



PROCEDURES OF THE OFFICE OF CONCILIATION

INTRODUCTION

This is my Commandment: Love one another as I have loved you.

John 15:13

God's presence is found and reflected in our love of God and one another. It is through love and faith that the mission of our Church - to accept the Reign of God in our lives - is accomplished. When we are in conflict with each other, and with those organizations that seek to serve the common good, there is a fundamental spiritual and social need to resolve such conflict.

The Office of Conciliation serves those individuals and organizations in conflict who seek reconciliation in a manner that embraces Christ's presence, the rich legacy of the Scriptures, and the principles of Catholic social teaching.

In fulfilling its mission, the Office of Conciliation recognizes four key principles of Catholic social teaching: the value and dignity of the human person, the common good, participation and justice. By applying these principles, we seek a unified relationship among individuals and organizations.

In seeking to resolve conflicts that interfere with our relationship with God and with each other, the Office of Conciliation acknowledges God's presence throughout the processes of conciliation and arbitration. The Office encourages all participants in these processes to embrace the following principles:

- that we acknowledge Christ's presence in this process, in discourse and in prayer;
- that we be respectful in speech and manner;
- that we strive to open our hearts to the needs and voices of others, in the spirit of good will and justice;
- that we recognize that no law can be as compelling as Christ's commandment to love one another; and
- that we recognize that the ultimate goal is to find Christ and His love for us through reconciliation with Him and each other.

The Office of Conciliation offers its services as a simple and readily accessible response to human conflicts, with the hope that it will help the people of this Archdiocese to abide by Christ's commandment and to accept and establish the Reign of God.

The Office of Conciliation offers two methods to resolve conflicts:

1) Conciliation.

In conciliation, the parties are the agents of reaching a just resolution of the conflict, with the assistance of an experienced, impartial conciliator approved by the parties. The object of conciliation is for the parties to work together to develop a just resolution. The proposed resolution must be accepted by both of the parties in order to be a binding agreement. In this process the conciliator assists the parties in developing proposals for resolution, but does not have the authority to impose a solution without the agreement of the parties.

The Office of Conciliation encourages parties to seek resolution through this process, because persons of good will, committed to the Gospel spirit of love and reconciliation, can often find resolution with the assistance of another committed to that same spirit.

2) Arbitration

Because not all conflicts can be resolved through conciliation, arbitration is also offered. In arbitration, those in conflict agree to allow an experienced, impartial arbitrator approved by the parties to resolve the conflict. Arbitration adds the important element of the readiness of the parties to accept the decision of the arbitrator as final and binding.

PARTICIPANTS

- The “director” refers to the Director of the Office of Conciliation, an Archdiocesan Employee with the responsibility of administering the conciliation and arbitration process.
- The “Board of the Office of Conciliation” refers to the group of individuals, appointed by the Archbishop, who are responsible for supervising, monitoring, and evaluating the Archdiocesan conflict resolution program, and who maintain the panel of conciliators, arbitrators, and advisors who assist the Office of Conciliation.
- The “petitioner(s)” are individuals, groups of persons, or organizations within the Archdiocese who have requested conciliation by submitting a petition.
- The “respondent(s)” are individuals, groups of persons, or institutions against whom a complaint has been lodged alleging the violation of a right recognized as such in the law of the Church, including the particular law of the Archdiocese of Saint Paul and Minneapolis, or in the documents of the magisterium.

- The “advisor” is a person appointed to assist and support the petitioner or the respondent as s/he utilizes the conciliation process.
- The “conciliator” is a person who guides and facilitates the conciliation process, as the parties attempt to achieve a just and peaceful resolution of the problem.
- The “arbitrator” is a person to whom a dispute is presented for final and binding determination according to the ethical and procedural rules for arbitration.

ALLOWABLE AND NON-ALLOWABLE DISPUTES

Allowable disputes include:

- disputes between individuals, groups of persons, or organizations within the Archdiocese who contend that an act or decision of some other individual, group or organization within the Archdiocese has violated a right recognized as such in the law of the Church, including the particular law of the Archdiocese of Saint Paul and Minneapolis, or in the documents of the magisterium;
- disputes between individuals, groups of persons, or organizations within the Archdiocese who contend that the failure to act or failure to make a decision of some other individual, group or organization within the Archdiocese has violated a right recognized as such in the law of the Church, including the particular law of the Archdiocese of Saint Paul and Minneapolis, or in the documents of the magisterium.
- disputes between an employee and an employer concerning the terms and conditions of employment, when such disputes cannot be resolved through less formal procedures;

Non-allowable disputes include:

- disputes which are pending or resolved in another conflict resolution process;
- disputes involving a challenge to the basic tenets or authority of the Church;
- disputes for which canonical processes are provided;
- disputes involving the internal affairs of members of religious congregations;
- disputes involving material protected by the seal of confession;
- disputes in which the alleged injury took place more than one year before the filing of the petition unless a civil statute of limitations requires a longer period of time.

