

Chapter 6: Judicial Procedures, Governmental Relations and Political Activity Guidelines

This Chapter contains a description of permissions and dispensations (Part 1), followed by the responsibilities of the Metropolitan Tribunal (Part 2). A method of resolving disputes, entitled “Due Process” is explained in Part 3. The composition and duties of the Colorado Catholic Conference are explained in Part 4. In Part 5, Political Activity Guidelines for the Archdiocese, parishes within its territory and other related ecclesiastical organizations are set forth.

Part 1: Permissions and Dispensations

6.1.1. Archdiocesan Marriage Procedure

A baptized Catholic man is expected to marry a baptized Catholic woman (Canon 1124). Any deviation from this requires a permission or dispensation.

6.1.1.1. In the Archdiocese, the Metropolitan Tribunal is delegated by the Archbishop to handle permissions and dispensations. Therefore, all applications for permissions and dispensations are to be sent to Metropolitan Tribunal.

6.1.1.2. There is to be no date set for a wedding if one or both of the Parties is not canonically free to marry (Ref.: Chapter 3 – The Teaching Office - Office of Marriage and Family Life, 3.3.7.).

6.1.2. Procedure for Seeking Permissions and Dispensations

Applications are to be submitted once the priest/deacon who is to witness the marriage is certain of the parties' freedom to marry and that nothing stands in the way of the licit and valid celebration of the sacrament of marriage. The application for permission or dispensation is to be submitted at least three months prior to the marriage.

6.1.2.1. All permissions and dispensations are to be applied for at one time. If a particular grant of permission or dispensation is not used, the Metropolitan Tribunal is to be informed immediately.

6.1.2.2. Only under emergency circumstances is a permission or dispensation to be sought over the telephone. In this situation, the priest/deacon seeking the grant must send the necessary documentation without delay to the Metropolitan Tribunal. Since the validity of the marriage may hinge on whether the permission or delegation was granted, the permission or delegation must be properly recorded.

6.1.2.3. With all permissions and dispensations, there is to be a just and reasonable cause (Canon 90) for seeking the relaxation of ecclesiastical law. Whether a just and reasonable cause is present is the judgment of the authority granting the permission or dispensation. The permission or dispensation is not to be presumed.

6.1.2.4. The determination of the just and reasonable cause may involve examination of the pre-marital documents and the FOCCUS (i.e., *Facilitating Open Couple Communication Understanding and Study*) results. In practice, these preparatory instruments are automatically sought when permissions from place and dispensations from canonical form are requested.

6.1.3. **Types of Permissions**

6.1.3.1. Among the marriage situations that require permission, the most common are:

- a. Mixed religion
- b. Change of place
- c. Marriage of a person who has natural obligations arising from a prior union toward another party or toward children.

6.1.3.2. In line with the tradition of the Church, marriage between a Catholic and a baptized non-Catholic is "prohibited without the express permission of the local ordinary" (Canon 1124). Permission may be granted only where there is "just and reasonable cause" and where the conditions outlined in Canon 1125 are fulfilled.

6.1.3.3. These conditions include the Catholic party's promise to remove dangers of defection from the faith, and to do all in his/her power to raise the children in the faith. When there is no moral certainty in these areas, or in the other areas mentioned in Canon 1125, the matter may have to be referred to the appropriate Congregation in Rome.

6.1.3.4. The parish church is the pre-eminent location for the marriage of Catholics and the celebration is expected to take place there. If a Catholic couple has an attachment to another Catholic place that is not a parish church, e.g., Mother Cabrini Shrine or St. Catherine's Chapel at Saint Malo, permission to celebrate in a place not a parish church is required from the Metropolitan Tribunal or pastor. Delegation may also need to be sought for the witnessing priest/deacon if he is outside his parish territory.

6.1.3.5. For marriages between a baptized Catholic and a baptized non-Catholic, the preferred place is the parish church of the Catholic party. For serious reasons, another sacred place, e.g., a recognized church, but not a commercial wedding chapel, would be considered. A mixed marriage between the baptized is a sacrament; therefore, there is a preference for a sacred place.

6.1.3.6. Permission is to be obtained from the Metropolitan Tribunal for a Mass to be celebrated at the mixed marriage of the baptized.

6.1.3.7. For marriages between a baptized Catholic and a non-baptized person, the parish church of the baptized Catholic is the preferred place. Failing this, the marriage may take place in another suitable place. The other place must be suitable not in the matter of convenience, but reflective of the sacredness of the state of marriage. No permission from place

is required in this circumstance, as long as it is within the parish territory of the witnessing priest/deacon, as this is granted by Canon 1118§3. If the proposed place is outside of the parish territory, permission must be sought.

6.1.3.8. If the parties are marrying outside of their proper or personal parish, they are to have their own pastor's permission to do so.

6.1.3.9. The witnessing priest or deacon must have the necessary delegation to witness any marriage outside of his territorial jurisdiction; otherwise, the marriage is invalid. Marriages are to be recorded in the territorial parish of the place where the marriage occurred, except in the case of dispensation from canonical form.

6.1.3.10. Only those marriages are valid which are contracted in the presence of the local Ordinary or parish priest or of the priest or deacon delegated by either of them, who in the presence of two witnesses, assists (Canon 1108) in accord with the Canons on marriage celebration.

6.1.3.11. Outdoor weddings are actively discouraged.

6.1.3.12. If a request for permission for change of place is received for a marriage taking place outside of the Archdiocese, this permission must be granted by the Ordinary of the place of marriage. Particular caution is to be exercised because practice varies among dioceses regarding consent to places other than a parish church for weddings. No permission may be presumed. The request is processed through the Metropolitan Tribunal, which contacts the respective diocese in which the wedding is to take place.

6.1.3.13. If a person is marrying and has natural obligations in justice to a third party (either previous spouse or children), another marriage may seriously endanger that third party's right to maintenance or support. The Church is concerned for those who may be hurt by any action she is called to witness, namely, another marriage for a party with obligations.

