

General Convention of The Episcopal Church 2022 Archives' Research Report

Resolution No.: 2022-A118
Title: Amend Canon IV.5.4 on the Election of Members of the Court of Review
Proposer: Standing Commission on Structure, Governance, Constitution and Canons
Topic: Canons, Discipline

Directly Related: (Attached)

2018-A110 Amend Title Canon IV [Ecclesiastical Discipline]
1982-D014 Amend Canon IV.3.4 [Provincial Courts of Review]

Indirectly Related: (Available in the [Acts of Convention](#) database, searchable by resolution number)

2015-C027 Amend Canon I.9 [Of Provinces]

In preparing this report, the Archives researched the resolutions in the Acts of Convention database for the period 1973 through 2018, selecting “direct” resolutions that have a substantive bearing on the proposed legislation. The “direct” resolutions are attached and “indirect” resolutions are available in the Acts of Convention database. Committee members who require other research assistance should contact the Archives through the [Research Request Form](#) or call 800-525-9329.

A118 - Amend Canon IV.5.4 on the Election of Members of the Court of Review

Final Status: Not Yet Finalized

Proposed by: Standing Commission on Structure, Governance, Constitution and Canons

Requests New Interim Body: No

Amends C&C or Rules of Order: Yes

Has Budget Implications: No

Cost:

HiA: HB

Legislative Committee Currently Assigned: 03 - Title IV Disciplinary Canons

Completion Status: Incomplete

Latest House Action: N/A

Supporting Documents: No

Resolution Text

Resolved, the House of _____ concurring,

That the 80th General Convention amend Canon IV.5.4 to read as follows.

Sec. 4. There shall be a court to be known as the Court of Review, with jurisdiction to receive and determine appeals from Hearing Panels of Dioceses as provided in Canon IV.15 and to determine venue issues as provided in Canon IV.19.5.

a. The Court of Review shall consist of: (i) Three ~~(3)~~ Bishops; six ~~(6)~~ Members of the Clergy, which ~~and will~~ *must* include not fewer than two ~~(2)~~ Priests and not fewer than two ~~(2)~~ Deacons; and six ~~(6)~~ lay persons; and (ii) one ~~(1)~~ Bishop, one ~~(1)~~ Priest or Deacon, and one ~~(1)~~ lay person to serve as alternates as hereinafter provided. ~~No more than two (2) Priests or Deacons, whether a member or alternate, shall be canonically resident in the same Diocese as any other Priest or Deacon, and each lay person, whether a member or alternate, shall reside in a different Diocese than any other lay person. The Priests, Deacons and lay persons shall be or have been members of the Disciplinary Boards of their respective Dioceses.~~

b. *The Joint Standing Committee on Nominations will nominate a slate of Clergy and lay persons for election to the Court of Review, in accordance with the Joint Standing Committee on Nominations' canonical charge and procedures, and guided by the skill sets needed for effective service on the Court of Review. The Joint Standing Committee on*

Nomination may, but need not, nominate more persons than there are vacancies. The Clergy and lay nominees for the Court of Review may but need not be Deputies to General Convention. The Joint Standing Committee on Nominations will create a description of the skills, gifts and experience requisite for service on the Court of Review, after consultation with the Court, including the value of cultural and geographic diversity on the Court and the value of including historically underrepresented voices in the governance of the Church.

b c. The Bishops members and Bishop alternate members on the Court of Review shall be nominated by the Presiding Bishop after consultation with the Joint Standing Committee on Nominations, and then elected by the House of Bishops at a regular meeting of the General Convention. ~~One of the Bishops on the Court of Review shall be chosen from Provinces I, II or III; one of the Bishops shall be chosen from Provinces IV, V or VI; and one of the Bishops shall be chosen from Provinces VII, VIII or IX.~~

d. The Clergy and lay members and alternates on the Court of Review shall be elected by the House of Deputies *at a regular meeting of the General Convention.* ~~for a three year term, such that one-third of clergy members and one-third of lay members shall come from Province I, II, or III; one-third shall come from Province IV, V, or VI; and one-third shall come from Province VII, VIII, IX.~~

i. Except for a member filling a vacancy, the term of office of a member of the Court of Review shall begin at the adjournment of the regular meeting of the General Convention at which the member was elected and expire upon the adjournment of the second regular meeting of the General Convention following.

