

DIOCESE OF HEARST-MOOSONEE

Code pastoral conduct  
For a safe and healthy environment

Dispositions

January 2023

Name: \_\_\_\_\_



## Forward

Priests, deacons, seminarians, employees and volunteers in our parishes and other diocesan institutions must conform their lives according to our Christian values in their ministries and services to people entrusted to their care. In the image of Christ, our servant leader, we will use means that are above people's expectations and we commit to foster the highest respect for the dignity of each person, in particular the most vulnerable among us.

Everyone must acknowledge that their conduct, both public and private, is an inspiration for others. We will strive to ensure that our example is positive and is not a source of scandal that would harm people's faith. In order to achieve that, we always place ourselves under the guidance of the Holy Spirit.

This document offers guidelines to assist in the protection of clerics, employees, volunteers and people entrusted to their care.

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## Glossary

The following definitions have been revised from the CCCB document PROTECTION OF MINORS FROM SEXUAL ABUSE\*<sup>1</sup>. According to this document, they take into account the Criminal Code of Canada, Canon Law, information from the Holy See and the Department of Justice Canada, as well as the Guide to Terminology for the Protection of Children from Sexual Exploitation and Abuse, published by the Inter-Agency Working Group on the Sexual Exploitation of Children (2016) and the Glossary on Sexual Exploitation and Abuse published by the United Nations (2017).

The glossary has no legal effect and is intended only as a reference tool for this document. All terms and their definitions are to be interpreted only in the context of this document. If further clarification is required, the authoritative sources are the Criminal Code of Canada, provincial and territorial legislation and canon law.

**Abuse:** Refers to sexual abuse of a minor by employees or volunteers who have received an official mandate from the bishop or parish priest.

Note: The word “abuse” has a broad meaning, which may also include physical, verbal, emotional or sexual behaviour (i) that causes a person to fear for his or her physical, psychological or emotional safety and well-being; (ii) which the alleged abuser knew or ought reasonably to have known would cause that person to fear for his or her physical, psychological and emotional safety and well-being. This behaviour may or may not be criminal in nature. A key factor in some forms of abuse is an imbalance of power, for example where the victim is exploited by a person in a position of authority, or where there is a significant age gap or economic asymmetry.

**Accused:** The one against whom an allegation is made.

**Acts (acta):** All the testimonies and documents provided for a decision to be rendered by the ecclesiastical court.

**Adult:** A person who has attained the age of eighteen (18) years or more.

**Advisory Committee:** Interdisciplinary volunteer board that advises the Bishop and ensures this protocol is followed throughout the life of a case (Annex 8).

**Age:** Canon 97, Code of Canon Law (1983), states: “§ 1. At the age of eighteen years a person is of full age; below this age he is a minor. § A minor, before the age of seven years, is called a child and is presumed not to be able to govern himself; at the age of seven years, he is presumed to have the use of reason.

**Allegation:** The term ‘allegation’ means a complaint, not yet verified, which alleges or states that someone has committed an act of sexual assault against a minor or vulnerable adult. This term is used interchangeably and in conjunction with the term ‘complaint’.

**Bishop:** a member, established by divine institution, of the Church’s hierarchy (superior to priests and deacons) in communion with the Pope and appointed by him for the government of the Church’s faithful. In the context of this document, the “bishop” is the supreme authority in a diocese.

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<sup>1</sup> PROTECTION OF MINORS FROM SEXUAL ABUSE, A Call to the Catholic Faithful of Canada for Healing, Reconciliation and Transformation, CCCB, 2018, pp. 158-168

**Bishop's Delegate:** a person appointed by the Diocesan Bishop to receive allegations of sexual misconduct from volunteers and paid staff at both diocesan and parish level.

**Canon law:** Ecclesiastical law of the Roman Catholic Church and the Eastern Catholic Churches. The universal law applicable to Catholics is found in the Code of Canon Law (1983), the Code of Canons of the Eastern Churches (1990) and subsequent documents published by the Holy See. Particular law is that which applies to a particular territory, for example the legislation of the Canadian Conference of Catholic Bishops, applicable in Canada but elsewhere. A third type of canon law is called “proper law” and applies to individuals, regardless of where they may live. The most common example of proper law is the internal law governing institutes of consecrated life, societies of apostolic life and other groups that have similar internal legislation governing their life and ministry.

