

**General Convention of The Episcopal Church 2022
Archives' Research Report**

Resolution No.: 2022-D037
Title: Amend Canon IV.11.2 Of Investigations
Proposer: Dr. Elizabeth Barker
Topic: Discipline

Directly Related: (Attached)

2018-A110 Amend Title Canon IV [Ecclesiastical Discipline]
2009-A185 Amend Title IV [Ecclesiastical Discipline]

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

None

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.

D037 - Amend Canon IV.11.2 Of Investigations

Final Status: Not Yet Finalized

Proposed by: Dr. Elizabeth Barker

Endorsed by: The Rev. Lynn Carter-Edmands, The Rev. Jason Prati

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.11 to read as follows:

<Amended text as it would appear if adopted and concurred. Scroll below the line of asterisks (***) to see the version showing all deleted and added text.>**

Sec. 2. Upon referral of an intake report, the Investigator shall investigate all facts pertinent to the factual claims of the intake report. The Investigator shall use appropriate investigative means, with due consideration to pastoral sensitivities, and shall complete the investigation as expeditiously as possible. If the matter has been reported to the civil authorities in any form (whether required under mandated reporter status or through sworn testimony), the investigation according to this canon shall be suspended until the proper civil authorities have investigated the alleged criminal matter.

<Proposed amended resolution text showing exact changes being made:>

Sec. 2. Upon referral of an intake report, the Investigator shall investigate all facts pertinent to the factual claims of the intake report. The Investigator shall use appropriate investigative

means, with due consideration to pastoral sensitivities, and shall complete the investigation as expeditiously as possible. *If the matter has been reported to the civil authorities in any form (whether required under mandated reporter status or through sworn testimony), the investigation according to this canon shall be suspended until the proper civil authorities have investigated the alleged criminal matter.*

Explanation

The Conference Panel (Canon IV.12) is the first opportunity provided to the Respondent to hear the charges against them. There is the assumption that the Conference Panel is informal and that the matter has not yet reached either a public or legal status, or that there exist no outside ongoing or potential criminal charges or investigation. However, once a 'mandated' report is made to the local civil authorities, the Respondent becomes subject to possible criminal prosecution, and their constitutional rights are jeopardized within a Title IV system that is unprepared to protect the Respondent's constitutional rights (see Canon IV.19.1). Title IV matters involving mandated reporting or alleged criminal activity must be treated differently than other Title IV matters in this regard.

Under circumstances of possible criminal prosecution, the Title IV *investigation* should be suspended until the police have completed their investigation. The Church is not in the business of doing the police's work. Sworn testimonies should be left for the police to obtain since the Church has no way of following through on such testimonies. If, however, a Church Attorney wishes to obtain a sworn testimony for their own record, the sworn testimony should not be forwarded to the civil authorities unless the Church wishes to suspend the Title IV investigation and await police investigation. An adjudicating diocese can derail the Title IV process when the Church Attorney goes outside the canons to involve outside agencies who can bring charges against a Respondent. Once the Church has reported an alleged complaint to the civil authorities, while "nothing in this Title shall be construed as requiring any Respondent to be represented by counsel" (Canon IV.19.12), certainly any alleged criminal charge will require the Respondent to obtain legal counsel and thereby proceed outside the intention of Title IV proceedings.



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 ~~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: 2009-A185
Title: Amend Title IV [Ecclesiastical Discipline]
Legislative Action Taken: Concurred as Amended
Final Text:

Resolved, That the whole of Title IV of the Constitution and Canons for the Government of The Episcopal Church be amended to read as follows:

TITLE IV: ECCLESIASTICAL DISCIPLINE

CANON 1: Of Accountability and Ecclesiastical Discipline

By virtue of Baptism, all members of the Church are called to holiness of life and accountability to one another. The Church and each Diocese shall support their members in their life in Christ and seek to resolve conflicts by promoting healing, repentance, forgiveness, restitution, justice, amendment of life and reconciliation among all involved or affected. This Title applies to Members of the Clergy, who have by their vows at ordination accepted additional responsibilities and accountabilities for doctrine, discipline, worship and obedience.

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 designated to support, assist, consult with and advise 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 Conference Panel.

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) the person or persons from whom the Intake Officer receives information concerning an Offense 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, two or three 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 may serve as a member of the Hearing Panel in the same case.

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 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 a hearing is held as provided in Canon IV.13, provided, however, that no such member may serve as a member of the Conference Panel in the same case.

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.

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.

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 the Bishop Diocesan to provide information or to make a statement; or (e) who agreed with the Bishop Diocesan regarding terms of discipline pursuant to Canon IV.9.

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.

CANON 3: Of Accountability

Sec. 1. A Member of the Clergy shall be subject to proceedings under this Title for:

- (a) knowingly violating or attempting to violate, directly or through the acts of another person, the Constitution or Canons of the Church or of any Diocese;
- (b) failing without good cause to cooperate with any investigation or proceeding conducted under authority of this Title; or
- (c) intentionally and maliciously bringing a false accusation or knowingly providing false testimony or false evidence in any investigation or proceeding under this Title.

Sec. 2. A Member of the Clergy shall be accountable for any breach of the Standards of Conduct set forth in Canon IV.4.

Sec. 3. In order for any conduct or condition to be the subject of the provisions of this Title, the Offense complained of must violate applicable provisions of Canon IV.3 or IV.4 and must be material and substantial or of clear and weighty importance to the ministry of the Church.

CANON 4: Of Standards of Conduct

Sec. 1. In exercising his or her ministry, a Member of the Clergy shall:

- (a) respect and preserve confidences of others except that pastoral, legal or moral obligations of ministry may require disclosure of those confidences other than Privileged Communications;**
- (b) conform to the Rubrics of the Book of Common Prayer;**
- (c) abide by the promises and vows made when ordained;**
- (d) abide by the requirements of any applicable Accord or Order, or any applicable Pastoral Direction, restriction on ministry, or placement on Administrative Leave issued under Canon IV.7:**
- (e) safeguard the property and funds of the Church and Community;**
- (f) report to the Intake Officer all matters which may constitute an Offense as defined in Canon IV.2 *meeting the standards of Canon IV.3.3*, except for matters disclosed to the Member of Clergy as confessor within the Rite of Reconciliation of a Penitent;**
- (g) exercise his or her ministry in accordance with applicable provisions of the Constitution and Canons of the Church and of the Diocese, ecclesiastical licensure or commission and Community rule or bylaws;**
- (h) refrain from:**
 - (1) any act of Sexual Misconduct;**
 - (2) holding and teaching publicly or privately, and advisedly, any Doctrine contrary to that held by the Church;**
 - 3) engaging in any secular employment, calling or business without the consent of the Bishop of the Diocese in which the Member of the Clergy is canonically resident;**
 - (4) being absent from the Diocese in which the Member of the Clergy is canonically resident, *except as provided in Canon III.9.3(e)* for more than two years without the consent of the Bishop Diocesan;**
 - (5) any criminal act that reflects adversely on the Member of the Clergy's honesty, trustworthiness or fitness as a minister of the Church;**
 - (6) conduct involving dishonesty, fraud, deceit or misrepresentation; or**
 - (7) habitual neglect of the exercise of the ministerial office without cause; or habitual neglect of public worship, and of the Holy Communion, according to the order and use of the Church; and**
 - (8) any Conduct Unbecoming a Member of the Clergy.**

CANON 5: Of Disciplinary Structures

Sec. 1. Each Diocese shall, by Canon, create a court to be known as the Disciplinary Board as described in this Canon. Each such Board shall consist of not fewer than seven persons to be selected as determined by Diocesan Canon. The membership of each Board shall include lay persons and Priests or Deacons, and the majority of the Board members shall be Priests or Deacons, but by no more than one. Within sixty days following each Diocesan convention, the Board shall convene to elect a president for the following year, unless another method for selection of the president is provided by Diocesan Canon.

Sec. 2. The provisions of Canon IV.19 shall apply to all Disciplinary Boards.

Sec. 3. The following rules shall govern the operations of all Disciplinary Boards:

(a) In the event of any Board member's death, resignation or declination to serve, or disability rendering the member unable to act, the president shall declare a vacancy on the Board.

(b) Notices of resignation or declination to serve shall be communicated in writing to the president.

(c) No person serving in a Diocese as Chancellor, Vice-Chancellor, Advisor, Conciliator, Church Attorney, Intake Officer or Investigator may serve on the Disciplinary Board of that Diocese, and no member of a Disciplinary Board may be selected to serve in one of those positions in the same Diocese. A member of the Standing Committee of a Diocese may serve on the Disciplinary Board if the Canons of the Diocese so provide. If any Priest elected to the Board is elected a Bishop, or any lay member is ordained prior to the commencement of a proceeding under this Title, that person shall immediately cease to be a member of the Board. If a proceeding has been commenced, that person may continue to serve on the Board for all proceedings in that matter through final disposition. A lay person ceasing to be a member under this subsection by reason of ordination may be appointed to fill a vacancy in the clergy members of the Board.

(d) Each Diocese shall provide by Canon for the filling of vacancies on the Board. In the event there be no such canonical provision by the Diocese, any vacancy occurring on the Board shall be filled by appointment of the Bishop Diocesan and the appointee shall be of the same order as the Board member being replaced.

(e) Proceedings of the Panels of the Disciplinary Board shall be conducted within the rules provided in this Title. The Board may adopt, alter or rescind supplemental rules of procedure not inconsistent with the Constitution and Canons of the Church.

(f) The rules of evidence for proceedings are as provided in Canon IV.13.6.

(g) The Disciplinary Board shall appoint a clerk who may be a member of the Board, who shall be custodian of all records and files of the Disciplinary Board and who shall provide administrative services as needed for the functioning of the Board.

(h) The Disciplinary Board shall keep a record of all proceedings before its Hearing Panels in a format that can be reduced to a transcript if necessary. The record of each proceeding shall be certified by the president of the Panel. If the record cannot be certified by the president by reason of the president's death, disability or absence, the record shall be certified by another member of the Panel selected by a majority of the remaining members of the Panel.

(i) Any Diocese may agree with one or more other Dioceses to develop and share resources necessary to implement this Title, including members of Disciplinary Boards, Church Attorneys, Intake Officers, Advisors, Investigators, Conciliators and administrative and financial support for proceedings under this Title.

