

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.

Accountability.

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:

Definition of terms.

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.

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.

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.

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 Sexual Misconduct shall mean (a) Sexual Abuse, (b) Sexual Behavior engaged in by the Member of the Clergy with a person for whom the Sexual Behavior is unwelcome or 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.

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;

Causes for proceedings.

- (c) intentionally and maliciously bringing a false accusation or knowingly providing false testimony or false evidence in any investigation or proceeding under this Title; or
- (d) intentionally misrepresenting or omitting any material fact in applying for admission to Postulancy, for admission to Candidacy, for ordination as a Deacon or Priest, for reception from another Church as a Deacon or Priest, or for nomination or appointment as a Bishop.
- (e) discharging, demoting, or otherwise retaliating against any person because the person has opposed any practices forbidden under this Title or because the person has reported information concerning an Offense, testified, or assisted in any 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; *Confidences.*
- (b) conform to the Rubrics of the Book of Common Prayer; *Rubrics.*
- (c) abide by the promises and vows made when ordained; *Vows.*

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- Accords or Orders.* (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;
- Property.* (e) safeguard the property and funds of the Church and Community;
- Reporting Offenses.* (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;
- Faithful exercise of Ministry.* (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;
- Restraint in conduct.* (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(f) 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;

- (7) habitual neglect of the exercise of the ministerial office without good cause;
- (8) habitual neglect of public worship, and of the Holy Communion, according to the order and use of the Church; and
- (9) 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.

Disciplinary Board as Court.

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:

Rules of operation.

- (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

Eligibility.

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.

Evidence.

- (f) The rules of evidence for proceedings are as provided in Canon IV.13.10.

Clerk.

- (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. The clerk, or an assistant clerk who may be appointed at the discretion of the Board, may be any person otherwise qualified who has no conflict of interest

in the matter before the Board and who is not barred from serving on the Disciplinary Board under the provisions of IV.5.3(c) or serving on the staff of persons so barred.

- (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. *Records.*
- (i) Any Diocese may agree in writing 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. *Sharing resources.*
- (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. There shall be a court to be known as the Court of Review, with jurisdiction to receive and determine appeals from Hearing Panels of Dioceses as provided in Canon IV.15 and to determine venue issues as provided in Canon IV.19.5. *Court of Review.*

- (a) The Court of Review shall consist of: (i) Three (3) Bishops; six (6) Members of the Clergy, which and will include not fewer than two (2) Priests and not fewer than two (2) Deacons; and 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. No more than two (2) *Members.*

Priests or Deacons, whether a member or alternate, shall be canonically resident in the same Diocese as any other Priest or Deacon, and each lay person, whether a member or alternate, shall reside in a different Diocese 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.

President.

- (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 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. The 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 Court of Review shall continue to serve until their respective successors have been elected, 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 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.

Alternates.

- (e) If any member of the 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 Court of Review to be disqualified, an alternate shall serve.

- (f) In the event of any 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 Court of Review shall declare a vacancy on the Court of Review. Notices of resignation or declination to serve shall be communicated in writing to the President of the Court of Review. *Vacancies.*
- (g) Vacancies on the Court of Review shall be filled by appointment by the President of the Court of Review of persons qualified as provided in Canon IV.5.4(a).
- (h) The 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 Court of Review and who shall provide administrative services as needed for the functioning of the Court. *Clerk.*
- (i) The rules of procedure for appeals to the Court of Review are as provided in Canon IV.15, but the Court of Review may adopt, alter or rescind supplemental rules of procedure not inconsistent with the Constitution and Canons of the Church. *Appeals.*

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. *Reporting Offenses.*

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

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 shall forward information to the Intake Officer whenever the Bishop Diocesan believes that the information may indicate conduct constituting one or more Offenses.

Initial inquiry. **Sec. 4.** Upon receipt of such information, the Intake Officer may undertake such initial inquiry 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.

Dismissal. **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, the subject Member of the Clergy, and the Bishop Diocesan of the decision of dismissal, the reasons therefor, 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 Bishop shall appoint an Advisor for the Complainant within 15 days of the date of the notice of dismissal. The Advisor shall assist the Complainant in preparing and signing a written statement of the acts complained of, which statement shall be sent by the Advisor 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, shall be retained by the Intake Officer and may be considered in connection with any additional information that may come to the Intake Officer thereafter concerning the subject Member of the Clergy.