**Catholic Church in Canada:** A conventional term used to refer to the totality of the dioceses and eparchies (or “local churches”) of the Latin and Eastern Churches of Canada, which are autonomous and individually constituted as juridical persons under a bishop.

Note: There is no legal or theological entity called “Catholic Church in Canada” or “Canadian Catholic Church”.

**CCCB:** Canadian Conference of Catholic Bishops refers to the bishop's conference or episcopal conference of the Catholic Bishops in Canada.

**Child Pornography:** The definition of child pornography in the Criminal Code of Canada (R.S.C. 1985, c. C46, s. 163.1) includes : (a) any photographic, film, video or other representation, whether or not made by mechanical or electronic means, of explicit sexual activity with a person under the age of eighteen years or represented as such; (b) any written material, representation or sound recording that advocates or counsels sexual activity with a person under the age of eighteen years (c) any written material the dominant characteristic of which is the description, for a sexual purpose, of sexual activity with a person under the age of 18 years; (d) any sound recording the dominant characteristic of which is the description, representation or simulation, for a sexual purpose, of sexual activity with a person under the age of 18 years.

**Child protection:** Measures taken to promote the well-being of children (i.e. the provision of safe and effective care) and to protect them from harm, abuse and maltreatment.

**Children:** In this document, a child is defined as a person under the age of seven. Note: The Ontario Child, Youth and Family Services Act (CYFSA), R.S.O. 1990, Chapter c. 11, s. 3, defines a “child” as a person under the age of eighteen, while the Canadian Youth Criminal Justice Act, 2002, c. 1, s. 2(1), defines a “child” as a person who is, or in the absence of evidence to the contrary, appears to be under the age of twelve.

**Church leaders:** This term is a shorthand for the phrase “bishops and major superiors and those who are equated with them in law”.

**Clergy<sup>2</sup>:** Clergy refers to bishops, priests, and deacons.

**Cleric:** a man who is an ordained minister. He may be a bishop, a priest, a clerical member of an Institute of Consecrated Life or Society of Apostolic Life, a transitional or permanent deacon. This person may or may not possess the faculties required to exercise a ministry within the Diocese of Hearst-Moosonee. For the purposes of this Code, this group includes seminarians and candidates for the permanent diaconate.

**Client:** a person who seeks spiritual guidance or any form of counselling from a priest or lay person appointed for this ministry.

**Complainant:** An individual who claims to be the subject of misconduct by departmental staff.

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<sup>2</sup> Cf. *Protecting Minors from Sexual Abuse, “Clergy”* p.147

**Conflict of interest:** A conflict of interest is a set of conditions in which judgement or decisions concerning a primary interest is unduly influenced by a secondary interest (personal or organizational benefit including financial gain, advancement, or other benefits to family, friends, or colleagues).

**Congregation for the Doctrine of the Faith (CDF):** The particular office within the Vatican which promotes and safeguards the doctrine on the faith and morals throughout the Catholic world. The resolution of certain grave delicts, such as sexual abuse of a minor by a cleric, are reserved to the CDF.

**Delegate/Bishop's delegate<sup>3</sup>:** The person named by an Ordinary (the Bishop for the purpose of this protocol) to act on his behalf in relation to a specific issue. A person can be delegated for a particular case or for all cases relating to a specific issue.

**Deputy Delegate:** In the event that the delegate is unable, or unwilling, to serve in a particular case, the Bishop will appoint a deputy delegate for the management of a particular inquiry.

**Derogation:** A partial revocation of a law by a competent ecclesiastical legislator, usually in a particular case. For example, derogation from a canonical prescription (the equivalent of “statute of limitations”) so that a case can be heard by an ecclesiastical court even if the prescription period has expired. The law itself remains unchanged, but it is not applicable in the particular case under consideration.

**Dicastery:** the word “dicastery” refers to a service of the Roman Curia, including the Secretariat of State, Congregations, Tribunals, Councils and Offices.

