



REVISED TITLE IV

effective date July 1, 2011

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Goals of revision of Title IV

- Must allow for story to be told early in the process
- Must have options to resolve matter constructively
- Must have flexibility of available outcomes
 - to promote healing
- Must emphasize pastoral care for all
- Must be less adversarial
- Must be faster
- Reflect more clearly our theology

(Goals cont.)

- Must be intended to promote:
 - Repentance
 - Forgiveness
 - Restitution
 - Reconciliation
 - Truth telling
 - Healing
 - Justice
 - Amendment of life

Accountability

- Canon 1. 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.

Offenses

A Member of the Clergy is accountable for any “material”

- Knowing violation of C & C of Diocese or Church
- Failing without good cause to cooperate in any proceeding under Title IV
- Intentionally or maliciously bringing false accusation or evidence in any Title IV proceeding
- Breach of the Standards of Conduct of Canon 4.

Materiality

Canon 3.3

- To be actionable, the conduct complained of must be material and substantial or of clear and weighty importance to the ministry of the Church

Affirmative Conduct required

Canon 4

- Preserve confidences except as disclosure required by moral or pastoral requirements or state law
- Conform to the Rubrics of the BCP
- Abide by ordination promises and vows
- Abide by requirements of Accord or Order, Pastoral Direction, Restriction on Ministry or placement on Administrative Leave

(Affirmative Conduct cont.)

- Safeguard property and funds of the Church
- Report all matters which may constitute a material Offense, except as disclosed through Rite of Reconciliation of a Penitent
- Exercise his or her ministry in accordance with C & C of the Church and Diocese, ecclesiastical licensure or commission, and Community rules or bylaws.

Proscribed Behavior

- Definitions, Canon 2
- Sexual Abuse shall mean any Sexual Behavior at the request of, or acquiesced in, 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.

(Proscribed behavior, cont.)

- Sexual Misconduct
 - Sexual Abuse or Sexual Behavior with
 - (a) employee, volunteer, student or counselee
 - (b) in the same congregation
 - (c) with whom Clergy person has a Pastoral Relationship

(Proscribed behavior cont.)

- Holding or teaching contrary doctrine
- Secular employment without consent of Bishop
- Two year absence from Diocese without consent of Bishop

(Proscribed Behavior cont.)

- Criminal acts which reflect on honesty, trustworthiness or fitness to act as a minister
- Deceit, dishonesty, fraud or misrepresentation
- Habitual neglect of office

(Proscribed behavior cont.)

- Conduct Unbecoming a Member of the Clergy

The Players

- Bishop Diocesan (or Coadjutor or Suffragan or Assistant as assigned)
- Disciplinary Board
 - President (Reference panel)
 - Conference panel
 - Hearing panel

The Players

- Intake Officer
- Respondent
- Complainant
- Investigator
- Church Attorney
- Advisor
- Conciliator (perhaps)

Advisor

- Canon 2. A person designated to support, assist, consult with and advise a Complainant or Respondent.
- Canon 19.10. Bishop required to make an Advisor available to Respondent not later than the earliest of
 - Reference for conciliation or to either panel
 - Imposition of restriction on ministry or placement on administrative leave
 - Any interrogation or request for a statement or other information from a Respondent

(Advisor con't)

- Bishop shall make Advisor available to Complainant not later than the earliest of
 - Forwarding of Intake Report to Reference Panel
 - Complainant's appeal of a dismissal
 - Bishop's designation of an Injured Person as a Complainant

(Advisor cont.)

- Diocese to pay reasonable costs and expenses of proffered Advisor. Neither Respondent nor Complainant required to accept proffered Advisor, but if select another, then must pay own expenses
- All communications between Respondent or Complainant and their respective Advisors is privileged.

Agreements for Discipline remain favored

- At any time before a final Order either Respondent or Bishop may propose terms of discipline
- Before agreement Bishop must consult with the Injured Person, President, and Church Attorney with respect to the proposed terms
- Accord may be withdrawn by Respondent within three days of execution.

(Agreements for discipline, cont)

- An Accord may become effective if:
 - Respondent is aware of discipline and its effect
 - Respondent has had adequate opportunity for advice from own attorney

(Agreements for discipline cont.)

- Accord adequately considers and provides, if possible, for
 - Healing
 - Repentance
 - Forgiveness
 - Restitution
 - Justice
 - Amendment of life
 - Reconciliation among the Respondent, Complainant, affected Community and is otherwise appropriate

The process

- Information comes to Intake Officer, who makes preliminary investigation
- Bishop provides for appropriate pastoral response to embody respect, care and concern for all affected persons
- IO prepares written intake report
 - Copies to Bishop, President of D.B. and Church Attorney

(The Process cont.)

If IO thinks, even if information is true, there is no Offense, then tells Bishop of intention to dismiss; if no objection from Bishop then does so

If dismissal, IO gives written notice to Complainant and advises Complainant of right to appeal to President; IO assists Complainant, if asked, in preparing written statement for appeal

President has thirty days to affirm or deny the dismissal

(The Process cont.)

- If IO determines that an Offense may have been committed or if President overrules a dismissal by IO, then:
 - IO “promptly” forwards intake report to Reference Panel (IO, Bishop, President)
 - President selects Conference Panel and Hearing Panel from members of Disciplinary Board

(The Process cont.)

- Reference Panel decides
 - No action other than pastoral response
 - Potential conciliation
 - Further investigation
 - Referral for possible agreement for discipline with Bishop

(The Process cont.)

