

## Introduction

The Diocese of St. Augustine Office of Dispute Resolution seeks to help members of the faith community resolve their disputes through formal means when other avenues of dispute resolution have failed.

Though we are a community of faith trying to live up to the examples set forth in the Gospels, we are also human, and disputes will arise from time to time. It is important to resolve disputes in a manner consistent with our faith. Scripture urges us to settle our disagreement within the Church community, taking care that our efforts are imbued with a spirit of love and forgiveness (Luke 6:27).

The dispute resolution procedures of the Diocese of St. Augustine are based on the presumption that parties in a dispute desire a settlement in an equitable fashion and are willing to work toward an amicable settlement. The process attempts to protect the interests of all parties involved, aiming at the resolution of the grievance.

### Diocesan Dispute Resolution Procedure

#### 1. Principles.

We seek to live the spirit of the gospel by recognizing the dignity of each person - a dignity which is reflected in both our right and responsibility to live in peace and harmony with each other. This tradition is embodied in the Gospel of Matthew.

“If your brother should commit some wrong against you, go and point out his fault, but keep it between the two of you. If he listens to you, you have won your brother over. If he does not listen, summon another so that every case may stand on the word of two or three witnesses. If he ignores them, refer it to the church.” (Matthew 18:15-17)

St. Paul chastised the early Christian communities for ignoring the presence of the Spirit in the Church, and for seeking to solve disputes outside the Church community.

“If one of you has a dispute with a fellow Christian, how dare he go before heathen judges instead of letting God’s people settle the matter? Don’t you know that God’s people will judge the world? Well, then, if you are to judge the world, aren’t you capable of judging small matters? Do you not know that we shall judge the angels? How much more, then, the things of this life! If such matters come up, are you going to take them to be settled by people who have no standing in the church? Shame on you! Surely there is at least one person in your fellowship who can settle a dispute between fellow Christians. Instead, one Christian goes to court against another and lets unbelievers judge the case!” (1 Corinthians 6:1-9)

Disagreements frequently stem from misunderstandings about rights and responsibilities. The following procedures are designed to attempt to resolve disputes simply and swiftly, and so restore peace within the community and between the parties.

## 2. Applicability

A. The dispute resolution procedure known as Mediation may be used whenever there is a dispute or complaint or grievance between any person on the one hand, and a parish or diocesan agency on the other hand. This procedure may also be used to resolve disputes and disagreements between or among parishes, or diocesan agencies. The pastor currently in office represents the parish and its associated apostolates. The director currently in office represents the diocesan agency.

B. The dispute resolution procedure known as Arbitration may be used to resolve disputes, complaints or grievances of a civil nature. For example, this procedure might be used to resolve compensation, contractual or other economic issues. This procedure could also be used to resolve issues of alleged discrimination and some, but not all, issues of harassment. It might also be used to settle tort claims. In general, this procedure can be used in any situation in which a civil suit could be commenced in a state court in Florida.

C. However, these procedures cannot be used if there is some other specific legal process which applies to the dispute, complaint or grievance in question. *The Code of Canon Law*, for example, provides for specific procedures to be followed in certain types of cases. Also, the bishop has provided for specific procedures to be followed in a number of diocesan agencies. These more specific dispute and grievance resolution procedures can be found in the following places: *the Diocesan School Administrators' Manual*, *the Ministry Formation Program Policies and Procedures Manual*, *the Catholic Center Personnel Policies and Procedures*, *the Diocesan/Parish Office Manual*, and *the Catholic Charities Manual*.

D. The decisions made in these specific procedures within diocesan agencies are normally final. Sometimes, however, those procedures themselves say that, if someone is still dissatisfied, they may appeal the decision using the diocesan dispute resolution procedure. When that is the case, the "appeal" is understood to be the dispute resolution process known as Arbitration. If a diocesan agency's own dispute or grievance resolution procedure limits what can be considered during this "appeal," this limitation must be honored by the dispute resolution officers.

E. These dispute resolution procedures (mediation and arbitration) may not be used to resolve disputes relating to:

1. Decrees, decision or other administrative acts of the bishop;
2. matters of doctrine, faith or morals, or the administration or reception of the sacraments;

3. the assignment or status of clergy or religious;
4. any judicial or administrative proceedings brought, tried, or processed pursuant to the Code of Canon Law; or
5. allegations of criminal misconduct.

