Parish, School, Early Childhood Center, Nursing Home, Group Home, or any other (arch)diocesan entity that is controlled by or operated by the (Arch)Bishop.
- 3) **“RELIGIOUS BROTHERS AND SISTERS”**: Shall mean religious brothers and sisters who are regularly involved in ministry at an entity controlled by or operated by the (Arch)diocese.
- 4) **“SEMINARIANS”**: Shall mean those men enrolled in a seminary who are regularly involved in ministry at an entity controlled by or operated by the (Arch)diocese.
- 5) **“COVERED VOLUNTEER”**: Shall mean any unpaid person who is engaged or involved in any (arch)diocesan institution or parish activity, and who is entrusted with the care or supervision of children or vulnerable adults.

III. POLICY

It shall be the policy of this (Arch)diocese that abuse or neglect of persons is totally unacceptable behavior by our church personnel. Any such conduct is to be considered by its very nature completely contrary to Christian morality and, therefore, cannot be justified in the employment or ministry of those serving within the (Arch) diocese. All Church Personnel within this (Arch)diocese must comply with all State and applicable local or federal laws which require reporting incidents of actual or suspected abuse or neglect of persons, and with the screening provisions set forth herein.

- A. BACKGROUND INVESTIGATION:** All Church Personnel shall allow an inquiry into their background to assess whether any reason exists that would suggest the person is not suitable for the position sought. Such background investigation shall include a Level 2 fingerprint criminal background search (“CBS”). A Level 2 CBS includes a statewide criminal and juvenile records check through the Florida Department of Law Enforcement and a federal criminal records check through the Federal Bureau of Investigations.
- B. OFFICE OF SAFE ENVIRONMENT:** The background investigation of Church Personnel shall be the responsibility of the (Arch)diocesan Office of Safe Environment (“OSE”), as supervised by the Chancellor.
- C. CRITERIA FOR EXCLUDING CHURCH PERSONNEL FROM SERVICE:** All Church Personnel shall meet and attest to good moral character. Any person who has been found guilty of, entered a plea of guilty, or entered a plea of nolo contendere for any offense listed on Appendix “A” hereto, shall be disqualified from employment/ministry regardless of the date of the offense. Unless prohibited by law, an exemption from disqualification may be granted. In order for an exemption to be granted by the (Arch)diocese, the Church Personnel must demonstrate by clear and convincing evidence that he/she should not be disqualified from employment/ ministry. A person seeking an exemption has the burden of setting forth sufficient evidence of rehabilitation including, but not limited to: (a) the circumstances surrounding the criminal incident for which the exemption is sought; (b) the time period that has elapsed since the incident; (c) the nature of the harm caused to the victim, if applicable; and (d) the personal history of the Church Personnel since the incident, or any other evidence or circumstances indicating that the employee/volunteer will not present a danger if continued employment/ ministry is allowed. Each (Arch)diocese shall establish procedures to implement the exemption policy as contained herein.
- D. STATE LICENSED AND REGULATED FACILITIES:** Some (Arch)diocesan facilities are licensed or otherwise regulated by the State and (1) may in some circumstances be governed by additional requirements and (2) only the State can grant an exemption at those facilities. Furthermore, if the state requires and performs a Level 2 CBS, the OSE may rely on the state’s determination of eligibility and disqualification at those licensed facilities.

IV. GUIDELINES FOR IMPLEMENTATION

- A. DISTRIBUTION OF POLICY AND STATE AND LOCAL LAWS:** A copy of this Policy shall be distributed and applied to all Parishes, Schools, Early Childhood Centers, Nursing Homes, Group Homes, and all other (Arch)diocesan entities, and to all persons identified as Church Personnel in the Glossary of Terms and to all future Church Personnel. All Administrators are to be familiar with these policies and their respective responsibilities with regard to the implementation of background screening of Church Personnel. Administrators shall conform to all applicable State and local laws, and shall preserve confidentiality to the fullest extent possible.
- B. IMPLEMENTATION:**
- 1. Clergy, Employees, Religious Brothers & Sisters, and Seminarians:** For all Clergy, Employees, Religious Brothers & Sisters, and Seminarians a CBS is required and shall be implemented as follows:
 - a.** In addition to any employment references that may have been furnished, all Pastors, Administrators, Supervisors, Executive Directors or other persons supervising or accountable for employment within the (Arch)diocese are required to have each existing and prospective Church Personnel undergo a CBS through the OSE.

