

Best Practices In Parish Administration

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Course Plan and Framework

Course Description

This course provides parish administrators and those preparing for this function with a comprehensive and practical overview of the canonical, administrative, legal and financial issues that may be encountered. It provides a variety of relevant scenarios likely to present themselves to an administrator and does so in a practical context. Some of the specific topics addressed include: parish administration defined and described; the relationship between the church and the state; procuring goods and services for the parish; copying materials for use in parish activities; potential parish physical liability issues; managing parish employees; parish fundraising activities and government regulation of festivals, bingo, games of chance and alcohol; parish facilities - land use and zoning issues; the parish's tax exempt status; parish confidentiality issues; the protection of children and boundary issues; and managing the parish's finances.

Course Objectives

The course is designed to meet the needs of those appointed to act in the capacity of administrator or business manager of a parish. Participants will be introduced to a variety of administrative tasks common to the role of the parish administrator and to the essence of what have been deemed "good practices" among pastors, administrators and professionals. An overview of applicable legal principles is also provided so that the participant is presented with the tools necessary to analyze administrative issues, recognize potential pitfalls, and formulate viable problem solving options to parish administrative issues.

The course includes twelve modules, each presenting an important aspect of good practices in parish administration along with the applicable legal background. By guiding participants through these 12 modules, the objective is to make them more aware of the everyday, practical issues involved in administering a parish and to foster an appreciation for their complexity. Those completing the course should be better prepared to address these issues with an improved arsenal of knowledge and skill.

Required Text

This course includes a number of case studies that are imbedded in the course.

The textbook required for use during this course are:

Catholic Parish Administration: A Handbook (paperback) ; Paul E. Peri; 72 pages, 2012 Paulist Press ISBN 978-0-8091-4752-6 (alk.paper) –ISBN978-1-61643-092-4 List Price \$9.95

Ministry and the Law: What You Need to Know (paperback): Sister Mary Angela Shaughnessy : 96 pages, 1998 Paulist Press ISBN-10: 0809137895 : ISBN-13: 978-0809137893 List Price \$8.95

For supplemental and reference purposes, participants might also find it helpful to consult A Pastor’s Toolbox: Management Skills for Parish Leadership, (paperback); edited by Paul A. Holmes, 179 pages, 2014 by Order of Saint Benedict, Collegetown, MN, Liturgical Press, ISBN 978-0-8146-3808-8—ISBN 978-0-8146-3833-0

PA951DE: Best Practices in Parish Administration

This course presents a practical approach to studying the day-to-day issues that arise for the administrator to address. Parishes, in practice, can really be considered to be business entities, both large and small, that procure goods and services and have varying numbers of employees to help meet the demands of the “business.” It is important to know something about contracting, managing parish facilities, and human resources management, among other things, in order to manage and advise the pastor about establishing and implementing sound practices for hiring, managing and disciplining employee, for example. It is also important to be familiar with laws and regulations that are applicable to human resources management. While state and local laws may not be consistent in many of the areas, participants should become aware of those that are locally applicable. The ability to recognize potential legal issues in order to seek timely professional assistance is of particular importance to an administrator. This course addresses both the practical business applications and provides some familiarity with applicable general legal principles.

Twelve (12) Modules are presented including:

1. Parish Administration; defined and described

- **The Universal Church**

- **The Diocese and Bishop**

- **Legal Status - *Corporation Sole*** (the legal entity of one incorporated office transferred to successive bishops)

- **Diocesan Administrative Structure**

- **The Parish's Administrative Structure and Management**
 - The Parish and Pastor
 - Canonical Status
 - Parish Administrative Structure – Collaboration between Pastor (manager) and the Parochial Vicar(s), Deacon(s), Administrator, Staff, Finance Council, Parish Council

2. The Church and the State

- **Civil Law** – enacted by legislative bodies (Legislative Branch) and executed by the executive (Executive Branch) beginning with the U.S. Constitution, amendments, statutes, etc., state constitutions, statutes, amendments, etc.; and local statutes/ordinances.
 - 1st Amendment – “ Congress shall make no laws respecting an establishment of religion, or prohibiting the free exercise thereof....”

- **Common Law** – when questions and disputes arise over the meanings of constitution and statutory provisions, etc., they are presented to courts (Judicial Branch) for decisions and the body of court decisions is referred to as the Common Law.

- **Jones v Wolf, 443 U.S. 505 (1979)** – States may adopt laws that are not inconsistent with the law of the land; shows the difference between civil and common law; and the principle of *stare decisis*, i.e., the matter is decided and we stand by things decided. It refers to a decision by a higher court as binding on a lower court. As the highest court in the land, decisions of the U.S. Supreme Court are binding on all and take precedence over all others.

