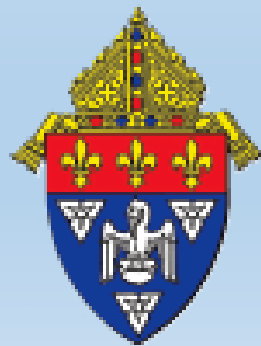


# DRAFTING A HANDBOOK TO PROTECT YOUR ENTITY'S LEGAL STATUS

*Karen Heil and Wendy Vitter*



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# Webinar Practice Run

Host: Ainsley Ross

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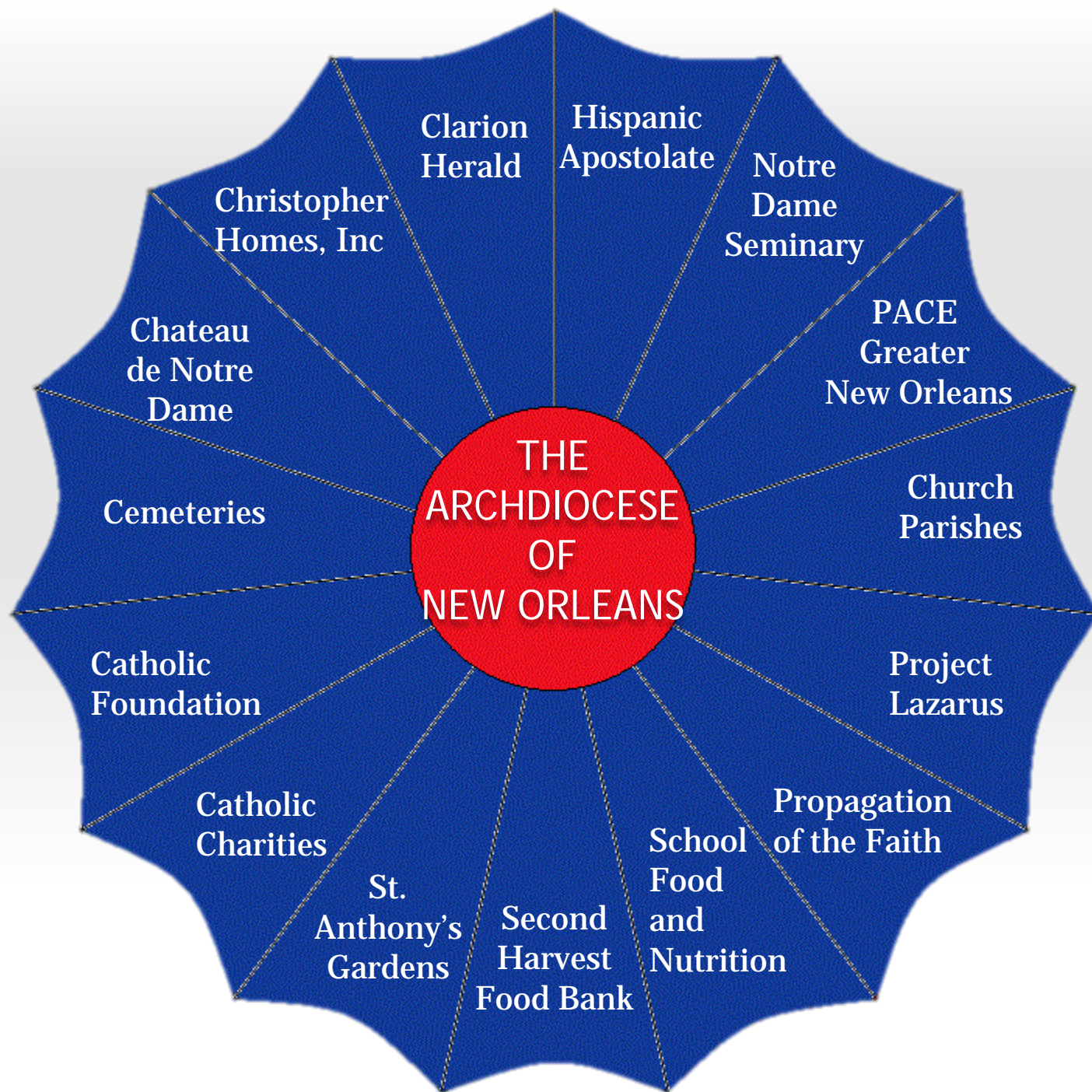
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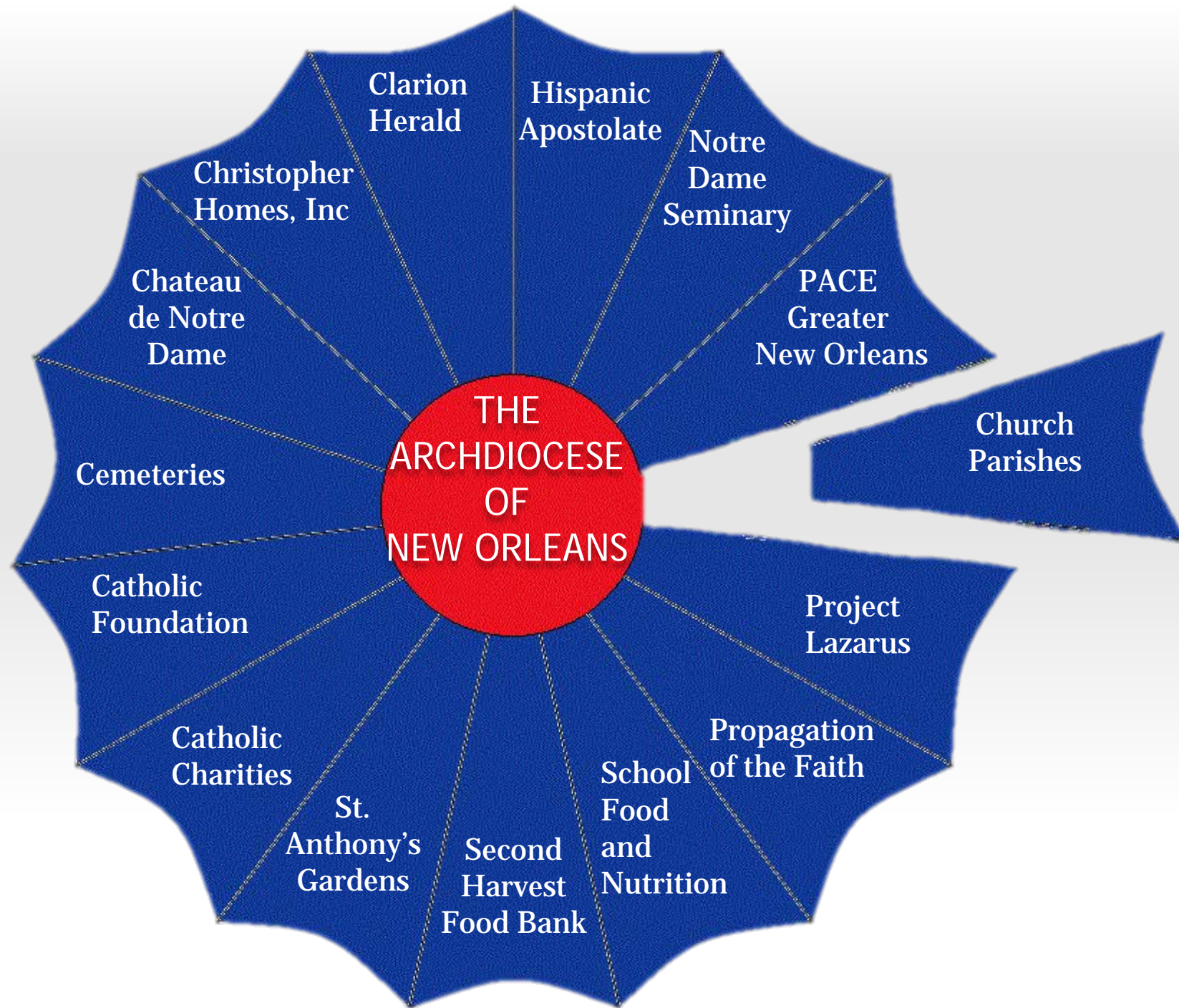
Select a participant in the Send to menu first, type chat message, and send...

