

Legal Issues
September, 2003

E. 1. CHILD / YOUTH ABUSE

Child abuse in any form cannot be tolerated within the Christian community or society. Those who minister to children / youth have a special responsibility to provide safe environments and to report suspected abuse. Act. 1994-151 defines abuse as the following:

- ? **“Serious physical injury”** is an injury, which either causes a child / youth severe pain, or significantly impairs a child / youth’s physical functioning either temporarily or permanently.
- ? **“Serious mental injury”** means a psychological condition which renders a child chronically and severely anxious, agitated, depressed, socially withdrawn, psychotic, or in reasonable fear that the child’s life or safety is threatened, or which seriously interferes with the child / youth’s ability to accomplish age-appropriate development and social tasks.
- ? **“Serious physical neglect”** of a child / youth also constitutes abuse if it consists of prolonged or repeated lack of supervision or the failure to provide the essentials of life including adequate medical care, which endangers a child’s life or development or impairs the child’s functioning. Environmental factors beyond the control of the parent such as inadequate housing, furnishings, income, clothing, and medical care, cannot be deemed to constitute “abuse.” Poverty alone is therefore not to be classified as abuse.

Sexual abuse and the diocesan policy is stated and outlined in the diocesan *Protecting God’s Children Program*, page DP-41 and following

PROCEDURE

- ? When the Catechist, Catechetical Leader or Youth Minister suspects that the child coming before is a victim of suspected abuse; They must immediately report the suspected child abuse to the local County Office of Children and Youth Services listed below or the Childline-Child Abuse Hotline at 1-800-923-0313
- ? After reporting the suspected abuse to government authorities the Catechist, Catechetical Leader, or Youth Minister should notify the Pastor.

County Offices of Children and Youth Services:

Bedford County: 814-623-4804	Centre County : 814-355-6755	Cambria County: 814-472-5860 814-539-7454
Blair County: 814-693-3130	Clinton County: 717-893-4100	Somerset County: 814-445-1600
Fulton County: 717-485-3553	Huntindon County: 814-643-3270 (after hours) 814-643-2290	

E. 2. CLEARANCES

Many of us are thankful when someone volunteers to help with the religious education / youth ministry program. It is common practice to put someone in a position like a catechist, youth minister, or aide without asking questions pertaining to a person's criminal background. It is important that we avoid negligence by asking all of our personnel, lay, religious, and clergy, questions concerning their criminal background or involvement in cases of abuse.

The diocesan sponsored Virtus Program, *Protecting God's Children*, requires that everyone who has contact with children / youth have the Pennsylvania State Police "Request for Criminal Record Check" and the "Pennsylvania Child Abuse History Clearance", which is to be resubmitted every three years. Those who move into this area from another state are required to obtain a FBI Clearance. Refer to section page 41 and following for the *Protecting God's Children* Program and diocesan policies.

Process for obtaining record checks and child abuse history clearance

- Apply for the criminal record check online for immediate response or mail the form on page DP-19. To apply online, you will need a credit card to establish a parish account. The cost is \$10.00 per record check. Online go to <https://epatch.state.pa.us>– select 'become a registered user'. Register your parish. You will need your parish tax exempt number for this section. Under "purpose of request" select Volunteer work. You will then be shown a screen to type in the personal information for the person (s) for whom a record check is requested. Once your request (s) is processed, double click the control number for each person (s) you applied for to access the certificate from screen. Make sure that you check the place that requests a certificate. Select Print. Your certificate (s) will print in about one minute. Individuals in the parish may also apply through their personal computers.
- Once you obtain the criminal record check certificate, enclose it with another \$10.00 fee and mail it to the address listed on the "Pennsylvania Child Abuse History Clearance" form on page DP-17. This clearance will take about 14 days.

E. 3. CONSENT AND PERMISSION TO TREAT

Off-site activities are an important component of any Religious Education, Confirmation Prep, or Youth Ministry Program. Administrators of these programs should ensure that parents are notified in writing well in advance of the activity and provided with a permission form.

