

# Considerations for Bylaw review for churches in the Episcopal Church in the state of Delaware 2019

The following are recommended considerations for bylaws of congregations in the Diocese of Delaware. These best practices represent shared wisdom from our common life in the Diocese drawn from the existing bylaws within the diocese and considerable reflection by Constitution and Canons committee. They are designed for use in congregations organized as religious corporations. Any parish that is incorporated as a general corporation may have different considerations raised by the General Corporation Law of the State of Delaware. The Constitution and Canons committee of the Diocese of Delaware is available for questions concerning the revision of bylaws in any congregations in the diocese. Any parish revising their bylaws should submit them to the Bishop and the Committee for review prior to final passage. Please see the color key for an explanation of text colors.

## **COLOR KEY**

RED—Special considerations and references to Episcopal Church and Diocesan Constitutions and Canons

BLUE—From *An Episcopal Dictionary of the Church: a user friendly reference* by Don S. Armentrout & Robert Boak Slocum

GREEN—Recommended specific text

## **Article I—Acknowledgement and Acceptance of Authority**

- A) This parish accedes to the Constitution, Canons, doctrine, discipline and worship of The Episcopal Church (TEC) and the Episcopal Diocese of Delaware and acknowledges their authority. In the event of any conflict between these Bylaws and the aforementioned Constitutions and Canons, the Constitutions and Canons shall control.

*NOTE: This Article is essential for any congregation that is part of The Episcopal Church. Please see Canon I.7.4 of the Canons of The Episcopal Church and Article I of the Constitution of the Episcopal Diocese of Delaware. The Constitution and Canons of the Diocese take precedence over the Bylaws of the parish. The Constitution and Canons of the Episcopal Church take precedence over Diocesan Canons and parish bylaws.*

## **Article II—Membership of the Parish**

- A) **Membership--** All persons who have received the Sacrament of Holy Baptism with water in the Name of the Father, and of the Son, and of the Holy Spirit, whether in the Episcopal Church or in another Christian denomination, and whose Baptisms have been duly recorded in the parish register of this Church, are members thereof. Adult Members are sixteen years of age and over. All communicants of this Church who for the previous year have been faithful in corporate worship, unless for good cause prevented, and have been faithful in working, praying, and giving for the spread of the Kingdom of God by financially supporting the parish, are to be considered communicants in good standing and are eligible to vote at the Annual Meeting of the corporation and to serve on the Vestry and as Wardens.

*NOTE: See the Canons of the Episcopal Church: Title 1, Canon 17*

## **Article III—Parish Meetings**

- A) **Annual Meeting--**The congregation shall hold an Annual meeting each year (at the patronal feast of the parish, month or specific date may be provided in the bylaws). The meeting shall be presided over by the Rector/Priest-in-charge or other person designated by the bylaws. At this meeting Vestry members shall, and diocesan delegates may be elected for the parish.

- B) Special Meetings**--Special meetings of the parish may be called by the Rector, Wardens, or by 2/3<sup>rd</sup> of the membership of the Vestry. At least two weeks' notice of the meeting must be provided in writing to the members of the congregation.
- C) Process**—The parish should carefully consider these questions: What constitutes a quorum? Are Robert's Rules or some other rules of order to be used? The recommended quorum is 50% plus 1 of the total membership in good standing (age 16 or older) of the parish. Occasionally, resolutions are brought before the meeting and are debatable. For that reason, absentee ballots and proxy voting are discouraged.

