

DIOCESE OF KOOTENAY

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Distribution: All Parishes
Subject: Employment of Parish Lay Staff

General Principles

The governing principles to be applied by Christian employers in hiring, compensating and supervising employees should be those of the faithful steward, not the pastoral care worker. While the employer should always act justly and fairly towards the employee, respectful of the person's worth and dignity, decisions made with respect to employment ought to be based on the purpose of the employment, the task for which the parish has agreed to pay. Employment is a contract in which the employee promises to perform certain work in return for promised compensation. The expectations of both parties in general terms should be spelled out at least in basic form in a letter of appointment or other written document.

The Employment Relationship

Parishes obtain services in two different ways – by hiring employees or by hiring contractors. The typical parish “employee” is the parish secretary or administrator. A typical “contractor” would be a person or firm hired to conduct a safety inspection of parish premises. The distinction between these two relationships is critical because employees are subject to BC Employment Standards and Workers Compensation legislation and federal EI, CPP and tax deductions while contractors are not. With respect to WCB, the parish needs to verify that the contractor has arranged for WCB coverage. If not, the parish may be liable. If in doubt, check with the nearest WCB office.

While the distinction might be considered simple because the parties can decide to call the person one or the other, the law is much more complex. Just because you say it is, doesn't make it so. To be considered a “contractor”, the person must have an “arms length” relationship from the employer. This normally means that the contractor will have control over when, where and how the work is carried out; will not be supervised or subject to discipline; will provide the tools with which to perform the work and will have the risk of profit and loss. Although not all of these factors need be present, their absence gives rise to the question whether the contractor is truly independent or in reality an employee.

The hiring of a cleaning firm (whether an individual or a company) will be as a contractor if:

- the expectation is that the premises will be cleaned on specified days of the week but at times chosen by the contractor when the premises are not occupied;
- the amount of time spent on the task is decided by the contractor;
- the contractor provides the cleaning equipment and materials; and
- the contractor can be terminated on notice provided in the contract or failure to meet agreed upon standards

If the cleaner:

- is an individual;
- has set hours of work;
- is subject to direction as to when, where and how the work is to be done; and
- has no chance of profit or loss

then that person is likely an employee and subject to the appropriate legislation.

Music directors and organists are usually considered to be contractors. While they have set hours for regular services, they have a say in when practices will occur. Although they do not provide pianos or organs, they do obtain and provide other musical resources for themselves. Usually they are paid for the service or practice at which they play rather than by the hour or month. They may, in some cases, have the ability to supplement that income by playing at unscheduled services such as weddings or funerals. They may also be permitted to use parish resources to earn additional income by teaching music students not related to the parish.

Parishes are encouraged to check with the diocesan office if they have any questions on these matters.

Employees and Employment Standards

Please refer to the Employment Standards Act and Regulations or phone 1-800-663-3316 for up-to-date information.

Hours of work

- Employees must be aware of the scheduled hours expected.
- Meal breaks of at least ½ hour must be given when work is 5 hours or more.
- Split shifts must be completed within 12 hours.

- Employees who start work must be paid for at least 4 hours for that day. Employees who report as scheduled but do not start work must be paid for at least 2 hours.

Overtime

- Time and one-half after 8 hours in a day.
- Double time after 11 hours in a day.
- Banked time if agreed at above rates.

Pay

- Minimum wage: \$8.00 (Nov. 2001) with a training rate of \$6.00 for the first 500 hours.
- At least semi-monthly, within 8 days of the end of the pay period, by cash, cheque or deposit (if the employee agrees).
- Written statement must be provided.

Vacations

- 2 weeks after 12 months.
- 3 weeks after 5 years.

Statutory Holidays

- New Year's Day, Good Friday, Victoria Day, BC Day, Labour Day, Thanksgiving Day, Remembrance Day, and Christmas Day.
- Must be paid day off.
- When holiday is regular day off, another day must be substituted.

