



MODEL CANONS FOR THE IMPLEMENTATION OF THE NEW TITLE IV (9/18/09 Draft)

[NOTE: Some dioceses include provisions for some elements of the disciplinary system within their Constitution. This model assumes that the diocesan provisions regarding discipline are within the diocesan canons. Canons 1 and 3 apply to any diocese. Canon 2 is presented as a single diocese model and an alternative for multi-diocesan arrangements.]

TITLE _____ ECCLESIASTICAL DISCIPLINE

CANON 1 Title IV of General Canons. Those provisions of Title IV of the General Canons which are applicable to the Diocese are hereby incorporated as part of this Title. To the extent, if any, that any of the provisions of this Title are in conflict or inconsistent with the provisions of Title IV, the provisions of Title IV shall govern.

[SINGLE DIOCESE MODEL]

CANON 2 Discipline Structure.

Section 2.01 Disciplinary Board. The Board shall consist of not less than seven persons, [four] of whom are members of the Clergy and [three] of whom are Laity.

Section 2.02 Clergy Members. The Clergy members of the Board must be canonically and geographically resident within the Diocese.

Section 2.03 Lay Members. The lay members of the Board shall be Adult Communicants in Good Standing, and geographically resident in the Diocese.

Section 2.04 Election. The members of the Board shall be elected by the Convention. Each member shall be elected for a three (3)-year term; except, if a member is elected to fill a vacancy, the term of such member shall be the unexpired term of the member being replaced. The term of the member shall commence on the first (1st) day of the year following election. The terms of office of the Board shall be staggered and arranged into three classes.

Section 2.05 Vacancies. Vacancies on the Board shall be filled as follows:

- (a) Upon the determination that a vacancy exists, the President of the Board shall notify the Bishop of the vacancy and request appointment of a replacement member of the same order as the member to be replaced.

- (b) The Bishop shall appoint a replacement Board member [may add “in consultation with the Standing Committee/Diocesan Council”; or “with the advice and consent of the Standing Committee/Diocesan Council”].
- (c) Persons appointed to fill vacancies on the Board shall meet the same eligibility requirements as apply to elected Board members.
- (d) With respect to a vacancy created for any reason other than pursuant to a challenge as provided below, the term of any person selected as a replacement Board member shall be until the next annual Convention. With respect to a vacancy resulting from a challenge, the replacement Board member shall serve only for the proceedings for which the elected Board member is not serving as a result of the challenge.

Section 2.06 Preserving Impartiality. In any proceeding under this Title, if any member of a Conference Panel or Hearing Panel of the Board shall become aware of a personal conflict of interest or undue bias, that member shall immediately notify the President of the Board and request a replacement member of the Panel. Respondent’s Counsel and the Church Attorney shall have the right to challenge any member of a Panel for conflict of interest or undue bias by motion to the Panel for disqualification of the challenged member. The members of the Panel not the subjects of the challenge shall promptly consider the motion and determine whether the challenged Panel member shall be disqualified from participating in that proceeding.

Section 2.07 President. Within sixty (60) days following the annual Convention, the Board shall convene to elect a President to serve for the following calendar year.

Section 2.08 Intake Officer. The Intake Officer shall be appointed from time to time by the Bishop after consultation with the Board. The Bishop may appoint one or more Intake Officers according to the needs of the Diocese. The Bishop shall publish the name(s) and contact information of the Intake Officer(s) throughout the Diocese.

Section 2.09 Investigator. The Bishop shall appoint an Investigator in consultation with the President of the Board. The Investigator may, but need not, be a Member of the Church.

Section 2.10 Church Attorney. Within sixty (60) days following each annual Convention, the Standing Committee [or Bishop in consultation with the Standing Committee or Disciplinary Board] shall appoint an attorney to serve as Church Attorney to serve for the following calendar year. The person so selected must be a Member of the Church and a duly licensed attorney, but need not reside within the Diocese.

Section 2.11 Pastoral Response Coordinator. The Bishop may appoint a Pastoral Response Coordinator, to serve at the will of the Bishop in coordinating the delivery of appropriate pastoral responses provided for in Title IV.8 of the General Canons and this Title. The Pastoral Response Coordinator may be the Intake Officer, but shall not be a person serving in any other appointed or elected capacity under this Title.

Section 2.12 Advisors. In each proceeding under this Title, the Bishop shall appoint an Advisor for the Complainant and an Advisor for the Respondent. Persons serving as Advisors shall hold no other appointed or elected position provided for under this Title, and shall not include chancellors or vice chancellors of this Diocese or any person likely to be called as a witness in the proceeding.

Section 2.13 Clerk. The Board shall appoint a Board Clerk to assist the Board with records management and administrative support. The Clerk may be a member of the Board.

[*MULTI-DIOCESAN MODEL*]

CANON 2 Discipline Structure.

Section 2.01 Disciplinary Board. The Diocese shall participate in establishing and maintaining, in collaboration with the Diocese(s) of _____ [and _____] a Disciplinary Board and structure as described in this Canon. The Board shall consist of not less than seven (7) persons, four (4) of whom are members of the Clergy and three (3) of whom are Laity. Three of the Clergy members and two of the Lay members shall be elected from each of the participating dioceses. [Participating Dioceses may adjust the size of the Board as long as there is a majority in the Clergy order.]