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# WHAT IS A 501 (c)(3) LEGAL CORPORATION?

501 (c)(3) is an IRS tax code for a non profit entity whose activities are charitable, religious, educational, scientific, and which puts all of its income back into the services it provides, therefore allowing for exemption from certain federal taxes (federal income tax).





# WHAT IS MINISTRY?

- A ministry is an outreach program of a church of a diocese.
- There can be (and are) many ministries within an archdiocese.
- Ministry ≠ Legal Corporation

# WAYS TO SUPPORT AN ENTITY'S SEPARATE LEGAL STATUS:

- By Laws
- Mission statement
- Internal organization/Governance
- Location
- Handbook/Policies
- Letterhead
- Forms
- Procedures

WHILE DRAFTING YOUR EMPLOYEE  
HANDBOOK, REMEMBER:

**WWWJD**



# THE JUDGE (EEOC) WILL DECIDE:

1. Is the policy legal?
2. Was it applied legally to employee in question?
3. Was it applied consistently (uniformly) to all employees?



# MISSION STATEMENTS

*We are many parts of one body, and we all belong to each other.*

## Example

“As the Roman Catholic Church of New Orleans, we are a people of many cultures. While drawing from the richness of our diversity, we are one family with a divine calling to worship God together in the Eucharistic assembly and to carry the Good News of Jesus Christ from that holy gathering to all people. With the leadership of our Archbishop, we rejoice in our long tradition as we begin our third century as an Archdiocese and the third millennium of Christianity. The Archdiocese takes seriously the Church’s call to justice for those who work with us. The primary purpose of these Personnel Policies is to foster a climate in which every staff member views himself or herself as a valued member of the community. In many ways this manual may appear no different from any other employee handbook. But it is fundamentally different. It is rooted in the Gospel because of our dignity as God’s people.”



**What is your entity’s connection to the Archdiocese?**

*Example: [ENTITY] is a ministry of the Archdiocese of New Orleans; as such, we also embrace their Philosophy and Statement of Purpose...*



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# EQUAL EMPLOYMENT

The defense and promotion of human rights is inseparable from the Gospel mandate.

Therefore, the [ENTITY NAME] does not discriminate against applicants or employees for reason of race, age, color, sex, disability or national origin.

This nondiscriminatory policy applies to hiring, training, promoting, salaries, transfers, and working conditions.

# AT WILL EMPLOYMENT

- Employees of the [ENTITY NAME] who are not under written contract are at-will employees. This means that the employee may resign at any time, with or without cause.
- At will employment also means that [ENTITY NAME] has the right to terminate an employee's employment at any time, with or without cause.
- This Handbook is meant to provide guidance to employees. It is not, and should not be construed as, a contract of employment. It is the hope and intent that the employee will have an open line of communication with his/her supervisor for any questions or clarification on matters.



# DRESS POLICY

## EXAMPLE:

“Every employee has a direct impact on the image of our Archdiocese. A key aspect of our image is personal appearance. First impressions are significant in our relationships with others both inside and outside the Archdiocese. Good grooming and professional dress are important to present a favorable image of the Archdiocese. The following dress code for the Administrative Offices provides general guidelines for what is considered appropriate for our workplace.”



**What are the dress requirements for *YOUR* entity?**

- Are there/should there be different dress policies for office versus site employees?

# BENEFITS

- **Retirement Plan**
- **Accident Insurance**
- **Medical Insurance**
- **Disability and Life Insurance**
- **Credit Union**

# HOLIDAYS/WORK SCHEDULE

## Example:

“The normal holiday schedule for the Administrative Offices of the Archdiocese will consist of the following holidays:

- New Year’s Day, Martin Luther King, Jr. Day, Lundi Gras, Mardi Gras Day, Good Friday, Easter Monday, Memorial Day, Independence Day, Feast of the Assumption of Mary \*, Labor Day, All Saints Day \*, Thanksgiving Day, Day after Thanksgiving, Feast of the Immaculate Conception \*, Christmas Eve, Christmas Day
- Any of the holidays (except those marked with an asterisk) falling on a Saturday will be observed on the Friday before. Those falling on a Sunday (except those marked with an asterisk) will be observed on the following Monday. The holiday schedule will be published by the Human Resources Department each year and will have a minimum of 16 holidays each year with another day being substituted for the holidays noted with an asterisk if those holidays fall on either a Saturday or Sunday. It is available on the Archdiocese website. The Archbishop may declare other paid holidays at his discretion.”