PROCEDURE

- Notify the parents in writing of the event
- Provide the diocesan permission and consent to treat form. This form is to include:
 - where the activity is going to take place, (including city and state)
 - a release from liability
 - treatment wishes of parents in case of injury
 - treatment wishes of parents in case of minor ailment
- The permission form should be signed by the parent and include insurance information

PERMISSION / MEDICAL RELEASE FORM

(Parents keep this portion)

_____ is going _____ on _____
(Name) (Activity) (Date)
Leaving from _____ at _____ transported by _____
(Place of departure) (Time)
Arriving back at _____ at _____
(Place of arrival) (Time)

(Please detach and retain this section and return this form and any fee)

WAIVER OF RESPONSIBILITY

_____ sponsored by _____ is going to
(Group) (Parish)
_____ on _____. Having full confidence that every
(Activity) (Date)
precaution will be taken to ensure the safety and well being of my child, _____
(Name)

I agree to his / her participation and waive all claims against the leaders of this trip or activity, officers, agents, and representatives of the Diocese of Altoona-Johnstown.

In the event of an emergency, the leader of the activity has my permission to obtain medical treatment for my child at the nearest hospital or doctor, at my expense, if my own doctor is not readily available.

Doctor _____ Phone _____

During the activity listed above, I can be contacted at the following phones and will accept long distance phone calls.

() _____ () _____

List child's allergies if any _____

List medication child is taking _____

Any special instructions for this medication? _____

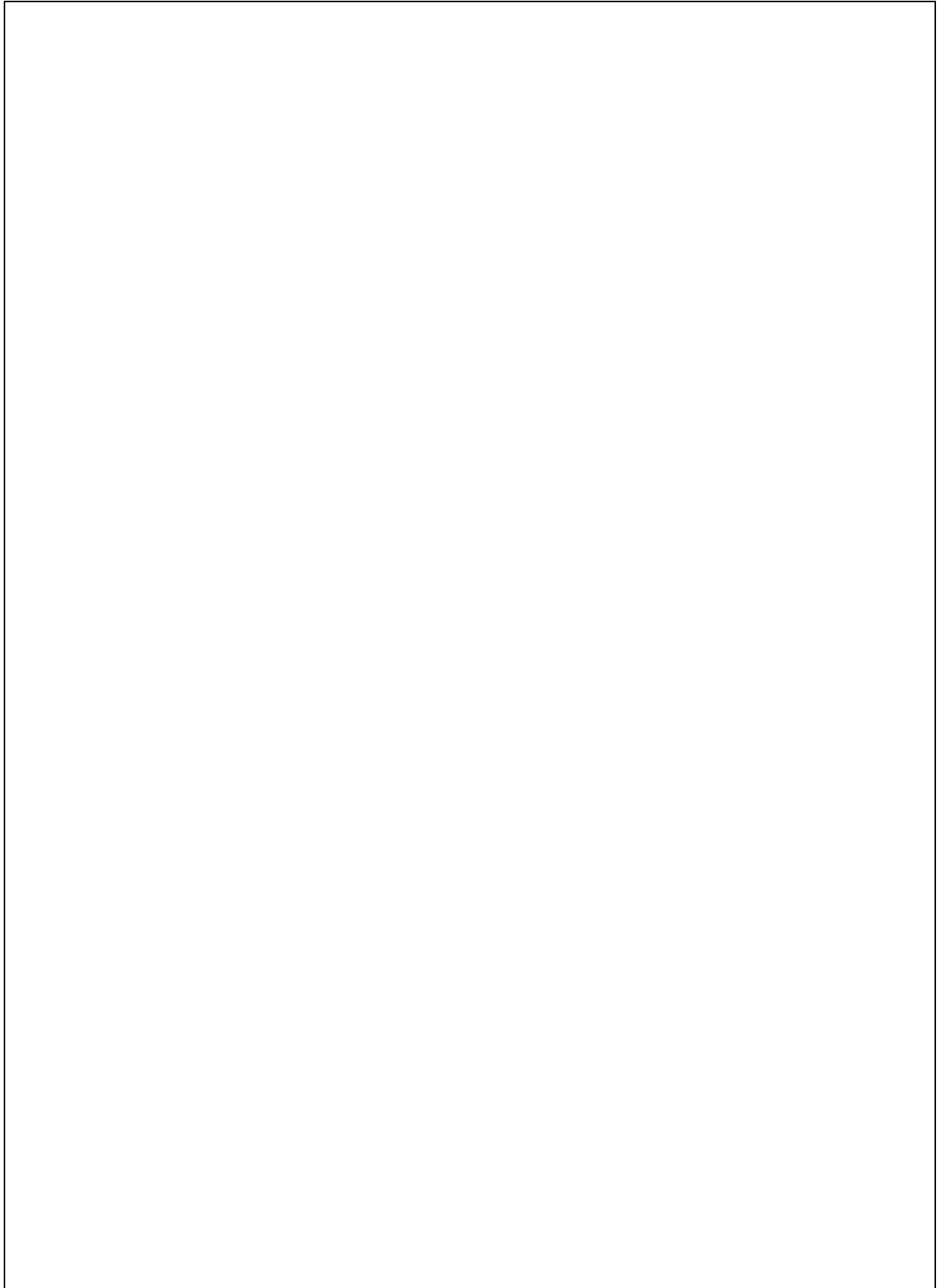
Do you want the leader to carry the medication? Yes___ No___ (Use the back of this form for additional information and for explanation of any problems the activity leader should be aware of.)