(j) Church Attorneys, Intake Officers, Advisors, Investigators and Conciliators need not reside in or be members of the Diocese proceeding under this Title. Members of Disciplinary Boards shall be members of the Diocese in which they serve unless such Diocese has entered into an agreement for the sharing of resources as provided in Canon IV.5.3(i).

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 Bishop of the Province; two Priests, or one Priest and one Deacon; and two lay persons; and (ii) one Bishop, one Priest or Deacon, and one lay person to serve as alternates as hereinafter provided. Each Priest or Deacon, whether a member or alternate, shall be canonically resident in a Diocese of the Province different from any other Priest or Deacon, and each lay person, whether a member or alternate, shall reside in a Diocese of the Province different from any other lay person. The Priests, Deacons and lay persons shall be members of the Disciplinary Boards of their respective Dioceses.

(b) The members and alternates of the Provincial Court of Review shall be appointed annually by the president of the Province. The Provincial Court of Review shall select a president from among its members.

(c) The persons appointed to the Provincial Court of Review shall continue to serve until their respective successors have been appointed, except in case of death, resignation or declination to serve.

(d) 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 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 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 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.

CANON 6: Of Intake and Referral of Information Concerning Offenses

Sec. 1. Each Diocese shall provide for and publicize methods and means of reporting information concerning Offenses.

Sec. 2. Information concerning Offenses may be submitted to the Intake Officer in any manner and in any form.

Sec. 3. Any person other than the Intake Officer who receives information regarding an Offense shall promptly forward the information to the Intake Officer. A Bishop Diocesan may forward information to the Intake Officer whenever the Bishop Diocesan believes that the information may indicate conduct constituting one or more Offenses.

Sec. 4. Upon receipt of such information, the Intake Officer may make such preliminary investigation as he or she deems necessary, and shall incorporate the information into a written intake report, including as much specificity as possible. The Intake Officer shall

provide copies of the intake report to the other members of the Reference Panel *and to the Church Attorney*.

Sec. 5. If the Intake Officer determines that the information, if true, would not constitute an Offense, the Intake Officer shall inform the Bishop Diocesan of an intention to dismiss the matter. If the Bishop Diocesan does not object, the Intake Officer shall dismiss the matter. The Intake Officer shall provide written notice to the Complainant and the Bishop Diocesan of the decision of dismissal, the reasons therefore, and the Complainant's right to appeal the decision within thirty days of the date of the notice and shall send a copy of that notice and the written intake report to the president of the Disciplinary Board. If the Complainant wishes to appeal the dismissal, the Intake Officer shall assist the Complainant in preparing and signing a written statement of the acts complained of, which statement shall be sent to the president of the Disciplinary Board along with a statement that the Complainant appeals the dismissal. The intake report and any related information, in the case of a dismissal, may be retained by the Intake Officer and considered in connection with any additional information that may come to the Intake Officer thereafter concerning the subject Member of the Clergy.

Sec. 6. In the event of an appeal of a dismissal, the president of the Disciplinary Board shall, within thirty days of the receipt of the appeal, review the intake report and either affirm or overrule the dismissal. The president shall promptly notify the Complainant, the Intake Officer and the Bishop Diocesan of the decision. If the decision is to overrule the dismissal, the president shall refer the intake report to the Reference Panel.

Sec. 7. If the Intake Officer determines that the information, if true, would constitute an Offense, the Intake Officer shall promptly forward the intake report to the Reference Panel. The president shall promptly select from the Disciplinary Board, by lot or by other random means, a Conference Panel and a Hearing Panel, and shall designate a president of each Panel. A Conference Panel may consist of one or more persons. A Hearing Panel shall consist of not less than three persons and shall include both clergy and lay members. The president shall be ineligible to serve on either Panel.

Sec. 8. The Reference Panel shall meet as soon as possible after receiving the intake report to determine how to refer the report. Referral options are (a) no action required other than appropriate pastoral response pursuant to Canon IV.8; (b) conciliation pursuant to Canon IV.10; (c) investigation pursuant to Canon IV.11 or (d) referral for possible agreement with the Bishop Diocesan regarding terms of discipline pursuant to Canon IV.9. Referral decisions shall require the approval of a majority of the Reference Panel.

Sec. 9. If the determination of the Reference Panel is to take no action other than an appropriate pastoral response, the Panel shall notify the Complainant and the subject Member of the Clergy of the determination and the basis for the determination to take no action other than an appropriate pastoral response. If the referral is to conciliation, the provisions of Canon IV.10 shall apply. If the referral is to investigation, the provisions of Canon IV.11 shall apply.

Sec. 10. All communications and deliberations during the intake and referral stages shall be confidential except as the Bishop Diocesan deems to be pastorally appropriate or as required by law.

CANON 7: Of Pastoral Direction, Restricted Ministry and Administrative Leave

Sec. 1. At any time the Bishop Diocesan may issue a Pastoral Direction to a Member of the Clergy, canonically resident, actually resident or licensed in the Diocese.

Sec. 2. A Pastoral Direction must (a) be made in writing; (b) set forth clearly the reasons for the Pastoral Direction; (c) set forth clearly what is required of the Member of the

Clergy; (d) be issued in the Bishop Diocesan's capacity as the pastor, teacher and overseer of the Member of the Clergy; (e) be neither capricious nor arbitrary in nature nor in any way contrary to the Constitution and Canons of the General Convention or the Diocese; and (f) be directed to some matter which concerns the Doctrine, Discipline or Worship of the Church or the manner of life and behavior of the Member of the Clergy concerned; and (g) be promptly served upon the Member of the Clergy.

Sec. 3. If at any time the Bishop Diocesan determines that a Member of the Clergy may have committed any Offense, or that the good order, welfare or safety of the Church or any person or Community may be threatened by that member of the Clergy, the Bishop Diocesan may, without prior notice or hearing, (a) place restrictions upon the exercise of the ministry of such Member of the Clergy or (b) place such Member of the Clergy on Administrative Leave.

Sec. 4. Any restriction on ministry imposed pursuant to Canon IV.7.3(a) or placement on Administrative Leave pursuant to Canon IV.7.3(b) must (a) be made in writing; (b) set forth clearly the reasons for which it is issued; (c) set forth clearly the limitations and conditions imposed and the duration thereof; (d) be neither capricious nor arbitrary in nature nor in any way contrary to the Constitution and Canons of the General Convention or the Diocese; (e) be promptly served upon the Member of the Clergy; and (f) advise the Member of the Clergy of his or her right to be heard in the matter as provided in this Canon. A copy of such writing shall be promptly provided to the Church Attorney.

Sec. 5. The duration of restriction on ministry or Administrative Leave may be for a stated period or to continue until the occurrence of a specified event or the satisfaction of a specified condition.

Sec. 6. Pastoral Directions, restrictions on ministry and Administrative Leaves (a) may be issued and imposed in any chronological order; (b) may be issued and imposed concurrently; and (c) may be modified at any time by the issuing Bishop or that Bishop's successor, provided that the Pastoral Direction, restriction on ministry or Administrative leave, as modified, meets the requirements of this Canon.

Sec. 7. Any Pastoral Direction, restriction on ministry or Administrative Leave under this Canon shall be effective upon service of the writing setting it forth on the subject Member of the Clergy as provided in Canon IV.19.20.

Sec. 8. If imposition of restriction on ministry or placement on Administrative Leave occurs prior to the receipt of information by the Intake Officer, as provided in Canon IV.6, then the Bishop may forward a copy of the writing setting forth the restriction or Administrative Leave to the Intake Officer, who shall receive such information as a report of an Offense and proceed as provided in Canon IV.6.

Sec. 9. The Bishop Diocesan may disclose such information concerning any Pastoral Direction, restriction on ministry or Administrative Leave as the Bishop Diocesan deems pastorally appropriate or as necessary to seek or obtain Diocesan authority for resolution of the matter or any part thereof.

Sec. 10. Every imposition of restriction on ministry or placement on Administrative Leave shall be subject to review upon the request of the Member of the Clergy at any time in the duration thereof. A request for review must be in writing and addressed to the president of the Disciplinary Board and the Church Attorney, with a copy to the Bishop Diocesan. A Member of the Clergy who requests review shall become a Respondent under this Title. Reviews shall be conducted within fifteen days of the delivery of the request for review to the president of the Disciplinary Board, unless extended by consent of the Respondent. If a restriction on ministry or placement on Administrative Leave has been reviewed once, a second request for review may be made only if there has been a substantial change of

circumstances from the time of the first request or if there has been a modification of the restriction on ministry or placement on Administrative Leave.

Sec. 11. If a request for review of restriction on ministry or Administrative Leave is made prior to referral to the Conference Panel, then the review shall be conducted by the Conference Panel. If a request for review of restriction on ministry or Administrative Leave is made subsequent to referral to the Conference Panel but prior to referral to the Hearing Panel, the review shall be conducted by the Conference Panel. If a request for review of restriction on ministry or Administrative Leave is made subsequent to referral to the Hearing Panel, the review shall be conducted by the Hearing Panel. The question before a Panel reviewing a restriction on ministry or Administrative Leave is whether, at the time of the review and based upon information then available to the Panel, the restrictions on ministry or Administrative Leave and the terms and conditions thereof are warranted. The review may be conducted either personally or telephonically. The Intake Officer, the Respondent or the Respondent's Advisor or both, the Bishop Diocesan, the Chancellor and the Church Attorney shall each be afforded the opportunity to be present, either personally or telephonically, at the review, and any such person present shall be heard by the Panel if such person desires to be heard. The Panel may hear from other persons at the Panel's discretion.

Sec. 12. After conducting the review and hearing from the persons designated in Canon IV.7.11 who desire to be heard, the Panel shall confer privately and make a determination to (a) dissolve the restriction on ministry or Administrative Leave; (b) affirm the restriction on ministry or Administrative Leave and the terms and conditions thereof; or (c) affirm the restriction on ministry or Administrative Leave, but with modification of the terms and conditions thereof. The Panel's determination shall be in writing and shall be delivered to the Respondent, the Church Attorney, the Bishop Diocesan and the Intake Officer, and shall be binding in the same manner as provided in Canon IV.7.7. In the event of the dissolution of the restriction on ministry or Administrative Leave, the Bishop Diocesan may give notice thereof to such persons and Communities having notice of the restriction on ministry or Administrative Leave as the Bishop Diocesan deems appropriate.