6.1.3.14. This permission is readily granted to those who are living up to their commitments. For those who are not, any subsequent marriage is usually delayed until an equitable solution is reached.

6.1.3.15. For other situations requiring the Ordinary's permission, please refer to Canons 1071 and 1102 and contact the Metropolitan Tribunal.

6.1.4. **Types of Dispensations**

Marriage between a baptized Catholic and a non-baptized person is invalid unless the necessary dispensation is granted. The conditions for the grant are contained in Canons 1125 and 1126. Without a dispensation, this marriage is not a sacramental marriage, but a "natural bond" of marriage between a man and a woman.

6.1.4.1. The canonical form of marriage binds baptized Catholics who have not defected from the faith by a formal act (Canons 1108, 1123). If a Catholic attempts marriage without fulfilling the form to which he/she is bound, then that marriage is invalid unless a

dispensation from form has been granted. The dispensation from canonical form may be granted in a circumstance of mixed religion or disparity of cult. The normal conditions for mixed religion permissions/dispensations must be present as well as grave difficulties in the way of observing the canonical form (Canon 1127§2).

6.1.4.2. When a dispensation from canonical form has been granted, the Catholic priest/deacon, if present at the ceremony, must not give or accept the vows. The parish of preparation of the couple maintains the marriage documents and records the marriage in its marriage register.

6.1.5. **Marriages Taking Place Outside of the Archdiocese of Denver**

When preparing a couple for a marriage which is to take place outside of the Archdiocese, it is necessary to be attentive to the fact that certain dispensations cannot be granted without the permission of the Ordinary of the place of the marriage. These grants cannot be presumed, as dioceses vary in what will be permitted or dispensed.

6.1.5.1. It is the norm for all marriages taking place outside of the Archdiocese that the completed pre-nuptial inquiry (the MA & MB forms), current sacramental certificates and the dispensations or permissions granted be forwarded to the vice-chancellor (1300 South Steele Street, Denver, CO 80210). The vice-chancellor transmits to the diocese in question. The name of the person officiating and the address of the place where the marriage is to take place are to accompany these documents. This action is to be completed no later than one month before the date of the ceremony and much earlier where there are unusual circumstances.

6.1.5.2. It may not be possible to grant the permission or dispensation over the telephone if the marriage is to take place outside of the Archdiocese.

Part 2: Metropolitan Tribunal

As in any society, there is a need for an organization wherein rights and obligations can be vindicated, clarified and judgment rendered in disputed areas, so the Church establishes such a forum within ecclesial society. The Archbishop exercises his charism of judicial governance and Christian reconciliation through the Tribunal and Panels established according to the norms of law.

6.2.1. Jurisdiction

The Metropolitan Tribunal of the Archdiocese is the Court of First Instance of the Archdiocese. It is also the appellate Court for the Dioceses of Cheyenne, Wyoming; Pueblo, Colorado; and Colorado Springs, Colorado. The Archdiocese of Philadelphia is the appeals court for the Archdiocese of Denver.

6.2.1.1. The Metropolitan Tribunal adjudicates all petitions placed before it according to the norms of law for which it is competent. While the bulk of the work of the Metropolitan Tribunal is involved in judging marriage cases, its scope is not limited to that area alone.

6.2.1.2. In order to file a petition for a marriage case, it is necessary to present to the Metropolitan Tribunal a preliminary questionnaire which is typically completed with the assistance of the petitioner's pastor, parochial vicar or parish deacons. The Tribunal forwards a questionnaire to the respondent and assists in the instruction of the petition.

6.2.1.3. To present a petition regarding any matter other than a marriage case, please contact the Metropolitan Tribunal for assistance.

Part 3: Due Process

6.3.1. Introduction

The system of due process is an "extra-judicial" means to avoid formal civil or ecclesiastical litigation. It has the primary goal of being the arena in which Christian disputants can settle their disputes in following the scriptural admonition in Saint Paul's First Letter to the Corinthians 6:1-8. Canon 1446 urges the Christian faithful to avoid lawsuits and to attempt to resolve conflicts peacefully.

6.3.1.1. The Archdiocese has established a system in which the rights of the Christian faithful are recognized, honored and fostered.

6.3.1.2. The system of due process is based on the premise that those who are involved in a dispute will search for what is just in a given situation and work toward reconciliation of the dispute in a Christian context.

6.3.1.3. When a contention arises, there is to be an attempt by the disputants to resolve the matter themselves before there is recourse to due process. If the disputants cannot resolve the matter, due process is available to them as a means to a possible resolution. It affords the parties the opportunity to speak freely and honestly to a third unbiased party who will listen to the facts and initiate discussion between the parties and attempt to bring about a peaceful resolution.

6.3.1.4. The Archbishop reserves the right to suspend or amend, at any time, the system of due process or a particular case at any phase of conciliation or arbitration.

6.3.2. Allowable Cases

Access to the due process procedure cannot be presumed, but must generally be examined carefully to determine if a given complaint warrants the services requested. Due process is for those who feel that their rights or freedoms have been violated, but the decision as to whether or not a complaint warrants use of due process is left to the discretion of the clerk of due process.

6.3.2.1. Allowable cases may include:

a. Disputes between a person and a parochial or Archdiocesan administrator or administrative body where it is contended that an act or decision (including administrative sanctions and disciplinary actions) has violated a right recognized in the law of the Church or by the magisterium.

b. Disputes between a person and a parochial or Archdiocesan administrator or administrative body where it is contended that a failure to act or to make a decision has violated a right recognized as such in the law of the Church or in the documents of the magisterium.

c. Disputes between persons that the clerk of due process deems appropriate for resolution in the due process forum.