*NOTE: See Canons of the Diocese of Delaware: Canon 11*

## **Article IV—Vestry**

*The Vestry is the legal representative of the parish with regard to all matters pertaining to its corporate property. The number of Vestry members and their term of office varies from parish to parish. Vestry members are elected at the annual meeting of the parish. The basic responsibilities of the Vestry are to help define and articulate the mission of the congregation; to support the church's mission by word and deed, to select the rector in concert with the ecclesiastical authority, to ensure effective organization and planning and to manage resources and finances.*

- A) Membership**—Vestry members must be full members of the congregation and in good standing, typically for at least one full year. By canon of TEC, minimum age is 16 years of age or greater. Congregations are encouraged to specify the following in the bylaws:
- 1) Responsibilities—the Vestry serves as agents and legal representatives of the Parish in all matters concerning its corporate property as defined by TEC and Canons of the Diocese of Delaware; they also oversee the temporal concerns of the Parish, elect and call a Rector/Priest-in-charge, and keep order during the celebration of Divine Worship
  - 2) Identification of Ex-officio members (Rector, Treasurer, Clerk, etc.).
  - 3) Number of Vestry members (not less than 5 or more than 12), and class size.
  - 4) Terms/tenure – how long serve, maximum number of terms, period before can serve again
  - 5) Nomination process for Vestry (by Vestry Nominating Committee, Retiring Vestry members, Rector, Petition or other means)
  - 6) Filling Vestry Vacancies – how will this be handled? (Vestry chooses, Rector nominates, etc.)
- B) Wardens**—*Two wardens are typically selected to serve from the members of the Vestry. The wardens are generally ranked "Senior" and "Junior". The Senior warden is usually the primary elected lay leader of the congregation, and serves as the principal liaison between the parish and the rector or clergy in charge of the congregation. The Junior Warden is often given responsibility for the upkeep of the parish buildings and grounds. The senior warden typically presides at vestry meetings in the absence of the rector and the junior warden presides at vestry meetings if both the rector and the senior warden are absent. In case of a clerical vacancy, the senior warden acts as the leader of the parish for nonsacramental purposes. Historically, one warden is named by the Rector and the other chosen by the congregation. As members of the Vestry, the wardens of the Vestry have both voice and vote, unless they are presiding over the Vestry meeting. The Rector always has voice but no vote.*
- C) Treasurer**—The Vestry shall elect a member of the corporation to serve as Treasurer. It shall be the duty of the treasurer to oversee the financial assets of the congregation, the annual budget and to ensure that the church completes an annual audit consistent with the standards as set forth by the Diocese of Delaware. Their term should be fixed and not renewable more than once. The Treasurer shall be responsible for preparing, at least quarterly, full reports of all funds of the congregation. The reports shall contain enough detail to enable the Vestry members to exercise their fiduciary responsibility for the congregation and to make informed financial decisions and oversee the budget.
- D) Clerk (secretary) of the Vestry**—*The clerk of the parish vestry records minutes of the vestry meeting. These minutes are approved by the vestry and kept in the permanent records of the parish. The clerk may or may not be a member of the vestry, as determined by the parish bylaws. The clerk is selected by the Vestry for a set term.*

*NOTE: By the Canons of TEC, the minimum age for Vestry is 16. However, because of federal and state laws, it is highly recommended that all officers (Wardens, clerks and treasurers) be the age of majority (18).*

- E) **Meetings**--frequency, how is time and day fixed, who can call a special meeting and what constitutes a quorum? What rules of order will be used?
- F) **Committees and Special Commissions**—i.e. Finance Committee or Cemetery board.
- G) **General Considerations**—It is strongly recommended that no two members of the same household should serve together on Vestry. Neither should family members of those who are employed by the congregation be allowed to serve on the Vestry..It is also recommended that at the first Vestry meeting following the elections at the Annual meeting, the bylaws should be reviewed. A statement on conflicts of interest may also be discussed.
- H) **Process for electing a Rector**—The bylaws should stipulate that the parish will following the Transition Guide as provided by the Bishop and the Diocese.
- I) **Compensation and Job Descriptions of staff**—The Rector functions as chief of staff and will submit the job descriptions for all staff to the Vestry for approval. The Vestry sets the terms of compensation for all lay staff and follows the diocesan guidelines for all clergy. As part of the annual budget process, the Vestry will review the compensation packages of paid staff members, providing merit and cost of living adjustments as appropriate.
- J) **Dismissal for unexcused absenteeism** (i.e., “In the event that a vestry member fails to attend three consecutive vestry meetings, a written notice shall be sent to the member that the next vestry meeting is mandatory. If the vestry member fails to attend, and does not communicate to the rector a good reason for the absence, the vestry shall declare the office vacant and take appropriate action.”)
- K) **Insurance and Bonding**--The Vestry shall obtain such insurance as is deemed appropriate for the needs of the parish. All buildings and their contents shall be adequately insured. Staff should be bonded.