**Different start times/work schedule?**



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# FAMILY AND MEDICAL LEAVE

- In accordance with the Family and Medical Leave Act of 1993 (FMLA), locations who meet Employer Coverage requirements as defined by the statute may grant up to 12 weeks of family and medical leave during any 12 month period to eligible employees. Employer Coverage FMLA applies to all:
  - Private sector employers who employ 50 or more employees for at least 20 workweeks in the current or preceding calendar year - including joint employers and successors of covered employers.
- **Eligibility for FMLA Leave:** The employee must have worked for a covered entity and meet all of the following conditions:
  - Has worked for the Entity / Location for at least 12 months or 52 weeks prior to the need for leave.
  - Has worked at least 1250 hours during the 12 months immediately before the date the leave would begin, and
  - Works at a location where at least 50 employees are employed at the location. *[or within 75 miles of the location; Separately incorporated entities such as a Parish & its School will be considered together. ]*



# FAMILY AND MEDICAL LEAVE, ctnd.

- BASIC FMLA LEAVE

- The employee must be taking the leave for one of the following reasons:
  - 1. incapacity due to pregnancy, prenatal medical care or child birth;
  - 2. to care for the employee's child after birth, or placement for adoption or foster care;
  - 3. to care for the employee's spouse, son, daughter or parent, who has a serious health condition; or
  - 4. a serious health condition that makes the employee unable to perform the employee's job.

- MILITARY FAMILY LEAVE

- Eligible employees whose spouse, son, daughter or parent is on covered active duty or call to covered active duty status may use their 12 week leave entitlement to address certain qualifying exigencies or in certain cases, up to 26 weeks of leave to care for a covered service member for designated medical treatments for a serious injury or illness.
- Please refer to the Dept. of Labor's publication: "*The Employee's Guide to Military Family Leave Under the FMLA*" for the most up to date definitions and timelines for Military Leave Entitlements and Qualifying Exigencies.

# FAMILY AND MEDICAL LEAVE, ctnd.

- **Serious Health Condition**

- A serious health condition is an “illness, injury, impairment or physical or mental condition that involves inpatient care in a hospital, hospice or residential care facility, or continuous treatment by a health care provider.” The employee is required to provide a doctor’s certification of the serious health condition.
- Eligibility for FMLA Leave in the case of birth, adoption or placement of a foster child expires 12 months from the birth, adoption or placement of the child.

# FAMILY AND MEDICAL LEAVE, ctnd.

- While the employee is on FMLA leave, [ENTITY NAME] will continue the employee's health benefit during the leave period at the same level and under the same conditions as if the employee had continued to work.
- While on paid FMLA leave, [ENTITY NAME] will continue to make the employer contribution to health benefit and through payroll deduction will collect the employee portion of the monthly premium. While on unpaid FMLA leave, [ENTITY NAME] will continue to make its contribution and the employee must make their payment through a bank draft. The Accounting/ Payroll Department will ensure that the correct employee bank account is drafted. If the payment is not received, the employee's health care coverage may be dropped for the duration of the leave. (If the employee is on leave beyond 12 weeks, the employee is responsible for the full cost of health insurance premiums, including the portion paid by [ENTITY NAME]).

# FAMILY AND MEDICAL LEAVE, ctnd.

- **Employee Status after FMLA Leave**
  - After returning from FMLA leave, the employee will be placed in an equivalent position with equal benefits, pay and other terms and conditions of employment. If the leave was taken because of the employee's own illness, documentation from the employee's physician that the employee is able to return to work is required.
  - If the employee is on leave beyond 12 weeks, job protection under the FMLA statute has expired.
- **Use of Paid and Unpaid Leave**
  - Under the FMLA statute, an employee taking leave for any reason must have all paid sick and annual leave exhausted prior to being eligible for unpaid leave, for a total of 12 weeks FMLA.