Sec. 13. Any Accord or Order resulting from Canons IV.9, IV.10, IV.12 or IV.13, unless otherwise specified, shall supersede any restriction on ministry or Administrative Leave then in effect.

CANON 8: Of Pastoral Response

Sec. 1. The Bishop Diocesan shall provide for appropriate pastoral response whenever any report is made to the Intake Officer. Such pastoral response shall embody respect, care and concern for affected persons and Communities. The response shall be designed so as to promote healing, repentance, forgiveness, restitution, justice, amendment of life and reconciliation among all involved or affected.

Sec. 2. In each pastoral response the Bishop Diocesan shall consider offering pastoral care to all those affected by the Offense or allegations thereof. Pastoral care shall be considered for the Complainant, the Complainant's family, the Respondent, the Respondent's family, Injured Persons, Injured Persons' families, any affected Community, witnesses and the Disciplinary Board.

Sec. 3. In every case, and notwithstanding any other provision of this Title to the contrary, the Bishop Diocesan may disclose such information concerning any Offense or allegations thereof or concerning any Accord or Order as the Bishop Diocesan deems pastorally appropriate.

Sec. 4. The Bishop Diocesan shall give consideration to the respective privacy interests and pastoral needs of all affected persons.

Sec. 5. The Bishop Diocesan may designate a person to be responsible for the implementation of the pastoral response. Such person may be the Intake Officer. The duties of such person may include coordination of pastoral care and coordination of communications between the Bishop Diocesan and Advisors.

CANON 9: Of Agreements Between Bishops Diocesan and Respondents for Discipline

Sec. 1. At any time before an Order becomes effective, the Respondent or any Member of the Clergy who has not yet become a Respondent but who is alleged to have committed an Offense may propose terms of discipline to the Bishop Diocesan, or the Bishop Diocesan may propose terms of discipline to the Respondent or such Member of the Clergy. Before reaching agreement, the Bishop Diocesan shall consult with the Injured Persons, if any, the President of the Disciplinary Board and the Church Attorney with respect to the proposed terms of discipline. If the Respondent or such Member of the Clergy and the Bishop Diocesan reach agreement regarding terms of discipline, such terms shall be set forth in a proposed Accord. A Member of the Clergy becomes a Respondent by reaching agreement with the Bishop Diocesan regarding terms of discipline.

Sec. 2. An Accord under this Canon may be entered into if (a) the Respondent is aware of the discipline to be imposed and the effect thereof; (b) the Respondent has had adequate opportunity to consult and seek advice from, or has in fact consulted and received advice from, counsel of the Respondent's choosing; and (c) the Accord adequately considers and, where possible, provides for healing, repentance, forgiveness, restitution, justice, amendment of life and reconciliation among the Complainant, Respondent, affected Community and other persons and is otherwise an appropriate resolution of the matter.

Sec. 3. An Accord under this Canon may be withdrawn by the Priest or Deacon within three days of execution thereof by the Priest or Deacon and if not withdrawn shall be effective and irrevocable thereafter.

CANON 10: Of Conciliation

Sec. 1. Conciliation shall seek a resolution which promotes healing, repentance, forgiveness, restitution, justice, amendment of life and reconciliation among the Complainant, Respondent, affected Community, other persons and the Church.

Sec. 2. Where a matter is referred for conciliation, the Bishop Diocesan shall appoint a Conciliator to assist the Complainant, Respondent, other affected persons and the Church in reconciling. The Bishop Diocesan or a representative appointed by the Bishop Diocesan may participate in the conciliation.

Sec. 3. If the conciliation is successful in reaching agreement among the parties on a suitable resolution of all issues, an Accord will be prepared as provided in Canon IV.14. If conciliation cannot be achieved within a reasonable time, the Conciliator will report such to the Bishop Diocesan, and the matter will be referred back to the Reference Panel.

Sec. 4. A Conciliator shall be a person skilled in dispute resolution techniques and without conflict of interest in the matter. All communications between the Complainant and the Conciliator, the Respondent and the Conciliator and other participants in the conciliation and the Conciliator shall be confidential except as the Conciliator may have the permission of the respective person to disclose the information to the other participants in the conciliation in order to promote efforts towards conciliation.

CANON 11: Of Investigations

Sec. 1. In each Diocese there shall be one or more Investigators.

Sec. 2. Upon referral of an intake report, the Investigator shall investigate all facts pertinent to the factual claims of the intake report. The Investigator shall use appropriate investigative means, with due consideration to pastoral sensitivities, and shall complete the investigation as expeditiously as possible.

Sec. 3. The Investigator shall present the findings of the investigation in writing to the Reference Panel. The Reference Panel may meet with the Investigator and shall consider the report to determine whether to (a) take no action other than appropriate pastoral responses pursuant to Canon IV.8; (b) refer the matter to the Bishop Diocesan for consideration of proceedings under Canon IV.9; (c) refer the matter to conciliation pursuant to Canon IV.10; (d) require further investigation; or (e) refer the matter to the Conference Panel pursuant to Canon IV.12. The determination shall be approved by a majority vote of the Reference Panel.

Sec. 4. If the determination is to refer for further investigation, the Investigator shall make such further investigation as the Reference Panel directs and shall submit a supplemental report of findings to the Reference Panel. The Reference Panel shall then reconvene and proceed as provided in Canon IV.11.3.

Sec. 5. All investigations shall be confidential except as may be utilized by the Church Attorney, the Bishop Diocesan or the Panels upon the consent of the person interviewed or as the Bishop Diocesan deems pastorally necessary, and all persons interviewed by the Investigator shall be advised of the confidential nature of the investigation.

CANON 12: Of Conference Panels

Sec. 1. Upon referral of a matter to a Conference Panel, the president of the Disciplinary Board shall forward to the Church Attorney the intake report, all of the Investigator's reports and any other writings or other file materials created or collected by the Disciplinary Board or any panel thereof during the intake, investigative or referral process. From this material the Church Attorney shall prepare a written statement, describing each alleged Offense separately, with reasonable particularity sufficient to apprise the Respondent of the acts, omissions or conditions which are the subject of the proceedings. The Church Attorney shall then forward the materials received from the president of the Disciplinary Board, together with the written statement, to the Conference Panel.

Sec. 2. The Conference Panel shall review the materials provided to determine who, in addition to those listed in Canon IV.12.3, should be *directed* to participate in the proceeding before the Conference Panel in order to promote the purposes of this Title. Such may include, for example, the Investigator, family members, representatives of the affected Community or other affected persons.

Sec. 3. The Conference Panel shall issue a notice to the Respondent, the Respondent's Advisor, the Complainant, the Complainant's Advisor, the Investigator and such other persons, if any, as the Conference Panel in its discretion may determine. The notice shall describe the nature and purpose of the proceeding, contain a copy of the written statement prepared by the Church Attorney, shall disclose the names of all persons to whom the notice is sent, and shall establish a date, time and place for a conference at which the Respondent is to appear before the Conference Panel.

Sec. 4. The Respondent shall attend the conference.

Sec. 5. The Church Attorney shall attend the conference, shall represent the Church and shall be heard by the Conference Panel.

Sec. 6. The Complainant may attend the conference but may not be required to do so. The Complainant's Advisor may attend the conference regardless of whether the Complainant attends.

Sec. 7. The proceedings of the Conference Panel shall be informal and conversational. The Conference Panel shall describe the alleged Offense to the Respondent. The Conference Panel shall hear from the Complainant or the Complainant's Advisor or both, if either or both are present, and from the Respondent or the Respondent's Advisor or both. At its discretion, the Conference Panel may hear from the Investigator or any other persons present, and may direct the Investigator to conduct additional investigation and suspend its proceedings to allow such investigation to be completed. At its discretion, the Conference Panel may confer with any participants outside the presence of the other participants.

Sec. 8. No witnesses shall be called to testify at the proceedings before the Conference Panel. No record of the proceedings of the Conference Panel shall be made. The conference shall be closed to all except the members of the Conference Panel, and invited participants. Proceedings before the Conference Panel shall be confidential except as may be provided in an Order or Accord or as provided elsewhere in this Title.

Sec. 9. An Accord may be entered into at a proceeding before the Conference Panel. If an Accord is not entered into, the Conference Panel shall confer privately to reach a determination of the matter, which may include (a) dismissal of the matter; (b) referral for conciliation; (c) referral to the Hearing Panel; or (d) issuance of an Order.

Sec. 10. If the determination is to dismiss the matter, the Conference Panel shall issue an Order which shall include the reasons for dismissal and which may contain findings exonerating the Respondent. A copy of the Order shall be provided to the Bishop Diocesan, the Respondent, the Respondent's Advisor, the Complainant, the Complainant's Advisor and the Church Attorney.

Sec. 11. If the resolution is the entry of an Accord or the issuance of an Order other than an Order of dismissal, the provisions of Canon IV.14 shall apply.

Sec. 12. The Respondent or the Church Attorney may refuse an Order issued by the Conference Panel by giving written notice of the refusal to the president of the Conference Panel within fifteen days following the effective date of the Order as defined in Canon IV.14.10. Upon receipt of the notice of refusal, the president of the Conference Panel shall notify the president of the Disciplinary Board of the refusal and the matter will proceed as provided in IV.14.11.

CANON 13: Of Hearing Panels

Sec. 1. If a matter is referred to the Hearing Panel, the president of the Conference Panel shall promptly notify the president of the Disciplinary Board of the referral.

Sec. 2. Upon receipt of a referral for Hearing Panel proceedings, the Church Attorney shall review all information acquired as of the time of such referral and, if necessary, shall revise or update the written statement of the Offense and shall provide the same to the Hearing Panel. The Hearing Panel shall issue a notice to the Respondent, to the Respondent's Advisor and to the Church Attorney.

(a) The notice shall describe the nature and purpose of the proceeding, contain a copy of the written statement prepared by the Church Attorney, disclose the names of all persons to whom the notice is sent, advise the Respondent that a written response to the notice must be filed by the Respondent with the Hearing Panel within thirty days of the mailing date of the notice and advise the Respondent that failure to attend or participate in a scheduled or noticed hearing may result in a finding of default.