Leaves

Pregnancy

- 17 weeks
 - beginning no earlier than 11 weeks prior to, or later than, the date of birth.
 - ending no earlier than 6 weeks after the birth.

Parental

- For birth mother, up to 35 weeks in addition to pregnancy leave, for a combined total of 52 weeks.
- For birth father, up to 37 weeks to be taken after date of birth within 52 weeks of birth.

- For adoptive parent, up to 37 weeks within 52 weeks of placement of child with parents.

Family Responsibility

- 5 days per year for
- for care, health, or education of a child.
- for care or health of member of immediate family.

Bereavement

- 3 days for member of immediate family.

Jury duty

- As required by court to serve as a juror.

General requirements

- Leaves are unpaid, unless the employer wishes to pay.
- Benefits must continue to be provided.
- All service-based benefits (e.g. vacations and pensions) accrue.

Termination without Cause

- Cause means significant employee fault.
- After 3 consecutive months, 1 weeks notice or pay in lieu.
- After 12 consecutive months, 2 weeks notice or pay in lieu.
- After 3 consecutive years, 3 weeks notice or pay in lieu, plus 1 for each additional consecutive year up to a maximum of 8 weeks.

Recruitment and Selection

When the parish decides to employ someone for a certain job, the parish needs to determine first what the job duties are to be performed. Next it needs to determine the qualifications required by a person to be able to perform those duties satisfactorily. The qualifications must be reasonably related and relevant to the duties and cannot be discriminatory (e.g. on grounds of race, gender, age, family status, national origin etc.) under the BC Human Rights Code. In the advertisement for the position some qualifications will be essential and some may be advantageous but not essential. The person selected for the job should meet all of the essential qualifications. Hiring a person who has the non-essential qualifications but not all of the essential qualifications as advertised while bypassing someone who has all the essential qualifications but not the non-essential ones will open the decision to questions of bias.

When hiring employees the parish should take care to avoid apparent or potential conflicts of interest. Examples of such conflicts are:

- relatives of persons in the parish who may have supervisory responsibilities over the employee, since the general expectation is that the family relationship will take precedence over the employment one.
- relatives of parish officials, in which case the official must not participate in, or attempt to influence, the hiring process.
- parish members who may not be able to set personal parish views aside when clergy change and bring different ways of doing things to the parish,
- persons who are not able to maintain confidentiality with respect to pastoral and other matters.

Supervision and Discipline

The parish must decide and spell out in the letter of appointment or contract who will be responsible for supervising the employee. Normally this should be one individual such as the incumbent or warden. Although they ought to be able to deal tactfully with parish officials and members, employees should not be expected to respond to all requests. Unreasonable or unusual demands should be referred to the supervisor.

Standards of work performance should be clearly communicated to the employee and consistently enforced. Commendations should be given for work beyond the standard and corrections made when standards are not met. Allowing low standards to continue effectively establishes the lower level as the appropriate standard. An employee must be made aware of shortcomings and assisted to improve. Performance reviews at least annually allow for feedback, setting new goals and fostering growth.

Discipline for inappropriate conduct or performance should follow a fair process. The minimum requirements of such a process are that:

- corrective action is taken in a timely manner,
- correction meetings are conducted in private,
- the employee is fully aware of the expectations or allegations,
- the employee has a full opportunity to be heard before a decision is reached, and
- the outcome is appropriate to the problem behaviour.

Consideration should be given to the employee having a right to appeal a supervisor's disciplinary decision to another body, such as the Wardens or Church Committee.

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Disciplinary investigations and outcomes need to be thoroughly and accurately recorded as the notes and documents may be expected to be produced in possible appeal situations or legal actions. Where termination for cause is challenged, the parish may be required to show that the processes above were followed.

Note that these recommendations have not referred to matters already covered by Diocesan Policy such as the requirement for the employee to undergo a criminal record check if the employee will be working with children. With respect to appropriate salary and benefit provisions, only the Employment Standards minimums have been described.