Date of last tetanus / booster _____.

Medical Insurance Company _____ Policy No. _____

Control No. of Group
Policy _____ Other _____

(Signature of parent or guardian) (Date)



E. 4. COPYRIGHT POLICY

Catechetical leaders, youth ministers, and catechists are role models for children, youth, and adults and are expected to obey civil law in the area of the *Copyright Act*. Most prayers, song words, and music texts (including CD's and DVD's) are copyrighted material. In order to reprint, permission of the publisher releasing texts or music must be obtained. Sometimes a small license fee is required, especially for music, but in many cases permission is granted without charge, provided copyright requirements are met.

The following guidelines are to be implemented for classroom copying.

1. Single Coping For Teachers

A single copy may be made of any of the following by or for a teacher at his or her individual request for his or her scholarly research or use in teaching or preparation to teach a class:

- A. A chapter from a book
- B. An article from a periodical or newspaper
- C. A short story, short essay, or short poem, whether or not from a collective work
- D. A chart, graph, diagram, drawing, cartoon or picture from a book, periodical, or newspaper.

2. Multiple Copies for Classroom Use

Multiple copies (not to exceed in any event more than one copy per pupil in a course) may be made by or for the teacher giving the course for classroom use or discussion, provided that:

- A. The copying meets the tests of brevity and spontaneity as defined below and
- B. Meets the cumulative effect test as defined below and
- C. Each copy includes a notice of copyright.

Brevity

- i. Poetry
 - a. complete poem if less than 250 words and if printed on not more than two pages or
 - b. from a longer poem, an excerpt of not more than 250 words.
- ii. Prose
 - a. Either a complete article, story or essay of less than 2,500 words or
 - b. An excerpt from any prose work of not more than 1,000 words or 10% of the work, whichever is less, but in any event a minimum of 500 words.

[Each of the numerical limits stated in **i.** and **ii.** above may be expanded to permit the completion of an unfinished line of a poem or of an unfinished prose paragraph]
- iii. Illustration
One chart, graph, diagram, drawing, cartoon or picture per book or periodical issue.
- iv. "Special" works: Certain works in poetry, prose or in "poetic prose" which often combine language with illustrations and which are intended sometimes for children and at other times for a more general audience fall short of 2,500 words in their entirety. **Paragraph ii.** Above notwithstanding such "special works" may not be reproduced in their entirety; however, an excerpt comprising not more than two of The published pages of such special work and containing not more than 10% of the works found in the text thereof, may be reproduced.

