

General Convention of The Episcopal Church 2024 Archives' Research Report

Resolution No.: 2024-A025
Title: Amending Canon IV.13.4
Proposer: Interim Body to Oversee the Continuing Development of Anti-Harassment Best Practices, Model Policy Examples and Varied Training Materials
Topic: Canons, Discipline

Directly Related: (Attached)

2022-D040 Refer a Resolution on Canons IV.13.4, IV 13.11(e), IV.13.13 {Of Hearing Panels}, and IV.14.6 [Of Accords and Orders] (Referred)
2018-A118 Amend Canons IV.13 and IV.14.7 [Of Hearing Panels, Order Issued by Panels]
2015-D031 Refer a Resolution on Title IV [Ecclesiastical Discipline] (Referred)

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 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](#).

A025 - Amending Canon IV.13.4

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: Yes

Requests New Interim Body: No

Changes Mandate Of Existing Ib: No

Directs Dfms Staff: No

Directs Dioceses: No

Directs Executive Council: No

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 amend Canon IV. 13. 4 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. 4. If at any time after a matter has been referred to a Hearing Panel an Accord is reached that ends the proceedings before the Hearing Panel issues an Order, the Accord must be consented to by the Hearing Panel, and if approved, the Bishop Diocesan shall make the Notice of Accord available to the Church and Church media as provided in Sec. 3 as well as to the Hearing Panel.

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

Sec. 4. If at any time after a matter has been referred to a Hearing Panel an Accord is reached that ends the proceedings before the Hearing Panel issues an Order, *the Accord must be consented to by the Hearing Panel, and if approved,* the Bishop Diocesan shall

make the Notice of Accord available to the Church and Church media as provided in Sec. 3 as well as to the Hearing Panel.

Explanation

Currently the Church Attorney has the ability to enter into an Accord, which could conclude a clergy discipline matter, without consultation from the Disciplinary Board. This gives the Church Attorney the power to effectively decide how the matter should end, without input from the Reference Panel or the Disciplinary Board. A matter before a Hearing Panel has been reviewed by the Reference Panel and the Disciplinary Board, yet one person can then choose what the outcome should be. This power should be checked. As the matter has already been referred to the Hearing Panel, it would make sense for the Hearing Panel to have the ability to approve the Accord, as a check on the power of the Church Attorney.



Resolution Number: 2022-D040
Title: Refer a Resolution on Canons IV.13.4, IV 13.11(e), IV.13.13 {Of Hearing Panels},and IV.14.6 [Of Accords and Orders]
Legislative Action Taken: Referred
Final Text:

Resolved, That the 80th General Convention amend Canon IV.13.4 to read as follows:
Sec. 4. If at any time after a matter has been referred to a Hearing Panel an Accord or Order of Dismissal endorsed by the Bishop Diocesan is reached that ends the proceedings before the Hearing Panel issues an Order, the Bishop Diocesan shall make the Notice of Accord or Order of Dismissal available to the Church and Church media as provided in Sec. 3 as well as to the Hearing Panel.

And be it further

Resolved, That Canon IV.13.11.e be amended to read as follows:

e. If an Accord is reached or the matter is dismissed that ends the proceedings before the Disciplinary Board issues an Order other than an Order of Dismissal under this Section, the Bishop Diocesan shall make the Notice of Accord or Order of Dismissal available to the Church and Church media as provided in Sec. 3 as well as to the Disciplinary Board and the Hearing Panel.

And be it further

Resolved, That Canon IV.13.13 be amended to read as follows:

Section 13. If the determination is to dismiss the matter, the Hearing Panel shall issue an Order which shall include the reasons for dismissal and which *contains* 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, and a record copy of the Order shall be kept by transmitting a copy to The Archives of The Episcopal Church. A copy of the Order shall also be made available to the Church and the Church media in the same manner with which documents were initially made available to the public as set forth in Sec. 3.

And be it further

Resolved, That IV.13.14 be removed in its entirety.

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

And be it further

Resolved, That Canon IV.14.6 be amended to read as follows:

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) *dismiss the matter*; or (f) 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. Any Order dismissing the matter shall provide the reasons for dismissal and a statement exonerating the Respondent and shall be made available to members of the Church and the Church media in the same manner with which documents were initially made available to the public as set forth in Canon IV.13.3.