**Diocese:** the ecclesiastical entity established according to Canon 369 of the Code of Canon Law, and which for us is referred to as the Diocese of Hearst-Moosonee, which includes the civil territories of the Roman Catholic Episcopal CORPORATION OF THE DIOCESE OF HEARST as well as the Roman Catholic Episcopal CORPORATION OF THE DIOCESE OF MOOSONEE

**Domicile:** Domicile is acquired by residence in the territory of a parish or at least of a diocese, with the intention of remaining there definitively if nothing detracts from it, or prolonged for five full years (canon 102 §1).

**Employee:** Any person employed — under the labour law of the Province of Ontario — by a parish or the diocese, on a full-time or part-time basis, who receives a salary to perform a task or to support a parish or diocesan initiative.

**Faculties:** a canonical term for the permission granted by an ecclesiastical authority or by law itself to exercise a ministry or apostolate in the Diocese of Hearst-Moosonee.

**Formator:** A member of the teaching staff of a seminary or house of formation who prepares candidates for ordination or for the profession of the evangelical counsels by public vows approved by the Church.

**Guidelines:** the canonical norms established following an examination by the Congregation for the Doctrine of the Faith, which are intended to help and advise bishops and major superiors.

**Harassment:** any conduct through words, actions, gestures, videos, images or any other behaviour that creates or has the potential to create an intimidating and hostile work environment for an individual. The behaviour may be verbal, physical, psychological or sexual by a person who knows, or ought to know, that the action is offensive.

**Investigator:** One or more investigators may be appointed to assist the delegate or deputy delegate.

**Laity, lay:** the Christian faithful whose proper state is specifically secular and who, living in the world, participate in the mission of the Church, but have not been sacramentally ordained and do not belong to the religious state.

**Major Superior:** taken in a broad sense, this term refers to those who head an entire religious institute, or a province or part equivalent to a province, as well as those who exercise similar functions in ecclesial societies, associations and

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<sup>3</sup> Cf. *Protecting Minors from Sexual Abuse*, “Delegate” p. 147

movements. Some major superiors are also ordinaries: for example, those who direct a priestly religious institute or a priestly society of apostolic life of pontifical right.

**Minor:** The term “minor” here refers to a person who has not attained the age of eighteen years, as defined by provincial law in Ontario. This includes children, youth and adolescents.

**Note: Minor:** For the purposes of this protocol, individual under 18 years of age at the time of the offence. In the Canon Law of the Catholic Church, and in the Province of Ontario, a minor is one who has not completed the 18<sup>th</sup> year of age. According to the *Child, Youth and Family Services Act* of Ontario, 2017 all suspicions of the sexual abuse of a minor – under 16 years of age – must be reported forthwith to CAS along with the grounds for the suspicion. For the purpose of this protocol, suspicions of abuse of individuals under the age of 18 must be reported to the CAS.

**Misconduct:** Unacceptable or improper behaviour. Misconduct and sexual misconduct are herein referred to as “misconduct”.

**Motu proprio:** a document prepared by the Pope on his own initiative and signed by him.

**Notary:** According to canon law, an ecclesiastical notary can be defined as a person legitimately constituted by ecclesiastical authority to authenticate by his or her signature ecclesiastical documents.

**Obligation to Report:** In the context of this Protocol, all reasonable suspicions of abuse or misconduct must be reported to SE along with the grounds for suspicion (see 1.1). In Ontario, there is a legal obligation to report to a Children’s Aid Society a suspicion of abuse of a minor who is less than 16 years of age. For the purpose of this protocol, suspicions of abuse of individuals under the age of 18 must be reported to the CAS.

**Offence:** A crime which, according to canon law, is punishable by malice or negligence.

**Offender:** A person who has committed an act of sexual abuse against a minor.

**Opinion (votum):** an official view or judgement based on facts or knowledge.

Note: When a bishop or major superior refers a cause to the Congregation for the Doctrine of the Faith, he also provides an informed opinion based on the evidence heard and gathered in the cause in question.

**Ordinary:** This is the term used in canon law for diocesan bishops and those who have general ordinary executive power in the diocese, i.e., Vicars General and Episcopal Vicars (cf. canon 134 §1).

**Policy:** A course of action or principle of action, in the context of the protection of pastoral environments, adopted or proposed by a diocese or institute.

