

**GENERAL CONVENTION OF THE EPISCOPAL CHURCH 2018
ARCHIVES' RESEARCH REPORT**

RESOLUTION NO.: 2018-A124
TITLE: Amend Canon IV.2 Terminology of Sexual Misconduct
PROPOSER: Standing Commission on Structure, Governance, Constitution and Canons
TOPIC: Canons

Directly Related: (Attached)

2009-A185 Amend Title IV [Ecclesiastical Discipline]

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

None

Supplemental Documents: (Linked)

(Blue Book) Report to General Convention, [Standing Commission on Structure, Governance, Constitution and Canons](#), see page 440.

In preparing this report, the Archives researched the resolutions in the Acts of Convention database for the period 1976 through 2015, 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 at 800-525-9329 before Convention or at Convention in the General Convention Secretariat.

A124 Amend Canon IV.2 Terminology of Sexual Misconduct

Proposer	Standing Commission on Structure, Governance, Constitution and Canons
Topic	Canons
Endorsed by	
Sponsored by	
Page numbers	Blue Book: p. N/A; Constitution & Canons: p. 134-135
HiA / Leg. Cttee	/
Current Status	Resolution Filed
Version	Original (as filed)
Review Status	Not yet reviewed

RESOLUTION TEXT

- 1 *Resolved*, the House of _____ concurring, That Canon IV.2 is hereby amended to read as follows:
- 2 CANON 2: Of Terminology Used in This Title
- 3 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:
- 4 Sexual Misconduct shall mean (a) Sexual Abuse, ~~or~~ (b) Sexual Behavior *engaged in by the Member of the Clergy with a person who does not consent to the Sexual Behavior, or by force, intimidation, coercion or manipulation, or (c) 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. *Sexual Misconduct under Subsection (c) does not include Sexual Behavior with a person with whom the Member of the Clergy previously had a Pastoral Relationship if the Member of the Clergy has obtained the prior written permission of the Bishop Diocesan.*

EXPLANATION

This resolution addresses the concern that the definition of “Pastoral Relationship” may apply permanently to any Member of the Clergy who has ever provided pastoral care to a person, since the definition says “any person to whom the Member of the Clergy provides or has provided” various forms of pastoral care.



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

[*Resolved, That Canon IV.2 is amended to read 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 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.

Citation: Canon IV.2 is excerpted from the Final Text of the revision to Title IV. See General Convention, *Journal of the General Convention of...The Episcopal Church, Anaheim, 2009* (New York: General Convention, 2009), pp. 227-266.