

PROCEDURES FOR THE  
IMPLEMENTATION OF DUE PROCESS  
IN THE SETTLEMENT OF GRIEVANCES

## PROCESS FOR CONCILIATION

### Process of Conciliation through Christian Charity

Before allowing differences to become formalized into grievances, every effort should be made to resolve local level disputes in free and open discussion between the two disputing parties. Without exception, an informal settlement between the two parties should be attempted prior to initiating formal grievance proceedings. If it cannot be settled to the complainant's satisfaction, he/she may present the grievance in accordance with the procedures outlined herein. All parties should keep grievance proceedings appropriately confidential.

### Article I Establishment

#### 1.1 Membership

The Diocese of Dallas, Texas hereby sets up a Council of Conciliation/Arbitration composed of no more than 10 appointees serving on a rotating basis. Members shall be selected by the Institutional Issues Commission, with the approval of the Ordinary. They shall be chosen on the basis of broad experiential background in pastoral situations and rooted in a spirituality of reconciliation. To secure objectivity in judgment, the composition of the Council shall be flexible in arrangement. In certain cases, a member who has a significant conflict of interest shall disqualify him/herself or be excused by the Council.

#### 1.2 Formation of Members

Training and formation of Council members will be arranged by the Institutional Issues Commission. This formation should assist the members in carrying out their duties in a spirit of charity and reconciliation. Particular formation for Conciliators should be arranged separately.

#### 1.3 Term of Office

The term of office shall be three years. No member shall have more than two consecutive terms in office.

#### 1.4 Officers

The Council shall elect its Chairman and Secretary-Treasurer, each of whom shall serve for a term of one year in that respective capacity.

#### 1.5 Publicity

The establishment of the Council, its purposes, the curricula vitae of its members, and its rules of operation shall be announced by a letter from the Ordinary to the clergy and faithful of the diocese and by appropriate publicity in the diocesan and secular press.

## Article II Definitions

### 2.1 Allowable Disputes

The kinds of disputes that are allowable:

- a. disputes between a person and a parochial or diocesan administrator or administrative body within the diocese where it is contended that an act or decision has violated a right recognized as such in the law of the Church or in the documents of the magisterium.
- b. disputes between a person and a parochial or diocesan administrator or administrative body within the diocese where it is contended that failure to act or failure to make a decision has violated a right recognized as such in the law of the Church or in the documents of the magisterium.

### 2.2 Non-Allowable Disputes

The following are not subject to settlement under this procedure:

- a. canonical criminal cases in the strict sense (not administrative sanctions and disciplinary actions).
- b. non-criminal matters where there is a question of validity of marriage or holy orders.
- c. ecclesial matters that are specifically reserved by canon law to other processes within the structure of the Church (e.g., transfer and removal of pastors).
- d. disputes involving religious communities in their strictly internal affairs.
- e. spiritual matters whenever the award requires payment by means of temporal goods.

### 2.3 Initiating Participant

A complainant or aggrieved party is the initiating participant.

### 2.4 Convoked Participant

The person, group, or institution with whom the aggrieved is in conflict.

### 2.5 Council of Conciliation/Arbitration

A group of 10 persons chosen from throughout the diocese who stand ready to assist with the processes of conciliation and/or arbitration.

### 2.6 Conciliator

A trained person who assists the disputing parties to resolve their problem in an informal and mutual way.

### 2.7 Problems

The conflict or the dispute is referred to as the problem.

### 2.8 Arbitration

When the process of conciliation fails to resolve the problem, it is referred to the Council of Arbitration where a decision is rendered based on the evidence and arguments presented by each side. The decision is final and binding.

## Article III Pre-Hearing Review

### 3.1 Initiating the Process

An initiating participant may take the initiative by sending to the Council Chair (currently the diocesan Judicial Vicar) a statement setting forth the problem and containing within it a signed affirmation that an effort has been made to reach a settlement through the interpersonal process.

The statement should:

- a. detail the dispute concisely and concretely with the names, dates, place, and incidences, etc.
- b. indicate the specific right which has been violated.

### 3.2 Decision

Within 15 days the Council Chair will review the case. Following the review he will:

- a. determine this is an "allowable" dispute according to the previously stated criteria and initiate the Conciliation process **or**
- b. determine that more information is needed and appoint someone to gain the data **or**
- c. determine this is not an "allowable" dispute.  
*Should the Chair find the dispute not allowable under these procedures, he will refer the petition to the Council of Conciliation/Arbitration for a final determination. The chair will then notify the initiating participant of the final determination.*

### 3.3 Choosing a Conciliator

If the Council has decided to initiate the Conciliation process, a trained conciliator will be named. In conjunction with the Chair a date, time and place of the first meeting of conciliation will be arranged.

## Article IV Communications

### 4.1 Initiating Participant

Within 5 days the Chair will notify the initiating participant both in writing and by telephone that a decision has been made to initiate the Conciliation process and give the date, time and place of the meeting.

#### 4.2 Convoked Participant

Within 5 days the Chair will contact the convoked person both in writing and by telephone, apprise him/her of the problem, the decision made by the Council, and give the date, time and place of the meeting.

### Article V The Process

#### 5.1 Pre-Meeting

Prior to the scheduled meeting for conciliation, the Conciliator will meet alone with each participant for oral discussion of the problem.