Please note that no CBS shall be required of priests who are granted temporary faculties of not more than thirty days.
 - b.** The results of the CBS will be communicated confidentially to the responsible Supervisor. If an adverse employment decision is made to disqualify a person for

employment, the provisions of law will be followed, including but not limited to the notices required by the Fair Credit Reporting Act.

c. The background investigation shall be updated at least every 5 years.

2. **Covered Volunteers:** Covered Volunteers as defined in this policy, shall undergo a CBS. The policy shall be implemented as follows:

a. Prior to service, volunteers should complete an application and be directed to the OSE to undergo the CBS.

b. When the results of the CBS are received, the volunteer shall be approved or rejected based upon a review of the results of the CBS in accordance with Article III, C. described above.

C. **CRIMINAL BACKGROUND SEARCH COMMUNICATIONS:**

1. The results of the CBS shall be communicated confidentially to the responsible Supervisor.

2. On occasion, the CBS shows a criminal record, but is not definitive as to the charge and/or the disposition. Additional information will need to be obtained to determine if a person is disqualified. The burden of obtaining the additional information is on the Church Personnel. Such additional information must be provided to the OSE for review. If the review process concludes that the person is disqualified, the responsible Supervisor will be notified.

D. **CRIMINAL BACKGROUND RESULTS:**

1. **Category I** – those whose CBS shows no criminal record.

2. **Category II** – those persons whose CBS shows some criminal record, and the record is clear that there is no Category III offense. In these cases, the responsible Supervisor must make a determination if such Church Personnel will be permitted to work/minister at their entity. The responsible Supervisor should discuss all criminal records with the Church Personnel to obtain the underlying facts as well as any extenuating circumstances. The responsible Supervisor should obtain a written explanation from the Church Personnel and maintain it in their files. If the responsible Supervisor decides to allow the Church Personnel to work/minister, notwithstanding a non-disqualifying criminal record, the responsible Supervisor must communicate that decision to the OSE.

3. **Category III** – those persons whose CBS shows a record of a prohibited offense described in Article III, C. above. In these cases, a notice of disqualification and the available exemption procedures will be provided.

Appendix A

List of Disqualifying Offenses

Prohibited Misdemeanor or Felony Offenses	Statute	Origin
Sexual misconduct with certain developmentally disabled clients and reporting of such conduct	Sec. 393.135	435.04 1012.315
Sexual misconduct with certain mental health patients and reporting of such misconduct	Sec. 394.4593	435.04 1012.315
Medicaid provider fraud	Sec. 409.920	408.809
Medicaid fraud	Sec. 409.9201	408.809
Adult abuse, neglect or exploitation of aged persons or disabled adults	Sec. 415.111	435.04 1012.315
Domestic violence	Sec. 741.28	435.04
Murder	Sec. 782.04	435.04 1012.315
Manslaughter, aggravated manslaughter of an elderly person or disabled adult, or aggravated manslaughter of a child	Sec. 782.07	435.04 1012.315
Vehicular Homicide	Sec. 782.071	435.04
Killing of an unborn quick child by injury to the mother	Sec. 782.09	435.04
Assault, if the victim of the offense was a minor	Sec. 784.011	435.04
Battery, if the victim was a minor	Sec. 784.03	435.04 1012.315
Kidnapping	Sec. 787.01	435.04 1012.315
False imprisonment	Sec. 787.02	435.04 1012.315
Luring or enticing a child	Sec. 787.025	435.04 1012.315
Taking, enticing, or removing a child beyond the state limits with criminal intent pending custody proceedings	Sec. 787.04(2)	435.04 1012.315
Carrying a child beyond the state lines with criminal intent to avoid producing a child at a custody hearing or delivering the child to the designated person	Sec. 787.04(3)	435.04 1012.315
Exhibiting firearms or weapons within 1,000 feet of a school	Sec. 790.115(1)	435.04 1012.315
Possessing an electric weapon or device, destructive device, or other weapon on school property	Sec. 790.115(2)(b)	435.04 1012.315
Sexual battery	Sec. 794.011	435.04 1012.315