6.3.2.2. Matters pertaining to the areas that are listed below are exempt from due process:

- a. Matters of faith and morals defined by the Magisterium
- b. Matters concerning theological, canonical, or liturgical disputes
- c. Matters pertaining to the validity of the sacraments
- d. Catholic Charities and Community Services by Catholic Community Services of the Archdiocese, which has a separate grievance procedure
- e. A decision or determination made by the Archbishop, a coadjutor or auxiliary bishops
- f. Disputes involving anyone who has not reached the age of majority as specified in Canon 97 (18 years of age)
- g. Those matters which fall under recourse against administrative decrees including removal under Canons 1732 through 1739 and
- h. Other matters deemed by the clerk to be outside the purview of an "extra judicial" process.

6.3.2.3. The participants are to agree that the proceedings, conciliator, clerk of due process are not to be subpoenaed.

6.3.3. **Governing Principles**

The following will guide the proceedings in all cases:

6.3.3.1. If at any stage either party has recourse to civil or criminal law or to the Metropolitan Tribunal of the Archdiocese, the system of due process, as an "extra-judicial" approach, will no longer be operative.

6.3.3.2. If a civil action or recourse to the Metropolitan Tribunal of the Archdiocese is made prior to a petition to the system of due process, the parties must agree to drop the civil/Tribunal action before due process may be initiated.

6.3.3.3. The procedures adopted by members appointed to the conciliation or arbitration panels are not to contravene the usage, customs, rules, regulations, statutes or Canons of the Roman Catholic Church, the Archdiocese and the Archbishop.

6.3.4. **Procedure**

Any person desiring to utilize the system of due process must do so within one year from the

date of being aware of the grievance, or she/he may initiate the process upon awareness of the availability of the due process procedure.

6.3.4.1. The clerk is to be appointed by the Archbishop, is to serve at his discretion, and is to maintain an office at the Pastoral Center. The clerk is not to be a member of the conciliation or arbitration panels. The clerk is not to become involved in the issue of any case, but rather shall supervise the procedures. The clerk is to be assured that time limits for conciliation and arbitration are observed and is to facilitate the proper disposition of the grievance. The clerk is to provide the Archbishop sufficient time to appoint new members to the arbitration and conciliation panels for those whose appointments expire. The clerk is to notify the Archbishop immediately of any members who have resigned. The clerk is to keep a file of all necessary materials. The clerk is responsible for the printing of the guidelines in adequate supply to fulfill the needs of the parishes. The clerk is to maintain proper secrecy and confidentiality concerning any materials that are kept in the due process files. The clerk is to be available to interested persons who seek information or clarification concerning the manner of instituting a grievance.

6.3.4.2. The petition is to be filed with the clerk. A petition, which is a statement in writing, outlines the alleged injustice. The petition is to include at least the following: the petitioner and respondent's name and address and a detailed statement of the dispute, stating at least the relevant names, dates, place, occasion, and policy, law or principle abridged, if applicable.

6.3.4.3. Following the petition, the following are sought:

- a. A statement of the respondent individual, group, or institution named in a petition.
- b. An affirmative response that is the acceptance of a process for conciliation by the respondent.
- c. An award or the settlement granted at the conclusion of arbitration.

6.3.5. **The Conciliation Panel**

The Archbishop establishes a conciliation panel and a system for conciliation.

6.3.5.1. The conciliation panel is to be composed of at least 8 conciliators who are practicing Catholics in good standing in the Church. These members serve gratis. The members are to be chosen in the following manner: 2 priests are to be nominated by the Vicar for Clergy; 2 religious; and at least 4 lay nominations are to be made by the APC. All conciliators are subject to approval by the Archbishop.

6.3.5.2. The term of office is to be 4 years. No member may serve more than 2 consecutive terms.

6.3.5.3. The conciliation panel is to elect its chairperson and secretary-treasurer.

6.3.5.4. The cost of the conciliation hearing is to be shared equally by the parties. Upon presentation of a statement signed by the chairperson and secretary-treasurer of the conciliation panel, reimbursement is to be made to a conciliator from Archdiocesan funds for any extraordinary expenses. Any expense over \$50.00 requires previous approval of the clerk.

6.3.5.5. The clerk of due process, with the Archbishop's approval, may designate additional persons, from within or outside the Archdiocese to act as extraordinary conciliators in individual cases.

6.3.6. **Individual Petitions for Conciliation**

A petitioner may begin the process by sending a written petition to the clerk of due process who will determine if the issue is an allowable case in due process.

6.3.6.1. If the matter is an allowable case in due process, the chairperson of the conciliation panel receiving the petition is to contact the respondent within 2 weeks in writing and, if possible, by telephone. The chairperson is to apprise her/him of the grievance stated by the petitioner. The chairperson is to inquire if she/he will accept conciliation. The respondent is to be advised that the conciliation panel is supposed to proceed with dispatch and that her/his response to the foregoing is required within 2 weeks of the notice to her/him.

6.3.6.2. If the respondent fails to give an affirmative response within 2 weeks, the conciliator is to refer the matter to the clerk of due process who is to determine if further efforts are to be made to persuade the respondent to reply.

6.3.6.3. If the respondent replies in favor of conciliation, the respondent is to be given a copy of the petition. Both parties are to be given a description of the purposes of the conciliation panel and procedures for conciliation, and the biographies of the conciliators.

6.3.6.4. The clerk of due process is to assist the petitioner and respondent in selecting a conciliator who, in the opinion of the petitioner and respondent, is a competent person. The conciliator selected is to be informed of the facts of the petition, sensitive to the feelings of the parties, and capable of bringing both parties together in a face-to-face dialogue. In the event that the parties are unable to agree on a conciliator, the clerk of due process may appoint one from the list of available conciliators. The Chairman of the conciliation panel is to make note of any objections to the chosen conciliator, but is free to act according to his/her discretion.

6.3.6.5. The conciliator selected is to have as a primary concern the reconciliation of the parties. As much as possible, the conciliator will try to encourage and assist the parties in settling the dispute while discretely suggesting possible areas of compromise or other suitable solutions.

6.3.6.6. Within 3 weeks of his/her selection, the conciliator is to meet alone with each participant for oral discussion of the grievance.

6.3.6.7. Within 1 week of the second of these conferences, the conciliator is to meet

with the participants together and endeavor to guide them to a peaceful resolution of the grievance. The conciliator is to schedule as many of these joint meetings as seems necessary in order to progress to conciliation.