Spontaneity

- i. The copying is at the instance and inspiration of the individual teacher.
- ii. The inspiration and decision to use the work and the moment of its use for maximum teaching effectiveness are so close in time that it would be unreasonable to expect a timely reply to a request for permission.

Cumulative Effect

- i. The copying of material is for only one course in the parish or school in which the copies are made.
- ii. Not more than one short poem, article, story, essay or two excerpts may be copied from the same author, nor more than three from the same collective work or periodical volume during class term.
- iii. There shall not be more than nine instances of such multiple copying for one course during one class term

The limitations stated in **ii. and iii.** above shall not apply to current news periodicals and newspapers and current news sections of other periodicals.

3. Prohibitions as to 1 and 2 Above

- A. Copying shall not be used to create or to replace or substitute for anthologies, compilations or collective works. Such replacement or substitution may occur whether copies of various works or excerpts therefore are accumulated or reproduced and used separately.
- B. There shall be no copying of or from works intended to be “consumable” in the course of study or of teaching. These include workbooks, exercises, standardized tests and test booklets and answer sheets and like consumable material.
- C. Copying shall not: (a) substitute for the purchase of books, publishers’ reprints or periodicals; (b) be directed by higher authority; (c) be repeated with respect to the same item by the same teacher from term to term.
- D. No charge shall be made to the student beyond the actual cost of the photocopying.

Agree March 19, 1976. Ad Hoc Committee on Copyright Law Revision: by SHELDON ELLIOT STEINBACH. Author-Publisher and Authors League of America by IRWIN KARP, Counsel. Association of American Publishers, Inc. by ALEXANDER C. HOFFMAN, Chairman, Copyright Committee.

(Policy Copyright Diocese of Erie, reprinted with permission)

E. 5. CUSTODY CONSIDERATIONS

We are religious educators in an age when child custody is a concern as more of our children / youth live in a single parent or blended family households. To aid in the implementation of state custody laws, DRE / Youth Ministers are to abide by the custody agreement stated in the court order. If one parent has been given full custody, it is their right to provide for the religious education of their child. In cases of joint custody, the agreement as stated in the court order is to be followed. Parents may ask in their custody agreement that the non-custodial parent brings the child / youth to religious education / Sacramental Prep / youth ministry programs.

PROCEDURE

- Include information regarding custody on the annual registration form
- Catechists are to be given custody information. They have the obligation to release the child / youth to the appropriate parent / guardian or their designee
- Permission forms are to be signed by the parent who has custody or is the legal guardian
- Add a statement in the handbook informing parents that it is their duty to inform the DRE / Sacramental Prep Coordinator / Youth Minister regarding the custody of their child / youth or any change in custody. There may be instances when the DRE / Sacramental Prep Coordinator / Youth Minister needs to see the court order for clarification.

E. 6. HARASSMENT

Every individual has value and is due respect because he / she is a unique child of God. Therefore, every parish program in the Diocese of Altoona-Johnstown should strive to provide an environment that is safe from physical, psychological, sexual, or verbal harassment. Harassment includes, but are not limited to the following:

- Derogatory verbal comments, such as epithets, jokes, or slurs or offensive language
- Unwanted sexual advances
- Unwanted physical contact or overtures that creates an intimidating, hostile, or offensive environment
- Display of lewd visuals such as posters, photographs, cartoons, drawings, or gestures
- Physical or verbal threats and demands to submit to sexual requests

PROCEDURE

Refer to the diocesan "Code of Pastoral Conduct" policy of the *Protecting God's Children* Program (page DP-41)

E. 7. NEGLIGENCE

Negligence is the “fault” against which DRE / Sacramental Prep Coordinators / Youth Ministers and Catechists must guard, but it is the most difficult to judicially predict. Since negligence is an unintentional act or omission that results in injury, anyone charged with negligence is not usually going to face criminal charges. Gross negligence is defined as a gross deviation from the standard reasonable care.