(b) A copy of the notice shall be sent to the Complainant and to the Complainant's Advisor.

(c) Unless additional time is approved by the Hearing Panel, the Respondent shall file with the Hearing Panel a written response signed by the Respondent within thirty days of the mailing date of the notice. The president of the Hearing Panel shall forward a copy of the response to the Church Attorney.

Sec. 3. In all proceedings before the Hearing Panel, the Church Attorney shall appear on behalf of the Diocese, which shall then be considered the party on one side and the Respondent the party on the other. Each Complainant shall be entitled to be present throughout and observe the Hearing and each may be accompanied by another person of his or her own choosing in addition to his or her Advisor.

Sec. 4. All proceedings before the Hearing Panel, except its private deliberations, shall be public, provided, however, that the Hearing Panel may close any part of the proceedings at its discretion to protect the privacy of any person. A record of the hearing shall be made by such means as to enable the creation of a written transcript of the hearing.

Sec. 5. The Church Attorney and the Respondent shall each be afforded reasonable time and opportunity to prepare evidence for the hearing as follows:

(a) Within thirty days after the filing of the response by the Respondent, the Church Attorney and the Respondent's counsel shall meet and confer regarding the nature and basis of the allegations against the Respondent and the defenses thereto and to make or arrange for initial disclosures as described in Canon IV.13.5(b), and to develop a proposed plan of discovery forms and schedule for approval by the Hearing Panel. A report of the proposed plan shall be filed with the president of the Hearing Panel within fifteen days after the conference.

(b) Within fifteen days after the conference described in Canon IV.13.5(a), the Church Attorney and the Respondent's counsel shall each provide to the other initial disclosure of (1) the name and, if known, the address and telephone number of each individual likely to have direct knowledge of information which may be used to support the allegations against the Respondent or the defenses thereto, together with a detailed summary of the expected testimony of the person, if called to testify; and (2) a copy of, or a description by category and location of, all documents and tangible things that may be used to support the allegations against the Respondent or the defenses thereto, except as such disclosure would involve Privileged Communications.

(c) If the discovery plan has been mutually agreed upon by the Church Attorney and counsel for the Respondent, the president of the Hearing Panel may approve the plan and incorporate it in a discovery order and scheduling order governing all discovery procedures and establishing a date for hearing of the matter. If the Church Attorney and Respondent's counsel do not agree on all elements of the discovery plan, the president of the Hearing Panel shall allow each to be heard with respect to the elements in dispute, make a determination of appropriate discovery procedures and issue a discovery order and scheduling order within thirty days of the receipt of the discovery planning report.

(d) Discovery procedures may include oral or written deposition testimony of any person having knowledge pertaining to the Offense or any defenses thereto, requests for production of documents or tangible objects and requests for admissions of fact.

(e) In addition to the disclosures required by this section and the discovery obtained pursuant to the discovery plan, the Church Attorney and Respondent's counsel shall each provide to the other and to the Hearing Panel at least thirty days before the hearing final pre-hearing disclosures including (1) the name, address and telephone number of each witness expected to be called to testify at the hearing; (2) identification of each

document or other tangible object expected to be used as an exhibit in the hearing; and (3) requests, if any, to have all or portions of the hearing closed to the public.

(f) Notwithstanding any provision of this section, in approving or determining the discovery plan, the president of the Hearing Panel shall take reasonable steps to assure that the discovery process will not unduly burden any person from whom information is sought or unduly adversely affect any pastoral response being offered to any such person. The Hearing Panel may impose, after reasonable notice and opportunity to be heard, reasonable sanctions on any party for failure to comply with any discovery or scheduling order.

Sec. 6. In all proceedings of the Hearing Panel the testimony of witnesses shall be taken orally and personally or by such other means as provided by order of the Hearing Panel. All testimony shall be given under oath or solemn affirmation and be subject to cross-examination. *The Hearing Panel shall determine the credibility, reliability and weight to be given to all testimony and other evidence.* The proceedings shall be conducted as follows:

(a) The president shall regulate the course of the hearing so as to promote full disclosure of relevant facts.

(b) The president:

(1) may exclude evidence that is irrelevant, immaterial or unduly repetitious;

(2) shall exclude privileged evidence;

(3) may receive documentary evidence in the form of a copy or excerpt if the copy or excerpt contains all pertinent portions of the original document;

(4) may take official notice of any facts that could be judicially noticed, including records of other proceedings and of technical or scientific facts within the Hearing Panel's specialized knowledge;

(5) may not exclude evidence solely because it is hearsay;

(6) shall afford to the Church Attorney and to the Respondent reasonable opportunity to present evidence, argue and respond to argument, conduct cross-examination and submit rebuttal evidence; and

(7) may, at the discretion of the Hearing Panel, give persons other than the Church Attorney and the Respondent opportunity to present oral or written statements at the hearing.

(c) Nothing in this section shall preclude the exercise of discretion by the president in taking measures appropriate to preserve the integrity of the hearing.

Sec. 7. Following the conclusion of the hearing, the Hearing Panel shall confer privately to reach a determination of the matter by (a) dismissal of the matter or (b) issuance of an Order.

Sec. 8. If the determination is to dismiss the matter, the Hearing Panel shall issue an Order which shall include the reasons for dismissal and which may contain findings exonerating the Respondent. A copy of the Order shall be provided to the Bishop Diocesan, the Respondent, the Respondent's Advisor, the Complainant, the Complainant's Advisor and the Church Attorney.

Sec. 9. If the resolution is the issuance of an Order other than an Order of dismissal, the provisions of Canon IV.14 shall apply.

CANON 14: Of Accords and Orders

Sec. 1. An Accord may (a) provide any terms which promote healing, repentance, forgiveness, restitution, justice, amendment of life and reconciliation among the Complainant, Respondent, affected Community and other persons; (b) place restrictions

on the Respondent's exercise of ministry; (c) place the Respondent on probation; (d) recommend to the Bishop Diocesan that the Respondent be admonished, suspended or deposed from ministry; (e) limit the involvement, attendance or participation of the Respondent in the Community; or (f) any combination of the foregoing. An Accord may be conditioned on the Bishop Diocesan imposing any recommended admonition, suspension, deposition or conditions for restoration to ministry. An Accord providing for suspension from ministry shall specify on what terms or conditions and at what time the suspension shall cease. Any Accord providing for limitation upon the involvement, attendance or participation of the Respondent in the Community shall also provide conditions for restoration.

Sec. 2. If an Accord results from a Conciliation, the Accord shall be signed by the Complainant, the Respondent and the Conciliator, provided that the Conciliator shall sign last.

Sec. 3. If an Accord results from proceedings before a Conference Panel, the Complainant and the Complainant's Advisor shall have first been afforded an opportunity to be heard by the Panel regarding the proposed terms of the Accord. The Accord shall be signed by the Respondent, the Church Attorney and the president of the Panel, provided that the president shall sign last.

Sec. 4. A copy of the Accord shall be sent to the Complainant, the Complainant's Advisor, the Respondent, the Respondent's Advisor, the Church Attorney and the Bishop Diocesan by the Conciliator or the president of the Conference Panel or Hearing Panel (whichever the matter was before when the Accord was reached) on the date that the Conciliator or president of the Panel signs the Accord.

Sec. 5. The Bishop Diocesan shall have thirty days from the date on which the Accord is sent to the Bishop Diocesan in which to advise in writing the Respondent, the Respondent's Advisor, the Complainant, the Complainant's Advisor, the Church Attorney and the Conciliator or the president of the Conference Panel or Hearing Panel whether the Bishop Diocesan will pronounce the Sentence or accept the other terms of the Accord as recommended. The Bishop Diocesan shall advise that he or she will (a) pronounce the Sentence as recommended or (b) pronounce a lesser Sentence than that recommended and/or (c) reduce the burden on the Respondent of any of the other terms of the Accord. The Bishop Diocesan shall pronounce Sentence not sooner than forty days following the date on which the Accord is sent to the Bishop Diocesan and not later than sixty days following such date. The Bishop Diocesan's pronouncement of a lesser Sentence than that recommended or other modification shall not affect the validity or enforceability of the remainder of the Accord.

Sec. 6. An Order issued by a Conference Panel or Hearing Panel may (a) provide any terms which promote healing, repentance, forgiveness, restitution, justice, amendment of life and reconciliation among the Complainant, Respondent, affected Community and other persons; (b) place restrictions on the Respondent's exercise of ministry; (c) recommend to the Bishop Diocesan that the Respondent be admonished, suspended or deposed from ministry; (d) limit the involvement, attendance or participation of the Respondent in the Community; or (e) any combination of the foregoing. An Order providing for suspension from Ministry shall specify on what terms or conditions and at what time the suspension shall cease. Any Order providing for limitation upon the involvement, attendance or participation of the Respondent in the Community shall also provide conditions for restoration.

Sec. 7. Prior to the issuance of an Order by a Conference Panel or a Hearing Panel, the issuing Panel shall afford the Bishop Diocesan and the Complainant each with an opportunity to be heard on the proposed terms of the Order.

Sec. 8. The Bishop Diocesan shall have thirty days from the date of the issuance of the Order in which to advise in writing the Respondent, the Respondent's Advisor, the Complainant, the Complainant's Advisor, the Church Attorney and the president of the Conference Panel or Hearing Panel (whichever Panel issued the Order) whether the Bishop Diocesan will pronounce the Sentence or accept the other terms of the Order as recommended. The Bishop Diocesan shall advise that he or she will (a) pronounce the Sentence as recommended or (b) pronounce a lesser Sentence than that recommended and/or (c) reduce the burden on the Respondent of any of the other terms of the Order. The Bishop Diocesan shall pronounce Sentence not sooner than forty days following the issuance of the Order and not later than sixty days following the issuance of the Order. Notwithstanding anything in this section to the contrary, no Sentence shall be pronounced while an appeal of the matter is pending. However, the Bishop Diocesan may, while an appeal is pending, place restrictions upon the exercise of the Respondent's ministry, or place the Respondent on Administrative Leave, or continue any such restriction or Administrative Leave as was in effect at the time of the issuance of the Order. The Bishop Diocesan's pronouncement of a lesser Sentence than that recommended or other modification shall not affect the validity or enforceability of the remainder of the Order.