Appeal of dismissal. **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 and the Complainant's Advisor, the subject Member of the Clergy and the subject Member's Advisor, if any, 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 within 15 days.

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, a Conference Panel and a Hearing Panel, and shall designate a president of each Panel. At the same time as forwarding the intake report to the Reference Panel, the Intake Officer shall send a notice to the subject Member of the Clergy informing him or her of the nature of the alleged Offense(s), the identity of any persons who have been designated as Complainants, and describing the next procedural steps that the Member of the Clergy can anticipate. The notice shall also remind the Member of the Clergy of his or her duty under Canon IV.3.1(b) to cooperate in the subsequent proceedings.

*Impanelment
and notice.*

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; (d) to the Conference Panel pursuant to Canon IV.12; or (e) 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. The Reference Panel shall establish a schedule for each approved option and the President of the Disciplinary Board shall be responsible for monitoring each such schedule.

Reference Panel.

Sec. 9. The Reference Panel shall monitor the progress of each referral on a monthly basis to ensure that the matter is

Timely progress.

progressing in a timely fashion. Until such time as the matter is referred to a Hearing Panel, if the Reference Panel determines that the matter has reached an impasse or is not progressing in a timely fashion, it may re-refer the matter. Once a matter is referred to a Hearing Panel, Canon IV.15.1 shall govern any issue regarding the progress of the matter. The Intake Officer shall report at least monthly to the Respondent, the Respondent's Advisor, the Respondent's Counsel, if any, the Complainant, the Complainant's Advisor and the Complainant's Counsel, if any, on the progress in the matter.

Determinations.

Sec. 10. 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. If the referral is to the Bishop Diocesan for possible Agreement and an Agreement is not reached within 90 days of the referral, the Reference Panel will re-refer the matter, in accordance with Canon IV.6.9.

Confidentiality.

Sec. 11. All communications and deliberations during the intake and referral stages (including the identities of any Complainants, Injured Persons, or other persons who report information concerning an Offense) 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

Pastoral Direction.

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.

Conditions.

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.

Precautionary measures.

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) set forth clearly changes, if any, in the terms of compensation and the duration thereof; (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; (f) be promptly served upon the Member of the Clergy; and (g) 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.

Notice of restrictions and leaves.

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.

Duration.

Bishop may modify.

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.

Disclosure.

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.

Clergy request for review.

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, the Respondent's Advisor, the Respondent's counsel, if any, 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.

Conduct of review

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

Panel to make determination.

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. If the report involves an allegation of Sexual Misconduct, the Bishop Diocesan is encouraged to provide for a pastoral response that will include the provision of assistance by a mental health professional with appropriate skills for meaningful response to affected persons.

Available to all affected.

Sec. 2. In each pastoral response the Bishop Diocesan shall consider offering pastoral care to all those who may be affected by an alleged Offense. 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.

Disclosure.

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 alleged Offense or concerning any Accord or Order as the Bishop Diocesan deems pastorally appropriate.

Privacy interests.

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.

Clergy may propose 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.

Accord with Respondent.

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.

Sec. 4. Accords under this Section shall be subject to all the provisions of Canon IV.14 regarding Accords, not inconsistent with this Section.

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.

Conciliator.

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.

Qualifications.

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. *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, or to the Hearing Panel pursuant to Canon IV.13. The determination shall be approved by a majority vote of the Reference Panel. *Report to 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 until such time as information obtained may be utilized by the Church Attorney, the Bishop Diocesan or the Panels. All persons, prior to being interviewed by the investigator, shall be advised of the confidential nature of the investigation and when such information may be shared during the course of the proceedings.

Canon 12: Of Conference Panels

*Referral to
Conference
Panel.*

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.

Notices issued.

Sec. 3. The Conference Panel shall issue a notice to the Respondent, the Respondent's Advisor, the Respondent's Counsel, if any, the Complainant, the Complainant's Advisor, the Complainant's Counsel, if any, 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, shall 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 conference at which the Respondent is to appear before the Conference Panel, which date shall be not less than twenty (20) days after service of the notice upon the Respondent. The Conference Panel shall endeavor to set the conference at a date and location reasonably convenient for the persons entitled to attend.

Sec. 4. The Respondent shall attend the conference and may be accompanied by an Advisor or counsel, if any, or both.

Attendance.

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 and the Respondent's Advisor or counsel, if any, 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.

Proceedings.

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. No statements made by any participant in such proceeding may be used as evidence before the Hearing Panel.