*Source: Canon I.7.1(b) of the Canons of The Episcopal Church.*

## Article V—Delegates to Diocesan Convention

Lay Delegates and Lay Alternate Delegates, qualifications, when elected, voted for by Vestry or at Annual Meeting—Each congregation of the Diocese of Delaware is entitled to two lay delegates and two alternates. In addition, the parish may have an additional delegate and alternate provided these persons are between the ages of 16 and 30 years of age. All delegates and alternates shall be members in good standing of the congregation and been canonically resident for at least three months prior to the meeting of the next diocesan convention. Each delegate is to be elected for a term of two years.

## Article VI—Clergy

- A) **Rector**—The principal clergy of a parish is normally the Rector. The rector has authority and responsibility for worship and the spiritual jurisdiction of the parish, subject to the rubrics of the BCP, the constitution and canons of TEC, the Diocese of Delaware and the pastoral direction of the bishop. The rector has responsibility for the selection of all assisting clergy and lay staff and they serve at the discretion of the rector. The church and parish buildings and furnishings are under the rector’s control. The rector (or at the discretion of the Rector, one of the wardens) shall preside over the Vestry meetings. The Rector is elected by mutual agreement of the Ecclesiastical Authority of the Diocese and the majority (2/3 or 3/4) of the Vestry.
- B) **Priest-in-charge**—By mutual agreement between the Ecclesiastical Authority and the majority of the Vestry of a congregation, a clergy person may be selected to oversee the congregation on the behalf of the Ecclesiastical Authority. Specific roles and responsibilities shall be set forth in a letter of agreement between the Ecclesiastical Authority, cleric and Vestry of the congregation.
- C) **Interim Rector**—In the case of a vacancy in the office of Rector, by mutual agreement of the Ecclesiastical Authority and the Vestry, a cleric may be selected to fulfill the office of Rector for specific period of time, which may, by mutual agreement of all parties concerned, be extended while a search continues for a Rector.

- D) Associate Priests and Deacons**—Other clergy may, at the discretion of the Rector and Ecclesiastical Authority, be selected to serve a congregation. Deacons are assigned by and responsible to the Ecclesiastical Authority. Associate Priests must be approved and licensed by the Ecclesiastical Authority. Salaries and/or stipends for all clergy are set by the Vestry in accordance with the Diocesan salary guide.
- E) Clergy belong to the Diocese and are not members of the Corporation of the congregation.** They have voice in the Annual meeting and Vestry meetings of the corporation but no vote.

*Episcopal Church Constitution and Canons Title 1, Canon 14, section 3, Title 3, Canon 9, section 3*

## **Article VII—Indemnification/Payment of Expenses**

- A)** The Rector, other clergy assigned to the congregation, members of the Vestry and all committee members and individuals appointed by either the Vestry or the Rector (each an “Indemnitee”) shall be indemnified by the parish if Indemnitee is made a party to or a participant in any proceeding, other than a proceeding by the parish to procure a judgment in its favor, by reason of Indemnitee’s parish status. Pursuant to this section, Indemnitee shall be indemnified to the fullest extent permitted by applicable law against all expenses, judgments, fines and amounts paid in settlement (including all interest, assessments and other charges paid or payable in connection with or in respect of such expenses, judgments, fines and amounts paid in settlement) actually and reasonably incurred by Indemnitee or on Indemnitee’s behalf in connection with such proceeding or any claim, issue or matter therein, if Indemnitee acted in good faith and in a manner Indemnitee reasonably believed to be in or not opposed to the best interests of the parish and, in the case of a criminal proceeding, had no reasonable cause to believe that Indemnitee’s conduct was unlawful. Expenses (including attorney’s fees) incurred by an Indemnitee in defending any civil, criminal, administrative or investigative proceeding brought against Indemnitee by reason of Indemnitee’s parish status may be paid by the parish in advance of the final disposition of such proceeding upon receipt of an undertaking or other terms and conditions to repay such expenses if it is determined that the Indemnitee is not entitled to be indemnified.
- B)** Notwithstanding any provision in these bylaws, the parish shall not be obligated to make any indemnification payment in connection with any claim involving Indemnitee: (a) in connection with any proceeding initiated by Indemnitee against the parish, any of its clergy, members of the Vestry or other indemnitees unless (i) the Vestry authorized the proceeding (or any part of any proceeding) or declaratory judgment action prior to its initiation, or (ii) the parish provides the indemnification, in its sole discretion, pursuant to the powers vested in the parish under applicable law or (b) for which payment has actually been made to or on behalf of Indemnitee under any insurance policy or other indemnity provision, except with respect to any excess beyond the amount paid under any insurance policy or other indemnity provision.