Sec. 9. An Accord or Order shall include, in addition to such terms and provisions as are consistent with Canons IV.14.1 and IV.14.6, (a) the name of the Respondent; (b) a reference to the Canon(s), section(s) and subsection(s) specifying the Offense; and (c) general information regarding the Offense sufficient to afford protection from proceedings which are barred under Canon IV.19.13.

Sec. 10. An Accord under Canon IV.9 shall be effective as provided in Canon IV.9.3. An Accord under Canon IV.10 or IV.12 shall be effective thirty days following the date on which the Accord is signed by the Conciliator or the president of the Panel. An Order is effective thirty days following the date on which the Order is issued.

Sec. 11. If the Order is issued by a Conference Panel, the Respondent may refuse the Order as provided in Canon IV.12.12 and the matter shall be referred to a Hearing Panel for hearing as provided in Canon IV.13.

Sec. 12. Notice of Accords and Orders which shall have become effective and are not subject to refusal by the Respondent shall be given without delay as follows:

(a) In the case of any Accord or Order pertaining to a Priest or Deacon, the Bishop Diocesan shall give notice of the Accord or Order to every Member of the Clergy in the Diocese, each Vestry in the Diocese, the Secretary of Convention and the Standing Committee of the Diocese, which shall be added to the official records of the Diocese; to the Presiding Bishop, to all other Bishops of the Church, and where there is no Bishop, to the Ecclesiastical Authority of each Diocese of the Church; to the Recorder of ordinations; to the Church Deployment Office; and to the Secretary of the House of Bishops and the Secretary of the House of Deputies.

(b) In the case of any Accord or Order pertaining to a Bishop, the Presiding Bishop shall give notice of the Accord or Order to the Ecclesiastical Authority of every Diocese of the Church, to the Recorder of ordinations, to the Church Deployment Office, and to the Secretary of the House of Bishops, and to all Archbishops and Metropolitans, and to all Presiding Bishops of Churches in communion with the Church.

(c) All notices given pursuant to this Canon shall reference the Canon(s), section(s) and subsection(s) specifying the Offense which is the subject of the Accord or Order.

(d) Similar notice shall be given whenever there is any modification or remission of any Order for which notice has previously been given pursuant to this Canon.

CANON 15: Of Review

Sec. 1. In the event that 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. 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 Provincial Court of Review shall convene, either personally 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 therefore. 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 non-commission of other Offenses. 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 nonprovincial, 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.

CANON 16: Of Abandonment of The Episcopal Church

(A) By a Bishop

Sec. 1. If a Bishop abandons The Episcopal Church (i) by an open renunciation of the Doctrine, Discipline or Worship of the Church; or (ii) by formal admission into any religious body not in communion with the same; or (iii) by exercising Episcopal acts in and for a religious body other than the Church or another church in communion with the Church, so as to extend to such body Holy Orders as the Church holds them, or to administer on behalf of such religious body Confirmation without the express consent and commission of the proper authority in the Church, it shall be the duty of the Disciplinary Board for Bishops, by a majority vote of all of its members, to certify the fact to the Presiding Bishop and with the certificate to send a statement of the acts or declarations which show such abandonment, which certificate and statement shall be recorded by the Presiding Bishop. The Presiding Bishop shall then place a restriction on the exercise of ministry of said Bishop until such time as the House of Bishops shall investigate the matter and act thereon. During the period of such restriction, the Bishop shall not perform any Episcopal, ministerial or canonical acts.

Sec. 2. The Presiding Bishop, or the presiding officer, shall forthwith give notice to the Bishop of the certification and restriction on ministry. Unless the restricted Bishop, within sixty days, makes declaration by a verified written statement to the Presiding Bishop, that the facts alleged in the certificate are false or utilizes the provisions of Canon III.12.7, the Bishop will be liable to Deposition. If the Presiding Bishop is reasonably satisfied that the statement constitutes (i) a good faith retraction of the declarations or acts relied upon in the certification to the Presiding Bishop or (ii) a good faith denial that the Bishop made the declarations or committed the acts relied upon in the certificate, the Presiding Bishop, with the advice and consent of the Disciplinary Board for Bishops, shall terminate the restriction. Otherwise, it shall be the duty of the Presiding Bishop to present the matter to the House of Bishops at the next regular or special meeting of the House. If the House, by a majority of the whole number of Bishops entitled to vote, shall give its consent, the Presiding Bishop shall depose the Bishop from the ministry, and pronounce and record in the presence of two or more Bishops that the Bishop has been so deposed.

(B) By a Priest or Deacon

Sec. 3. If it is reported to the Standing Committee of the Diocese in which a Priest or Deacon is canonically resident that the Priest or Deacon, without using the provisions of

Canon III.7.8-10 or III.9.8-11, has abandoned The Episcopal Church, then the Standing Committee shall ascertain and consider the facts, and if it shall determine by a vote of three-fourths of all the members that the Priest or Deacon has abandoned The Episcopal Church by an open renunciation of the Doctrine, Discipline or worship of the Church, or by the formal admission into any religious body not in communion with the Church, or in any other way, it shall be the duty of the Standing Committee of the Diocese to transmit in writing to the Bishop Diocesan, or if there be no such Bishop, to the Bishop Diocesan of an adjacent Diocese, its determination, together with a statement setting out in reasonable detail the acts or declarations relied upon in making its determination. If the Bishop Diocesan affirms the determination, the Bishop Diocesan shall place a restriction on the exercise of ministry by that Priest or Deacon for sixty days and shall send to the Priest or Deacon a copy of the determination and statement, together with a notice that the Priest or Deacon has the rights specified in Section 2 and at the end of the sixty day period the Bishop Diocesan will consider deposing the Priest or Deacon in accordance with the provisions of Section 4.

Sec. 4. Prior to the expiration of the sixty day period of restriction, the Bishop Diocesan may permit the Priest or Deacon to utilize the provisions of Canon III.7.8-10 or III.9.8-11, as applicable. If within such sixty day period the Priest or Deacon shall transmit to the Bishop Diocesan a statement in writing signed by the Priest or Deacon, which the Bishop Diocesan is reasonably satisfied constitutes a good faith retraction of such declarations or acts relied upon in the determination or a good faith denial that the Priest or Deacon committed the acts or made the declarations relied upon in the determination, the Bishop Diocesan shall withdraw the notice and the restriction on ministry shall expire. If, however, within the sixty day period, the Bishop Diocesan does not pronounce acceptance of the renunciation of the Priest or Deacon in accordance with Canon III.7.8-10 and III.9.8-11, as applicable, or the Priest or Deacon does not make retraction or denial as provided above, then it shall be the duty of the Bishop Diocesan either (i) to depose the Priest or Deacon or (ii) if the Bishop Diocesan is satisfied that no previous irregularity or misconduct is involved, with the advice and consent of the Standing Committee, to pronounce and record in the presence of two or more Priests that the Priest or Deacon is released from the obligations of Priest or Deacon and (for causes which do not affect the person's moral character) is deprived of the right to exercise the gifts and spiritual authority conferred in Ordination.

CANON 17: Of Proceedings for Bishops

Sec. 1. Except as otherwise provided in this Canon, the provisions of this Title shall apply to all matters in which a Member of the Clergy who is subject to proceedings is a Bishop.

Sec. 2. In all matters in which the Member of the Clergy who is subject to proceedings is a Bishop, the following terms used in Canons IV.5 through IV.16 and Canons IV.18 and IV.19 shall have the following respective meanings:

(a) Disciplinary Board shall mean the Disciplinary Board for Bishops as provided in Canon IV.17.3.

(b) Intake Officer shall mean a person appointed by the Presiding Bishop.

(c) Bishop Diocesan shall mean the Presiding Bishop, unless the Member of the Clergy who is subject to proceedings is the Presiding Bishop, in which case Bishop shall mean the Bishop authorized by Canon IV 19.24.

(d) Church Attorney shall mean a person appointed by the Disciplinary Board for Bishops to serve as the Church Attorney.

(e) Investigator shall mean any person who is qualified to serve as an Investigator under this Title, selected by the Disciplinary Board for Bishops.

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

Sec. 3. The Disciplinary Board for Bishops is hereby established as a court of the Church to have original jurisdiction over matters of discipline of Bishops, to hear Bishops' appeals from imposition of restriction on ministry or placement on Administrative Leave and to determine venue issues as provided in Canon IV.19.5. The Disciplinary Board for Bishops shall consist of ten Bishops elected at any regularly scheduled meeting of the House of Bishops, and four Priests or Deacons and four lay persons *initially* appointed by the President of the House of Deputies *with the advice and consent of the lay and clergy members of the Executive Council and thereafter elected by the House of Deputies*. All lay persons appointed to serve shall be confirmed adult communicants in good standing. Members of the Board shall serve staggered terms of six years, with terms of one half of the Bishops and one half of the lay persons, Priests and Deacons collectively expiring every three years, with the first expirations occurring at the end of the year 2012.

Sec. 4. Within sixty days following each General Convention, the Board shall convene to elect a president for the following triennium. The president shall be a Bishop. If there is no president, the Bishop who is senior by consecration shall perform the duties of the president.

Sec. 5. The Conference Panel shall consist of three Bishops, one Priest or Deacon and one lay person. The Hearing Panel shall consist of three Bishops, one Priest or Deacon and one lay person, except that the Hearing Panel for the Offense specified in Canon IV.4.1(h)(2) pertaining to Doctrine Offenses shall consist of five Bishops only.

Sec. 6. The provisions of Canons IV.14.1(d) and IV.14.6(c) pertaining to recommendations that a Respondent be suspended or deposed from ministry shall not apply where the Respondent is a Bishop. Where the Respondent is a Bishop, an Accord or Order may provide for the suspension or deposition of the Respondent. In such event, the Sentence of suspension or deposition shall be pronounced by the president of the Disciplinary Board for Bishops. The president shall have no discretion to decline to pronounce the Sentence or to pronounce a lesser Sentence. Where an Accord provides for the suspension or deposition of a Respondent who is a Bishop, the president shall pronounce Sentence within thirty days after the date on which the Conciliator or the president signs the Accord. Where an Order provides for the suspension or deposition of a Respondent who is a Bishop, the president shall pronounce Sentence not sooner than forty days following the issuance of the Order and not later than sixty days following the issuance of the Order. Notwithstanding anything in this section to the contrary, no Sentence shall be pronounced while an appeal of the matter is pending. However, the president may, while an appeal is pending, place restrictions upon the exercise of the Respondent's ministry, or place the Respondent on Administrative Leave, or continue any such restriction or Administrative Leave as was in effect at the time of the issuance of the Order.