*Closed
conference.*

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.

Determination.

Order of dismissal.

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.

Accord or other Order.

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.

Objection to an Order.

Sec. 12. The Respondent or the Church Attorney may object to an Order issued by the Conference Panel by giving written notice of the objection to the president of the Conference Panel within fifteen days following the date on which the Order is issued. Upon receipt of the notice of objection, the president of the Conference Panel shall notify and provide copies of the notice of objection to the Bishop, president of the Disciplinary Board and the non-objecting party. The president of the Disciplinary Board shall promptly notify members of the Hearing Panel and refer the matter to the Hearing Panel.

Canon 13: Of Hearing Panels

Referral to Hearing Panel.

Sec. 1. When the Conference Panel decides to refer a matter to the Hearing Panel, the president of the Conference Panel shall within three days of that decision notify the president of the Disciplinary Board and the Church Attorney.

Statement of Offense and notice.

Sec. 2. Within 10 days of receipt of a referral for Hearing Panel proceedings, the Church Attorney shall provide to the Hearing Panel the statement of the alleged Offense(s), updated as needed. No other material from any prior proceedings under Title IV shall be provided to the Hearing Panel. Upon receipt of the Church Attorney's communication, the Hearing Panel shall within seven days issue a notice to the Respondent, to the Respondent's Advisor, to Respondent's counsel, if any, 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 of the provisions of Canon IV.19.6.
- (b) A copy of the notice shall be sent to the Complainant and to the Complainant's Advisor.
- (c) Unless additional time is approved for good cause by the Hearing Panel, the Respondent shall within 30 days of the mailing date of the notice file with the Hearing Panel and deliver to the Church Attorney a written response signed by the Respondent.

*Respondent's
response.*

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.

*Document
dissemination.*

- (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. 5(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.

Evidence and discovery.

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

- (a) Within sixty days after the filing and delivery of the response by the Respondent, the Church Attorney and the Respondent's counsel shall each provide to the other a mandatory disclosure of all evidence known to them that would tend to prove or disprove the allegations against the Respondent, including but not limited to (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. The parties must supplement mandatory disclosures made under this section as additional information becomes known. Documents and tangible items identified in the mandatory disclosures that are in the possession of a party shall be produced upon request, and copies of all documents provided to the requesting party. The Hearing

Panel may, upon request of a party or Injured Person, enter an order limiting production of documents or tangible items of a sensitive nature.

- (b) If any party withholds from disclosure any relevant document on the ground of privilege, the party must provide a log containing the date of the communication, a list of all persons party to the communication, and a short description of the nature of the communication. The scope of the privilege shall be determined by the Hearing Panel, pursuant to Canon IV.19.27.
- (c) Within fifteen days after the delivery of the mandatory disclosures, the president of the Hearing Panel shall convene a scheduling conference with the Church Attorney and Respondent's counsel. During the scheduling conference, after the Church Attorney and Respondent's counsel have been heard, the president of the Hearing Panel shall issue a Scheduling Order to provide for (1) a calendar for discovery, including depositions and written interrogatories, as provided in this section; (2) filing deadlines and hearing dates for preliminary motions and for dispositive motions; and (3) the date of hearing before the Hearing Panel.
- (d) The Scheduling Order shall provide the Church Attorney and Respondent's counsel authorization to take up to two depositions and propound up to twenty written interrogatories regarding each Complainant.
- (e) No other discovery shall be allowed at any point during the pendency of a matter under this Title except with permission of the Hearing Panel upon a showing of good cause.
- (f) Notwithstanding any provision of this section, 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 order pursuant to the provisions of Canon IV.13.9.

Sec. 6. 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.

Procedural matters.

Sec. 7. All pre-hearing motions and challenges shall be filed with the Hearing Panel within the time limits prescribed in the Scheduling Order. All responses shall be filed by the non-moving party within 15 days of receipt of the motion or challenge. Upon receipt of a motion or challenge, the Hearing Panel will promptly set the matter for hearing. The hearing may be conducted by conference call. After consideration of the argument of the parties, the Hearing Panel shall render a decision within three days of the hearing. The decision shall be final as to all procedural matters. Decisions on evidentiary matters are preliminary and may be reconsidered by the Hearing Panel during the course of the hearing if warranted by the evidence. The decision shall be provided to the parties and placed on the record of proceedings.

Public proceedings and transcript.

Sec. 8. 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.