6.3.6.8. The conciliator is to endeavor to assure that each participant answer the questions that the other participant believes are essential if she/he is to understand the actions of the other.

6.3.6.9. The first joint meeting of the participants and the conciliator is to be restricted to these persons. Thereafter, at the discretion of the conciliator, each participant may have with her/him 1 or 2 advisers - theologians, lawyers, friends, or whomever she/he chooses whose advice may be sought by the participant. These "outside" parties are not to enter directly into the conciliatory discussion.

6.3.6.10. In the event that one participant desires to have such advisers and the conciliator agrees, the conciliator is to notify the other participant that she/he may come with an equal number of advisers. At the discretion of the conciliator and with the agreement of the participants, other conciliators or other persons may join the meetings from time to time as observers/advisers, but not as direct participants.

6.3.7. **Conclusion of Conciliation Process**

If the grievance is resolved by agreement, the conciliator is to prepare a summary statement of the grievance and its resolution, and is to submit it for the approval and signature of the participants according to the format agreed to by the clerk.

6.3.7.1. The conciliator may find it helpful to periodically provide to the participants a written summary of the evidence presented, recommendations for further action or questions, or initial conclusions. These conclusions will be non-binding, but will provide a means to assist the participants in their search for resolutions.

6.3.7.2. If the grievance is unresolved after the meetings arranged by the conciliator have been held or if the grievance is unresolved 6 months from the date of acceptance of the petition by the clerk, the conciliator is to present options to the participants. The options for the participants are to include an inquiry whether they are willing to continue discussion of the grievance with her/him, with another conciliator, or with a person designated by the Ordinary. If the participants agree in their response, the conciliator is to arrange the desired continuation and the clerk of due process is to be informed of any such action.

6.3.7.3. If one or more of the participants declines to engage in further discussion, the conciliator is to file a report with the clerk of due process. This report is to contain the names of the participants, a summary of the grievance and the discussions taken to resolve it and certification by the conciliator that, despite the good faith of the participants, no resolution could be reached.

6.3.7.4. The conciliator has no power to force the participants to adopt a solution. She/he is to have power, however, to express her/his opinion that any participant is not cooperating in good faith.

6.3.7.5. Prima facie evidence of lack of good faith will include a failure to attend 3 scheduled meetings, failure to respond to a substantial number of questions that the conciliator believes appropriate, or failure to suggest ways of accommodating the interests of the other participant(s).

6.3.7.6. In the event the conciliator believes that a participant is not cooperating in good faith, she/he is to apprise her/him of this belief orally and failing cooperation is to apprise her/him again in writing. If there is no cooperation after the written communication, the conciliator is to notify the Chairperson of the conciliation panel at once. That Chairperson is to endeavor to persuade the participant to cooperate. Furthermore, the Chairperson of the conciliation panel is to keep the clerk of due process informed of any requests for intervention by the Chairperson of the conciliation panel.

6.3.7.7. A conciliator is to terminate her/his position whenever there is any indication that she/he is not neutral or disinterested or where there arises any conflicts of interest.

6.3.7.8. A conciliator may also terminate his/her position if he/she determines that he/she can offer no further assistance to the participants after substantial efforts have been made.

6.3.7.9. Meetings are private and without attendant publicity. All communications made to a conciliator or between participants are treated as confidential by all who share in them.

6.3.8. **System for Arbitration**

The arbitration phase of the due process procedure is not activated until conciliation has been attempted or formally refused.

6.3.8.1. If the matter is an allowable case in due process, both disputants must agree to seek arbitration and to be bound by it. The parties are to enter a written agreement that a) sets forth a description of the claims and defenses to the parties to the arbitration proceeding, and b) affirm the arbitration decision is to be binding, final, and not subject to appeal by the parties, and c) the parties shall be bound by any award issued by the arbitrator(s).

6.3.8.2. The clerk of due process forwards all requests for arbitration to the arbitration panel. The clerk, upon receipt of the request for arbitration, is to determine whether or not the parties have attempted conciliation. The clerk is to submit to the parties a list of all available arbitrators. If the parties agree, the arbitrator they have chosen is to be designated as the arbitrator to hear the arbitration.

6.3.8.3. If the parties are unable to agree upon an arbitrator within 10 days from the date that the list is submitted to them, the clerk will choose the name of the arbitrator next on the list. The clerk will submit to each of the parties the name of the arbitrator. Each party is to have the right to exercise 1 preemptory challenge without showing specific cause. The objection must be made to the clerk of due process within 5 days of the receipt of the named arbitrator. Upon receipt of the single allowed objection, the clerk will designate the next listed arbitrator who will hear the matter no later than 15 days from his designation. No further objections to the arbitrator are to be

allowed except for good cause shown for fraud or personal prejudice.

6.3.8.4. A single arbitrator hears all arbitration hearings, unless 1 of the parties subject to the arbitration has requested in writing an arbitration board of 3. The designated arbitrator, with the consent of both parties, may also request an arbitration board of 3 arbitrators. Either party, with the consent of the other party and the single arbitrator, may also request the appointment of 2 additional arbitrators. If more than 1 arbitrator is requested, the clerk of due process may designate the additional 2 persons from the list of arbitrators.

6.3.8.5. The arbitrator is to designate to the parties, in writing, the time and place for the hearing, and all parties are given notice of not less than 10 days.

6.3.9. **Individual Petitions for Arbitration**

6.3.9.1. Within 10 days of the designation of the arbitrator, both parties are to furnish statements of their positions to the arbitrator and to the other party. Either party may reply to the statements furnished.

6.3.9.2. The hearings conducted by the arbitrator(s) are to be taken stenographically or tape-recorded and transcribed before the next meeting. These transcriptions are to be available to the parties in the meetings only and the arbitrator is to ensure that the transcriptions remain in her/his possession. At the conclusion of the process, these transcriptions are to become part of the permanent due process record for that particular case.