ii. Members of the Court of Review shall serve staggered terms of office such that the terms of one-half of the members expire at each regular meeting of the General Convention. The Joint Standing Committee on Nominations shall make its nominations in a manner that supports this staggering of terms.

iii. Any member who has served 12 or more consecutive years shall not be eligible for reelection to the Court of Review until the next regular meeting of the General Convention following the one at which the member was not eligible for reelection to the Court of Review. A person's service as an alternate shall not count against these term limitations.

e. The Court of Review shall select a president from among its members. The President shall be a Priest, Deacon or lay person.

~~**f.**~~ **f.** The persons appointed to the Court of Review shall continue to serve until their respective successors have been elected, except in case of death, resignation or declination to serve. Members of the Court of Review who are currently appointed to a panel shall continue to serve on that panel until its work has been completed.

~~**d g.**~~ **g.** Whenever a matter is referred to the Court of Review, the President shall appoint a panel for that case consisting of one Bishop, two Members of the Clergy and two lay persons. No Bishop or Clergy member of the Court of Review may serve in any matter originating from the Diocese in which such Bishop or Clergy member is canonically resident

~~serves on the Disciplinary Board or is then currently licensed to serve, and no lay member may serve in a matter originating from the Diocese of the lay member's primary residence or a Diocese in which the lay member is then currently active. In such event, the President shall appoint another member of the Court from the same Order to serve; if no other member is available to serve, the President shall appoint an alternate of the same Order to shall serve.~~

e h. If any member of the Court of Review is excused pursuant to the provisions of Canon IV.5.3.c, or, upon objection made by either party to the appeal, is deemed by the other members of the Court of Review to be disqualified, an alternate shall serve.

f i. In the event of any Court of Review member's death, resignation or declination to serve, or disability rendering the member unable to act, ~~or is ineligible to serve under Canons IV.5.4.d or e,~~ and in the further event ~~that there no other member of the Court is no~~ alternate available to serve, the President of the Court of Review shall declare a vacancy on the Court of Review. Notices of resignation or declination to serve shall be communicated in writing to the President of the Court of Review.

g j. Vacancies on the Court of Review shall be filled by ~~appointment by the President of the House of Deputies for lay and Clergy members and by the Presiding Bishop for Bishop members Court of Review of persons qualified as provided in Canon IV.5.4.a.~~

h k. The Court of Review shall appoint a clerk who may be a member of the Court, who shall be custodian of all records and files of the Court of Review and who shall provide administrative services as needed for the functioning of the Court.

i l. The rules of procedure for appeals to the Court of Review are as provided in Canon IV.15, but the Court of Review may adopt, alter or rescind supplemental rules of procedure not inconsistent with the Constitution and Canons of the Church.

Explanation

In 2018 the 79th General Convention adopted this Canon to create one churchwide Court of Review to hear appeals in disciplinary matters involving Priests and Deacons to replace the previous nine Provincial Courts of Review. The past three years' experience with this new Court has demonstrated the need to revise the qualifications of members and more clearly specify the terms of office and eligibility for reelection.

The current requirement that Clergy and Lay members have served on their diocesan Disciplinary Boards does not, in fact, guarantee any knowledge, training, or familiarity with the disciplinary process as most diocesan Disciplinary Boards never meet and are never trained.

In the Canon, no mechanism was provided for nomination of members of the Court. It is proposed here and in parallel proposals for amendments to the Joint Rules of Order on the Joint Standing Committee on Nominations that the Joint Standing Committee on Nominations prepare the slate of Clergy and Lay nominees based on criteria the Committee would develop which would include "... the value of cultural and geographic diversity" in

place of an actual geographic requirement. Similar requirements of representation by Provinces have been eliminated from the Canons except that Provinces still elect half of the members of the Executive Council.

The terms of office are changed from three years to two intervals between regular meetings of the General Convention, generally, six years, with the specification that no one may serve more than 12 consecutive years without at least one interval between regular meetings of the General Convention, generally a three-year hiatus. This provides for the opportunity for more institutional memory among members.