Sec. 7. Notwithstanding any provision of this Title to the contrary, no proceeding shall be brought under this Title against a Bishop in which the Offense alleged is violation of Canon IV.4.1(h)(2) for holding and teaching, or having held and taught, publicly or privately, and advisedly, any Doctrine contrary to that held by the Church unless a statement of disassociation shall have first been issued by the House of Bishops as provided in Canon IV.17.7 (a) and thereafter the consent of one-third of the Bishops qualified to vote in the House of Bishops has been received to initiate proceedings under this Title as provided in Canon IV.17.7 (b).

(a) Any ten Bishops Diocesan in the Church may file with the Presiding Bishop a written request, signed by such Bishops, that the House of Bishops issue a statement of disassociation. Such request shall include a statement of the Doctrine alleged to be contrary to that held by the Church, the name or names of the Bishop or Bishops alleged to have held and taught publicly or privately, and advisedly, such Doctrine, and a concise statement of the facts upon which the request for the statement of disassociation is based. Contemporaneously with the filing of the request, there shall be filed with the Presiding Bishop a proposed statement of disassociation and a brief in support thereof. The Presiding Bishop shall thereupon serve a copy of the request for a statement of disassociation upon each Bishop who is the subject thereof, together with the proposed statement of disassociation and a copy of the supporting brief. The Presiding Bishop shall fix a date for the filing of a response and brief in support thereof, which date shall be not less than ninety days from the date of service, and may extend the time for responding for not more than sixty additional days. Upon the filing of a response and supporting brief, if any, or upon the expiration of the time fixed for a response, if none be filed, the Presiding Bishop shall forthwith transmit copies of the request for a statement of disassociation, proposed statement of disassociation, response, and briefs to each member of the House of Bishops. The request for a statement of disassociation shall be considered by the House of Bishops at its first regularly scheduled meeting held at least one month after copies of the request for a statement of disassociation, proposed statement of disassociation, response and briefs are transmitted to each member of the House of Bishops. The House of Bishops may amend the proposed statement of disassociation. If a statement of disassociation is not issued by the conclusion of the meeting, there shall be no further proceedings under this Title against any Bishop who is the subject thereof for holding and teaching the Doctrine alleged in the request for a statement of disassociation.

(b) Not later than ninety days following the issuance of a statement of disassociation by the House of Bishops as provided in Canon IV.17.7(a), any ten Bishops Diocesan may file with the Presiding Bishop a written request, signed by such Bishops, that the House of Bishops initiate proceedings under this Title against any Bishop who is the subject of such statement of disassociation for violation of Canon IV.4.1(h)(2) with regard to the same Doctrine as was alleged in the request for the statement of disassociation. Such request for initiation of proceedings under this Title shall include an explanation why the issuance of the statement of disassociation was not a sufficient response to the matters alleged in the request for statement of disassociation and shall be accompanied by a brief in support of the request for initiation of proceedings. The Presiding Bishop shall fix a date for the filing of a response, which shall include an explanation why the issuance of the statement of disassociation was a sufficient response to the matters alleged in the request for statement of disassociation, and brief in support thereof, which date shall be not less than ninety days from the date of service, and may extend the time for responding for not more than sixty additional days. Upon the filing of a response and supporting brief, if any, or upon the expiration of the time fixed for a response, if none be filed, the Presiding Bishop shall forthwith transmit copies of the request for initiation of proceedings under this Title, response and briefs to each member of the House of Bishops. No proceeding under this Title for violation of Canon IV.4.1(h)(2) shall be initiated unless the written consent of one-third of the Bishops qualified to vote in the House of Bishops shall be received by the Presiding Bishop within sixty days of the date on which the copies of the request for initiation of proceedings under this Title, response, and briefs were sent to them. In case the Presiding Bishop does not receive the written

consent of one-third of all the Bishops eligible to vote within sixty days of such date, the Presiding Bishop shall declare the matter dismissed and no further proceedings may be had thereon. If the Presiding Bishop receives the necessary written consents within sixty days as specified above, the Presiding Bishop shall forthwith notify the President of the Disciplinary Board for Bishops. The President shall promptly select from the Disciplinary Board for Bishops, by lot or by other random means, a Hearing Panel consisting of nine Bishops and shall designate a president of the Hearing Panel. The President of the Disciplinary Board for Bishops shall promptly forward to the president of the Hearing Panel and to the National Church Attorney copies of the request for initiation of proceedings under this Title, response and briefs, and the matter shall proceed under this Title as a matter which has been referred to a Hearing Panel.

Sec. 8. The Court of Review for Bishops is hereby established as a court of the Church to have jurisdiction to hear appeals from Hearing Panels of the Disciplinary Board for Bishops.

(a) The Court of Review for Bishops shall consist of nine members, all of whom shall be Bishops. Three Bishops shall be elected by the House of Bishops at any regularly scheduled meeting of the House of Bishops, to serve until the adjournment of the third succeeding regular meeting of General Convention and until their successors are elected and qualify; however, there shall be no change in the composition of the Court with respect to a particular Respondent following any hearing in the matter and while it is pending unresolved before the Court.

(b) From among their number, the members of the Court of Review for Bishops shall elect a president.

(c) The reasonable and necessary expenses of the Court of Review for Bishops, including fees, costs, disbursements and expenses of the members, clerks, reporters and Church Attorneys shall be charged upon the General Convention and paid by the Treasurer of the General Convention upon Order of the president of the Court of Review. The Court of Review for Bishops shall have the authority to contract for and bind the General Convention to payment of these expenses.

Sec. 9. An Accord between the Presiding Bishop and a Bishop resulting from an agreement for discipline pursuant to Canon IV.9 shall be (a) subject to the right of withdrawal provided in Canon IV.9.3 and (b) submitted by the Presiding Bishop to the Disciplinary Board for Bishops for approval promptly after it is signed by the Presiding Bishop and the respondent. Unless withdrawn under IV.9.3, it shall be effective upon approval of the Disciplinary Board for Bishops and not subject to appeal.

CANON 18: Of Modification and Remission of Orders

Sec. 1. Any Member of the Clergy who is the subject of an Order which has become effective may apply to the Bishop Diocesan of the Diocese from which the Order issued, or the Presiding Bishop in the case of a Bishop, for modification or remission of the Order. If the Bishop is satisfied that sufficient reasons exist for granting the modification or remission sought, in whole or in part, the procedures provided in this Canon for modification or remission shall apply.

Sec. 2. In the case of an Order pertaining to a Priest or Deacon, any provision of any Order other than a provision recommending deposition of the Priest or Deacon may be modified or remitted by the Bishop Diocesan of the Diocese from which the Order issued with the advice and consent of two-thirds of the members of the Disciplinary Board.

Sec. 3. In the case of a deposition of a Priest or Deacon pursuant to an Order, such deposition may be remitted and terminated by the Bishop Diocesan of the Diocese from

which the Order issued only upon the following conditions: (a) the remission shall be done with the advice and consent of two-thirds of the members of the Disciplinary Board of the Diocese from which the Order issued; (b) the proposed remission, with the reasons therefore, shall be submitted to the judgment of five of the Bishops Diocesan whose Dioceses are nearest to the Diocese from which the Order issued, and the Bishop Diocesan shall receive in writing from at least four of those Bishops their approval of the remission and their consent thereto; (c) if the person deposed maintains legal residence or canonical residence in a Diocese other than the Diocese from which the Order issued, the proposed remission, with the reasons therefore, shall be submitted to the judgment of the Bishop(s) Diocesan of the Diocese(s) of legal and canonical residence and such Bishop(s) shall give his or her (or their) written approval of the remission and consent thereto; and (d) before such remission, the Bishop Diocesan shall require the person deposed, who desires to be restored to the ordained ministry, to subscribe to the declaration required in Article VIII of the Constitution.

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 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 any Provincial Court of review, as the case may be, as to why the proposed modification or remission should or should not be permitted.

CANON 19: Of General Provisions

Sec. 1. Proceedings under this Title are neither civil nor criminal but ecclesiastical in nature. These proceedings represent the responsibility of the Church to determine who shall serve as Members of the Clergy of the Church, reflecting the polity and order of this hierarchical church. Members of the Clergy have voluntarily sought and accepted positions in the Church and have thereby given their consent to subject themselves to the Discipline of the Church. They may not claim in proceedings under this Title constitutional guarantees otherwise associated with secular court proceedings.

Sec. 2. No member of the Church, whether lay or ordained, may seek to have the Constitution and Canons of the Church interpreted by a secular court, or resort to a secular court to address a dispute arising under the Constitution and Canons, or for any purpose of delay, hindrance, review or otherwise affecting any proceeding under this Title.

Sec. 3. No secular court shall have authority to review, annul, reverse, restrain or otherwise delay any proceeding under this Title. No action shall be brought in any secular court to enforce the terms or provisions of any Accord or Order unless otherwise expressly provided therein.

Sec. 4.

(a) A Member of the Clergy shall not be subject to proceedings under this Title for acts committed more than ten years before the initiation of proceedings except:

(1) if a Member of the Clergy is convicted in a criminal Court of Record or a judgment in a civil Court of Record in a cause involving immorality, proceedings may be initiated at any time within three years after the conviction or judgment becomes final;

(2) if an alleged Injured Person was under the age of twenty-one years at the time of the alleged acts, proceedings may be initiated at any time prior to the alleged Injured Person's attaining the age of twenty-five years; or

(3) if an alleged Injured Person is otherwise under disability at the time of the alleged acts, or if the acts alleged were not discovered, or the effects thereof were not realized, during the ten years immediately following the date of the acts alleged, the time within which proceedings may be initiated shall be extended to two years after the disability ceases or the alleged Injured Person discovers or realizes the effects of the acts alleged; *provided, however*, the time within which proceedings may be initiated shall not be extended beyond fifteen years from the date the acts are alleged to have been committed.