6.3.9.3. The hearings conducted by the arbitrator(s) are closed and the matters therein presented deemed confidential, and not to be released without the permission of the parties.

6.3.9.4. Each party is to have the right to call witnesses on her/his behalf and to submit testimony by affidavit or deposition.

6.3.9.5. The admissibility of evidence is to be subject to the sound discretion of the arbitrator(s) and the strict rules of evidence do not apply.

6.3.9.6. Attendance of persons other than parties or witnesses to the arbitration is limited by the discretion of the arbitrator(s), in consultation with the clerk of due process.

6.3.9.7. The parties to the arbitration may be represented at the hearings by counsel or other authorized representatives.

6.3.9.8. For good cause shown, the arbitrator(s) may adjourn the hearing upon the request of any party, upon her/his own initiative, or adjourn when all the parties agree. No adjournment is to be for a period of more than 10 days, except if a party or necessary witness is seriously ill or unable to appear. There is to be no adjournment for a period in excess of 60 days without the agreement of the parties.

6.3.9.9. Arbitration is to proceed in the absence of any party who, having agreed to arbitration and after due notice fails to be present or fails to obtain any adjournment. Failure to be present without cause does not bar the arbitrator(s) from proceeding into any facet of the case. The

arbitrator(s) is to hear and determine the controversy upon the evidence produced. The arbitrator(s) is to have the right to request additional evidence if she/he so deems the same necessary. All evidence is to be taken in the presence of the arbitrator(s), and all parties and any evidence submitted to the arbitrator(s) by deposition or affidavit is to be submitted only when the other party has been furnished with a copy of the same. The arbitrator(s) may require the parties to submit books, records, documents, and other evidence. In the event that the evidence is submitted by deposition, the deposition is to occur after 5 days written notice to the other party to the arbitration, so that she/he may have a representative present at the deposition or be present herself/himself. The participants' presence at a deposition includes the opportunity to cross-examine any witness giving evidence.

6.3.9.10. The arbitrator(s) is to administer oaths and may take evidence by deposition when a witness cannot be present at a hearing.

6.3.9.11. The hearing is to be opened by a recording of the time, place, and date of hearing, the presence of the arbitrator(s) and parties, the presence of counsel, if any, the receipt by the arbitrator(s) of initial statements stating the nature of the dispute and the remedies sought. The arbitrator(s), in her/his discretion, may vary the normal procedure under which the initiating party first presents her/his claim, but in any case is to afford full and equal opportunity to all parties for presentation of relevant evidence. The names and addresses of all witnesses and exhibits offered in evidence are to be made part of the record. Each party, prior to the commencement of the arbitration, is to submit to the clerk, who is to forward to the arbitrator(s), a specific list of issues which they contend are to be subject to arbitration and the relief which they are requesting. The clerk also furnishes the list and relief sought to each participant.

6.3.9.12. In the event the arbitration is heard by more than a single arbitrator, all decisions of the arbitrators are by majority vote. Arbitration hearings by 3 arbitrators shall be conducted by a chairperson selected by the arbitrators who rules upon questions of the evidence. These rulings are binding upon the parties unless a majority of the arbitrators overrule the decision of the chairperson of the arbitration board as to the admissibility of evidence only.

6.3.9.13. The arbitrator(s) is to inquire, upon the completion of the arbitration, whether the parties have any further proofs or witnesses. Upon receipt of a negative reply or silence after 5 days by all parties, the arbitrator(s) is to declare the arbitration closed. The arbitrator's may, at her/his discretion, allow continuances or adjournments for good cause if either of the parties, upon the completion of the arbitration, indicates a desire to submit further evidence. The time limits for the adjournment previously described are applicable. The hearings may be reopened by the arbitrator(s) on their own motion or on the motion of any party for good cause shown at any time prior to the making of the award.

6.3.9.14. The arbitrator(s) is to make a written award in each case. The award and finding of fact are forwarded to the clerk no later than 30 days from the receipt of the arbitration hearing. No later than 5 days from the receipt of the finding and award, the clerk is to forward the finding and award to each party who is subject to the arbitration.

6.3.9.15. The clerk of due process is to keep a permanent record of the finding of fact and award. The records of the arbitration are not considered public records nor are they available to public review. The records and awards and findings of the arbitration panel are open to review by

the panel and to any of the parties subject to the arbitration and to such persons for good cause shown, upon approval by no less than 3 members of the arbitration panel.

6.3.9.16. The cost of the arbitration hearing is to be shared equally by the participants, and each participant is to be responsible for the cost of presenting her/his own testimony or any other costs incidental to the preparation and presentation of this evidence. In the event 1 of the participants is not financially able to meet expenses, the participant may submit a request for financial assistance to the chairperson of the arbitration panel. After determining the validity of the claim, the chairperson may offer aid with the approval of the clerk of due process.

6.3.10. **Conclusion of Arbitration Process**

The parties are to accept the responsibility to implement the award of the arbitration, provided that the implementation is within his jurisdiction and authority as set forth in Canon Law, and not contrary to the law or doctrine of the Church.

6.3.10.1. Questions concerning the interpretation of these rules or the decisions of any arbitrator or board of arbitrators are referred to the arbitration panel. The arbitration panel may consult such advisers, as it deems necessary in a given case, or the administration of its arbitration duties.

6.3.10.2. Within 10 days of the receipt of the award of the arbitrator(s) or the findings of the arbitrators, a participant may object in writing to the arbitrator(s). The objections must state in detail the reason for objecting. The arbitrator(s) is to, within 10 days of the receipt of the objection, either modify or affirm the order.

6.3.10.3. The final order of the arbitrator may, for good cause, be published and distributed in the Archdiocese with the names of the parties subject to the arbitration not included in the publication of such award.

