

General Convention of The Episcopal Church 2024 Archives' Research Report

Resolution No.: 2024-A024
Title: Study the Use of Non-Disclosure Agreements
Proposer: Interim Body to Oversee the Continuing Development of Anti-Harassment Best Practices, Model Policy Examples and Varied Training Materials
Topic: Safe Church, Sexual Misconduct

Directly Related: (Attached)

2018-D091 Study the Church's Use of Nondisclosure Agreements

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

2012-D047 Refer a Resolution on Church Business Methods (Referred)

In preparing this report, the Archives researched the resolutions in the Acts of Convention database for the period 1973 through 2022, 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](#).

A024 - Study the Use of Non-Disclosure Agreements

Final Status: Not Yet Finalized

Proposed by: Interim Body to Oversee the Continuing Development of Anti-Harassment Best Practices, Model Policy Examples and Varied Training Materials

Has Budget Implications: No

Cost:

Amends C&C or Rules of Order: No

Requests New Interim Body: No

Changes Mandate Of Existing Ib: No

Directs Dfms Staff: No

Directs Dioceses: No

Directs Executive Council: Yes

HiA: No House Assigned

Legislative Committee Currently Assigned: No Committee Assigned

Completion Status: Incomplete

Latest House Action: N/A

Supporting Documents: No

Resolution Text

Resolved, the House of _____ concurring,

That the 81st General Convention recognizes the use and presence of Non-Disclosure Agreements, confidentiality provisions, and other contractual agreements between parties as legal and binding resolutions to civil matters and disciplinary within the general Church; and be it further,

Resolved, That this convention acknowledge such legal agreements are useful apparatuses for resolutions of misconduct actions and other actions involving bishops, clergy, and laity, including but not limited to actions initiated through the procedures in Title IV, especially when the Complainant and/or Injured Person is a minor or desires the binding confidentiality and terms a Non-Disclosure Agreement may provide; and be it further,

Resolved, That this convention recognizes Non-Disclosure Agreements have also been historically used to protect and hide evidence of patterns of predatory behavior, misconduct, and other serious offenses from being known by applicable church individuals and bodies, from ensuring that Complainants and/or Injured Persons have appropriate opportunities for healing, and that unduly burden those harmed by misconduct; and be it further,

Resolved, That past Conventions have directed the Standing Commission on Structure, Governance, Constitution and Canons to study the use of Non-Disclosure Agreements, confidentiality provisions, and other contractual agreements between parties used to resolve civil matters, other disciplinary issues, and matters begun through Title IV proceedings; to discover the frequency of use of these documents to resolve civil and Title IV matters of misconduct in the Church; the general nature of these documents and provisions; the impact of these documents on Complainants, Injured Persons, and victims of misconduct, as well as the impact on Respondents, especially when the impact of these agreements has been to impede or obstruct the process of restoration, healing, and reconciliation, to which we are called as the Body of Christ; and be it further,

Resolved, That this convention reiterates the ongoing use and misuse of nondisclosure agreements within the church and directs the appropriate commission or body to study the use of these agreements and similar documents and report back to Executive Council with the statistical information and impact of the use of these and similar documents with recommendations for use of said Non-Disclosure Agreements and similar documents for use in the church; and be it further,

Resolved, That these findings shall be utilized by the Executive Council to make appropriate recommendations to amendments to Title IV presented to the subsequent General Convention and to develop guidelines for dioceses and chancellors for use of Non-Disclosure Agreements, confidentiality provisions, and other contractual agreements between parties documents to be distributed no later than December 1, 2026.

Resolved, That until a policy regarding their use is implemented by the appropriate ecclesiastical bodies, Non-Disclosure Agreements shall be used sparingly in the resolution of actions, and that they are not to be used to protect the individual or organization from the notoriety or information of misconduct, transgression, or wrongdoing, but instead should be used at the request of the Complainant and/or Injured Person as a part of restoration, healing, and reconciliation.

Explanation

Non-Disclosure agreements, or NDAs, have been used to create a legal ability to fail to report or disclose improper behavior. It is understandable that they are used, as they can limit the financial impacts on a diocese or congregation. They also can protect injured persons, creating confidentiality for the victim. But they also limit transparency and can create a cycle where inappropriate behavior is not addressed, but merely passed from one congregation to the next. This canon would create a study of the use of Non-Disclosure Agreements within the Church. It would not prohibit Non-Disclosure Agreements, but would allow for a interim body to study their use, report to Executive Council and then ask Executive Council to recommend amendments to our Canons regarding their use, as well as guidelines for their use.



Resolution Number: 2018-D091
Title: Study the Church's Use of Nondisclosure Agreements
Legislative Action Taken: Concurred as Amended
Final Text:

Resolved, That the 79th General Convention recognizes the use and presence of nondisclosure agreements, confidentiality provisions, and other contractual agreements between parties as legal and binding resolutions to civil matters within the general Church; and be it further, Resolved, That this convention acknowledge such legal agreements are useful apparatuses for resolutions of actions, including but not limited to actions initiated through the procedures in Title IV. However, they may also prevent evidence of patterns of predatory behavior from being known by applicable church individuals and bodies, from ensuring that Complainants and Injured Persons have appropriate opportunities for healing, and that unduly burden those harmed by Sexual Misconduct; and be it further, Resolved, That the Convention directs the Standing Commission on Structure, Governance, Constitution and Canons to study the use of nondisclosure agreements, confidentiality provisions, and other contractual agreements between parties used to resolve civil matters, including matters begun through Title IV proceedings; to discover the frequency of use of these documents to resolve civil and Title IV matters of Sexual Misconduct in the Church; the general nature of these documents and provisions; the impact of these documents on Complainants, Injured Persons, and victims of Sexual Misconduct as well as the impact on Respondents, especially as these agreements impede or obstruct the process of restoration, healing, and reconciliation, to which we are called as the Body of Christ; and be it further Resolved, That this report be utilized by the Standing Commission to recommend any appropriate amendments to Title IV to the 80th General Convention and to develop guidelines for dioceses and chancellors for use of nondisclosure agreements, confidentiality provisions, and other contractual agreements between parties documents to be distributed no later than December 31, 2020.

Citation: General Convention, *Journal of the General Convention of...The Episcopal Church, Austin, 2018* (New York: General Convention, 2018), pp. 1150-1151.