#### 5.2 Meeting for Conciliation

The Conciliator will meet with both participants together and endeavor to guide them to a peaceful resolution of their problem. Additional meetings may be scheduled if it appears that this will progress to conciliation.

#### 5.3 Tone of Discussion

The Conciliator will endeavor to assure that each participant answers the questions which the other participant believes are essential if he is to understand the actions of the others. An encouragement of trust and candor should be given to both sides.

#### 5.4 Confidentiality

The meeting(s) will be private without publicity. All communications made to a Conciliator or between participants should be treated as confidential by all who share in them. If the problem is resolved by agreement, and the parties agree to publicizing the solution, announcement of it shall be made. If there is no agreement on a solution or on publicizing it, no announcement is made.

#### 5.5 Resolution

If the problem is resolved by agreement, the Conciliator will prepare a summary statement of the problem and its resolution, and will submit it for the approval and signature of the participants. This report will be filed with the Council. If the problem is unresolved after the meetings arranged by the Conciliator have been held, the Conciliator will ask the participants if they are willing to continue discussion of the problem with another Member of the Council. If the participants agree in their response, the Conciliator will arrange the desired continuation.

If one or both of the participants declines to engage in further discussion, the Conciliator will file a report with the Council. The report should contain the names of the participants, a summary of the problem and the discussions taken to resolve it, and certification by the Conciliator that, despite the good faith of the participants, no resolution could be reached.

#### 5.6 Good Faith of Participants

The Conciliator shall have no power to force the participants to adopt a solution. He/she shall

have power, however, to determine that any participant is not cooperating in good faith. Such facts as failure to attend scheduled meetings, failure to respond to a substantial number of questions which the Conciliator believe appropriate, or failure to suggest any way of accommodating the interests of the other participant may be taken as evidence of a lack of good faith.

#### **§.7 Move to Arbitration**

In cases where resolution of the problem is not reached, the Conciliator should suggest that the parties initiate the Process of Arbitration. This refers the matter to an objective, impartial body for determination on the basis of evidence and arguments presented by each party, who agree in advance to accept the decision of the arbitrator or arbitrators as final and binding.

## PROCESS FOR ARBITRATION

### Article I

#### Pre-Hearing Arrangements

##### 1.1 Initiating the Process

Within 5 days from the last Conciliation meeting, the parties should submit to the Chair of the Council a written statement setting forth the nature of the dispute and the remedies sought.

##### 1.2 Selection of Arbitrators

The Council Chair shall submit to each party a list of arbitrators, which are the 10 Council members. The parties should strike out those names not acceptable to themselves and list the others in the order of their preference. The Chair shall then appoint three arbitrators, based as closely as possible on the choices of the parties.

##### 1.3 Time and Place of Hearing

The arbitrators should set a date, time and place for the hearing and notify the parties not less than 5 days before the hearing.

### Article II

#### Considerations

##### 2.1 Representation by Counsel

Parties to the dispute may be represented at hearings by counsel or other authorized representative.

##### 2.2 Attendance at Hearings

Persons having direct involvement in the arbitration process are entitled to attend hearings. It shall be in the discretion of the arbitrators to determine the propriety of the attendance of any other person.

##### 2.3 Adjournments

For good cause the arbitrators may adjourn the hearing upon the request of a party or upon their own initiative, and shall adjourn when all the parties mutually agree to adjourn.

##### 2.4 Absence of a Party

Arbitration may proceed in the absence of any party who, after due notice, fails to be present or fails to obtain an adjournment.

### 2.5 Evidence

The arbitrators shall hear and determine the controversy upon the evidence produced. Parties may offer such evidence as they desire and shall produce such additional evidence as the arbitrators may deem necessary to an understanding and determination of the dispute. The arbitrators shall judge the relevancy and materiality of the evidence offered, and conformity to legal rules of evidence shall not be necessary. All evidence shall be taken in the presence of all of the arbitrators and all of the parties except where any of the parties is absent in default or has waived his right to be present. The arbitrators may require the parties to submit books, records, documents, and other evidence.

## Article III The Process

### 3.1 Ordering of the Proceedings

The hearing shall begin with a recorder making note of the place, time, and date of the hearing, the presence of the arbitrators and parties, the presence of counsel, if any, and the receipt by the arbitrators of initial statements setting forth the nature of the dispute and the remedies sought.

The initiating party first presents his/her claim, and then full and equal opportunity to all other parties is provided for their presentation.

The names and addresses of all witnesses and exhibits offered in evidence shall be made part of the record.

### 3.3 Closing of Hearings

The arbitrators should inquire of all parties whether they have any further proofs to offer or witnesses to be heard. Upon receiving negative replies, the arbitrators may declare the hearings closed. The hearings may be re-opened by the arbitrators on their own motion, or on the motion of either party, for good cause shown, at any time before the decision is rendered.

### 3.2 Decision

Upon hearing each case and reviewing all evidence, the arbitrators should try to arrive at a consensus in making their decision. Deliberate prayer time and reflection is appropriate before reaching a final decision. If consensus is not possible the decision will be made by majority vote.

The final decision will be rendered promptly by the arbitrators and, unless otherwise agreed by the parties, not later than thirty days from the date of closing the hearings, or if oral hearings have been waived, then from the date of transmitting the final statements and proofs to the arbitrators.

The decision will be put in writing and signed by arbitrators. The Chair will notify all parties both in writing and by telephone of the final decision.