PROCESS FOR CONCILIATION

The primary focus of the Archdiocesan conciliation process is to bring about the reconciliation of the parties and to heal relationships that have been damaged.

It is expected that, before approaching the Archdiocesan Office of Conciliation, the parties will have attempted to address the matter directly with the person with whom they are in conflict, or with his or her immediate supervisor. When the dispute involves an

employment issue, the parties are expected to utilize the local level process for resolving work-related issues, as specified in *Justice in Employment*.

Initiating the Process

- The petitioner submits to the director a completed petition, using the form provided in Appendix A and available on the Archdiocesan website
- The director determines whether the petition falls within the scope of allowable disputes as outlined above. If it does, the director sends a copy of the petition to the respondent and invites the respondent to participate in conciliation.
- If the director determines that the petition is non-allowable, the petitioner may request that the question be referred to the Office of Conciliation Board for review.
- Prior to or at the time of submitting the petition, the petitioner may request the services of an advisor. The respondent may request an advisor at the time that they become aware of the petition, keeping in mind the requirement of *Justice in Employment* that an employer must consult with legal counsel prior to taking adverse action.
- Upon receipt of the petition and invitation to participate, respondent should carefully review the petition and this Manual to determine whether respondent is willing and able to participate. The director should be notified in writing of respondent's decision within the time specified by the letter of invitation. By agreeing to participate, the respondent is also agreeing to abide by the principles stated in this Manual.
- All participants must agree to abide by the "Agreement to Conciliate," (Appendix B) a document that describes the spirit of confidentiality and other key principles which guide the conciliation process. The parties, the advisors, and the conciliator will be required to sign this document before the actual conciliation process begins.

Refusal to Participate or to Make Referrals

- If the respondent fails to respond or refuses to participate in conciliation, the matter shall be referred to the Chair of the Board of the Office of Conciliation, who shall try to persuade the respondent to participate.
- If the respondent still fails to respond or refuses to participate, the matter may be referred to other person(s) who might be able to encourage the participant to reconsider the decision.

Selection of the Conciliator

- After the parties have agreed to participate in conciliation, the director shall provide them with the names and brief biographies of at least three conciliators selected from the approved Archdiocesan list.

- The parties shall be asked to indicate if any proposed conciliator is unacceptable. Using the remaining names, the parties shall then be asked to indicate first, second, and third choices.
- If the parties have not agreed upon a conciliator within fourteen (14) days, the director shall designate a conciliator from the approved Archdiocesan list.

Resolution of the Dispute

- Conciliators shall strive to conclude the conciliation process within ninety (90) days, except when unusual circumstances justify a longer time or when the parties wish to continue.
- The conciliator shall not force the parties to agree to a solution.
- If the problem is resolved by agreement, the conciliator shall submit to the director a summary statement of the problem and its resolution.
- If the problem is unresolved, despite the good faith efforts of the parties, the conciliator shall submit to the director a written report containing the reasons that a resolution was not possible.
- If the conciliator determines that either party is not cooperating in good faith, he or she shall notify the Director or the Chair of the Board, requesting that the Director endeavor to persuade the party to cooperate.

Confidentiality

- The conciliator shall impress upon the parties at the outset the importance of maintaining confidentiality.
- Meetings shall be private and without publicity. Joint meetings will ordinarily be restricted to the parties, their advisors, and the conciliator.
- The conciliator will determine ground-rules regarding the participation of advisors and other persons who are permitted to be present. Ordinarily, primary communication should involve the parties, speaking for themselves.
- At the discretion of the conciliator and with the agreement of the parties, others may join the meeting from time to time. Whenever such additional persons are permitted to be present at a conciliation meeting, the conciliator will instruct those persons about the philosophy and values underlying the Archdiocesan conciliation process, placing particular emphasis upon the need for confidentiality.
- All communications made to a conciliator or between participants shall be treated as confidential.
- All reports of the conciliator shall be confidential.
- If the problem is resolved by agreement, and the parties agree to publicize the agreement, announcement of it shall be made.
- If there is no agreement, or a party does not wish to publicize the agreement, no announcement shall be made.