Part 4: Colorado Catholic Conference

Overview

The Colorado Catholic Conference is the state-level public policy office operated jointly by the Archdiocese of Denver, the Diocese of Pueblo, and the Diocese of Colorado Springs. Through the Conference, the Church, on a statewide basis, officially interacts and communicates with the state and federal governments. The Conference informs and advises the dioceses, parishes, other Church organizations, and interested persons concerning the legislative process, the activities of government, and the moral and social implications of public issues. The Conference seeks to shape public policy that protects the sanctity and dignity of all human life, serves the poor, heals the sick, nurtures the family, and promotes the common good.

6.4.1. A board of governors, composed of the bishops of the Colorado dioceses, governs and formulates policy of the Conference. The chair of the board changes each January 1, and rotates among the members of the board.

6.4.2. The executive director of the Conference executes the policies and directives of the board of governors, manages the operations of the Conference, develops legislative programs pursuant to directions from the diocesan bishops of Colorado and their liaisons, develops and maintains communication and coordination relative to legislative issues.

6.4.3. Each diocesan bishop appoints a liaison who informs and advises the diocesan bishops on issues, develops internal regulations with respect to organization and administration of the Conference and promotes unity by involving the staff of the Conference in implementing the board's decisions.

6.4.4. The diocesan bishops may constitute committees of the Conference on a standing or ad hoc basis. Each committee is to have at least one representative from each of the dioceses.

6.4.5. The Colorado Catholic Conference is subject to the Political Activity Guidelines contained herein (see Part 5, below)

6.4.6. All questions regarding (Arch)diocesan lobbying activities at the state and federal level should be referred to the Colorado Catholic Conference.

6.4.7. No parish in the territory of the Archdiocese or other ecclesiastical organization may distribute lobbying materials or campaign materials unless such materials are issued and/or approved by the Colorado Catholic Conference.

Part 5: Political Activity Guidelines

6.5.1. The Archbishop urges broad participation in the political process by all segments of the population. The Archbishop and pastors, in their roles as teachers of faith and morals, educate the faithful in matters of Church teachings, analyzing issues for their social and moral dimensions.

6.5.2. Participation in the public debate on important issues inevitably overlaps with positions taken by certain candidates. Issue-oriented speech is protected by the first amendment of the Constitution. The Archbishop disavows the intent to form a religious voting block or to instruct people on how they should vote by endorsing or opposing candidates. Rather, he encourages a citizen's responsibility to examine the positions of candidates on the full range of issues, as well as their personal integrity, philosophy, and performance.

6.5.3. In order to ensure, however, that the tax exempt nature of the Archdiocese, parishes within its territory and related ecclesiastical organizations are not jeopardized due to an exempt organization engaging in political activity prohibited under section 501(c)(3) of the Internal Revenue Code ("IRC"), the following guidelines have been adapted from guidelines provided by the USCCB.

This guidance focuses primarily on section 501(c)(3) of the IRC and its *absolute prohibition* against participation or intervention in a political campaign on behalf of or in opposition to any candidate by an exempt organization. Note, however, that the following provides only general guidance; it cannot and should not be substituted for the advice from legal counsel. If there is doubt as to whether a particular form of political activity may violate the provisions of the IRC governing exempt organizations, the Legal Department of the Archdiocese should be consulted prior to engaging in that activity. Further, no parish or other ecclesiastical organization subject to the Pastoral Handbook may distribute lobbying materials or campaign materials unless such materials are issued and/or approved by the Colorado Catholic Conference.

6.5.4. **Prohibition on Political Campaign Activity**

Section 501(c)(3) of the Internal Revenue Code prohibits organizations that are exempt from federal income tax ("exempt organizations") such as the Archdiocese of Denver, parishes within its territory and related ecclesiastical organizations, from participating or intervening in political campaigns on behalf of or in opposition to any candidate for public office.

This prohibition applies to organizations, not individuals. Accordingly, the political campaign intervention prohibition applies to parishes or other ecclesiastical organizations that enjoy exempt status, but does not apply to pastors, leaders, employees or members acting in their individual capacities and not as representatives of their organization. Thus, officials of parishes or other ecclesiastical organizations, acting in their individual capacities, may be involved in political activity if 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 their own and not those of the organization.

6.5.5. **Limitations on Lobbying Activity**

The IRC limits the amount of lobbying in which exempt organizations may engage. Under section 501(c)(3), exempt organizations may engage in lobbying activities only if they do not constitute a substantial part of their total activities, measured by time, effort, expenditure and other relevant factors. Neither the IRC nor federal regulations define what is "substantial" in this context. Generally, however, the unwritten rule is that the line between what is substantial and what is insubstantial lies somewhere between 5% and 15% of an organization's total activities. IRS does not endorse any particular percentage, but would clearly be more comfortable at the lower end of the spectrum.

6.5.6. Lobbying versus Political Campaign Activity

Generally, "lobbying" focuses on legislation, whereas "political campaign activity" focuses on candidates and campaigns for election. Legislation means any action: (a) by Congress, a state or local legislative body; or (b) by the public in a referendum, initiative, constitutional amendment or similar procedure. "Political campaign activity" focuses on candidates and campaigns for election.

Lobbying includes both direct lobbying and grassroots lobbying. Direct lobbying means contacting 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 legislation. Grassroots lobbying means urging members of the public to do the same.

Section 501(c)(3) limits the amount of lobbying a parish or other ecclesiastical organization can engage in; it does not prohibit lobbying outright. The lobbying limitation applies both to lobbying that is germane to an organization's tax-exempt purposes and to lobbying that is not.

6.5.7. If there is a doubt whether a particular form of political campaign activity may violate the provisions of the Internal Revenue Code governing exempt organizations, persons are to consult the Legal Department of the Archdiocese of Denver.

6.5.8. Examples of Political Campaign Activity

6.5.8.1. *Appearances at Church Events.* Whether exempt organizations may invite a candidate to speak at a sponsored event depends upon all the facts and circumstances surrounding the invitation and whether the candidate is invited in his/her capacity as a candidate or in his/her individual capacity.

If an individual is invited in a candidate capacity, the rules applicable to public forums (see below) apply, and equal access must be provided to other candidates for the same office.