Resolution Number: 2018-A110
Title: Amend Title Canon IV [Ecclesiastical Discipline]
Legislative Action Taken: Concurred
Final Text:

Resolved, That the 79th General Convention amend Canon IV as follows:

Canon 2: Of Terminology Used in This Title

Except as otherwise expressly provided or unless the context otherwise requires, as used in this Title the following terms and phrases shall have the following meanings:

Accord shall mean a written resolution, which is negotiated and agreed among the parties resulting from an agreement for discipline under Canon IV.9, conciliation under Canon IV.10 or a Conference Panel proceeding under Canon IV.12. All Accords shall meet the requirements of Canon IV.14.

Administrative Leave shall mean a restriction on ministry in which the exercise of the Respondent's ministry is suspended in its entirety during the period of the Administrative Leave and may include suspension from any ecclesiastical and related secular office.

Advisor shall mean a person familiar with the provisions and objectives of this Title who is designated to support, assist, consult with, advise and, where expressly so authorized under this Title, speak for a Complainant or Respondent in any matter of discipline under this Title, as provided in Canon IV.19.10.

Church Attorney shall mean one or more attorneys selected pursuant to Diocesan Canons to represent the Church in proceedings as provided in this Title. The Diocesan Canons may provide a process for the removal of a Church Attorney for cause. A Church Attorney shall perform all functions on behalf of the Church necessary to advance proceedings under this Title and shall have the following powers, in addition to the powers and duties otherwise provided in this Title: (a) to receive and review the Intake Officer's report; (b) to conduct investigations and oversee the Investigator and, in connection with such investigations; to have access to the personnel, books and records of the Diocese and its constituent parts; and to receive and review the reports of the Investigator; (c) to determine, in the exercise of the Church Attorney's discretion, whether the reported information, if true, would be grounds for discipline; and (d) to exercise discretion consistent with this Title and the interests of the Church by declining to advance proceedings or by referring any matter back to the Intake Officer or the Bishop Diocesan for pastoral response in lieu of disciplinary action. In representing the Church, a Church Attorney may consult with the president of the Disciplinary Board at any time after the matter has been referred out of the Reference Panel, and, when the prosecution of the case may impact the mission, life, or ministry of the Church, with the Bishop Diocesan.

Clear and Convincing shall mean proof sufficient to convince ordinarily prudent people that there is a high probability that what is claimed actually happened. More than a preponderance of the evidence is required but not proof beyond a reasonable doubt.

Community shall mean that part of the Church in which a Member of the Clergy performs his or her ministry, such as a Diocese, Parish, Mission, school, seminary, hospital, camp or any similar institution.

Complainant shall mean (a) any person or persons from whom the Intake Officer receives information concerning an alleged Offense and who, upon consent of that person(s), is designated a Complainant by the Intake Officer or (b) any Injured Person designated by the Bishop Diocesan who, in the Bishop Diocesan's discretion, should be afforded the status of a Complainant, provided, however, that any Injured Person so designated may decline such designation. **Conciliator** shall mean a person appointed to seek the resolution of a matter under Canon IV.10.

Conduct Unbecoming a Member of the Clergy shall mean any disorder or neglect that prejudices the reputation, good order and discipline of the Church, or any conduct of a nature to bring material discredit upon the Church or the Holy Orders conferred by the Church.

Conference Panel shall mean a panel of one or more members of the Disciplinary Board selected by the president of the board, unless some other manner of selection is provided by Diocesan Canon, to serve as the body before which an informal conference is held as provided in Canon IV.12, provided, however, that no such member of the Conference Panel may serve as a member of the Hearing Panel in the same case. The president of the Disciplinary Board shall be ineligible to serve on the Conference Panel. If the Conference Panel consists of more than one member, it shall include both clergy and lay members. **Disciplinary Board** shall mean the body provided for in Canon IV.5.1.

Discipline of the Church shall be found in the Constitution, the Canons and the Rubrics and the Ordinal of the Book of Common Prayer.

Doctrine shall mean the basic and essential teachings of the Church and is to be found in the Canon of Holy Scripture as understood in the Apostles and Nicene Creeds and in the sacramental rites, the Ordinal and Catechism of the Book of Common Prayer.