Section 2.02 Clergy Members. The Clergy members of the Board must be canonically and geographically resident within their respective Diocese.

Section 2.03 Lay Members. The lay members of the Board shall be Adult Communicants in Good Standing, and geographically resident and domiciled in their respective Diocese.

Section 2.04 Election. The members of the Board shall be elected by the Conventions of the respective Dioceses. Each member shall be elected for a three (3)-year term; except, if a member is elected to fill a vacancy, the term of such member shall be the unexpired term of the member being replaced. The term of the member shall commence on the first (1st) day of the year following election. The terms of office of the Board shall be staggered and arranged into three classes.

Section 2.05 Vacancies. Vacancies on the Board shall be filled as follows:

- (a) Upon the determination that a vacancy exists, the President of the Board shall notify the Bishop of the respective Diocese of the vacancy and request appointment of a replacement member of the same order as the member to be replaced.
- (b) The Bishop shall appoint a replacement Board member [may add “in consultation with the Standing Committee/Diocesan Council”; or “with the advice and consent of the Standing Committee/Diocesan Council”].

- (c) Persons appointed to fill vacancies on the Board shall meet the same eligibility requirements as apply to elected Board members.
- (d) With respect to a vacancy created for any reason other than pursuant to a challenge as provided below, the term of any person selected as a replacement Board member shall be until the next annual Convention of the respective Diocese. With respect to a vacancy resulting from a challenge, the replacement Board member shall serve only for the proceedings for which the elected Board member is not serving as a result of the challenge.

Section 2.06 Preserving Impartiality. In any proceeding under this Title, if any member of a Conference Panel or Hearing Panel of the Board shall become aware of a personal conflict of interest or undue bias, that member shall immediately notify the President of the Board and request a replacement member of the Panel. Respondent's Counsel and the Church Attorney shall have the right to challenge any member of a Panel for conflict of interest or undue bias by motion to the Panel for disqualification of the challenged member. The members of the Panel not the subjects of the challenge shall promptly consider the motion and determine whether the challenged Panel member shall be disqualified from participating in that proceeding.

Section 2.07 President. The Board shall convene annually to elect a President to serve for the following calendar year.

Section 2.08 Intake Officer. An Intake Officer in each of the participating Dioceses shall be appointed from time to time by the respective Bishop after consultation with the Board. The Bishops may each appoint one or more Intake Officers according to the needs of their respective Dioceses. The Bishops shall publish the name(s) and contact information of the Intake Officer(s) throughout the respective Dioceses.

Section 2.09 Investigator. The Bishops shall appoint one or more Investigator(s) in consultation with the President of the Board. The Investigator(s) may, but need not, be a Member of the Church.

Section 2.10 Church Attorney. The Standing Committees of the participating Dioceses [or bishops or the participating dioceses, in consultation with their respective Standing Committees or Boards] shall jointly appoint an attorney to serve as Church Attorney to serve for the following calendar year. The person so selected must be a Member of the Church and a duly licensed attorney, but need not reside within the participating Dioceses.

Section 2.11 Pastoral Response Coordinator. The Bishop of each participating Diocese may appoint a Pastoral Response Coordinator, to serve at the will of the Bishop in coordinating the delivery of appropriate pastoral responses provided for in Title IV.8 of the General Canons and this Title. The Pastoral Response Coordinator may be an Intake Officer, but shall not be a person serving in any other appointed or elected capacity under this Title.

Section 2.12 Advisors. In each proceeding under this Title, the Bishop of the Diocese from which the proceeding arises shall appoint an Advisor for the Complainant and an Advisor for the Respondent. Persons serving as Advisors shall hold no other appointed or elected position provided for under this Title, and shall not include chancellors or vice chancellors of any participating Diocese or any person likely to be called as a witness in the proceeding.

Section 2.13 Clerk. The Board shall appoint a Board Clerk to assist the Board with records management and administrative support. The Clerk may be a member of the Board.

Section 2.14 Publication to Each Diocese. Pursuant to Title IV.6 of the General Canons, the Bishop of each participating Diocese shall publish to the congregations and members of the respective Diocese information concerning the methods and means of reporting Offenses.

CANON 3 Costs and Expenses.

Section 3.01 Costs Incurred by the Church. The reasonable costs and expenses of the Board, the Intake Officer, the Investigator, the Church Attorney, the Board Clerk and the Pastoral Response Coordinator shall be the obligation of the [respective] Diocese [or joint budget for discipline of the participating dioceses], subject to budgetary constraints as may be established by [named budget authorities].

[Optional] **Section 3.02 Costs Incurred by the Respondent.** In the event of a final Order dismissing the complaint, or by provisions of a Covenant approved by the Bishop, the reasonable defense fees and costs incurred by the Respondent may be paid or reimbursed by the [respective] Diocese, subject to budgetary constraints as may be established by [named budget authority].

CANON 4 Records.

Section 4.01 Records of Proceedings. Records of active proceedings before the Board, including the period of any pending appeal, shall be preserved and maintained in the custody of the Clerk, if there be one, otherwise by the Diocesan offices [of the originating Diocese].

Section 4.02 Permanent Records. The Bishop shall make provision for the permanent storage of records of all proceedings under this Title at the [respective] Diocese and the Archives of the Episcopal Church, as prescribed in Title IV of the General Canons.