If, on the other hand, a candidate is invited to speak in his or her capacity as a public figure, expert, or celebrity, it is not necessary to provide equal access to other candidates for the same office. However, the following precautions should be taken to prevent violation of the political campaign intervention prohibition: (1) the candidate must speak only in the capacity as expert, public figure, or celebrity, and not as a candidate; (2) no mention should be made of the 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 the candidacy.

If the primary purpose of the invitation is to showcase an individual's candidacy, the political campaign intervention prohibition may still be violated 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 intervention prohibition, unless the payment is intended to support the candidate's campaign.

A candidate's attendance at an exempt organization-sponsored event that is open to the public, such as a concert, lecture, or church picnic, does not by itself constitute intervention in a political campaign. However, the sponsoring organization should ensure that no political campaigning takes place at the event, including distribution of campaign literature, that the candidate is not recognized publicly as a candidate for public office, and that a nonpartisan atmosphere is maintained.

6.5.8.2. *Campaign Materials.* Voter education or other campaign materials prepared by any candidate, political party or PAC may not be distributed by an exempt organization.

6.5.8.3. *Collecting Signatures for Ballot Access.* Exempt organizations may not collect signatures on or encourage voters to sign petitions to enable any candidate to appear on an election ballot. Even if all candidates are treated equally, this activity directly furthers the political candidacies of the individuals involved.

6.5.8.4. *Educating Candidates.* As a general rule, private efforts by exempt organizations during election campaigns to educate candidates about particular issues or to persuade candidates to endorse or agree with the organization's position on such issues will not constitute political campaign intervention. However, public dissemination of information regarding a candidate's agreement or disagreement with the organization's positions will violate the prohibition against political campaign intervention. Further, if the candidate is an incumbent legislator, whether federal, state or local, these efforts could constitute lobbying activity and will be subject to the limitations on lobbying.

6.5.8.5. *Educating Voters.* During election campaigns, exempt 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, e.g., incumbents' voting records or results of candidate polls or questionnaires. Such activities, if unbiased in content, structure, format, and context, do not violate the political campaign intervention prohibition (See "Voter Guides" below).

6.5.8.6. *Endorsements, Statements of Opposition.* Exempt organizations may not directly or indirectly make any statement, in any medium, to endorse, support, or oppose any candidate for public office, political party, or PAC.

6.5.8.7. *Financial Support.* Exempt organizations may not provide or solicit financial support, including market-rate loans or loan guarantees, for or on behalf of any candidate, political party, or PAC.

6.5.8.8. *Fundraising.* Exempt organizations should not conduct fundraising events or activities, or otherwise solicit funds, for or on behalf of any candidate, political party, or PAC. Likewise, a tax exempt organization should not permit fundraising for or on behalf of any candidate, political party, or PAC at any sponsored event.

6.5.8.9. *Loans.* Exempt organizations may not make loans to or execute loan guarantees on behalf of any candidate, political party or PAC. Such activities violate the political campaign intervention prohibition even if market-rate interest is charged and the loan is repaid.

6.5.8.10. *In-Kind Support.* Exempt organizations 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. for or on behalf of any candidate, political party, or PAC.

6.5.8.11. *Internet Activities.* Many exempt organizations maintain websites and utilize e-mail for communicating with members, parishioners and the general public. The political campaign intervention prohibition and these guidelines apply with equal force to Catholic organization websites and e-mail communications. Thus, a communication or activity that would constitute a violation of the political campaign intervention prohibition does not lose that characterization because it occurs on a website or via e-mail.

6.5.8.12. *Issue Advocacy.* The political campaign intervention prohibition does not prevent exempt organizations from addressing the moral aspects of public policy issues or from pursuing its legislative advocacy program during election campaign periods. The fact that the positions of particular candidates may align with the advocacy positions of Catholic organizations does not alone taint an issue communication. That said, an issue advocacy communication may constitute intervention in a political campaign through the use of code words, such as “conservative”, “liberal”, “pro-life”, “pro-choice”, “anti-choice”, “Republican”, or “Democrat”, coupled with a discussion of a candidacy or election, even if no candidate is specifically named.

The following factors tend to show that an advocacy communication on a public policy issue constitutes political campaign intervention, including: (a) the communication identifies a candidate for public office; (b) the timing of the communication coincides with an election campaign; (c) the communication targets voters in a particular election; (d) the communication identifies the candidate’s position on the public policy issue that is the subject of the communication; (e) the communication indicates approval or disapproval of the candidate’s position; (f) the position of the candidate on the public policy issue has been raised as distinguishing the candidate from others in the campaign, either in the communication itself or in other public communications; and (g) the communication is not part of an ongoing series of substantially similar advocacy communications by the organization on the same issue.

Factors tending to show that an advocacy communication on a public policy issue *does not* constitute campaign intervention include: (1) the absence of factors (a) through (g) above; (2) the communication identifies specific legislation, or a specific non-electoral event outside the control of the organization, that the organization hopes to influence, such as a legislative vote or

other major legislative action (e.g., a hearing before a legislative committee on the subject of the communication); (3) the timing of the communication coincides with a specific non-electoral event outside the control of the organization that the organization hopes to influence; (4) the communication identifies the candidate solely as a government official who is in a position to act on the public policy issue in connection with the specific event (such as a legislator who is eligible to vote on the legislation); and (5) the communication identifies the candidate in a list of key or principal sponsors of the legislation that is the subject of the communication.

6.5.8.13. *Multiple Activities.* When assessing potential violations of the political campaign intervention prohibition, an exempt organization should not view each of its activities in isolation, since a combination of activities may result in the political campaign intervention. For example, a parish may distribute a nonbiased voter guide on the same Sunday as its pastor delivers a homily discussing the Church's position on one of the issues covered in the voter guide. Neither activity in isolation would be problematic. Combined, they result in political campaign intervention.

6.5.8.14. *PACs.* Exempt organizations may not establish a PAC, nor provide any financial or in-kind support to a PAC. 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. A PAC is distinguishable from a section 501(c)(4) organization, which is permitted to engage in political campaign intervention provided it is not its primary activity.