Hearing Panel shall mean a panel of three or more members of the Disciplinary Board and shall include both clergy and lay members selected by the president of the Board, unless some other manner of selection is provided by Diocesan Canon, to serve as the body before which a hearing is held as provided in Canon IV.13, provided, however, that no such member of the Hearing Panel may serve as a member of the Conference Panel in the same case. The president of the Disciplinary Board shall be ineligible to serve on the Hearing Panel.

Injured Person shall mean a person, group or Community who has been, is or may be affected by an Offense.

Intake Officer shall mean one or more persons designated by the Bishop Diocesan after consultation with the Disciplinary Board, unless otherwise selected pursuant to diocesan canons, to whom information regarding Offenses is reported.

Investigator shall mean a person having (a) sufficient knowledge, skill, experience and training to conduct investigations under this Title and (b) familiarity with the provisions and objectives of this Title. Investigators shall be appointed by the Bishop Diocesan in consultation with the president of the Disciplinary Board. The Investigator acts under the direction of the Reference Panel until a referral is made pursuant to Canon IV.11.3; after such referral, the Investigator shall be overseen by and report to the Church Attorney.

Member of the Clergy shall mean Bishops, Priests and Deacons of the Church. **Offense** shall mean any act or omission for which a Member of the Clergy may be held accountable under Canons IV.3 or IV.4.

Order shall mean a written decision of a Conference Panel or a Hearing Panel which is issued with or without the Respondent's consent. All Orders shall meet the requirements of Canon IV.14.

Pastoral Direction shall mean a written direction given by a Bishop to a Member of the Clergy which meets the requirements of Canon IV.7.

Pastoral Relationship shall mean any relationship between a Member of the Clergy and any person to whom the Member of the Clergy provides or has provided counseling, pastoral care, spiritual direction or spiritual guidance, or from whom such Member of the Clergy has received information within the Rite of Reconciliation of a Penitent.

Privileged Communication shall mean any communication or disclosure made in confidence and with an expectation of privacy (a) within the Rite of Reconciliation of a Penitent; (b) between a client and the client's attorney; (c) between a Respondent and an Advisor or a Complainant and an Advisor; (d) between persons in a relationship in which communications are protected by secular law or Diocesan Canons; or (e) between and among a Conciliator and participants in a conciliation under Canon IV.10.

Procedural Officer shall mean a person learned in the law, experienced in litigation and having familiarity with the provisions and objectives of this Title. No Chancellor or Vice-Chancellor of a Diocese shall serve as Procedural Officer in the same Diocese. Every Diocese shall have a Procedural Officer, who shall be appointed for a term of not less than one year by the Bishop Diocesan in consultation with the president of the Disciplinary Board to aid in the prompt and proper disposition of procedural motions and challenges in Title IV proceedings.

Provincial Court of Review shall mean a court organized and existing as provided in Canon IV.5.4 to serve as the body which performs the duties prescribed in Canon IV.15.

Reference Panel shall mean a panel composed of the Intake Officer, the Bishop Diocesan and the president of the Disciplinary Board to serve as the body which performs the duties prescribed in Canons IV.6 and IV.11.

Respondent shall mean any Member of the Clergy (a) who is the subject of a matter referred for conciliation or to the Conference Panel or to the Hearing Panel; (b) whose ministry has been restricted; (c) who has been placed on Administrative Leave; (d) who is the subject of an investigation and is asked by an investigator or by the Bishop Diocesan to provide information or to make a statement; (e) who agreed with the Bishop Diocesan regarding terms

of discipline pursuant to Canon IV.9; or (f) any Member of the Clergy who requests a review pursuant to Canon IV.19.31.

Sentence shall mean the pronouncement of discipline of a Member of the Clergy pursuant to an Accord or Order in the form of (a) admonition, in which the conduct of such Member of the Clergy is publicly and formally censured or reprimanded, or (b) suspension, in which such Member of the Clergy is required to refrain temporarily from the exercise of the gifts of ministry conferred by ordination, or (c) deposition, in which such Member of the Clergy is deprived of the right to exercise the gifts and spiritual authority of God's word and sacraments conferred at ordination.

Sexual Abuse shall mean any Sexual Behavior at the request of, acquiesced to or by a person eighteen years of age or older and a person under eighteen years of age, in high school or legally incompetent.