Sec. 9. At least 15 days before the hearing, the Church Attorney and Respondent's counsel shall each provide to the other and to the Hearing Panel 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.

Pre-hearing disclosures.

Sec. 10. 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:

Testimony.

- (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;

- (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.

Sanctions.

Sec. 11

- (a) The Hearing Panel shall have the authority, upon reasonable notice, to impose sanctions on the Respondent, the Respondent's counsel, or the Church Attorney, for conduct that the Hearing Panel deems to be disruptive, dilatory, or otherwise contrary to the integrity of the proceedings. If the conduct in question is that of the Respondent's counsel, notice shall be given to the following: the Respondent, Respondent's counsel, and Respondent's Advisor. If the conduct in question is that of the Church Attorney, notice shall be given to each of the Church Attorney, the Bishop Diocesan, and the person or Diocesan body with authority to remove or replace the Church Attorney. If the conduct is that of the Respondent, notice shall be given to each of the Church Attorney, the Bishop Diocesan, Respondent's counsel, Respondent's Advisor, and Respondent.
- (b) Any sanction must be proportionate to the underlying misconduct. Sanctions that may be imposed pursuant to Canon IV.13.11(a) include, but are not limited to:

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- (1) amending a scheduling order;
 - (2) limiting discovery;
 - (3) refusing to allow the disobedient party to support or oppose claims or defenses;
 - (4) refusing to allow the disobedient party to introduce certain matters into evidence;
 - (5) striking claims or defenses or responses; or
 - (6) disqualification of counsel.
- (c) Within 10 days of the imposition of sanctions under this section, the sanctioned party may appeal the sanction to the Disciplinary Board (excluding the members of the Hearing Panel). The standard of review for such appeal shall be *de novo*. The president of the Disciplinary Board shall establish a hearing date and convene the Disciplinary Board members, within 20 days, either personally or telephonically, to consider the appeal. The Disciplinary Board shall issue its ruling within three days of conclusion of the hearing. The ruling of the Disciplinary Board cannot be the subject of an interlocutory appeal. *Appeal of sanction.*
- (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.
- Sec. 12.** 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. *Determination.*
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*Order of
dismissal.*

Sec. 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 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.

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.

Canon 14: Of Accords and Orders

Accords.

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.

*Accords from
Conciliation.*

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.

*Complainant to
be heard.*

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 Respondent's counsel, if any, the Church Attorney, the president of the Disciplinary Board, and the Bishop Diocesan by the Conciliator or the president of the Conference Panel (whichever the matter was before when the Accord was reached) on the date on which the Accord is signed. If the Accord was reached between the Bishop Diocesan and Respondent under Canon IV.9, the Bishop Diocesan shall send a copy of the Accord to the president of the panel to which the matter is assigned and the persons listed in this Section on the date the Accord becomes effective and irrevocable.

Distribution of Accord.

Sec. 5. The Bishop Diocesan shall have twenty (20) days from the date on which the Accord is entered in which to advise in writing the Respondent, the Respondent's Advisor, the Respondent's counsel, if any, the Complainant, the Complainant's Advisor, the Church Attorney and the Conciliator or the president of the Conference 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. If a Sentence of Admonition, Suspension or Deposition is imposed, the Bishop Diocesan shall pronounce Sentence not sooner than twenty (20) days following the date on which the Accord is entered and not later than forty (40) 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. In the case of an Accord under Canon IV.9, the Bishop Diocesan

Pronounce Sentence on Accords.

shall pronounce Sentence not sooner than the day after the date the Accord becomes effective and irrevocable.

*Order issued
by Panels.*

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

Sec. 8

*Pronounce
Sentence on
Orders.*

(a) Except for an Order from a Conference Panel to which the Respondent or Church Attorney has timely filed a notice of objection, the Bishop Diocesan shall have twenty 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.

(b) The Bishop Diocesan shall pronounce Sentence not sooner than twenty days following the issuance of the Order and not later than forty 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.

*Provisions of
Accords and
Orders.*

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 or the Church Attorney may object to 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.