(b) The time limits of Subsection (a) above shall not apply with respect to persons whose acts include physical violence, sexual abuse or sexual exploitation, if the acts occurred when the alleged Injured Person was under the age of twenty-one years; in any such case, proceedings under this Title may be initiated at any time.

(c) Except as provided in Subsection (b) above, the time limitations for initiation of proceedings in this Section shall be retroactive only to January 1, 1996.

(d) No proceedings under this Title shall be initiated for acts which are alleged to violate Canon IV.3.1(a) or to constitute a breach of Canon IV.4.1(b), (c), (e) or (h)(2) unless the acts were committed within or continued up to two years immediately preceding the time the proceedings are initiated.

(e) For purposes of this Section 4, proceedings are initiated under this Title with respect to a particular Offense when specific allegations of the commission of that Offense are made to the Intake Officer.

Sec. 5. Jurisdiction and venue for proceedings under this Title shall be as follows:

(a) A Member of the clergy shall be subject to proceedings under this Title for the alleged commission of an Offense in the Diocese in which the Member of the Clergy is canonically resident or in any Diocese in which an Offense is alleged to have occurred.

(b) Whenever a referral of a matter is to be made by an Intake Officer regarding a Member of the Clergy who is not canonically resident in the Intake Officer's Diocese, the Bishop Diocesan of the Intake Officer's Diocese shall promptly notify the Bishop Diocesan of the Diocese where the Member of the Clergy is canonically resident that the Intake Officer's Diocese intends to conduct proceedings under this Title regarding the matter. The Bishop Diocesan of the Diocese of canonical residence shall have thirty days following the receipt of such notice within which to object to assumption of jurisdiction over the matter by the Intake Officer's Diocese. Such objection shall be made in writing to the Bishop Diocesan of the Intake Officer's Diocese. If the Bishop Diocesan of the Diocese of canonical residence fails to so object within the time provided, it shall be deemed that the Bishop Diocesan of the Diocese of canonical residence has agreed to assumption of jurisdiction over the matter by the Intake Officer's Diocese.

(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 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 nonrequesting Bishop within fifteen 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 days of service of the request.

Sec. 6. In any proceeding under this Title in which the Respondent fails to appear before the Conference Panel as required by Canon IV.12.4 or to timely file with the Hearing Panel the written response required by Canon IV.13.2(c), such Panel may proceed in the absence of the Respondent and may accept as true the matters described in the notice issued to the Respondent pursuant to Canons IV.12.3 or IV.13.2.

Sec. 7. Unless otherwise expressly provided in writing in the restriction on ministry or Sentence of suspension, a Member of the Clergy under a restriction on Ministry or Sentence of suspension shall not exercise any authority of his or her office over the real or personal property or temporal affairs of the Church except such matters as may not be exercised by a person other than the holder of the office, and may exercise authority in those matters only with the advice and consent of the Vestry or Bishops Committee, in the case of congregational property or affairs, or the Standing Committee, in the case of Diocesan property or affairs. The Sentence of suspension of a Rector shall terminate the pastoral relation between the Rector and the Vestry or Congregation unless (i) the Vestry by two-thirds vote requests of the Ecclesiastical Authority within thirty days that the relation continue and (ii) the Ecclesiastical Authority approves such request. If the pastoral relation has not been terminated, religious services and sacramental ministrations shall be provided for that Parish as though a vacancy exists in the office of the Rector. This Section shall not prohibit the application of Canon III.9.13-21.

Sec. 8. In computing any period of time for proceedings described in this Title, the day of the act or event from which the designated time period begins to run shall not be included. The last day of the time period shall be included, unless it is a Saturday, Sunday or legal holiday in that jurisdiction, in which event the period runs until the end of the next day which is not a Saturday, Sunday or legal holiday in that jurisdiction. Whenever a party has the right or is required to do an act within a prescribed period after the service of notice or other paper, if the service is by mail, five days shall be added to the prescribed period. Whenever it is provided in this Title that an act be done promptly or without delay, such act shall be done as quickly as is reasonably possible under the circumstances.

Sec. 9. In all cases in this Title where an action is performed or power exercised by a canonical body consisting of several members, including Reference Panels, Conference Panels, Hearing Panels and Courts of Review, and the full membership has been notified to convene, a majority of the members of the body shall be a quorum; and a majority of the members present when a quorum exists shall be competent to act.

Sec. 10. Each Diocese shall make provision for Advisors to be available to Respondents and Complainants as provided in this Canon for the purposes of support, assistance,

consultation and advice regarding the process provided in this Title and the rights, responsibilities, consequences and alternatives pertaining thereto.

(a) The Bishop Diocesan shall make an Advisor available to the Respondent not later than the earliest of (1) reference for conciliation, to the Conference Panel or to the Hearing Panel, (2) the imposition of restriction on ministry or placement on Administrative Leave or (3) any interrogation or request for a statement or other information from the Respondent.

(b) The Bishop Diocesan shall make an Advisor available to the Complainant not later than the earliest of (1) the forwarding of the intake report to the Reference Panel, (2) the Complainant's appeal of a dismissal under Canon IV.6.5 or (3) the Bishop's designation of an Injured Person as a Complainant.

(c) The following shall be disqualified from serving as an Advisor: the Bishop Diocesan, the Church Attorney, any member of the Disciplinary Board, the Intake Officer, any Investigator, any person who is likely to be a witness in any pertinent proceeding and the Chancellor or any Vice-chancellor of the Diocese.

(d) No Respondent or Complainant shall be required to accept the services of any Advisor made available by the Bishop Diocesan. Any Respondent or Complainant may use the services of any Advisor of his or her choice after designating that person as Advisor in writing to the Intake Officer.

(e) All communications between the Respondent and his or her Advisor or attorney and between the Complainant and his or her Advisor or attorney shall be privileged.

(f) The reasonable costs and expenses of providing Advisors made available by the Bishop Diocesan shall be the obligation of the Diocese in which the matter of Discipline is proceeding unless otherwise provided in an Accord or Order. The reasonable costs and expenses of providing Advisors chosen by the Respondent or Complainant and not made available by the Bishop Diocesan shall be the obligation of such Respondent or Complainant unless otherwise provided in an Accord or Order.

(g) In all proceedings under this Title at which the Respondent or the Complainant has the right to be present, their Advisors shall also have the right to be present.

Sec. 11. No person subject to the authority of the Church may attempt to coerce or improperly influence, directly or indirectly, the actions of any body performing functions under this Title, or any member of such body or any other person involved in such proceedings.

Sec. 12. In all proceedings under this Title whenever a Respondent or a Complainant is required or permitted to appear or to participate or to be heard or to be present, they each shall have the right to be accompanied by and to be represented by counsel of their choice. Whenever any notice or other document is provided to or served upon a Respondent or a Complainant under this Title, such shall also simultaneously be provided to or served upon their respective counsel, if Respondent or Complainant, as the case may be, has notified the Bishop of the identity and contact information for such counsel. Nothing in this Title shall be construed as requiring any Respondent to be represented by counsel. Anything in this Title required or permitted to be done by the Respondent's counsel may be done by the Respondent personally.

Sec. 13. Proceedings under this Title, other than pastoral responses, shall be barred to the extent that the specific Offense has been the subject of any prior proceeding under this Title against the same Member of the Clergy which resulted in an Order or Accord. Additionally, in the case of a Member of the Clergy who has been the subject of proceedings under any predecessor to this Title, proceedings under this Title, other than pastoral responses, shall be barred to the extent that the specific Offense was previously included

in a presentment against the Member of the Clergy or was expressly set forth in the Member of the Clergy's waiver and voluntary submission to discipline upon which a Sentence was been pronounced or in the report of a conciliator.

Sec. 14. Impartiality of officials and bodies described in this Title shall be addressed as follows:

(a) Any Bishop Diocesan exercising authority under this Title shall disqualify herself or himself in any proceeding in which the Bishop's impartiality may reasonably be questioned. The Bishop shall also disqualify himself or herself when the Bishop, the Bishop's spouse or a person within the third degree of relationship to either of them, or the spouse of such person, is the Respondent, Complainant or an Injured Person.

(b) Any member of any Panel provided for in this Title shall disqualify himself or herself in any proceeding in which the member's impartiality may reasonably be questioned. The member shall also disqualify himself or herself when the member, the member's spouse, any person within the third degree of relationship to either of them or the spouse of such person, (1) is the Respondent, Complainant or an Injured Person, (2) is likely to be a witness in the proceeding, (3) has a personal bias or prejudice concerning the Respondent, Complainant or any Injured Person, (4) has personal knowledge of disputed evidentiary facts concerning the proceeding, (5) has a personal financial interest in the outcome of the proceeding or in the Respondent, Complainant, any Injured Person or any other interest that could be substantially affected by the outcome or (6) is a member of the same congregation or otherwise has a close personal or professional relationship with the Respondent, the Complainant, any Injured Person or any witness in the matter.

(c) Any member of any Panel provided for in this Title who has not disqualified himself or herself as provided in this section may be subject to challenge by the Church Attorney or the Respondent on grounds described in this section. The Complainant or the Complainant's Advisor may inform the Church Attorney of any such grounds. The challenge shall be investigated by the remaining members of the Panel who shall determine whether the challenged member of the Panel should be disqualified and replaced according to the procedures of this Title for filling vacancies.

(d) No Bishop Diocesan or Panel shall accept from the Church Attorney or from the Respondent any waiver of any ground for disqualification enumerated in this section unless preceded by full disclosure of the basis for the disqualification, on the record.

Sec. 15. In addition to any challenge permitted under Canon IV.19.14, the integrity of the Disciplinary Board shall be preserved by a system of challenge as to the membership of any Panel of the Board appointed for a proceeding. Each Diocese shall provide by Canon for a system of challenge. If the Canons of the Diocese make no provision for challenging a member of the Board, any member of a Panel appointed for a proceeding may be challenged by the Church Attorney or the Respondent on grounds of conflict of interest or undue bias. The remaining members of the Board shall determine whether the challenge is relevant and factually supported and shall determine whether the challenged member shall be excused from that proceeding. If the member is excused, another member of the Board shall be appointed to the Panel to fill the vacancy created by the challenge, maintaining the appropriate balance of lay and ordained members.