Sexual Behavior shall mean any physical contact, bodily movement, speech, communication or other activity sexual in nature or that is intended to arouse or gratify erotic interest or sexual desires.

Sexual Misconduct shall mean (a) Sexual Abuse or (b) Sexual Behavior at the request of, acquiesced to or by a Member of the Clergy with an employee, volunteer, student or counselee of that Member of the Clergy or in the same congregation as the Member of the Clergy, or a person with whom the Member of the Clergy has a Pastoral Relationship.

And be it further

Resolved, That Canon IV.5.4 be amended as follows:

Sec. 4. ~~In each Province~~ There shall be a court to be known as the Provincial Court of Review, with jurisdiction to receive and determine appeals from Hearing Panels of Dioceses ~~within the Province~~ as provided in Canon IV.15 and to determine venue issues as provided in Canon IV.19.5.

(a) ~~The Provincial Court of Review shall consist of: (i) ~~one~~Three (3) Bishops, ~~two~~ Priests, ~~six~~ (6) Members of the Clergy, ~~or one Priest and one Deacon~~ which and will include not fewer than two (2) Priests and not fewer than two (2) Deacons; and ~~two~~six (6) lay persons; and (ii) one (1) Bishop, one (1) Priest or Deacon, and one (1) lay person to serve as alternates as hereinafter provided. ~~Each~~No more than two (2) Priests or Deacons, whether a member or alternate, shall be canonically resident in ~~at the same Diocese of the Province~~ different from as any other Priest or Deacon, and each lay person, whether a member or alternate, shall reside in a ~~different~~ Diocese of the Province ~~different from~~ than any other lay person. The Priests, Deacons and lay persons shall be or have been members of the Disciplinary Boards of their respective Dioceses.~~

(b) *The Bishops on the Court of Review shall be elected by the House of Bishops. One of the Bishops on the Court of Review shall be chosen from Provinces I, II or III; one of the Bishops*

shall be chosen from Provinces IV, V or VI; and one of the Bishops shall be chosen from Provinces VII, VIII or IX. The clergy and lay members and alternates of the Provincial Court of Review shall be elected by the House of Deputies for a three-year term, such that one-third of clergy members and one-third of lay members shall come from Province I, II, or III; one-third shall come from Province IV, V, or VI; and one-third shall come from Province VII, VIII, IX. appointed annually by the president of the Province. The Provincial Court of Review shall select a president from among its members. The President shall be a Priest, Deacon or lay person.

(c) The persons appointed to the Provincial Court of Review shall continue to serve until their respective successors have been ~~elected~~appointed, except in case of death, resignation or declination to serve. *Members of the Court of Review who are currently appointed to a panel shall continue to serve on that panel until its work has been completed.*

(d) *Whenever a matter is referred to the Court of Review, the President shall appoint a panel for that case consisting of one Bishop, two Members of the Clergy and two lay persons. No member of the Provincial Court of Review may serve in any matter originating from the Diocese in which such member serves on the Disciplinary Board. In such event, the alternate shall serve.*

(e) ~~In the event that~~ *If any member of the Provincial Court of Review is excused pursuant to the provisions of Canon IV.5.3(c), or, upon objection made by either party to the appeal, is deemed by the other members of the Provincial Court of Review to be disqualified, such member's an alternate shall serve.*

(f) In the event of any Provincial Court of Review member's death, resignation or declination to serve, or disability rendering the member unable to act or is ineligible to serve under Canons IV. 5.4(d) or (e), and in the further event that there is no alternate available to serve, the President of the Provincial Court of Review shall declare a vacancy on the Provincial Court of Review. Notices of resignation or declination to serve shall be communicated in writing to the President of the Provincial Court of Review.

(g) Vacancies on the Provincial Court of Review shall be filled by appointment by the President of the ~~Province~~Court of Review of persons qualified as provided in Canon IV.5.4(a).

(h) The Provincial Court of Review shall appoint a clerk who may be a member of the Court, who shall be custodian of all records and files of the Provincial Court of Review and who shall

provide administrative services as needed for the functioning of the Court.