*Objection to
an Order.*

Sec. 12. If there has been no objection by the Respondent or the Church Attorney to the Order(s), notice of Accords and Orders which have become effective shall be given without delay as follows:

*Notice of
Accords and
Orders.*

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- (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 President of the House of Deputies; to the Recorder of Ordinations; to the Archives; to the Secretary of the House of Bishops and the Secretary of the House of Deputies; and to the Office of Transition Ministry, which shall insert a copy of the notice of Accord or Order, on the Respondent's OTM Portfolio.
- (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 Secretary of the House of Bishops, to all Archbishops and Metropolitans, to all Presiding Bishops of Churches in full communion with this Church, and to the Office of Transition Ministry, which shall insert a copy of the notice of Order or Accord, on the Respondent's OTM Portfolio.
- (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.

Disclosure.

Sec. 13. In every case, 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 appropriate.

Canon 15: Of Review

Sec. 1. 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 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:

Delay of proceedings.

- (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 (15) days of receipt of the copy of the request, the president of the Hearing Panel shall file a response to the request with the Court of Review, with a copy to the Church Attorney, the Respondent and the president of the Board.
- (c) The appointed panel of the 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 Court of Review shall be binding upon the Hearing Panel.

Court of Review.

(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 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.

Appeal of Orders.

Sec. 2. Within forty (40) days after issuance of an Order by a Hearing Panel, the Respondent or the Church Attorney may appeal to the 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.

Bishop may 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 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 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.

Record an appeal.

Sec. 4. 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 Court of Review.

Sec. 5. The standards for and conditions of appeal to the Court of Review shall be as follows:

Standards for appeal.

- (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 Court of Review shall review the facts and record in the light most favorable to the Respondent.
- (b) In all other appeals, the 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;
 - (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. 6. 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

Appeal record.

shall be printed or otherwise reproduced as authorized by the President of the Court of Review. Within thirty (30) days after receiving the record on appeal from the Hearing Panel, the party appealing shall serve two (2) 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 (5) copies to the President of the Court of Review. Within thirty (30) 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 (5) copies to the President of the Court of Review. Any reply brief of the appealing party shall be served likewise within fifteen (15) days following service of the brief in opposition.

Attendance. **Sec. 7.** All members and alternates of the Court of Review serving for an appeal shall be present for any oral proceedings of the appeal.

Proceedings. **Sec. 8.** The Court of Review shall keep a record of all proceedings. The 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 Court of Review.

Sec. 9. At the hearing of the appeal, the Court of Review shall afford the Respondent and the Church Attorney the opportunity to be heard. The Court of Review may regulate the number of counsel to be heard.

Sec. 10. No Order or determination of a Hearing Panel shall be overturned solely for technical or harmless error.

Sec. 11. If, after a notice of appeal has been filed, the appealing party fails to pursue the appeal as provided in this Canon, the Court of Review may dismiss the appeal.

Document dissemination. **Sec. 12.** As soon as possible, the Court of Review 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 the documents on the diocesan website of the diocese that conducted the Hearing Panel proceeding. 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 Court of Review or by any party or person including but not limited to motions, briefs, affidavits, opinions, objections, decisions, notices, challenges, and Orders, including documents in a proceeding pursuant to Section 1 of this Canon.
- (b) The notice under Sec. 2 shall be made available no later than ten (10) business days after the notice is received by the President of the Hearing Panel.
- (c) Notwithstanding the above, the Court of Review, 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. 12(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. 13. If at any time after a matter has been appealed to a Court of Review or is before a Court of Review pursuant to Sec. 1, an Accord is reached that ends the proceedings before the Court of Review issues an Order or issues its decision, the Bishop Diocesan shall make the Notice of Accord available to the Church and Church media as provided in Sec. 12 as well as to the Court of Review and the Hearing Panel from which the appeal was taken or about whom a request was filed pursuant to Sec. 1.

Determination.

Sec. 14. Following a hearing of the appeal and private deliberation, the 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.

Decisions of the Court.

Sec. 15. The concurrence of a majority of the Court of Review shall be required to decide an appeal. The 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 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. 16. Upon determination of the appeal, the President of the 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 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

Certification of abandonment.

Sec. 1. If the Disciplinary Board for Bishops receives information suggesting that a Bishop may have abandoned 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 full communion with this Church; or (iii) by exercising Episcopal acts in and for a religious body other than the Church or another church in full 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, the Board shall promptly notify the Presiding Bishop and the Bishop in question that it is considering the matter.