According to Mary Angela Shaughnessy in *Religious Education and the Law: A Handbook for Parish Catechetical Leaders*, there are four elements that must be present before legal negligence can be found.

1. **Duty.** Within the religious education / sacramental prep / youth ministry setting, children / youth have the right to safety and DREs / Sacramental Prep Coordinators / Youth Ministers and catechists have the duty to provide safe environments. This means that once the child / youth has entered parish property or is attending a parish sponsored event, catechetical personnel have the duty to provide a safe environment. Parish policy should include the following:

No classroom or activity is left unattended without the appropriate number of adults or with adults who have not completed the diocesan *Protecting God’s Children Program*

Supervision must be provided for each child / youth from the time he / she arrives on church premises or at a church sponsored activity until a parent / guardian arrives

2. **Violation of Duty.** Occurs when the catechist leaves children / youth unattended or through inattention or inaction when an injury happens. Under the legal doctrine of *respondeat superior* (let the superior answer), DRE / Sacramental Prep Coordinators / Youth Ministers are often held responsible for the actions of catechists. Parish policy should state the following:

Clear guidelines in the case of injury.

Stated expectations for catechetical conduct and behavior.

Program responsibilities of the DRE / Sacramental Prep Coordinators / Youth Minister.

3. **Proximate Cause.** The violation of duty must be the proximate cause of the injury. For example, a child might throw an object and if the catechist does not intervene and someone is injured, the inactivity of the catechist is the proximate cause of the injury.
4. **Injury.** There is no case of negligence if an injury does not occur.

DREs / Sacramental Prep Coordinators / Youth Ministers must be proactive in the elimination of hazards and providing safe environments.

E. 8. RELEASE TIME

22 PA Code § 11.21 allows young people to be absent from school for 36 hours per school year for the purpose of religious instruction, retreats, days of reflection, or trips of a religious nature. Many parishes have used this law to make their retreat day, etc. a more pleasurable experience for their young people. The provisions of the law follow:

PROCEDURE

22 PA Code § 11.21 states the following:

- Upon written parental request, and in accordance with the policies of the district's board of school directors, pupils may be excused from school for religious holidays observed by bona fide religious groups.
- Upon written parental request, a pupil shall be excused from school in order to attend classes for religious instruction under section 1546 of the Public School Code of 1949. The excusal shall be limited to a total of not more than 36 hours per school year.
- A pupil's absence from school for religious holidays or for religious instruction shall be recorded as an excused absence. There shall be no penalty attached to an absence for religious holidays or instruction.

E. 9. TRANSPORTATION OF CHILDREN / YOUTH

Visits to places of religious, cultural, or educational significance give enrichment to the catechetical / Confirmation Prep /or youth ministry program. The diocese has had a long-standing policy that prefers the use of contracted services to transport children / youth. If private vehicles are used for transportation, the following procedures are to be followed:

PROCEDURE

- **Avoid** the RISK when possible— ask people to arrange their own transportation for most activities
- **Transfer** the RISK when possible—hire a commercial operator when practical
- **Reduce** the RISK at all times
 - Use designated “safe drivers” who are more experienced and whom you trust. This can be a difficult volunteer situation, but the intent is to hand-pick those you trust the most
 - Ask the drivers if they have a valid license, an accident history or mechanical problems with their vehicle
 - Inform the driver that his / her insurance policy will be the “first coverage” for any accident
 - Do a pep talk with the drivers (children / youth) before the trip that (a) emphasizes safety; (b) reviews the plans for the trip; © insists on incidents being reported to the parish
 - Travel together if there is more than one vehicle (tends to keep the speed down)
 - When possible, have 2 adults in each vehicle
- **Minimize** any ACCIDENT
 - Get all of the facts from all of the drivers involved (names, license, insurance, Police I.D.)
 - Report immediately to the parish, who immediately reports to Gallagher Bassett (800) 831-3247
 - Stay in touch with injured parishioners; show genuine concern and monitor their progress
 - Never promise a settlement or insurance payment. That is Gallagher Bassett’s job!
- A “Volunteer Driver Information Sheet” is on page DP-31 for suggested use.