## **Article VIII—Amendments**

- A)** These bylaws of \_\_\_\_\_ Church may be amended at any vestry meeting by a two-thirds vote of the Vestry. Notice of such proposed amendment(s) shall have been given at a previous meeting.

*NOTE: Older bylaws stipulated that amendments needed to be approved by a majority of the membership at the Annual Meeting. The current trend has been towards the Vestry making any amendments, with a high threshold (2/3 or 3/4) of the members concurring. It is up to each congregation to choose which practice is best for them.*

*NOTE: Finally, the bylaws should state the date they are ratified and that they replace and supersede all previous bylaws. They should also be signed by an authorized officer of the congregation.*

## Definitions

**Bylaws** – rules adopted by an organization chiefly for the government of its members and the regulation of its affairs.

**Contributor** – a person whose name has been entered for at least a year prior to the Parish meeting upon the records of the Parish as a contributor to the support thereof. Also known as a Member in good standing

**Canons** – canons [Church Law] are the written rules that provide a code of laws for the governance of the church. The canons of the Episcopal Church are enacted by the General Convention. Canons of the Episcopal Church may only be enacted, amended, or repealed by concurrent resolution of the House of Deputies and the House of Bishops at General Convention. In addition, each Diocese also has its own set of local canons. Both sets of canons supersede the bylaws of individual congregations.

**Communicant** – all members of the church who have received Holy Communion at least three times in the past year.

**Communicant (or member) in Good Standing** – a member in good standing who has been baptized and who shall, unless for a good cause prevented, have received Holy Communion at least three times during the preceding year and contributed financially to the congregation. In addition, a communicant in good standing who has been faithful in working, praying, and giving for the spread of the Kingdom of God.

**Congregation** – A gathering of people for worship. The term may also refer to a parish church, or the people in the life of the parish. The term is not used in the Episcopal canons concerning religious orders and other Christian communities.

**Constitution of the Episcopal Church** – The Constitution contains regulations for General Convention, election and jurisdiction of bishops, Standing Committees, the formation of new jurisdictions, the establishment of provinces, ordinations, ecclesiastical courts, and the Book of Common Prayer.

**Ecclesiastical** – of or relating to the church or the clergy; churchly; clerical; not secular. Often used in conjunction with the governance of the church.

**Indemnification** – compensation for harm or loss; security against legal liability for one's actions.

**Qualified Voter** – any person at least 16 years of age, who has been baptized, is an enrolled member, a contributor and a regular attendant of the services of the Parish.

**Quorum** - the minimum number of members of an assembly or society that must be present at any of its meetings to make the proceedings of that meeting valid.

**Robert's Rules of Order** - "Robert's Rules of Order" is a book detailing a set of rules for process and conduct in official meetings. It is the procedural standard used by most public governing bodies. The rules are intended to allow everyone to be heard and business to be conducted in an orderly fashion. Under the "Robert's Rules of Order" guidelines, any member of a governing body can make a resolution, which is a declaration submitted to an assembly for adoption. Robert's Rules are just one version of a variety of resources a congregation may choose to guide how they conduct their affairs