Upon receipt of such notification, the Presiding Bishop may, with the advice and consent of the Advisory Council to the Presiding Bishop, place restrictions on the ministry of the Bishop in question for the period while the matter is under consideration by the Board. If, after consideration of the matter, the Board concludes, by a majority vote of all of its members, that the Bishop in question has abandoned The Episcopal Church, the Board shall certify the fact to the Presiding Bishop and with the certificate 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 of the House of Bishops, 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 or Release and Removal. 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. The House may, by a majority of the whole number of Bishops entitled to vote, (1) consent to the deposition of the subject Bishop, in which case the Presiding Bishop shall depose the Bishop from the ordained ministry of The Episcopal Church, and pronounce and record in the presence of two or more Bishops that the

*Liable to
Deposition.*

Bishop has been so deposed, or (2) consent to the release and removal of the subject Bishop from the ordained ministry of The Episcopal Church, in which case the Presiding Bishop shall declare such release and removal in the presence of two or more Bishops.

(B) By a Priest or Deacon

*Determination
of Offense.*

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, may have abandoned The Episcopal Church, the Standing Committee shall promptly notify the Bishop Diocesan and the Priest or Deacon in question that it is considering the matter. Upon receipt of such notification, the Bishop Diocesan may, with the advice and consent of the Standing Committee, place restrictions on the ministry of the Priest or Deacon in question for the period while the matter is under consideration by the Standing Committee. 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 full 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 its determination, together with a statement setting out in a 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 4 of this Canon 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.

*Retraction or
Deposition.*

Sec. 4. Prior to the expiration of the sixty-day period of restriction, the Priest or Deacon may 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 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 declare the release and removal of the Priest or Deacon in accordance with Canon III.7.8-10 or 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 of 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 and removed from the ordained Ministry of this Church and from the obligations attendant thereto, and (for causes which do not affect the person's moral character) is deprived of the right to exercise in The Episcopal Church the gifts and spiritual authority conferred in Ordination.

Sec. 5. For the purposes of Section 3 and 4 of this Canon, if there is no Bishop Diocesan, the Standing Committee shall submit the matter to the Bishop Diocesan of an adjacent Diocese, who shall have the authority of a Bishop Diocesan in the matter.

Role of Standing Committee.

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

Definition of terms.

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

*Disciplinary
Board for
Bishops.*

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 (10) Bishops elected by the House of Bishops at a regularly scheduled session of General Convention, and four (4) Priests or Deacons and four (4) lay persons elected by the House of Deputies. All lay persons elected or appointed to serve shall be confirmed adult communicants in good standing. Members of the Board shall serve staggered terms of six (6) years, with terms of one half of the Bishops and one half of the lay persons, Priests and Deacons collectively expiring every three (3) years.

A vacancy among the member Bishops shall be appointed by the Presiding Bishop with the advice and consent of the Bishop members of Executive Council. A vacancy among the lay or Priest or Deacon members shall be filled by the President of the House of Deputies with the advice and consent of the lay, Priest and Deacon members of Executive Council. Unless elected or appointed to fill the remainder of an unexpired term, each member shall serve from the first day of January following the adjournment of the General Convention at which the member was elected, until the last day of December of the sixth calendar year following election and until the member's successor is elected and qualifies; however, there shall be no change in the composition of any Hearing Panel while a matter is pending unresolved before the Hearing Panel.

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.

Elect 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.

Membership.

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

Sentencing of a Bishop.

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.

*Statement of
disassociation.*

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.

*Offenses of
Doctrine by a
Bishop.*

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 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. *Court of Review 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. *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. *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 *Agreement for discipline by a Bishop.*

Disciplinary Board for Bishops for approval promptly after it is signed by the Presiding Bishop and the respondent. Unless withdrawn under Canon 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

Application. **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.

Consent of Board. **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.

Conditions. **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 therefor, 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 therefor, 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 the Court of Review.

In case of a Bishop.

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.

In case of abandonment.

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

Opportunity to be heard.

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.

Discipline of the Church

Secular courts.

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*Limitation on proceedings.*

(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) The time limits of Subsection (a) above shall not apply with respect to persons whose acts include sexual misconduct, provided proceedings are initiated under this Title between January 1, 2019 and December 31, 2021.
- (d) 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.
- (e) 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.
- (f) 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.

*Jurisdiction
and venue.*

- (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) Either may promptly request the President of the Court of Review 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 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 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.

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 appear before the Hearing Panel as required by Canon IV.13.2(a), or to file in a timely manner with the Hearing Panel the written response required by Canon IV.13.2(c), such Panel may, in its discretion, proceed in the absence of the Respondent. In proceedings under this section, such panels may consider the materials described in Canon IV.12.1, and any other types of evidence whose use is permitted in proceedings conducted before such Panels. The failure of a Respondent to appear, or to fail to file a written response, as described in this Section shall not, in itself, provide the basis for a finding that any Offense has been committed, other than any Offense specifically arising from such failure to appear, or failure to file.