**Pornography:** any form of literature, photographs, audio, film, digital film or video, which depicts acts or poses of a sexual nature and which is intended to cause sexual arousal or gratification. The target audience may be children, minors, vulnerable adults or adults.

**Preliminary Investigation:** An investigation conducted directly by an ordinary or through his or her delegate, in response to information received regarding a possible crime (canonical crime) committed by a member of the Church staff.

**Protocol:** A formal procedure or system of rules governing the way in which alleged and proven sexual abuse of minors is handled by Church leaders.

**Quasi-domicile:** Quasi-domicile is acquired by residence in the territory of a parish or at least of a diocese, with the intention of remaining there for at least three months if nothing detracts from this or extended in fact for three months (canon 102 §2).

**Recourse:** The act of submitting to a higher authority a request for review of an administrative decision of a lower authority. Recourse differs from an ‘appeal’, which follows a decision of a judicial or administrative tribunal.



**Religious:** Persons who, by professing the evangelical counsels (poverty, chastity, obedience) in public vows approved by the Church or other sacred commitments approved by the Church, are consecrated to God. This term is used interchangeably with the term “members of institutes” and in conjunction with it. By extension and depending on the context, this term also applies to members of other institutes, societies, associations and ecclesial movements.

**Religious institutes:** term used to designate institutes of consecrated life and societies of apostolic life (cf. canons 573-746), which profess the evangelical counsels and offer service within the Church. The term “congregation” is often used to describe these groups of people.

**Respondent:** a person who is alleged to have had committed, or to have committed, one or more acts of misconduct and who is called to respond to one or more allegations.

**Safe environment:** a safe environment that promotes human growth and full development. The goals of a safe and healthy environment are to respect and secure all individuals in any environment, especially where children, minors, vulnerable adults or ministerial staff are involved.

**Secular law:** refers to the federal, provincial and territorial laws of Canada; it differs from canon law.

**Sexual abuse (of a minor):** sexual abuse of a minor means any physical intrusion of a sexual nature committed against a minor by force, coercion or unequal relationship, or the threat of such intrusion.

Note: The term ‘sexual abuse’ has a broad meaning that includes several acts, including rape, sexual assault, sexual intercourse with a minor and sexual activity with a minor. Sexual penetration of a minor and sexual activity with a minor (relationship with a minor for sexual purposes) is prohibited. Ignorance of the age of the child is not a defence.

Although most forms of sexual abuse of a minor involve contact, sexual abuse of a minor can be committed without any physical contact (known as ‘non-contact abuse’). Common examples of ‘non-contact abuse’ are sexual exploitation through pornography and sexual harassment, including verbal harassment such as unwanted sexual comments.

Regarding the use of the terms “abuse of a minor” or “sexual abuse of a child”, the terms “minor” and “child” are often used interchangeably when referring to a person under the age of majority.

Sexual abuse of minors is the primary focus of this paper and includes any misconduct or act that is considered a sexual offence under the Criminal Code of Canada, the laws of the province or territory where the offence was committed, and canon law.

**Sexual assault:** Sexual activity with a non-consenting person. The term “sexual assault” is broader than “rape” because a) it can be committed by means other than force or violence, and b) it does not necessarily involve penetration. Common examples are acts of lust, indecent contact and indecent exposure.

**Sexual misconduct:** any inappropriate conduct, or sexual activity, by which a member of the ministerial staff takes advantage of a person under his or her direction to obtain sexual gratification, against the other person’s will or even with his or her consent. Priests ‘are bound to observe perfect and perpetual continence for the sake of the kingdom of heaven and are therefore bound to celibacy, which is a special gift of God, by which sacred ministers can more easily adhere to Christ with an undivided heart and can more freely dedicate themselves to the service of God and man’ (canon 277 §1).

**Spiritual director/advisor:** a cleric or lay person appointed to support and help a person understand their relationship with God, the Church or the wider community.

**Statute of limitations:** under secular law, a prescribed period or time limit for reporting to civil authorities the sexual abuse of a minor or any other type of sexual assault.

Note: Under secular law in Canada, there is no statute of limitations for sexual abuse of a minor or any other type of sexual assault.

**Survivor:** in this document, this term refers to a person who has been sexually abused. This term is used interchangeably with the term “victim” and in conjunction with it.