# POLICIES TO INCLUDE:

- Employee Evaluation/Review Policy
- Parental Bonding Policy
- General Equipment Use Policy
- Sexual Harassment Policy

# TERMINATION OF EMPLOYMENT (GRIEVANCE PROCEDURE)

- **Unsatisfactory Performance**
  - Each employee is a valued member of [ENTITY NAME] community. [ENTITY NAME] takes seriously the emphasis on respect for all people and adherence to the Gospel. Upon hiring, it is the sincere hope of the Archdiocese that the relationship will work to the benefit of the employee and the employer so that we can work together to continue the mission of [ENTITY NAME].
  - Employees of [ENTITY NAME] are at-will employees. This means that the employee may resign at any time, with or without cause. As indicated above under Resignation, it is requested that the employee provide written notice so that the office can prepare for the transition without significant interruption of work. Termination of employment is an inevitable part of any organization, and the Archdiocese of New Orleans is no exception. At will employment also means that [ENTITY NAME] has the right to terminate an employee's employment at any time, with or without cause.
  - If it is determined that an employee's skills are not suited for his/her position, the employee will be subject to dismissal. When practical and permitted by time and the work of the particular office, the Office Head will have a conference with the employee pointing out the deficiencies and setting a time line by which the deficiencies must be brought to a satisfactory level. The time frame shall not exceed three months. If the employee has not corrected the deficiencies and maintained a satisfactory level of performance, he or she will be subject to dismissal.

***If it's a written policy, follow it.***



# ISSUES SPECIFIC TO YOUR ENTITY:



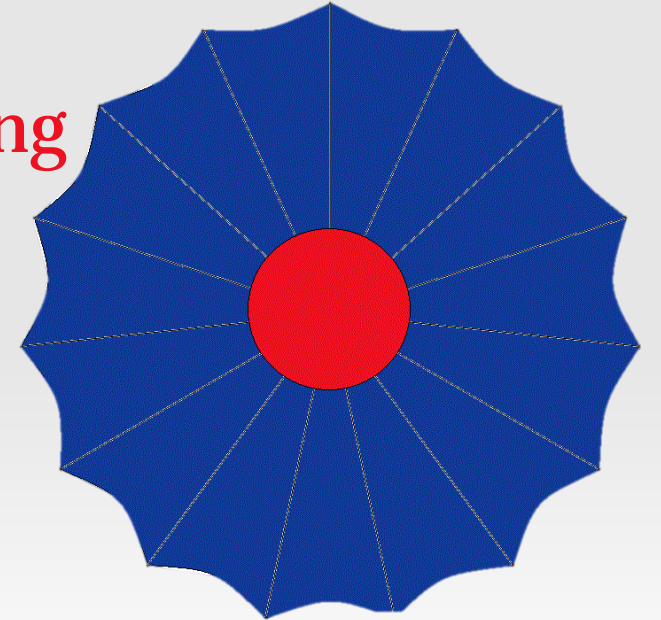
Does your entity include a ministry to children/elderly? Want to include something specific? Safe Environment issues.



Safety concerns in employment?



Do the majority of employees have access to medical records? Discuss protected/HIPAA information.



# EMPLOYEE ACKNOWLEDGMENT

I have received [ENTITY NAME] Employee Handbook, and I have read / agree to read it in its entirety. I understand that it is my responsibility to comply with all policies and any revisions made to them. [ENTITY NAME]'s website always has the most current updated electronic copy of the Handbook to which I can refer at any time. I understand that if I have any questions I can refer to my supervisor or human resource representative. **I further understand that this handbook is not a contract of employment** and that, without a contract of continued employment, either the employer or I may terminate my employment at any time with or without cause and with or without notice.

---

Employee Name [printed]

Signature

Date





# QUESTIONS? COMMENTS?

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