3. **Procuring Goods and Services for the Parish** - Parishes enter into contracts daily to procure goods and services and, in the event of disputes, may become involved in legal action for contract enforcement by the courts.

- **Procurement** – Where larger amounts of funding are involved, it is often prudent to utilize a system of determining what the requirements are and then requesting competitive bids from contractors. Selections can then be made, not necessarily on just the lowest bid, but the bid that best meets the needs of the parish and contracting for the goods or services.
- **The Fundamental Law of Contracts** - a contract is a promise that creates a duty that is recognized by law a breach for which the law will provide a remedy; to be valid an offer, acceptance and consideration **are required and they may be:**
 - **Express-** terms are openly expressed by all parties and can be either oral or written
 - **Implied** – not a true contract, but rather a liability under an implied contract imposed by the court to prevent a party from being unjustly enriched
 - **Legality or Enforceability** - while not always required to be legally enforceable, the parish should always endeavor to enter into express (written) contracts for goods and services with the terms (who, what, when and where) clearly set forth to avoid misunderstandings and potential disputes.

- **Potts v Catholic Diocese of Youngstown** – “a parish can be sued just like any other association or entity.

4. Copying Materials for Use In Parish Activities; Copyright Issues -

Parishes may also run into copyright issues that arise when material is copied for educational or liturgical purposes.

- **Literary works** – copyright laws provide that those who create materials are entitled to be compensated for their creations.
- Granted for 20 years after death of author or for 7 years after the death of the last surviving author for jointly authored material.
- May be claimed by any original author or be federally registered with the U.S. Copyright Office.
- Before copying materials for use in parish and school activities, examine the materials for possible copyright issues that might require seeking permission of the author to use.
- **Fair Use** – if copying and using for teaching purposes, it generally doesn't infringe copyright.

5 Potential Parish Physical Liabilities: Negligence and Premises Liability

- **Negligence** - breach of a duty that proximately results in damages. Individuals have a duty to act as a reasonable prudent person in same or similar circumstances to avoid foreseeable or unreasonable risks of harm.
- **Intentional Torts**

- Battery – harmful or offensive touching
 - Assault - apprehension of harmful or offensive touching
 - Intentional Infliction of emotional distress – caused by extreme of outrageous contact
 - False Imprisonment – restraint of liberty
 - Libel or slander
 - Compensatory and punitive damages may be awarded for the injuries sustained
- **Premises Liability** – results from a landowner causing injury to another by breaching the duty owed to that person by either willful misconduct or negligence
 - **The Duty owed by the property to others depends on whether the person is an:**
 - invitee
 - licensee
 - trespasser
- ***Lopatkovich v City of Tiffin*** – the case may have applicable to parish property because it involves issues of duty, natural and unnatural accumulations of snow and ice, lighting, uneven and defective surfaces, and actual and constructive notice.
 - **The parish owes a reasonable duty of care to people on its property.** The degree of care depends on several factors, but the

administrator must be familiar with the legal standards as well as the types of activities and people involved in them on parish premises.

6. Managing Parish Employees: Human Resources and Understanding Applicable Laws and Practices

- **Employees at Will** – absent a contract providing otherwise, both employers and employees have the right to terminate the employment relationship at any time for any reason taking into account applicable discrimination laws.
- *Respondeat Superior* – Employers are vicariously responsible for the acts of its employees either negligently or intentionally committed in discharging their duties for the employer's business.
- **Anti-Discrimination Laws** – generally prohibit discrimination in hiring on the basis of religion, race, color, sex, national origin, disability, and ancestry. If the employer has good faith reason for only accepting those of a particular religion (teachers in parochial school) may be permitted to make hiring decisions on that basis.
- **Hiring** – Employers must exercise due care in hiring (Consult the Diocesan Offices as helpful procedures may be available) the person who best meets the employee's needs in carrying out its business.
 - **Vacancy Announcement** – based on the job description
 - **Application** – Appropriate tool for asking job related question about background and experience. Resumes are helpful, but may not provide answers that an application can. Writing samples, etc. are appropriate and may be helpful in accessing skill level.

- **Background Checks** – very useful tool for learning as much as possible about prospective employees who are being considered for employment
- **Interviews** – provide the opportunity to “look the prospective employee in the eye,” ask “relevant job related questions,” clarify any questions about background or experience, and to observe the prospective employee’s demeanor
- **Employee Classification, Compensation, and the Employer-Employee Relationship**
 - **Grade and pay** (Consult Diocesan Offices) – This can be a very technical process that many parishes don’t have the professional resources to address. The Diocese can be an invaluable resource.
 - **Employee Handbooks** – Can have both positive and negative aspects, but most important is that they be **very carefully drafted**. While they can be a way of giving each employee notice of the rules of the workplace and expectations of employment, the use of language is critical to avoiding misinterpretations or misunderstandings.
- **Employment Decisions** – Should be based on merit, qualifications, and abilities. This can be problematic in a parish where a “family” atmosphere may exist and there is a desire to “help” a member of the family. It can become problematic if things don’t work out as anticipated and personnel action becomes necessary.
- **Volunteers** – non-compensated workers are common in the parish setting and while they are not employees, the parish is accountable for their actions when they act within the scope of that volunteer status. It is important, therefore, that volunteers be trained in the parish’s rules and procedures and particularly be included in any Child Protection training programs.