Citation: General Convention, *Journal of the General Convention of...The Episcopal Church, Baltimore, 2022* (New York: General Convention, 2023), pp. 550-551, 822-823.



Resolution Number: 2018-A118
Title: Amend Canons IV.13 and IV.14.7 [Of Hearing Panels, Order Issued by Panels]
Legislative Action Taken: Concurred as Amended
Final Text:

Resolved, the House of Bishops concurring, That Canon IV.13 be amended by adding new Sections 3 and 4 and renumbering all subsequent sections:

Sec. 3. As soon as possible, the Hearing Panel shall make documents available to members of the Church and the Church media as set forth in this Section. The documents shall be disseminated in such a way as to make them broadly known to members of the Church and the Church media. For a matter in which a Priest or Deacon is the Respondent, dissemination shall include, at a minimum, posting to the diocesan website. For a matter in which a Bishop is the Respondent, dissemination shall include, at a minimum, posting the documents on the websites of The Episcopal Church and of the General Convention.

(a) The documents covered by this Section are all documents filed with or issued by the Hearing Panel or by any party or person including but not limited to motions, briefs, affidavits, opinions, objections, decisions, notices, challenges, and Orders.

(b) Notwithstanding the above, the Hearing Panel, at its discretion and for good cause to protect any Injured Person or allegedly Injured Person, may require the redaction of documents provided for in Sec. 3(a), after consultation with the Church Attorney, the Respondent's counsel, the Respondent's Advisor, the Complainant's Advisor or Complainant's counsel, if any, and, where appropriate, the Bishop Diocesan.

Sec. 4. If at any time after a matter has been referred to a Hearing Panel an Accord is reached that ends the proceedings before the Hearing Panel issues an Order, the Bishop Diocesan shall make the Notice of Accord available to the Church and Church media as provided in Sec. 3 as well as to the Hearing Panel.

And be it further

Resolved, That Canon IV.13.6 is hereby amended to read as follows:

Sec. 6. All proceedings before the Hearing Panel except its private deliberations shall be open to the Respondent and to each Complainant, to any Injured Person, and to persons from the public. Each Complainant shall be entitled to be present throughout and observe the Hearing and each may be accompanied at the proceedings by another person of his or her own choosing in addition to his or her Advisor. Notwithstanding the above, the Hearing Panel, at its discretion and for good cause, including to protect the privacy of

any person, may close any part of the proceedings to any person or group of persons, after consultation with the Church Attorney, the Respondent's counsel and, where appropriate, the Bishop Diocesan; *provided, however, that no proceedings before the Hearing Panel, except its private deliberations, shall be closed to the Respondent, Respondent's Advisor, Respondent's Counsel, the Complainant, the Complainant's Advisor, Complainant's Counsel or the Church Attorney.* A record of the hearing shall be made by such means as to enable the creation of a *verbatim* written transcript of the hearing.

And be it further

Resolved, That Canon IV.13.8 is hereby amended to read as follows:

Sec. 8. 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.

And be it further

Resolved, That Canon IV.13.9 be hereby amended by adding new subsections (d) and (e) as follows:

(d) The requirements of Sec. 3 of this Canon shall apply to the Disciplinary Board as if it were a Hearing Panel for the purpose of an appeal of sanctions under this Section.

(e) If an Accord is reached that ends the proceedings before the Disciplinary Board issues an Order under this Section, the Bishop Diocesan shall make the Notice of Accord available to the Church and Church media as provided in Sec. 3 as well as to the Disciplinary Board and the Hearing Panel.

And be it further

Resolved, That Canon IV.14.7 is hereby amended to read as follows:

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, the Respondent and the Complainant each with an opportunity to be heard on the proposed terms of the Order.

Citation: General Convention, *Journal of the General Convention of...The Episcopal Church, Austin, 2018* (New York: General Convention, 2018), pp. 1151-1153.