Costs

- There is no cost associated with filing a petition for conciliation.
- Archdiocesan conciliators and advisors serve without compensation.

PROCESS FOR ARBITRATION

Arbitration is the reference of a dispute to an impartial person or persons for final and binding determination on the basis of information and arguments presented by the parties.

Disputes that are governed by *Justice in Employment* are subject to mandatory arbitration. In other cases, the agreement to submit a dispute to arbitration is subject to the voluntary agreement of the parties.

In situations in which arbitration is not the appropriate first step, parties should first explore other forms of conflict resolution such as conciliation. Only for serious reasons should conciliation be waived to allow direct use of arbitration proceedings.

On occasion, variations in the procedures described in this manual will better serve the interests of justice. If such variations are acceptable to the parties and to the arbitrator, they may be employed.

In order to ensure a just hearing and resolution, while at the same time avoiding unnecessary delays, the arbitrator shall exercise discretion in establishing or modifying time limits.

Initiating the Process

- The petitioner submits to the director a completed petition, using the form provided in Appendix A and available on the Archdiocesan website.
- The director determines whether the petition falls within the scope of allowable disputes as outlined above. If it does, the director sends a copy of the petition to the respondent and invites the respondent to respond to the petition.
- Prior to or at the time of submitting the petition, the petitioner may request the services of an advisor. The respondent may request an advisor at the time that they become aware of the petition, keeping in mind the requirement of *Justice in Employment* that an employer must consult with legal counsel prior to taking adverse action.
- Participants must agree to abide by the "Agreement to Arbitrate," (Appendix C) a document that describes the spirit of confidentiality and other key principles that guide the arbitration process. The parties, the advisors, and the arbitrator will be required to sign this document before the actual arbitration process begins.

Selection of the Arbitrator

- The director shall provide both parties with the names and brief biographies of at least three arbitrators selected from the approved Archdiocesan list.
- Both parties shall be asked to indicate if any proposed arbitrator is totally unacceptable.
- Using the remaining names, each party shall then indicate their first, second, and third choices.
- If no agreement is reached, the Director shall choose five potential arbitrators from the approved Archdiocesan list. After deciding by lot which party will first strike a name, each party in turn shall strike a name, until each has eliminated two names. The fifth candidate, the sole remaining name on the list, shall then be appointed arbitrator for the case.

Confidentiality

- Confidentiality will be respected in all cases.
- Parties who wish to be assisted by advisors or attorneys during this process shall notify the arbitrator prior to the hearing. The arbitrator shall make the names of such persons known to the other party.
- It shall be at the discretion of the arbitrator to determine the propriety of the attendance of any other person at the hearings. Whenever such additional persons are permitted to be present at an arbitration session, the arbitrator will instruct those persons about the philosophy and values underlying the Archdiocesan arbitration process, placing particular emphasis upon the need for confidentiality.
- At the discretion of the arbitrator a recording may be made of the proceedings. Any record of the proceedings remains the exclusive property of the Archdiocese.

The Hearing

- All hearings shall be opened by recording the place, time and date of the hearing, and the presence of the arbitrator, the parties, and other persons.
- The parties are entitled
 - to be heard;
 - to present information pertinent to the controversy;
 - to question witnesses appearing at the hearings.
- Arbitration may proceed in the absence of any party who, after due notice, fails to be present.

- The arbitrator has the discretion to vary the normal procedure under which the petitioner's claims are first presented, but in any case shall afford full and equal opportunity to all parties for presentation of relevant proofs.
- Exhibits offered in evidence, as well as the names and addresses of all witnesses, shall be made a part of the record.
- The arbitrator may ask experts to provide information during the hearing.
- The arbitrator shall inquire of all parties whether they have any further proofs to offer or witnesses to be heard. Upon receiving negative replies, the arbitrator shall declare the hearings closed.
- The hearings may be reopened by the arbitrator on his/her own initiative, or at the request of either party, for a good cause shown, at any time before the decision is made.

Proposed Determination

Before rendering a final determination, the arbitrator may provide the parties with a proposed determination, for the purpose of offering them a final opportunity to resolve the conflict through conciliation.