(i) The rules of procedure for appeals to the Provincial Court of Review are as provided in Canon IV.15, but the Provincial Court of Review may adopt, alter or rescind supplemental rules of procedure not inconsistent with the Constitution and Canons of the Church.

And be it further

Resolved, That Canon IV.15 be amended as follows:

Sec. 1 ~~In the event that~~ If proceedings before the Hearing Panel are unreasonably delayed or suspended, and are not resumed within sixty days following a written request for resumption of proceedings from the Church Attorney or the Respondent, the Church Attorney or the Respondent may file a written request with the Provincial Court of Review for an order directing the Hearing Panel to resume the proceedings. *Upon receipt of the request, the President of the Court of Review shall appoint a panel consisting of one bishop, one priest or deacon and one lay person from among the members of the Court of Review. The appointments shall be made within fifteen days of receipt of the request. No person appointed shall be from the Diocese in which the Hearing Panel is sitting.* The Court of Review shall consider the request as follows:

(a) The person filing the request shall provide copies of the request to the presidents of the Hearing Panel and of the Disciplinary Board. The request shall include a statement of the status of the proceedings and the reason, if known, for the delay or suspension of proceedings, and a description of all actions taken by the person filing the request or by any other person to resolve any impediment to the proceedings or other cause for the delay.

(b) Within fifteen days of receipt of the copy of the request, the president of the Hearing Panel shall file a response to the request with the Provincial Court of Review, with a copy to the Church Attorney, the Respondent and the president of the Board.

(c) *The appointed panel of the* Provincial Court of Review shall convene, either personally, *by video conference* or telephonically, to consider the request and the response, if any, from the Hearing Panel. The Court shall then either issue an order directing resumption of the proceedings or an order declining to direct resumption with an explanation of the reasons therefor. The order issued by the Provincial Court of Review shall be binding upon the Hearing Panel.

(d) In the event a Hearing Panel, having been ordered to resume proceedings, either refuses to do so or is unable to do so, the

Church Attorney or the Respondent may request that the Provincial Court of Review order the transfer of the proceedings to a Hearing Panel of another Diocese within the same Province, including an order to the Board of the originating Diocese to transmit the complete record of the proceedings to the successor Hearing Panel.

Sec. 2. Within forty days after issuance of an Order by a Hearing Panel, the Respondent or the Church Attorney may appeal to the Provincial Court of Review, by serving written notice of the appeal upon the Bishop Diocesan, with copies of the notice to the presidents of the Hearing Panel and the Province. The notice of appeal shall be signed by the Respondent's counsel or the Church Attorney and shall include a copy of the Order from which the appeal is taken and shall state the grounds of the appeal.

Sec. 3. Any Order from a Hearing Panel finding that a Respondent did not commit an Offense involving a question of the Doctrine, Faith or Worship of the Church may be appealed by the Bishop Diocesan upon the written request of at least two Bishops Diocesan of other Dioceses within the Province who are not members of the Provincial Court of Review. Such an appeal shall be taken on the question of the Church's Doctrine, Faith and Worship only, and may not seek to reverse the finding of the Hearing Panel of ~~noncommission of that~~ *Offenses were not committed*. An appeal under this section may be taken by service of a notice of appeal by the Bishop Diocesan upon the Respondent, the Church Attorney and the presidents of the Hearing Panel and the Province within forty days after the Order of the Hearing Panel is received by the Bishop Diocesan.

~~Sec. 4. If an appeal is taken from a Hearing Panel of a Diocese which is non-provincial, it shall follow the procedure outlined elsewhere in this Canon: the appeal shall be taken before the Provincial Court of Review geographically closest to that Diocese.~~

Sec. 5. An appeal shall be heard on the record of the Hearing Panel. The record on appeal may be corrected, if defective, but no new evidence shall be taken by the Provincial Court of Review.

Sec. 6. The standards for and conditions of appeal to the Provincial Court of Review shall be as follows:

(a) Where an Order is issued against a Respondent who fails to appear before the Hearing Panel or who otherwise fails to participate in proceedings before the Hearing Panel, such Order shall be upheld unless a review of the record on appeal shows the Hearing Panel made a clear error in issuing such Order. The Provincial Court of Review shall review the facts and record in the light most favorable to the Respondent.