Sec. 16. There shall be a presumption that the Respondent did not commit the Offense. The standard of proof required for a Hearing Panel to find an Offense by a Respondent shall be that of *clear and convincing* evidence.

Sec. 17. In all matters under this Title, it shall be the burden of the Church through the Church Attorney to establish an Offense by any Respondent.

Sec. 18. Except as otherwise provided in this Title, *or except for good cause shown as determined by the Hearing Panel*, it shall be the duty of all members of the Church to appear and testify or respond when duly served with a notice to do so from any Panel in any matter arising under this Title.

Sec. 19. No Chancellor or Vice-Chancellor of a Diocese shall serve as Church Attorney in that Diocese. No Chancellor or Vice-Chancellor of any Province shall serve as Church Attorney in any Diocese of that Province or any provincial proceeding. Neither the Presiding Bishop's Chancellor nor the Chancellor to the President of the House of Deputies shall serve as Church Attorney in any proceeding. The Church Attorney in any proceeding shall not be from the same law firm as any Chancellor or Vice-Chancellor otherwise disqualified under this section.

Sec. 20. Notices or other papers to be served according to procedures of this Title shall be deemed to have been duly served if a copy is delivered to the person to be served, is left with an adult resident of the abode of the person to be served or is mailed by certified mail to the person's usual place of abode. Notice by publication shall be made in a newspaper of general circulation in the jurisdiction of the person's usual place of abode. Acceptance of service renders unnecessary any further process.

Sec. 21. A reference in this Title to a Bishop Diocesan shall include a Bishop Coadjutor if specific jurisdiction for matters contemplated by this Title has been assigned to the Bishop Coadjutor pursuant to Canon III.11.10(a)(2), *and a Bishop Suffragan or Assistant Bishop if specific responsibilities for matters contemplated by this Title have been expressly assigned to the Bishop Suffragan or Assistant Bishop by the Bishop Diocesan.*

Sec. 22. A Hearing Panel or Court of Review may in its discretion obtain legal counsel to give it opinions on any questions of law, procedure or evidence. Such legal counsel, if any, shall have no vote in any proceeding before the Hearing Panel or Court of Review.

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.

(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.

Sec. 24. If the Presiding Bishop is unavailable to act by virtue of absence, disability or other disqualification, actions to be performed by the Presiding Bishop in this Title shall be performed by that Bishop who would be the Presiding Officer of the House of Bishops as provided by Article I, Section 3, of the Constitution in the event of the resignation, infirmity, disability or death of the Presiding Bishop.

Sec. 25. If there is neither a Bishop Diocesan nor a Bishop Coadjutor nor a Bishop Suffragan *nor an Assistant Bishop expressly assigned* the administration of clergy discipline in a Diocese and not under a restriction on ministry or Sentence of suspension, the Diocese shall, by agreement pursuant to Canon III.13.2, arrange for a Bishop to perform the duties of the Bishop Diocesan under this Title before commencing or continuing with any proceedings under this Title.

Sec. 26. Wherever in this Title it is provided that any communication, deliberation, investigation or proceeding shall be confidential, no person having knowledge or possession of confidential information derived from any such communication, deliberation, investigation or proceeding shall disclose the same except as provided in this Title, in any Accord or Order, or as required by any applicable law.

Sec. 27. Privileged Communication shall not be disclosed, nor shall any negative inference be drawn respecting the claim of the privilege, unless the privilege is waived by the person to whom the privilege belongs. Waiver of a privilege may occur by (a) voluntary disclosure; (b) failure to timely object to use of a Privileged Communication; or (c) placing the Privileged Communication at issue. Notwithstanding any provision of this section to the contrary, no waiver by a penitent of the privilege which attaches to communications or disclosures made within the Rite of Reconciliation of a Penitent shall work to require any confessor to divulge anything pertaining to any such communications or disclosures, the secrecy of the confession being morally absolute as provided in the Book of Common Prayer.

Sec. 28. Noncompliance with any procedural requirements set forth in this Title shall not be grounds for the dismissal of any proceeding unless the non-compliance shall cause material and substantial injustice to be done or seriously prejudice the rights of a Respondent as determined by the Panel or Court before which the proceeding is pending on motion and hearing.

Sec. 29. Solely for the purposes of the application of these Canons to persons who have received the pronouncement of the former Sentence of removal, the former Sentence of removal shall be deemed to have been a Sentence of deposition.

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

(a) Each Hearing Panel and 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.

(b) The Panel or Court shall make provision for the preservation and storage of a copy of the record of each proceeding in the Diocese in which the proceeding originated.

(c) The Panel or Court shall promptly deliver the original certified record of its proceedings to the Archives of The Episcopal Church.

(d) The Bishop Diocesan shall (i) promptly deliver to the Archives of The Episcopal Church a copy of any Accord or Order which has become effective and a record of any action of remission or modification of any Order and (ii) provide for the permanent preservation of copies of all Accords and Orders by means which permit the identification and location of each such copy by the name of the Member of the Clergy who is the subject thereof.

Sec. 31. Any Member of the Clergy canonically resident in the Diocese who deems himself or herself to be under imputation, by rumor or otherwise, of any Offense for which proceedings could be had under this Title, may on his or her own behalf request the Bishop Diocesan to conduct an inquiry with regard to such imputation. Upon receipt of such request by a Member of the Clergy, it shall be the duty of the Bishop Diocesan to cause the matter to be investigated and to report the result to the Member of the Clergy.

Sec. 32. No Member of the Clergy shall be accountable for any Offense if the act or omission constituting the Offense shall have occurred only prior to the effective date of this Title,

unless such act or omission would have constituted an offense under the predecessor to this Title.

CANON 20: Of Transitional Provisions and Conforming Amendments to Other Canons

Sec. 1. Capitalized terms used in this Canon and which are not otherwise defined in this Title shall have the meanings provided in the predecessor to this Title.

Sec. 2. The effective date of this Title shall be July 1, 2011. Except as otherwise provided in this Canon, the predecessor to this Title shall stand repealed on the effective date of this Title.

Sec. 3. Matters which are pending under the predecessor to this Title on the effective date of this Title shall proceed as follows:

(a) A Temporary Inhibition shall continue in accordance with its terms until it expires in accordance with Canon 1.2(f) of the predecessor to this Title. A Temporary Inhibition which is effective prior to the effective date of this Title and which expires by reason of the lapse of time as provided in Canon 1.2(f)(vi) of the predecessor to this Title may be extended and reviewed (1) as provided in the predecessor to this Title in the case of any matter proceeding in accordance with the predecessor to this Title as provided in this section or (2) in the case of any other matter, through the issuance of a restriction on ministry or the placement of the subject Member of the Clergy on Administrative Leave or both in accordance with the provisions of this Title.

(b) A Charge against a Priest or Deacon which is pending on the effective date of this Title, and upon which the Diocesan Review Committee has neither issued a Presentment nor voted not to issue a Presentment, shall be referred to the Reference Panel and the matter shall proceed in accordance with the provisions of this Title.

(c) A Charge against a Bishop, which is pending on the effective date of this Title, and upon which the Review Committee has neither issued a Presentment nor voted not to issue a Presentment, shall be referred to the Reference Panel and the matter shall proceed in accordance with the provisions of this Title.

(d) A request for a Statement of Disassociation which is pending on the effective date of this of this Title shall proceed in accordance with Canon IV.17.7 (a), and the matter shall thereafter further proceed, if at all, in accordance with the provisions of this Title.

(e) A Presentment against a Bishop under Canon 3.21(c) of the predecessor to this Title which is pending on the effective date of this Title shall proceed in accordance with Canon IV.17.7, and the matter shall thereafter further proceed, if at all, in accordance with the provisions of this Title.

(f) A case in which a Presentment against any Member of the Clergy is issued prior to the effective date of this Title, and in which the Respondent's answer or other response is not made or does not become due until after the effective date of this Title, shall be referred to the Conference Panel and the matter shall proceed in accordance with the provisions of this Title.

(g) A case which is pending before any Ecclesiastical Trial Court of any Diocese, and in which the Respondent's answer or other response is made or becomes due prior to the effective date of this Title, and in which no Trial has been had, shall proceed in accordance with the provisions of the predecessor to this Title unless the Church Attorney, the Respondent and the president of the Disciplinary Board shall agree in writing that the case shall proceed under the provisions of this Title, in which event the matter shall be referred to the Hearing Panel and the matter shall proceed in accordance with the provisions of this Title.

(h) An appeal from any Judgment rendered by any Ecclesiastical Trial Court of any Diocese after the effective date of this Title shall proceed in accordance with the provisions of this Title.

(i) A case which is pending before any Court of Review of the Trial of a Priest or Deacon shall proceed in accordance with the predecessor to this Title unless the Church Attorney, the Respondent and the president of the Provincial Court of Review shall agree in writing that the case shall proceed under the provisions of this Title, in which event the matter shall be referred to the Provincial Court of Review and the matter, including any grant of a new hearing, shall proceed in accordance with the provisions of this Title.

(j) A case which is pending before the Court for the Trial of a Bishop, and in which the Respondent's answer or other response is made or becomes due prior to the effective date of this Title, and in which no Trial has been had, shall proceed in accordance with the provisions of the predecessor to this Title unless the Church Attorney, the Respondent and the president of the Disciplinary Board for Bishops shall agree in writing that the case shall proceed under the provisions of this Title, in which event the matter shall be referred to the Hearing Panel and the matter shall proceed in accordance with the provisions of this Title.

(k) A case which is pending before the Court of Review of the Trial of a Bishop shall proceed in accordance with the predecessor to this Title unless the Church Attorney, the Respondent and the president of the Court of Review for Bishops shall agree in writing that the case shall proceed under the provisions of this Title, in which event the matter shall be referred to the Court of Review for Bishops and the matter, including any grant of a new hearing, shall proceed in accordance with the provisions of this Title.

And be it further

Resolved, That Canon I.1.6(c) be amended as follows, effective as of the effective date of this Title:

(c) It shall be the duty of the Recorder to furnish, upon proper authority and at the expense of the applicant, such information as may be in the possession of the Recorder, based upon the reports required under Clause (b) hereof.

Citation: General Convention, *Journal of the General Convention of...The Episcopal Church, Anaheim, 2009* (New York: General Convention, 2009), pp. 227-266.