6.5.8.15. *Parking Lots.* The parking lots of most parishes within the territory of the Archdiocese and other related ecclesiastical organizations are classified as private property and therefore do not qualify as public forums to which First Amendment free speech protections attach. Such parishes and ecclesiastical organizations generally have the right to regulate access to their parking lots, including access for political leafleting. Catholic organizations should consult legal counsel if questions arise about the proper classification of their parking lots as public or private. If a parking lot is classified as private property, a parish or other ecclesiastical organization should not authorize the distribution of partisan campaign materials or biased voter education materials in the lot.

6.5.8.16. *Polling Places.* Exempt organizations, particularly schools, frequently permit local election authorities to utilize their auditorium and gymnasium facilities to serve as polling places on election day. This activity is a manifestation of civic duty, is nonpartisan, and does not, by itself, constitute a violation of the section 501(c)(3) political campaign intervention prohibition. Any limited campaign leafleting or signage permitted outside polling places under local election rules, which is conducted by local campaign volunteers, should not be attributed to the Archdiocese, parishes or other related ecclesiastical organization.

6.5.8.17. *Public Forums, Debates, Candidate Nights.* Exempt organizations may sponsor unbiased public forums, debates, candidate nights and similar activities, 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. The following factors, if present, will be important to ensuring an activity is allowed: (a) all legally qualified candidates

are invited to participate; (b) the questions are prepared and presented by an independent nonpartisan panel; (c) the topics discussed cover a broad range of issues of interest to the public; (d) each candidate has an equal opportunity to present his or her views on the issues discussed; (e) the moderator does not comment on the questions or otherwise make comments that imply approval or disapproval of any of the candidates; and (f) the candidates are not asked to agree or disagree with positions, agendas, platforms or statements of the sponsoring organization.

6.5.8.18. *Pulpit Appearances.* Appearances by candidates in the pulpit or at other worship services are governed by the same rules applicable to appearances at Church events generally (see “Appearances at Church Events” above). Thus, if an individual is invited to appear in a candidate capacity, equal access must be provided to other candidates for the same office. On the other hand, if the candidate is invited to appear in a non-candidate capacity, it is not necessary to provide equal access to other candidates.

6.5.8.19. *Rating Candidates.* The rating of candidates for character, experience and professional ability, even on a non-partisan basis, violates the political campaign intervention prohibition. The rating of candidates based on their agreement with a Catholic organization’s positions or the labeling of candidates as pro-life or anti-family or by using symbols or signs, likewise violates the political campaign intervention prohibition.

6.5.8.20. *Signs on Parish or Other Related Ecclesiastical Organization Property.* With the exception of polling places (see “Polling Places” above), political signs should not be placed on property owned by the Archdiocese, parishes or related ecclesiastical organizations or rented by those same organizations for official business.

6.5.8.21. *Voter Guides – Candidate Questionnaires.* Polling candidates or asking candidates to complete 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.

The following criteria are used for determining whether publication or distribution of candidate questionnaire results violates the political campaign activity prohibition: (a) whether the questionnaire is sent to all candidates; (b) whether candidates are given a reasonable period of time to respond; (c) if given a limited choice of responses, whether candidates are also given a reasonable opportunity to offer explanations that are included in the voter guide; (d) whether all responses are published; (e) whether the questions indicate bias toward the sponsoring organization’s preferred answer; (f) whether the responses are compared to the sponsoring organization’s positions on the issues; (g) whether the responses are published as received, without editing by the sponsoring organization; and (h) whether a wide range of issues of interest to voters is covered. The range of issues criterion is contextual; it depends on the particular office being sought. Thus, candidates for local school board need not be queried on foreign policy. Rather, they can be questioned on a broad range of education issues relevant to school board office.

Published 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 does not violate the political

campaign intervention prohibition, where neither the questionnaire nor the voter guide evidenced bias or preference in content or structure. Conversely, publication of responses to a candidate questionnaire that evidenced bias on certain issues did violate the political campaign intervention prohibition. Questionnaires should be distributed to all candidates, and all candidates should be encouraged to respond. No other coordination, cooperation, or consultation with candidates, their committees, etc. should take place. 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. FEC rules governing voter guides by section 501©(3) organizations require participation of at least two candidates. Catholic organizations should not develop position statements for candidates that fail to respond, and should consult local legal counsel for further analysis of particular fact situations involving candidate questionnaires.

6.5.8.22. *Voter Guides – Incumbents’ Voting Records.* Compilation of incumbents’ voting records is a common method of voter education. Voting records may also be compiled as part of an organization’s lobbying efforts. Whether the publication and distribution of incumbents' voting records violates the political campaign activity prohibition depends on an evaluation of all the relevant facts and circumstances, including: (a) whether incumbents are identified as candidates; (b) whether incumbents' positions are compared to the positions of other candidates; (c) whether incumbents' positions are compared to the sponsoring organization's positions; (d) the timing, extent, and manner of distribution; and (e) the breadth or narrowness of the issues presented in the voting record. For example, an exempt organization that publishes and distributes, during an election campaign, the voting records of all members of Congress on a wide range of subjects, does not violate the political campaign intervention prohibition if this organization conducts this activity annually, regardless of whether there is an election, the voting records are not accompanied by any editorial opinions and the voting records do not indicate approval or disapproval of incumbents' votes.

6.5.8.23. *Voter Registration / Get-Out-the-Vote Drives.* Exempt organizations may 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 sponsoring organization's positions in connection with the voter registration or get-out-the-vote drive, by targeting registration or get-out-the-vote drives toward individuals who support the organization's positions or a particular candidate or party, or by coordinating the drive with candidates or their committees. Catholic organization voter registration or get-out-the vote efforts should not be conducted: (a) in cooperation with any political campaign; (b) according to the id organization of the candidates; (c) based upon a candidate’s or party’s agreement or disagreement with the sponsoring organization's positions; or (d) in a manner targeting members of a particular party.