VOLUNTEER DRIVER INFORMATION FORM

I. Driver: Name _____ Date of Birth _____

Address: _____

_____ Phone: _____

Driver's License # _____

II. Vehicle that will be used:

Name of Owner _____ Year and Make _____

Address of Owner _____ Model _____

_____ License Plate _____

Registration Expires _____ Inspection Expires _____

(If more than one vehicle is to be used, requested information must be provided for each vehicle)

III. Insurance Information: When using a privately owned vehicle, the insurance coverage is the limit of the insurance policy covering that specific vehicle.

Insurance Company _____

Policy Number _____

Expiration Date _____

IV. Certification:

I certify that the information on this form is true and correct to the best of my knowledge. I understand that as a volunteer driver, I must be 21 years of age or older, hold a valid driver's license, and have the required insurance coverage in effect on any vehicle used to transport students.

(Signature)

(Date)

E. 10 TRIPS OFF CHURCH PROPERTY

At no time can a catechist / youth minister or staff member take children / youth off church grounds during class time without prior notification of parents / guardians and a written permission slip from them.

Following are some guidelines for trips off church property.

PROCEDURE

- * Catechists should understand that there is no inherent right to participate in such a trip and parents / guardians have the right to refuse to allow their children to participate
- * The catechist can refuse participation to children / youth whose conduct is less than satisfactory
- * A signed release form is required for all trips off church grounds (See pg. DP-23)

Note: The above information applies to Confirmation Retreats as well.

F. PERSONS WITH MENTAL AND PHYSICAL DISABILITIES

Diocesan Policy

Ministry with people with disabilities is rooted in the simple sacred truth that every human being is created in the image and likeness of God. The presence of a disability in no way diminishes this reality.

The command of Christ to his disciples, “Go, therefore, and make disciples of all nations; baptize them in the name of the Father and of the Son and of the Holy Spirit” (Mt. 28:19) includes persons with disabilities. They are included not because they are disabled but because they as persons, made in the image and likeness of God, enjoy their fullness of human rights to receive the word of God and to participate in divine redemption (1).

The Second Vatican Council affirms parents’ responsibility for the faith formation of their children. “Parents are the first to communicate the faith to their children and educate them” (2). Children / youth with physical and / or mental disabilities are no exception. These children / youth come to the parish after a period of formation within the family structure. A cooperative effort between parents and catechists is especially important to assure that these special children / youth are informed about the faith and formed within a community of faith.

It is the goal of religious education / sacramental prep /youth ministry “that catechetical formation be given to those handicapped in body or mind insofar as their condition permits” (3). People with mental and / or physical disabilities should be given learning opportunities within the regular religious education sacramental prep /or youth ministry programs. We must assure that sacramental preparation and celebration occur at the opportune times of their lives. (Refer to each sacrament for guidelines)

The mission of the Religious Education, Sacramental Prep and Youth Ministry Offices is to serve all people of the Altoona-Johnstown Diocese. Staffs in these offices serve as a resource for any catechist who needs assistance with including children / youth with disabilities into parish religious education and sacramental preparation formation.

1. Opening Doors, National Catholic Office for Persons with Disabilities
2. *Decree on the Apostolate of the Laity*
3. Code of Canon Law, (Canon 777.4)

RELIGIOUS EDUCATION /SACRAMENTAL PREP /YOUTH MINISTRY **GOALS AND GUIDELINES**

GOALS FOR PARISH PROGRAMS

To involve those with mental and physical disabilities in total parish life. This is to include worship, service, catechesis and community to the extent possible.