- **Legal Requirements for the Parish as Employer**
 - Unemployment Compensation
 - Anti-Discrimination - under EEO laws the protected classes are religion, race, color, sex, national origin, disability, and ancestry
 - Pregnancy
 - Fair Labor Standards Act – non-exempt (managerial employees) must be compensated for all hours worked over 40 in a work week
 - Americans With Disabilities Act – reasonable accommodation can be required
 - Ward v Hengle –

7. Parish Fundraising Activities and Government Regulations of Festivals, Bingo, Games of Chance and Alcohol – Traditionally sources of significant parish fundraising and it's important for the administrator to be familiar with the laws and regulations governing them.

- **Festivals** – Statutory definitions may differ by jurisdiction. In Ohio, a festival must include at least 2 types of activities such as cultural or musical exhibitions, food arts, crafts, etc., in order to legally conduct games of chance. One responsible for the administrative function of a parish must research the definition in that state. Gambling licenses, liquor laws, premises liability issues may be applicable.
- **Raffles** - Generally available to tax exempt Section 501(c)(3) organizations only and 50% of net profits must be used for charitable purposes.
- **Games of Chance** – gambling activities where games of chance such as blackjack, poker, etc., are played to raise funds for charity. Generally permissible for tax exempt Section 501(c)(3). Strictly regulated with record keeping required.
- **Bingo** – a "staple" in parishes it seems, state laws differ. A license may be required and may be restricted to tax exempt Section 501(c)(3) organizations.

- **“Criminal charges may be brought against the workers or parish, civil prosecution, suspension and/or revocation of license, etc.,” are also possible.**
- **Liquor and Liability** – providing alcohol is a regulated activity and violations can result in criminal charges, civil fines and civil liability. **Liquor Control laws and regulations are jurisdictional and must be consulted to insure compliance.** It is imperative that a parish administrator be familiar with the laws of the local jurisdiction if alcohol is to be served at any function sponsored by or taking place on parish premises even if it is a private function such as a wedding reception for which parish space has been rented. If alcohol is not permitted on its premises by the parish, the invitee must be given adequate notice of the prohibition.

8. **The Parish and Its Facilities: Land Use and Zoning Issues** - State Constitutions or other enabling legislation generally grant local governments the power to govern land use in the locality of the parish. The purpose is to have a police power to provide for the public health, safety and welfare of the population. Specifically, it is to stabilize neighborhoods, promote orderly development, control traffic, control density, protect the environment, control aesthetics, etc. Zoning regulations will usually arise in parish construction projects, use or lighted signs and area requirements. Courts interpret zoning regulations regarding:

- Nuisances
- Restrictive Covenants
- Eminent Domain
- Powers and Limitations
- Types of Zones and Uses
- Codes and Building Standards
- Uses that are exempt from public regulations
- Nonconforming uses

- Variances and Conditional Uses
- Board of Zoning Appeal
- Standards for granting variances
- Aesthetics
- Historical and Architectural Preservations
- Sign control
- *State ex rel Synod of Ohio United Lutheran Church in America* – the issue in this case involved whether the zoning ordinance prohibiting churches in residential areas as long as there was sufficient property available in commercial districts is a reasonable exercise of the police power. The Court held that the refusal to issue a permit to locate the church in a residential area bears no substantial relation to the public health, safety, or morals or general welfare.

9. The Parish's Tax Exempt Status – To qualify for tax-exempt status under the Internal Revenue Service (IRS) Code the organization must:

- a. Be organized and operated exclusively for religious, educational, scientific or other charitable purposes
 - b. Net earnings may not be used for the benefit of any private individual
 - c. No substantial part of activity may be attempting to influence legislation
 - d. Purpose and activities of organization may not be illegal or violate public policy
- A church with a parent organization that holds a group tax-exempt ruling will be considered tax-exempt as well.
 - ***Political Campaign Activity – All Charitable 501(C)(3) organizations are absolutely barred from directly or indirectly participating in or intervening in ay political campaign on behalf or in opposition to any candidate for political office. This includes contributions or public statements of position on behalf of the organization.***
 - Individual Activity by Religious Leaders