- If decision is no action Complainant and Respondent both notified
- All communications and deliberations to this point are confidential except as pastorally appropriate or disclosure required by law

(The Process cont.)

- If matter referred for investigation, Investigator shall complete investigation and present findings in writing to Reference Panel as soon as possible

(The Process cont.)

- If matter referred for conciliation, Bishop appoints conciliator to assist parties in reaching resolution
- If conciliation is successful, an Accord is prepared
- If Conciliation is unsuccessful, matter is referred back to Reference Panel

Conference Panel

- Informal and conversational; no record kept; no formal testimony by witnesses under oath
- Church Attorney prepares from gathered material a written statement describing each alleged Offense with reasonable particularity
- Respondent and Church Attorney required to attend conference; Complainant may attend conference in person and/ or through Advisor

(Conference Panel cont.)

- If no Accord reached, Conference Panel may:
 - Dismiss
 - Refer for conciliation
 - Refer to Hearing Panel
 - Issue an Order; if Order refused by either Respondent or Church Attorney, then moves to Hearing Panel

Hearing Panel

- Notice of hearing issued by Hearing Panel; Respondent has thirty days to answer in writing; non-participation may result in default
- Copy of notice sent to Complainant and to Complainant Advisor

(Hearing Panel cont.)

- Proceedings public except as HP decides to protect privacy
- Record is kept
- Certain discovery rules apply (Canon 13.6)
- All testimony under oath and subject to cross-examination
- Hearing Panel shall determine the credibility, reliability and weight to be given to all testimony and other evidence
- The standard of proof is clear and convincing evidence

(Hearing Panel cont.)

- President of Hearing Panel regulates the hearing:
 - May exclude irrelevant, immaterial or repetitious evidence, and shall exclude privileged evidence
 - May not exclude evidence solely because it is hearsay

(Hearing Panel cont.)

- Hearing Panel confers privately and determines whether to dismiss or take other action.
- If determination is to dismiss, Order may include findings of exoneration of Respondent.
- Copies sent to concerned parties

(Hearing Panel cont.)

- If determination is to issue an Order other than dismissal
 - The terms of Canon 14 control
 - Prior to issuance the Bishop and Complainant are each given opportunity to be heard on its terms

Accords and Orders (Canon 14)

- Accord is an agreed written resolution
- Order is a written decision of Conference or Hearing panel issued with or without Respondent's consent
- Both must comply with Canon 14

(Accords and Orders cont.)

- Both Accord and Orders may provide any terms which promote healing, repentance, forgiveness, restitution, justice, amendment of life and reconciliation among the Complainant, Respondent, affected Community and other persons

(Accords and Orders cont.)

- Accords and Orders also may
 - Place restrictions on Respondent's exercise of ministry
 - Recommend admonition, suspension or deposition
 - Limit the involvement, participation or attendance of Respondent in the Community
 - Any combination of the above

(Accords and Orders cont.)

- Bishop has the right and the duty to review all Accords and Orders and to advise whether he/she (1) will pronounce the Sentence as recommended, (2) pronounce a lesser Sentence, or (3) reduce the burden on the Respondent of any of the other terms of the Accord or Order.

(Accords and Orders cont.)

- Bishop has not less than forty nor more than sixty days to pronounce Sentence
- Bishop gives notice of the final Accord or Order to the rest of the Church
- Respondent or Church Attorney may appeal to Provincial Court of Review
- If Order finds that Respondent did not commit an Offense involving Doctrine, Discipline and Worship of the Church, it may be appealed under separate provisions

Appeals

- Provincial Court of Appeals
- Carried forward mostly intact from pre-existing Title IV

Abandonment of Communion of the Church

- Under Canon 16
 - Not included in Canon 4 list of Offenses
 - Summary process
 - Finding by Standing Committee of abandonment by Priest or Deacon
 - Sixty day restriction on ministry by Bishop
 - If no retraction or denial within the sixty days then Bishop deposes or releases Priest from the obligations of ministry

Pastoral Direction, Restriction on Ministry and Administrative Leave

- At any time the Bishop may issue Pastoral Directions, Restrictions on Ministry or Placement on Administrative Leave individually or in common.
- Each must
 - Be in writing
 - Set forth clearly the reasons
 - Be neither capricious nor arbitrary in nature nor in any way contrary to the C & C of the Church or the Diocese
 - Be promptly served upon the Member of the Clergy

(Pastoral Direction, etc, cont.)

- In addition a Pastoral Direction must
 - Be issued in the Bishop's capacity as pastor, teacher and overseer of the Member of the Clergy
 - 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

(Pastoral Direction, etc, cont.)

- In addition a Restriction on Ministry must advise the Member of the Clergy of his or her right to request a review of the restriction.
- If prior to referral to the Hearing Panel, review is by the Conference Panel; if subsequent, review is by Hearing panel.
- If Panel finds the restriction “unwarranted”, then it may dissolve or modify the restriction

General Provisions

- Purportedly beyond secular jurisdiction
- Limitation of action to ten years except for sexual and/or physical abuse to minors
- Failure of Respondent to appear or file may lead to default action
- The burden of proof is on the Church Attorney

(General provisions, cont.)

- 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 when duly called

Multi Diocesan

Canon 5.3.1

- Any diocese may agree with one or more other dioceses to develop and share resources to implement this Title.
 - Disciplinary Boards
 - Church Attorneys
 - Intake Officers
 - Advisors
 - Investigators, etc.

Text of Title IV

- Can be found at

<http://gc2009.org/ViewLegislation>

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