

§400 DISPENSATIONS

As with any type of rule or law, there are extraordinary instances in which an exception from a particular policy may be warranted. No policy can be declared null or void without the legislative act of the Archbishop, but policies can be “relaxed” in certain instances. This section deals with the process for relaxing a policy in certain exceptional instances. The act of relaxing a policy is termed a “dispensation”.

In order to understand the scope of a dispensation, it is important to understand the characteristics of a dispensation:

- 1) It is a purely administrative act and does not require the legislative power of the Archbishop to be effective.*
- 2) When a policy is dispensed from, the policy itself remains in full effect. The policy is only relaxed for that particular instance, not abrogated.*
- 3) Dispensations, when applied to Archdiocesan policies, may only dispense these policies. Divine laws are not subject to dispensations.*
- 4) A dispensation is only granted in a particular case, for particular individual persons, for particular concrete circumstances. All others not subject to the dispensation are required to follow the policy as always.*
- 5) Dispensations are always temporary. Once the circumstance, for which the dispensation was required, terminates, so does the dispensation.*

(The Canon Law Society of Great Britain and Ireland, The Canon Law, Letter & Spirit, The Liturgical Press, Collegeville, Minnesota, 1995, pp.48-49.)

§401 AUTHORITY

The authority to grant a dispensation is vested in only those who have executive power in the church. The following policy lists those who may grant dispensations.

401.1. Policy The Archbishop, Vicar General, Episcopal Vicars, Chancellor, Vicar for Canonical Services, and others with legitimate delegation or who exercise executive power within the limits of their competence shall have the authority to grant dispensations from these policies and procedures when there is just and reasonable cause and when it contributes to the spiritual good of the faithful (cf. cc. 85-93).

§402 DISPENSATION PROCESS

Even though only the persons listed in Policy 301.1 have the authority to grant a dispensation from Archdiocesan policies, they ordinarily are not the people who identify the need for a dispensation. In most circumstances, the person who identifies the need for a dispensation will be the person involved in the particular circumstance. Also, the

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persons who have the authority to grant a dispensation may not be familiar with the subject matter of the dispensation. Therefore, department/agency directors, Episcopal Vicars, and the like, must be involved in the dispensation process. The following policies explain the process by which a need for a dispensation is submitted for certification.

402.1. Policy A dispensation shall not be granted without the filing of a formal policy dispensation form certification with the Office of the Chancellor.

402.2. Policy Only department/agency directors and Episcopal Vicars shall have the authority to file a policy dispensation form with the Office of the Chancellor.

Procedures

- a) Persons identifying the need for a dispensation should discuss the matter with their department/agency director or Episcopal Vicar, whoever is most appropriate.

- b) If the department/agency director or Episcopal Vicar needs assistance in determining whether the particular circumstance necessitates a dispensation, he/she may contact one of the following for guidance:
 - ✓ Book I Chancellor
 - ✓ Book II Director of Personnel Services
 - ✓ Book III Superintendent of Schools or Director of Religious Education
 - ✓ Book IV Episcopal Vicar, Vicar for Canonical Services, Chancellor or Director of the Office for Divine Worship
 - ✓ Book V Chancellor or Director of Finance or Director of Legal Services

- c) If the department/agency director or Episcopal Vicar determines that there is in fact a need for a dispensation, he/she shall complete a formal dispensation form, indicating the reason for the dispensation. The dispensation form must also receive a *nihil obstat* from the person to whom the one completing the dispensation form is accountable, for example:
 - 1) A dispensation form submitted by an agency director must first receive the *nihil obstat* of the appropriate department director.
 - 2) A dispensation form submitted by a department director must first receive the *nihil obstat* of the Chancellor.
 - 3) A dispensation form submitted by an Episcopal Vicar must first receive the *nihil obstat* of the Vicar General if the request seeks to dispense that Episcopal Vicar's entire vicariate.

- d) The form is then submitted to the Office of the Chancellor.

- e) Dispensation forms and instructions are available at the Office of the Chancellor.

402.3. Policy Applications for dispensations shall be granted or denied in a timely fashion.

402.4. Policy All decisions granting or denying dispensations shall be issued in writing.

§403 RECORDS

403.1. Policy The Office of the Chancellor shall keep a written record of all dispensation decisions and all applicable materials in accord with pertinent records-retention schedules.

§404 REVIEW

404.1. Policy Dispensation decisions shall be reviewed quarterly by the Policy Development Committee.

Procedures

- a) Dispensations are reviewed to determine whether there are recurring difficulties with the substance or application of policies based on the requests and decisions for dispensations.
- b) When five or more dispensations are granted for a particular policy, the Consul for Policy Development will make a report to the Administrative Council.
- c) The Administrative Council may ask for a review of the policy or the need for an amendment or change to the particular policy.