- While there is a 1st Amendment right to free expression on political matters, it cannot be done in an official capacity
- Candidates for Office
 - Candidates may appear, with or without invitation, to public events, but there may be a question of providing equal time to other candidates, whether any fundraising occurred, etc.
- Voter Education
 - Are all candidates included
 - Is the presentation of issues neutral
- Parish Websites
 - Posts may not favor or oppose a candidate for political office, and links to other websites containing candidate related material may be problematic
- **Consequences of Political Activity**
 - **LOSS OF TAX EXEMPT STATUS!!! Beware -You don't want to go there!**

10. **Parish Confidentiality Issues** - In this module, we will take up the discussion of confidentiality in three areas most relevant to the administrator:

- a. **Privileged Communications** – the general rule is that no person has a privilege to refuse to testify concerning any matter nor to refuse to provide an object or prevent another from being a witness or of disclosing information unless otherwise provided by statute.
- **Clergy** – “Canons 889, 900 and 2369 absolutely seal the lips of priests...; what is said in a confessional is ‘sacred’.”
- **Ministers and Educators** – often speak to or receive information from parishioners or students “in confidence.” It should be noted that, in most jurisdictions, there is no legal protection for such

communications and that in litigation it might be subject to disclosure.

- b. **Sacramental Records** – are often the source for proving the dates of births or marriages in civil and other circumstances. They should be treated with a great deal of care when recording to insure that the information is accurate. Equally as important is the security of such records. Because of their importance, they should be protected against fire, theft, and other damage by maintaining them in an appropriate enclosure such as an adequate safe. The pastor is ultimately responsible for the maintenance and security of these records, and while the actual recording and everyday maintenance may be delegated to the administrator or a secretary, the pastor bears the responsibility.
- c. **Business Records** – it is a good practice that minutes of parish and finance council and other meetings involved in providing advice and counsel to the pastor regarding the business of the parish be recorded for future reference for a period of time and in a manner to be determined by the pastor or consistent with any policies established by the diocese. Pastors, administrators and parishioners come and go and having these records can be helpful to a new pastor in understanding the parish's history.

11. **The Protection of Children and Boundary Issues** – It is well known that all involved in parish ministry and schools have a special obligation to insure that children entrusted to their care, custody and control are treated with the highest level of care and ethical behavior when interacting with children. To that end, the U.S. Conference of Bishops has established guidelines. It is also important, however, to provide training at the diocesan and parish levels to insure that those who have contact with children in the parish receive the appropriate training, including the consequences of inappropriate behavior and errors in judgment.

- Statutory Requirements and Regulations
- USCCB Requirements

12. Managing the Parish's Finances – the parish takes in funds on a regular basis and must manage them responsibly.

- **Parish Accounts**

- **Petty Cash**- a small amount of cash retained at the parish (usually not more than \$400) for incidentals.
- **Bank Accounts** – checking, savings, certificates of deposits (CD's).
- **Check signing** – pastor, administrator and, in some cases, the accountant too.
- **Reconciliation** – performed monthly by the accountant.
- **Sunday Collections** – an established procedure with teams of collections counters should be utilized.
- **Finance Council** – a long-term committee that should be composed of experts in the field, e.g. banker, accountant, business people, etc., who understand good business practices and donate their time and expertise.
- **Accounting System** – refers to the parish office staff, the hardware and software, and reporting system utilized to keep the pastor informed about the assets and liabilities of the parish by way of a “chart of accounts.”
- **Statements to Parishioners** – periodic reports should be made to parishioners so that they are aware of the parish's financial condition. Parishioners should also receive end-of-year statements of their contributions for tax purposes.

- **Budget** – the document covering a 12 month period (fiscal year) that shows the parish’s income/revenue, the expenses for salaries, supplies, travel, maintenance, etc. It will show these items in terms of the actual, the projected and any differences (variances).

- **Capital Campaigns and Projects-** financial planning process for expansion or improvement of facilities

Assessing Your Parish

- Parish Compliance with Best Practices and Legal Requirements?
- Specific Recommendations Regarding Compliance

At the conclusion of Module 10, participants will upload and complete the Parish Assessment Survey and analyze how well their individual parishes currently comply with some of the best practices studied in this course.

The Final Project for the course consists of one of two options.

1. Prepare and complete a Parish Recommendation Plan in which the participant selects two items from the completed Parish Liability Assessment form and prepares this detailed and specific plan to present to their pastor for recommended approaches to resolve compliance issues; **or**

2. After discussion and agreement with the course facilitator, complete a paper on some specific aspect of this course that may provide a practical approach to address a parish administration issue the participant would recommend to the pastor.

Final Grades will be based:

50% on the cumulative module analyses for Modules 1-11.....	33
+ Parish Liability Assessments.....	17
50% on the Final Project.....	50
100%	100