Failure to appear.

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

Sentence of suspension or restriction on Ministry.

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.

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.

Quorum.

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.

Advisors.

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, (3) the Respondent or Bishop Diocesan proposing terms of discipline to the other under Canon IV.9, or (4) 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) 15 days after the Complainant receiving word of a dismissal under Canon IV.6.5, (3) the Respondent or Bishop Diocesan proposing terms of discipline to the other under Canon IV.9, or (4) 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.

Improper influence.

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.

Right to counsel.

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.

Liability for retrial barred.

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 has 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:

Concerning impartiality.

- (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) The Church Attorney or any member of any Panel provided for in this Title shall disqualify himself or herself in any proceeding in which such person's impartiality may reasonably be questioned. The person shall also disqualify himself or herself when the person, the person'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) The Church Attorney or 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 person 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.

Integrity of Board.

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. *Presumption of innocence.*
- 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. *Burden of proof.*
- 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. *Duty of Church members.*
- 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. *Church Attorney.*
- 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. *Notices duly served.*
- 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.11.9(a)(2), and a Bishop Suffragan or Assistant Bishop if specific responsibilities for *Bishop with jurisdiction.*

matters contemplated by this Title have been expressly assigned to the Bishop Suffragan or Assistant Bishop by the Bishop Diocesan.

Legal counsel.

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

Expenses.

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 Court of Review shall be the expense of the 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.

If Presiding Bishop is unavailable.

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. A Bishop performing the duties of the Bishop Diocesan under this Section has all the authority and powers of the Bishop Diocesan under this Title.

Diocese to arrange for a Bishop.

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.

Confidential communication.

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.

Privileged communication.

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.

Removal. **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

Preserve records. (a) Records of proceedings shall be preserved as follows:

(1) Each Hearing Panel, Court of Review and Court of Review for Bishops 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.

(2) 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.

Deliver to the Archives. (3) The Panel or Court shall promptly deliver the original certified record of its proceedings to The Archives of The Episcopal Church.

(b) The Bishop Diocesan shall:

(1) 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

(2) 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.

(c) When printed records are submitted under this Canon, there shall be delivered to The Archives of The Episcopal Church an electronic copy or version of the records required to be preserved under this Section in such format as The Archives of The Episcopal Church may specify.

(d) The Archives of The Episcopal Church (the “Administrator”) shall create, administer and maintain a limited access secure central database registry to track data pertinent to proceedings under this Title (the “Database”) for the purpose of providing data and statistical information to assist in the furtherance of policymaking, education, ministry, and other governance objectives of the Church (collectively the “Database Purposes”).

Database

- (1) The Database shall only include disciplinary matters under this Title that are referred to the Reference Panel pursuant to Canon IV.6.6 or IV.6.7.
- (2) The Diocese, Disciplinary Board, Church Attorney and Respondent (or Respondent’s Advisor) as applicable shall complete and submit forms to the best of their knowledge, including questionnaires as prescribed and created by the Standing Commission on Structure Governance Constitution and Canons or its successor standing commission in consultation with the Administrator, Chief Legal Officer, and Office of Pastoral Development.
- (3) The Database shall not contain: (i) the personal identifying information of the Respondents, Complainants, Injured Persons, or witnesses; (ii) Privileged Communications; or (iii) other information that would be otherwise prohibited from disclosure under this Title or other applicable law.
- (4) The Administrator shall make reports from the Database accessible to the Standing Commission on Structure, Governance, Constitution and Canons, Chief

Legal Officer, Office of Pastoral Development, and Executive Council. The Administrator will also make reports from the Database accessible to other Church governance bodies or other Church officials provided that such bodies and officials are seeking to use reports from the Database in furtherance of the Database Purposes and have received the approval of the Executive Council and the Chief Legal Officer of the Church. From time to time the Executive Council or the Standing Commission on Structure, Governance, Constitution and Canons may publish statistical information and other reports derived in from the Database provided that such publication is consistent with this canon.

Imputation.

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 Intake Officer 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 Intake Officer to undertake an initial inquiry pursuant to Canon IV.6 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

*Transition to
Title IV revision.*

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 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 there after 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.