Note: It should be noted that the term 'survivor' can mean many things given its complex nature. It should also be noted that just as some may reject the term 'victim', others may not recognise themselves in the term 'survivor'.

**Victim:** In the context of this document, 'victim' refers to a person who has been sexually abused. It is used interchangeably with and in conjunction with the term 'survivor'.

**Volunteer:** a person who provides a service, ministry or apostolate at parish or diocesan level and is not paid for that service.

**Vulnerable adult:** A person defined as an adult by secular law, but who lacks the mental capacity of an adult or who, because of advanced age, physical illness, mental disorder or disability at the time of the alleged abuse, was or may have been unable to protect himself or herself from serious harm or exploitation. Accordingly, an adult who is habitually deprived of the use of reason is considered incapable of self-government and equivalent to a minor under canon law and for the purposes of this document.

**Vulnerable person:** a person of any age who could more easily be exploited by another person. Children, young people and some adults fall into this group of individuals. Some are physically or mentally disabled or emotionally vulnerable. Others may be socially isolated, materially or socially needy, unable to communicate adequately or even unable to speak the languages of our region. Others may live with fear, real or imagined, or be unduly impressed by people in authority. Others, such as immigrants and refugees, may be disadvantaged in many ways.

**Young people:** in this document, a young person is a person aged eight years and under eighteen years.

**Zero tolerance:** this term is used to make it clear that anyone who has sexually abused a minor will not remain in ministry.

## *1. General Guidelines*

### A. Places of residence

- Residence in presbyteries is reserved to priest, deacons and seminarians.
- With the written permission of the bishop, members of the immediate family may stay for a predetermined period of time with the one responsible of the parish.
- Priests may also host other priests, members of their families and other friends for a maximum of two weeks, ensuring that no scandal ensues from such a stay.

### B. Workplaces

- Members of the clergy, staff and volunteers must ensure that the workplace environment be free of harassment and intimidation either physical, sexual, psychological, written or verbal.
- Members of the clergy, staff and volunteers must ensure that the work environment is free of any form of physical, sexual, psychological, written or verbal harassment or intimidation.
- Members of the clergy, staff and volunteers must ensure that the work environment is free of any form of physical, sexual, psychological, written or verbal harassment or intimidation.
- One-on-one meetings must take place in an open environment or at least with a glass part that allows you to see and be seen.
- It is prohibited to possess or use illegal drugs at any time.
- It is forbidden to use verbal or body language that is aggressive, vulgar, humiliating, threatening, intimidating, sexist or racist.

### C. Proximity

- Any physical contact can be misinterpreted. Therefore, physical contact in private should be avoided. Any form of physical discipline such as hitting, shaking or slapping is prohibited.
- Discussions of a sexual nature are only allowed to answer a specific question. Appropriate and professional language must be used for any discussion of a sexual nature.
- When a person is aware of an inappropriate attraction or attention to him or her within a pastoral relationship, the person should do everything in his or her power to avoid encouraging such an attitude or attention. If the situation persists, the pastoral relationship should be discontinued.

### D. Counselling and Spiritual Direction

- In situations of counselling and spiritual direction, one should avoid exceeding one's competence. Referrals to other professionals should be made when deemed necessary and more appropriate. Pastoral counselling should not become a psychological clinic or psychotherapy session.
- Any interview or session or other form of conversation of a personal nature should not be digitally, audio or video recorded.

In order to avoid confusion about the nature of the relationship, sessions such as interviews, formal or informal conversations, counselling and others, should take place in an appropriate environment, place and time. The frequency of such sessions should be considered to avoid the possibility of inappropriate attachment.

#### E. Financial Guidelines

- Our ministry is part of the pastoral service and no one should ask or even expect financial compensation other than that stipulated in their contract or as part of other diocesan provisions.
- It is forbidden for anyone to solicit, directly or indirectly, in word or deed, any form of personal gift, bequest or capital (or foundation?) from anyone with whom there is any pastoral relationship, present or past.
- It is forbidden for anyone to apply for (and) or attempt to obtain a personal loan, or any other form of financial benefit, who has any pastoral relationship, present or past.
- All persons, clergy, staff and volunteers involved in the financial administration of a parish should be aware of diocesan policies in this area. These policies are available in the Diocesan Code.