Final Determination

- The determination shall be rendered promptly by the arbitrator and, unless otherwise agreed by the parties, no later than thirty (30) 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 arbitrator.
- The determination shall be in writing, signed and dated by the arbitrator, and it shall become final and binding upon all parties twenty (20) days after delivery of the determination to the parties unless, within that time, one of the parties requests in writing a change of decision or a party appeals to the Board of Review.
- Written notice of a request for a change of decision shall be delivered to the opposing party or parties, who shall have ten (10) days to respond.
- After reviewing the request for a change of decision, and any response, the arbitrator shall have 10 days to confirm, modify, correct or clarify the proposed decision, after which the decision shall become final.
- The arbitrator may call for further hearings to assist in deciding the requested change.
- An appeal of a final determination of an arbitration shall comply with the requirements established under the Board of Review.

Costs

- Archdiocesan arbitrators and advisors shall serve without compensation.
- Any witness expense or any evidentiary expense shall be paid by the party producing the witness or the evidence.

- The expenses of witnesses or costs of proofs requested by the arbitrator shall be borne equally by the parties unless the arbitrator's decision assesses these expenses against a specified party.
- The parties involved in arbitration may be assessed a fee to cover expenses in an amount determined by the director.

Board of Review

The Board of Review shall consist of three persons, two appointed by the Office of Conciliation Board, and one appointed by the Archbishop. The persons shall be chosen for their ability to consider the issues before them with fairness and impartiality.

The Board of Review shall review the final determination of an arbitrator if an appeal is delivered to the Office of Conciliation within twenty days of that determination, and the appeal alleges one or more of the following:

- New evidence has been discovered that could not have been previously discovered by due diligence and is likely to have materially altered the final determination;
- Principles of fundamental procedural fairness were violated;
- The method of selection of the arbitrator, agreed upon by the parties beforehand, was not followed;
- There was evident partiality on the part of the arbitrator;
- The arbitrator exceeded the arbitrator's authority;
- The arbitrator refused to hear evidence material to the controversy, or otherwise conducted the hearing in a way that adversely affected a substantial right of a party;
- The determination of the arbitrator was arbitrary and capricious;
- The decision was obtained by corruption, fraud or other illicit means.

The Board of Review shall have the power to:

- Sustain, reverse or modify a decision;
- Order a rehearing, either before the arbitrator who made the decision, or before a different arbitrator chosen pursuant to the last provision under selection of an Arbitrator above.

Interpretation and Application of Rules

Questions concerning the interpretation and application of these rules shall be referred to the Board of the Office of Conciliation for final decision.

APPENDIX A

- Petition for Conciliation**

- Petition for Arbitration**

NAME: _____

ADDRESS: _____

PHONE/EMAIL: _____

POSITION: _____

ADVISOR/ATTORNEY: _____

PHONE/EMAIL: _____

RESPONDENT'S NAME: _____

ADDRESS: _____

PHONE/EMAIL: _____

POSITION: _____

4. What result do you hope to achieve through the conciliation/arbitration process?

5. Why is this result important to you?

By signing this petition, I agree to take part in conciliation or arbitration in the spirit of good will and Christian values. I also agree to abide by the principles outlined in the 'Agreement to Conciliate' or 'Agreement to Arbitrate' appropriate to the process I am requesting.

DATE: _____

SIGNATURE: _____

DATE RECEIVED: _____

Complete and return to:

Mr. Matthew Kuettel, JCL, Director
Office of Conciliation
777 Forest Street
Saint Paul, MN 55106

APPENDIX B

Agreement to Conciliate

As a party to this conciliation:

- I am interested in reconciling with the other party in the spirit of Christianity, which reflects Gospel values and principles. I will be mindful that mutual forgiveness is a goal of this process.
- I will use this process to come to some understanding of the dispute, with the realization that there are different perceptions of the issue/s. I understand the importance of coming to a joint constructive resolution of the issue/s.
- I come as an equal to this discussion in an attempt to balance the issue of power, and to emphasize that we are brothers and sisters in Christ.
- I will be respectful in my speech and manner, and the values of good will and justice will have priority.
- I will be aware of my own feelings and the feelings of the other party/ies, but understand that only focusing on feelings associated with the past will not move us in a forward direction.
- Only with the permission of all parties of the conciliation will I invite others who are neither parties to the dispute nor advisors to take part in the conciliation sessions. Insurers may attend with their insureds.
- I will practice confidentiality. That is, I will not speak about the discussion that has taken place at this conciliation to others who are not parties in the process, except as necessary to seek advice or counsel.
- I will respond to all requests and communications made by the conciliator within the timeframe allotted.

I will therefore agree to take part in conciliation in the spirit of good will and Christian values as described in the principles stated above.