### 3. Preliminary attempts at resolution

A. Most disputes, complaints or grievances can and should be settled informally, and they should be settled on the lowest level possible. Thus, the first step in resolving a dispute or grievance is as described in Sacred Scripture - direct communication with the pastor or agency director who is responsible for the parish or agency with whom there is a problem.

B. Because disputes, complaints or grievances should not be allowed to fester, efforts to resolve them should certainly begin within 20 days of the actual incident or event, within 20 days of the actual incident or event coming to light, or within 20 days of a decision made by an employee of the pastor or agency director. (All references to days throughout this provision mean business days.)

C. If the dispute or grievance has not been settled directly and informally within 30 days of it being brought to the highest level pastor or agency director, a petition may be submitted to the diocesan Office of Dispute Resolution for Mediation or Arbitration. In cases of "appeals" from dispute resolution or grievance procedures of other diocesan agencies (see 2C and 2D above), a petition is to be submitted within 30 days of the final decision in that other agency for arbitration.

D. The Office of Dispute Resolution is established in the Tribunal of the Diocese of Saint Augustine under the supervision of the Judicial Vicar.

### 4. Mediation

A. Mediation is an informal way for people to resolve disputes with the help of a mediator who is trained to help discuss their differences. The mediator does not decide who is right or wrong or issue a decision. Instead, the mediator helps the parties work out their own solutions to problems.

B. The Petition: The petition must be in writing and must include the following information:

1. The specific grievance, dispute or objection raised against the other party or parties;

2. the specific attempts which have been made to resolve the matter; and
3. any facts or circumstances which the petitioner thinks is relevant to the case.

C. Once the Judicial Vicar has accepted the petition, either he or a mediator appointed by him, will contact the other party (the respondent) in writing, and provide them with a copy of the petition. The respondent will be asked to reply to the petition within 20 days.

D. If the respondent accepts mediation, their reply should include any facts or circumstances which they think might be a basis for building a compromise and mutually agreeable solution.

E. If the respondent declines to participate, no further action will be taken. However, the Chancellor, the Vicar General or the Bishop may direct that the respondent who is a parish or diocesan agency participate.

F. If the respondent does not reply in writing within the prescribed 20 days, this is an indication that the respondent is not willing to participate in any further dispute resolution efforts. In that case no further action will be taken. However, the Chancellor, the Vicar General or the Bishop may direct that the respondent who is a parish or diocesan agency reply and participate.

G. If the respondent replies, a mutual meeting of the parties will be scheduled with the mediator as quickly as possible. The mediation will take place in a neutral office at the parish or institution from which the dispute arises.

H. Only the parties themselves and one person to assist them may attend this mediation meeting. The mediator will not allow other persons to attend the meeting.

I. The mediator will ask questions and provide a calm atmosphere which will assist the parties in the work of finding a mutually agreeable settlement of their dispute or grievance.

J. If the parties are able to settle their dispute or grievance the mediator will compose a document outlining the solution for all to sign. If the parties are not able to find a mutually agreeable solution to their dispute or grievance the mediator will inform the Judicial Vicar of this fact in writing.

K. If mediation is unsuccessful there is no higher recourse or appeal to any diocesan office.

## Arbitration

A. Arbitration is the submission of the dispute or grievance to an unbiased panel of three arbitrators who after hearing both parties will make a decision regarding the dispute which the parties agree to be bound by in advance.

B. The Petition: The petition must be in writing and must include the following information:

1. The specific grievance, dispute or objection raised against the other party or parties;
2. the specific attempts which have been made to resolve the matter including details of how all grievance or dispute resolution procedures of a subordinate agency or institution have been fully complied with;
3. any facts or circumstances which the petitioner thinks
4. a one or two sentence summary

C. In cases of appeals (2D above) the role of the arbitrators is solely to determine if the policies and procedures of the parishes, agencies or institutions have been followed. The arbitrators will not make a determination regarding the merits of the original decision itself.

D. Once the Judicial Vicar has accepted the petition, either he or a member of the Office of Dispute Resolution appointed by him, will contact the other party (the respondent) in writing, and provide them with a copy of the petition. The respondent will be asked to reply to the petition within 20 days.