“That the community be made aware of such catechesis and be involved in it.” (GDC #189)

To include persons with mental and physical disabilities in the parish religious education / sacramental prep / youth ministry programs. Adapt the program wherever necessary.

To include parents and other family members in the religious education / sacramental prep process.

To provide catechists with the confidence, skills and resources necessary to share the Church's faith with students.

GUIDELINES FOR CATECHESIS

Obtain background information on the student with mental and physical disabilities. A sample form is attached; this should be updated annually.

Work closely with the parents and set realistic goals.

Discuss the nature of the disability with the students, when appropriate.

Have a classroom aide or companion, when necessary.

Use experiential methods of presenting key concepts.

Emphasize repetition and provide opportunities for using the skill once it has been learned.

Use materials and methods that are developmentally age appropriate.

Talk to the person directly, not through a companion or family member.

Encourage participation; do not make or allow excuses because of the disability.

Allow the person to try tasks on his / her own, to make mistakes and persevere.

REGISTRATION FORM FOR STUDENTS WITH CHALLENGING NEEDS

Name _____ Child's Age _____ Phone _____

Address _____

_____ Parent's Name _____

School Attended _____ Educational Program _____

School District _____ Child's Disability _____

Method of Communication

- A. Speech understandable _____
- B. Speech difficult to understand _____
- C. Signs _____
- D. Uses communication board _____
- E. Uses communication board or pictures _____
- F. Non-verbal but makes needs known _____
- G. Non-verbal but does not make needs known _____
- H. Other _____

Medical Considerations

- Seizures _____
- Motor Difficulties _____
- Food Allergies (please list) _____
- _____
- Special diet _____
- _____
- Any other _____

Bathroom Skills

- Independent _____
- Needs some assistance _____
- Total assistance _____
- Catheter _____

Educational Skills

- Approximate developmental functioning level _____
- Please list some acquired skills (e.g. reads words by sight) _____

Please answer these statements to give the teachers a better understanding about your child.
Additional space is provided for other comments and suggestions.

1. My child is best at _____

2. My child needs the most help with _____

3. My child most enjoys _____

4. My child least enjoys _____

5. When I play or work with my child, we usually _____

6. Ways I have tried to help my child with behavior or school work that have worked are:

7. Ways that did not work are _____

8. Special concerns I have _____

9. What I expect him / her to learn in this class _____

10. Suggestions I have _____

Other Comments

SENSITIVE LANGUAGE REGARDING DISABILITIES

1) Put people first, not their disability

When people are defined by their disability, it robs them of their individuality.
People are more than their disability.

*Woman with arthritis not arthritic woman
Man with spinal curvature not the hunchback
Children who are deaf not deaf children
Person who has a disability not the disabled or handicapped*

2) Do not label people as part of a disability group.

When a person is labeled, they are being seen only for their disability.

*People with mental retardation instead of the retarded
Has a physical disability not an invalid*

3) Emphasize abilities rather than limitations.

Wheelchairs and braces liberate rather than confine.

*Wheelchair user instead of confined to a wheelchair
Uses leg braces instead of crippled*

4) Do not use emotional descriptions such as unfortunate, pitiful, etc. nor portray all persons with disabilities as superhuman or heroic.

Individuality is lost when one is stereotyped. Stereotypes get in the way of getting to know an individual and encourage unrealistic expectations—in both extremes—for those with disabilities.

5) Do not use victim language.

Victim language implies helplessness and dependency.

*Sue has polio not Sue is a polio victim
Hal lives with M.S. not Hal is stricken with M.S.
Pete experiences depression not Pete suffers from depression*

6) Do not use demeaning language.

*Jeff has seizures not Jeff is spastic
April has Down Syndrome not April is Mongoloid
Wendy has an emotional disability not Wendy is nuts*