(b) In all other appeals, the Provincial Court of Review shall grant relief to the appealing party only if, on the basis of the

record on appeal, it determines that the party seeking review has been substantially prejudiced by any of the following:

- (1) The action taken below violates the Constitution and Canons of the Church or the Diocese;
- (2) The Hearing Panel has exceeded the jurisdiction conferred by this Title;
- (3) The Hearing Panel has not decided all of the issues requiring resolution;
- (4) The Hearing Panel has erroneously interpreted or applied the Constitutions or Canons of the Church;
- (5) The Hearing Panel has committed a procedural error or engaged in a decision-making process contrary to this Title; and/or
- (6) The factual determinations of the Hearing Panel are not supported by substantial evidence when viewed in the whole light of the record on appeal;

Sec. 7. It shall be the duty of the Hearing Panel to produce the record on appeal, consisting of a transcript of the proceedings before the Hearing Panel together with documentary and tangible evidence received by the Hearing Panel. The record shall be printed or otherwise reproduced as authorized by the President of the Provincial Court of Review. Within thirty days after receiving the record on appeal from the Hearing Panel, the party appealing shall serve two copies of the record on appeal, the notice of appeal and the appealing party's brief, if any, upon the opposite party and shall deliver five copies to the President of the Provincial Court of Review. Within thirty days after receiving a copy of the record on appeal, the party opposing the appeal shall serve the brief in opposition, if any, upon the appealing party, with five copies to the President of the Provincial Court of Review. Any reply brief of the appealing party shall be served likewise within fifteen days following service of the brief in opposition.

Sec. 8. All members and alternates of the Provincial Court of Review serving for an appeal shall be present for any oral proceedings of the appeal.

Sec. 9. The Provincial Court of Review shall keep a record of all proceedings. The Provincial Court of Review shall appoint a reporter who shall provide for the recording of the proceedings and who shall serve at the pleasure of the Provincial Court of Review.

Sec. 10. At the hearing of the appeal, the Provincial Court of Review shall afford the Respondent and the Church Attorney the opportunity to be heard. The Provincial Court of Review may regulate the number of counsel to be heard.

Sec. 11. No Order or determination of a Hearing Panel shall be overturned solely for technical or harmless error.

Sec. 12. If, after a notice of appeal has been filed, the appealing party fails to pursue the appeal as provided in this Canon, the Provincial Court of Review may dismiss the appeal.

Sec. 13. Following a hearing of the appeal and private deliberation, the Provincial Court of Review may (a) dismiss the appeal; (b) reverse or affirm in whole or in part the Order of the Hearing Panel; or (c) grant a new hearing before the Hearing Panel.

Sec. 14. The concurrence of a majority of the Provincial Court of Review shall be required to decide an appeal. The Provincial Court of Review shall issue its decision in writing, signed by the members concurring therein, stating its decision and the reasons for the decision. The decision shall be attached to the record. If there is not a concurrence by a majority of the Provincial Court of Review, the Order of the Hearing Panel shall stand as affirmed except for any part of the Order for which there is concurrence.

Sec. 15. Upon determination of the appeal, the President of the Provincial Court of Review shall give notice of the determination in writing to the appealing party, the party in opposition and to the Bishop Diocesan and Church Attorney. The appeal record shall be certified by the clerk of the Provincial Court of Review and the president, and shall be delivered to the Bishop Diocesan along with a copy of the record on appeal from the Hearing Panel.

And be it further

Resolved, That Canon IV.17.2(f) be amended as follows:

(f) Provincial Court of Review shall mean the Court of Review for Bishops as provided in Canon IV.17.8.

And be it further

Resolved, That Canon IV.18 be amended as follows:

Sec. 4. In the case of an Order pertaining to a Bishop, any provision of the Order may be modified or remitted by the president of the Disciplinary Board for Bishops with the advice and consent of a majority of the members of the Board and the Bishops who are then serving on *the any* Provincial Court of Review.

Sec. 5. In the case of any Order deposing a Member of the Clergy for abandoning the Church, no application for remission shall be received by the Bishop Diocesan until the deposed person has lived in lay communion with the Church for not less than one year next preceding application for the remission.