#### *2. Specific guidelines for children, young people and other vulnerable persons*

- Clergy, staff and volunteers are encouraged to develop transparent and trusting relationships with children, young people and other vulnerable people while maintaining professional attitudes and boundaries.
- Special attention should be paid (towards) the most vulnerable people <sup>\*See Glossary</sup>.
- (Others may experience social isolation or be unable to understand etc.).

#### A. Working environment and limits

- Meetings, various practices, liturgical trainings and other such activities must take place in groups and be supervised by at least two unrelated adults, in a public place or in the parish hall.
- No interaction with children, young people or vulnerable persons should take place in the parish residence or in (any) other private residence belonging to a member of the clergy.
- Children, young people and vulnerable persons should not be provided with an overnight stay without the presence of another adult who is not related to the clerk, employee or volunteer, who is responsible for supervision. Under no circumstances and at no time should such a stay be allowed in the parish residence - such as the rectory - without permission from the bishop or his delegate.
- When an adult (person) is acting as a supervisor for overnight accommodations with children, young people or other vulnerable persons, that supervisor must not, under any circumstances and under any circumstances, sleep in the same bed as a child, young person or other vulnerable person.
- Family members of a priest who are still minors may stay in the parish residence provided they are accompanied by their parents.

- The use of drugs, alcohol, tobacco products or spraying should be avoided in the presence of children, young people or other vulnerable persons.
- It is prohibited to purchase or facilitate access to alcohol, drugs, tobacco products or vapes, inappropriate videos, (or other inappropriate material) to children, young people or other vulnerable persons.
- It is forbidden to transport children, young people or other vulnerable persons in a vehicle without the presence of another unrelated adult. Everyone should be aware of the exclusion clauses in their own insurance policy in such circumstances. As much as possible, consideration should be given to public transportation or car rentals, especially when group transportation is involved.
- The celebration of the Sacrament of Reconciliation with a minor or vulnerable person must take place in an open place where both the priest and the other person are fully visible at all times, or in a confessional with a physical separation or even a partition between the priest and the other person.

### *B. Proximity*

- It is forbidden to be alone with a child, young person or other vulnerable person. A parent or other adult must always be nearby. It is recommended to use the team approach for the management of activities.
- It is forbidden to accept a gift from a child, young person or other vulnerable person. Similarly, it is forbidden to buy a gift for a child, young person or other vulnerable person.
- One should not travel alone overnight in the presence of a child, young person or other vulnerable person. An appropriate number of adult supervisors should be provided for such activities.
- It is prohibited to make any comments of a sexual nature that are inappropriate or inappropriate with anyone, especially children, parents or other adults, with children, young people or other vulnerable persons.

### *C. Financial guidelines*

- It is prohibited to act as a financial advisor or to act as a Power of Attorney for any vulnerable person. It is also prohibited to prepare a will or act as a witness for a will for vulnerable persons.

### *3. Application*

- Every person working in ministry or pastoral service is responsible for the implementation of this Code of Conduct.
- Clergy, staff and volunteers must hold each other accountable in order to commit to maintaining the highest level of professional ethics.
- Clergy, employees and volunteers must be aware of this diocesan protocol regarding abuse of any kind. This protocol is available from your parish.
- Any allegation of a sexual nature should be taken seriously and reported immediately to the pastor or bishop or his delegate.

- When there is something fishy or a situation is open to interpretation, the case may be referred to the pastor or bishop or his delegate.
- When a member of the clergy, a staff member or a volunteer has contravened the provisions of this Code of Pastoral Conduct, it should be reported immediately to the pastor or bishop or his delegate.
- Any request for exceptions to the provisions of this Code of Pastoral Conduct must be made in writing to the Bishop or his delegate.

#### *4. Acknowledgement*

I have read this Code of Pastoral Conduct and I undertake to put it into practice.

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Names (Please Print)

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Signature

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Date (JJ/MM/AAA)

*NB: For lay employees/lay employees, this document should be kept in the parish or diocesan files and a copy given to the person who signed.*

*For priests, deacons and seminarians, the original must be sent to the chancery. One copy must be kept in the parish where the priest is assigned, another copy must be given to him.*