Resolution Number: 2015-D031
Title: Refer a Resolution on Title IV [Ecclesiastical Discipline]
Legislative Action Taken: Referred
Final Text:

Resolved, That the following sections of Canon IV.2 be amended to read as follows:

Hearing Panel shall mean a panel of ~~three or more~~ *not less than five* members of the Disciplinary Board ~~and shall include both clergy and lay members, a majority of whom shall be Members of the Clergy,~~ selected by the president of the Board, ~~unless some other manner of selection is provided by Diocesan Canon~~ *by lot or by other random means*, 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.; and be it further

Resolved, That Canon IV.3.1 be amended to read as follows:

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; or**
- (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.;** and be it further**

Resolved, That Canon IV.3.3 be amended to read as follows:

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~~ *and* of clear and weighty importance to the ministry of the Church.; and be it further

Resolved, That Canon IV.5.1 be amended to read as follows:

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~~ *nine* persons to be selected *by the convention of the Diocese* as determined by Diocesan Canon. The membership of ~~each~~ *such* 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.~~; and be it further

Resolved, That Canon IV.6.3 be amended to read as follows:

Sec. 2. Information concerning Offenses ~~may~~ *shall* be submitted to the Intake Officer in ~~any manner and in any form~~ *writing, with a certification signed by the Informant that the Informant believes that the reported information is true.*; and be it further

Resolved, That Canon IV.7.7 be amended to read as follows:

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. *No Rector or other tenured Member of the Clergy*

shall be denied his or her compensation and benefits by virtue of the imposition of a restriction on ministry or placement on Administrative Leave.; and be it further

Resolved, That Canon IV.12.6 be amended to read as follows:

Sec. 6. The Complainant ~~may~~shall attend the conference ~~but may not be required to do so.~~ The Complainant's Advisor may also attend the conference ~~regardless of whether the Complainant attends.~~; and be it further

Resolved, That Canon IV.13.4 be amended to read as follows:

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. *No proceedings before the Hearing Panel, except its private deliberations, shall be closed to the Respondent, Respondent's Advisor, Respondent's Counsel, or to the Church Attorney.* A record of the hearing shall be made by such means as to enable the creation of a *verbatim* written transcript of the hearing.; and be it further

Resolved, That Canon IV.13.6 be amended as follows:

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; *and***

(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.;** and be it further

Resolved, That Canon IV.14.7 be amended to read as follows:

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, *the Respondent* and the Complainant each with an opportunity to be heard on the proposed terms of the Order.; and be it further

Resolved, That Canon IV.15.2 be amended to read as follows:

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.; and be it further

Resolved, That Canon IV.15.7 be amended to read as follows:

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~~*Respondent* shall serve two copies of the record on appeal, the notice of appeal and the ~~appealing party's~~*Respondent's* brief, if any, upon the ~~opposite party~~*Church Attorney* 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~~*Church Attorney* shall serve the brief in opposition, if any, upon the ~~appealing party~~*Respondent*, with five copies to the president of the Provincial Court of Review. Any reply brief of the ~~appealing party~~*Respondent* shall be served likewise within fifteen days following service of the brief in opposition.; and be it further

Resolved, That Canon IV.15.12 be amended to read as follows:

Sec. 12. If, after a notice of appeal has been filed, the ~~appealing party~~*Respondent* fails to pursue the appeal as provided in this Canon, the Provincial Court of Review may dismiss the appeal.; and be it further

Resolved, That Canon IV.15.15 be amended to read as follows:

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, the Respondent~~ 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.19.16 be amended to read as follows:

Sec. 16. There shall be a presumption that the Respondent did not commit the Offense. *It shall be the burden of the Church Attorney to establish an Offense by any Respondent.* The standard of proof required for a Hearing Panel to find an Offense by a Respondent shall be that of clear and convincing evidence.; and be it further

Resolved, That Canon IV.19.17 be amended to read as follows:

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~~*Involuntary Statements.*

(a) No person proceeding under the authority of this Title may interrogate, or request a statement from, a Respondent or a person suspected of an Offense without first informing that person of the nature of the accusation and advising that person that no statement need be made regarding the Offense of which the Respondent is accused or suspected and that any statement so made may be used in evidence against that person in a proceeding under this Title.

(b) No Respondent or person suspected of an Offense may be compelled to make any statement or admission or to testify against himself or herself in any proceedings under this Title.

(c) No statement obtained from any person in violation of this Canon, or through the use of coercion, undue influence or improper inducement may be received in evidence against that person in a Trial under this Title.

Citation: General Convention, *Journal of the General Convention of...The Episcopal Church, Salt Lake City, 2015* (New York: General Convention, 2015), pp. 441-444.