E. If the respondent declines to participate no further action will be taken. However, the Chancellor, the Vicar General or the Bishop may direct that the respondent who is a parish or diocesan agency participate.

F. If the respondent does not reply in writing within the prescribed 20 days, that is an indication that the respondent is not willing to participate in any further dispute resolution efforts. In that case no further action will be taken. However, the Chancellor, the Vicar General or the Bishop may direct that the respondent who is a parish or diocesan agency reply and participate.

G. If both parties agree to participate in arbitration they must state in writing that they agree to be bound by all decisions of the arbitration committee. They also must state in writing that they will not begin any civil or canonical case of any kind concerning the dispute or grievance under consideration.

H. Selection of Arbitrators: All arbitrators will be selected from a list of persons maintained by the Office of Dispute Resolution for this purpose. Each party will select one arbitrator from the list. The two arbitrators selected by the respective parties will select the third arbitrator. In the event that both parties select the same arbitrator, the respondent will be asked to select a different arbitrator. In the event the two arbitrators selected by the parties themselves cannot agree on a third arbitrator within 5 days, the Judicial Vicar will select the third arbitrator.

I. Within 10 days of their selection, the arbitrators will confer to set a date for the hearing to take place at the offices of the Tribunal. The parties will be consulted about a hearing date, but this date must be within 30 days of this first conference of the arbitrators. The only way a hearing date can be scheduled beyond 30 days is if all parties agree on an actual date later than 30 days, or if it is simply impossible under the circumstances to schedule a hearing within 30 days as determined by the Judicial Vicar.

J. At the arbitration hearing all relevant evidence must be presented. No further evidence will be accepted after the hearing unless specifically requested by the arbitrators. The arbitrators are permitted at any time to do their own investigation and collection of evidence.

K. No formal rules of evidence, either civil or canonical, will apply.

L. The arbitrators will be the sole judges of the relevance of any evidence.

M. The committee may set time limits for opening statements, presentation of evidence and closing statements.

N. Disagreements about any procedural or evidentiary matters among the arbitrators, or objections by a party, are resolved by majority vote of the arbitrators.

O. The parties may each bring one person to assist them at the arbitration hearing. This individual may confer with and advise the petitioner or respondent during the proceedings but may not speak directly to the arbitrators or witnesses. No other individuals may attend the arbitration.

P. Each party will be allowed to make a brief opening statement.

Q. After each party's opening statement the petitioner will present any evidence in support of their position and call their witnesses.

R. The parties may call up to four witnesses at the arbitration hearing. It is the responsibility of the parties to contact the witnesses and assure their attendance. The arbitrators do not have the authority to demand people serve as

witnesses. Both the petitioner and respondent will be provided the opportunity to question each witness.

S. Once the petitioner has completed their presentation of evidence the respondent will present any evidence in support of their position and call their witnesses.

T. After the evidence is presented by each party, each party will be allowed to make a brief closing statement.

U. Within 15 days after the hearing, the arbitrators will make their recommendation to the Judicial Vicar about how the dispute or grievance should be resolved. The Judicial Vicar will deliver this recommendation to the Bishop, and may add his own comments. The recommendation of the arbitrators will be decided by majority vote, and it will be in writing and signed by all the arbitrators. A dissenting arbitrator can include his or her dissenting opinion in the recommendation that goes to the Judicial Vicar. Recommendations could include such things as specific performance of some action or agreement, rescission of an action or decision or agreement, and/or the payment by either party of a fixed amount of funds. A recommendation could also be that the case be closed without any action.

V. The bishop may approve or disapprove the recommendation of the arbitrators in whole or in part, or through the Judicial Vicar he may send the recommendation back to the arbitrators with questions or comments.

W. Recommendations approved by the bishop become binding on all parties.

X. The parties will be informed in writing of the decisions made by the arbitrators that have been approved by the bishop and a summary of their reasoning. The parties will not be provided with the arbitrators report or the comments of the Judicial Vicar that were provided to the bishop.

## 6. Costs

A. The fee for mediation is \$50.00 to be paid by the petitioner in full upon notification that the respondent has agreed to move forward with the mediation.

B. The fee for arbitration is \$150.00 to be paid by the petitioner in full upon notification that the respondent has agreed to move forward with the arbitration.