Petitioner: _____ Date: _____

Address: _____

Phone/Email: _____

Respondent: _____ Date: _____

Address: _____

Phone/Email: _____

As an advisor or conciliator:

- I will thoughtfully deliberate upon my role and ask for Christ's help in this ministry of service.
- I will attempt to find ways to acknowledge Christ's presence in this process, in words and prayer.
- I understand that secular law should not necessarily determine outcome, that no other law can influence us as much as Christ's single commandment: to love one another.
- I will not presume anything about an individual, whether they be petitioner or respondent, whether they have acted individually or on behalf of others.
- I will encourage the parties to understand the perspective of the other and to open their hearts.
- I understand that the ultimate goal is to find Christ and His love for all of us through reconciliation with Him and each other, and not to simply negotiate or justify a result.
- I will practice confidentiality. That is, I will not speak about the discussion which has taken place at this conciliation to others who are neither parties in this process nor advisors other than as is necessary to report to or consult with the Director or Board of the Office of Conciliation.
- I will respond to all requests and communications made by the conciliator within the timeframe allotted.

I will therefore agree to take part in conciliation in the spirit of good will and Christian values as described in the principles stated above.

Conciliator: _____ Date: _____

Advisor: _____ Date: _____

Address: _____

Phone/Email: _____

Advisor: _____ Date: _____

Address: _____

Phone/Email: _____

As an attorney representing a party to this conciliation:

I acknowledge that I have read this agreement and understand the obligations that my client is assuming by signing this agreement.

Attorney: _____ Date: _____

Address: _____

Phone/Email: _____

Attorney: _____ Date: _____

Address: _____

Phone/Email: _____

Dispute _____

APPENDIX C

Agreement to Arbitrate

As a party to this arbitration:

- I am interested in reconciling with the other party in the spirit of Christianity, which reflects Gospel values and principles. I will be mindful that mutual forgiveness is a goal of this process.
- I will use this process to come to some understanding of the dispute, with the realization that there are different perceptions of the issue/s. I understand the importance of coming to a joint constructive resolution of the issue/s.
- I come as an equal to this discussion in an attempt to balance the issue of power, and to emphasize that we are brothers and sisters in Christ.
- I will be respectful in my speech and manner, and the values of good will and justice will have priority.
- I will be aware of my own feelings and the feelings of the other party/ies, but understand that only focusing on feelings associated with the past will not move us in a forward direction.
- Only with the permission of the arbitrator will I invite others who are neither parties to the dispute nor advisors to take part in the arbitration sessions. Insurers may attend with their insureds.
- I will practice confidentiality. That is, I will not speak about the discussion that has taken place at this arbitration to others who are not parties in the process, except as necessary to seek advice or counsel.
- I will respond to all requests and communications made by the arbitrator within the timeframe allotted.

I will therefore agree to take part in arbitration in the spirit of good will and Christian values as described in the principles stated above.

Petitioner: _____ Date: _____

Address: _____

Phone/Email: _____

Respondent: _____ Date: _____

Address: _____

Phone/Email: _____

As an advisor or arbitrator:

- I will thoughtfully deliberate upon my role and ask for Christ's help in this ministry of service.
- I will attempt to find ways to acknowledge Christ's presence in this process, in words and prayer.
- I understand that secular law should not necessarily determine outcome, that no other law can influence us as much as Christ's single commandment: to love one another.
- I will not presume anything about an individual, whether they be petitioner or respondent, whether they have acted individually or on behalf of others.
- I will encourage the parties to understand the perspective of the other and to open their hearts.
- I understand that the ultimate goal is to find Christ and His love for all of us through reconciliation with Him and each other, and not to simply negotiate or justify a result.
- I will practice confidentiality. That is, I will not speak about the discussion which has taken place at this arbitration to others who are neither parties in this process nor advisors other than as is necessary to report to or consult with the Director or Board of the Office of Conciliation.
- I will respond to all requests and communications made by the arbitrator within the timeframe allotted.

I will therefore agree to take part in arbitration in the spirit of good will and Christian values as described in the principles stated above.

Arbitrator: _____ Date: _____

Advisor: _____ Date: _____

Address: _____

Phone/Email: _____

Advisor: _____ Date: _____

Address: _____

Phone/Email: _____

As an attorney representing a party to this arbitration:

I acknowledge that I have read this agreement and understand the obligations that my client is assuming by signing this agreement.

Attorney: _____ Date: _____

Address: _____

Phone/Email: _____

Attorney: _____ Date: _____

Address: _____

Phone/Email: _____

Dispute _____