Prohibited acts of persons in familial or custodial authority	Sec. 794.041	435.04 1012.315
Unlawful sexual activity with certain minors	Sec. 794.05	435.04 1012.315
Prostitution	Ch. 796	435.04 1012.315
Lewd and lascivious behavior	Sec. 798.02	435.04
Lewdness and indecent exposure	Ch. 800	435.04 1012.315
Arson	Sec. 806.01	435.04 1012.315
Burglary	Sec. 810.02	435.04
Fraudulent acts through mail, wire, radio, electromagnetic, photoelectronic, or photooptical systems	Sec. 817.034	408.809
False and fraudulent insurance claims	Sec. 817.234	408.809
Patient brokering	Sec. 817.505	408.809
Criminal use of personal identification information	Sec. 817.568	408.809
Obtaining a credit card through fraudulent means	Sec. 817.60	408.809
Abuse, aggravated abuse, or neglect of an elderly person or disabled adult	Sec. 825.102	435.04 1012.315
Lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled adult	Sec. 825.1025	435.04 1012.315
Incest	Sec. 826.04	435.04 1012.315
Child abuse, aggravated child abuse, or neglect of a child	Sec. 827.03	435.04 1012.315
Contributing to the delinquency or dependency of a child	Sec. 827.04	435.04 1012.315
Negligent treatment of children	Sec. 827.05	435.04
Sexual performance by a child	Sec. 827.071	435.04 1012.315
Forgery	Sec. 831.01	408.809
Uttering forged instruments	Sec. 831.02	408.809
Forging bank bills, checks, drafts or promissory notes	Sec. 831.07	408.809
Uttering forged bank bills, checks, drafts or promissory notes	Sec. 831.09	408.809
Fraud in obtaining medicinal drugs	Sec. 831.30	408.809

Resisting arrest with violence	Sec. 843.01	435.04 1012.315
Depriving a law enforcement, correctional, or probation office means of protection or communication	Sec. 843.025	435.04
Aiding in an escape	Sec. 843.12	435.04
Aiding in the escape of juvenile inmates in correctional institutions	Sec. 843.13	435.04
Obscene literature	Ch. 847	435.04 1012.315
Encouraging or recruiting another to join in a criminal gang	Sec. 874.05	435.04 1012.315
Drug abuse prevention and control if another person involved was a minor (Sale, Possession, Distribution)	Ch. 893	435.04
Sexual misconduct with certain forensic clients and reporting of such sexual misconduct	Sec. 916.1075	435.04 1012.315
Inflicting cruel or inhuman treatment on an inmate resulting in great bodily harm	Sec. 944.35(3)	435.04
Escape	Sec. 944.40	435.04
Harboring, concealing, or aiding an escaped prisoner	Sec. 944.46	435.04
Introduction of contraband into a correctional facility	Sec. 944.47	435.04 1012.315
Sexual misconduct in juvenile justice programs	Sec. 985.701	435.04 1012.315
Introduction, removal, possession of contraband at juvenile detention facility or commitment program	Sec. 985.711	435.04 1012.315
Additional Prohibited Felony Offenses	Statute	Origin
Assault, battery and culpable negligence	Ch. 784	435.04 1012.315*
Female genital mutilation	Sec. 794.08	1012.315
Voyeurism	Sec. 810.14	435.04 1012.315
Video Voyeurism	Sec. 810.145	435.04 1012.315
Theft, robbery and related crimes	Ch. 812	435.04 1012.315
Fraudulent sale of controlled substances	Sec. 817.563	435.04 1012.315
Fraudulent use of credit cards	Sec. 817.61	408.809
Exploitation of an elderly person or disabled adult	Sec. 825.103	435.04 1012.315

Sale, manufacture, delivery, or possession with the intent to sell, manufacture, or deliver any counterfeit controlled substance	Sec. 831.31	408.809
Drug abuse, prevention and control (Sale, Possession, or Distribution) if no minor was involved	Ch. 893	435.04 1012.315

* Limited to Sections 784.021, 784.045 and 784.075