Sec. 6. No Order may be modified or remitted unless the Member of the Clergy, the Church Attorney and each Complainant have been afforded sufficient opportunity to be heard by the Disciplinary Board, or the Disciplinary Board together with the Bishops who are then serving on *the any* Provincial Court of Review, as the case may be, as to why the proposed modification or remission should or should not be permitted.

And be it further

Resolved, That Canon IV.19.5(c) be amended as follows:

(c) If objection is made by the Bishop Diocesan of the Diocese of canonical residence as provided in Canon IV.19.5(b), the Bishop Diocesan of the Diocese of canonical residence and the Bishop Diocesan of the Intake Officer's Diocese shall promptly agree as to which Diocese will assume jurisdiction over the matter and conduct proceedings. If the two Bishops cannot promptly agree, the disagreement will be resolved as follows:

(1) ~~If they are in the same Province, either~~ *Either* may promptly request the President of the ~~Provincial~~ Court of Review to decide which Diocese shall conduct the proceedings. ~~If they are in different Provinces, either may promptly request the president of the Disciplinary Board for Bishops to decide which Diocese shall conduct the proceedings.~~

(2) The requesting Bishop shall provide a copy of the request to the other Bishop. A reply to the request may be made by the non-requesting Bishop within ~~fifteen~~*fourteen* (14) days of service of the request.

(3) The President shall have the discretion to hear from the Bishops Diocesan or the Church Attorneys for the respective Dioceses, either personally or telephonically, concerning the request and any reply. The President shall have the discretion to request additional submissions from the Bishops Diocesan or the Church Attorneys.

(4) The President shall decide which Diocese shall conduct the proceedings within ~~thirty~~*fourteen* (14) days of service of the request.

(5) *It is a goal of these processes to not delay unduly the progress of any proceeding under this Title. Therefore, the parties shall not use the full extent of these deadlines for the purpose of prolonging the proceedings.*

And be it further

Resolved, That Canon IV.19.23 be amended as follows:

Sec. 23. Except as expressly provided in this Title, applicable Diocesan Canon, or in any Accord or Order, all costs, expenses and fees, if any, shall be the obligation of the party, person or entity incurring them.

(a) The necessary costs, expenses and fees of the Investigator, the Church Attorney, the Conference Panel, the Hearing Panel and any pastoral response shall be the expense of the Diocese.

(b) The necessary costs and expenses of the ~~Provincial~~ Court of Review shall be the expense of the ~~Province~~*General Convention*.

(c) The necessary costs and expenses of the Disciplinary Board for Bishops and the Court of Review for Bishops shall be the expense of the General Convention.

(d) Nothing in this Title precludes the voluntary payment of a Respondent's costs, expenses and fees by any other party or person, including a Diocese.

And be it further

Resolved, That Canon IV.19.30(a)(1) be amended as follows:

Sec. 30(a) Records of proceedings shall be preserved as follows:

(1) Each Hearing Panel and the Provincial Court of Review shall keep a complete and accurate record of its proceedings by any means from which a written transcript can be produced. When all proceedings have been concluded, the president of the Panel or Court shall certify the record. If the president did not participate in the proceeding for any reason, the Panel or Court shall elect another member of the Panel or Court to certify the record.

Citation: General Convention, *Journal of the General Convention of...The Episcopal Church, Austin, 2018* (New York: General Convention, 2018), pp. 963-973.



Resolution Number: 1982-D014
Title: Amend Canon IV.3.4 [Provincial Courts of Review]
Legislative Action Taken: Concurred As Amended
Final Text:

Resolved, That Title IV, Canon 3, Section 4 be amended as follows:

Each Provincial Synod *once during the period between General Conventions* shall ~~at its first meeting after the regular meeting of the General Convention~~ elect the Judges of the Court of Review in the Province. The Synod shall prescribe *the time and* the manner in which such Judges shall be elected. The persons so elected, except in case of death, resignation, refusal, or inability to serve, shall continue to be members of the Court for such terms as the Synod may set and until their successors shall be elected. The Bishop elected by the Synod shall be the Presiding Officer of the Court.

Citation: General Convention, *Journal of the General Convention of...The Episcopal Church, New Orleans, 1982* (New York: General Convention, 1983), p. C-40.