

# COURT OF REVIEW

## Membership

Ms. Laura Russell, President	Lay	Newark, II	2024
Ms. Sharon Henes, Vice President	Lay	Milwaukee, V	2024
The Rev. Canon Lisa S. Burns	Priest	Texas, VII	2024
Dr. L. Zoe Cole	Lay	Colorado, VI	2024
The Rev. Rodney Davis	Priest	Northern California, VIII	2024
Dr. Delbert C. Glover	Lay	Washington, III	2024
The Rev Canon Dorothy d'Rue Hazel	Deacon	Upper South Carolina, IV	2024
The Rt Rev A. Robert Hirschfeld	Bishop	New Hampshire, I	2024
The Rev Deacon Lisa Kirby	Deacon	East Carolina, IV	2024
The Rt Rev Phoebe A. Roaf	Bishop	West Tennessee, IV	2024
Sra. Grecia Reynoso	Lay	Dominican Republic, IX	2024
Ms. Brunilda Rodríguez	Lay	Puerto Rico, II	2024
The Rt. Rev Kathryn Ryan	Bishop	Texas, VII	2024
The Rev Christopher Wendell	Priest	Massachusetts, I	2024
The Rt Rev Frank S. Logue	Bishop, Alt	Georgia, IV	2024
The Rev Canon Gregory A. Jacobs	Priest, Alt	Newark, II	2024

## Change in Membership

The Rev. Canon Carrie Schofield-Broadbent resigned on May 12, 2023, upon receiving consents to her election as Bishop of Maryland.

Canon Julie Dean Larson died on September 11, 2023.

The Court requested these positions be filed several times, but no appointments were made.

## Acknowledgements

The Court of Review began the matter of the objections filed to the Election of a Bishop Coadjutor of the Diocese of Florida (May 2022 Election) prior to the election of members of the Court of Review at the General Convention in July 2022, therefore, the prior membership of the Court of Review continued work on the matter. The Court of Review would like to recognize the following individuals for their work on this matter: Ms. Laura A. Russell, Mr. Julian M. Bivins, Jr., Ms. Valentia Clopton, Ms. Sharon Henes, The Rt. Rev. Carlye Hughes, The Rev. Lisa Kirby, The Rev Gayle McCarty, The Rt. Rev Jose McLoughlin, The Rev. Tracie Middleton, The Rt. Rev Gretchen Rehberg, The Rev. Canon Brian

Ried, Ms. Brunilda Rodriguez Velez, Hon. William Vodrey, The Rev Chris Wendell, and The Ven. Chip Whitacre.

We would like to thank the Court of Review's legal advisors: Diane E. Sammons, Esq. and Scott Remington, Esq.

## **Representation at General Convention**

Deputy Laura Russell is authorized to receive non-substantive amendments to this report.

## **Mandate**

Canon IV.5.4

There shall be a court 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.c.

- a.** The Court of Review consists of: i. Three Bishops; six Members of the Clergy, who must include at least two Priests and at least two Deacons; and six lay persons; and ii. one Bishop, one Priest or Deacon, and one lay person to serve as alternates as provided in this Section.
- b.** The Joint Standing Committee on Nominations will nominate a slate of Clergy and lay persons for election to the Court of Review, in accordance with the Joint Standing Committee on Nominations' canonical charge and procedures and guided by the skill sets needed for effective service on the Court of Review. The Joint Standing Committee on Nominations may, but need not, nominate more persons than there are vacancies. The Clergy and lay nominees for the Court of Review may, but need not, be Deputies to General Convention. The Joint Standing Committee on Nominations must create a description of the skills, gifts, and experience requisite for service on the Court of Review, after consultation with the Court, including the value of cultural and geographic diversity on the Court and the value of including historically underrepresented voices in the governance of the Church.
- c.** The Bishop members and Bishop alternate members on the Court of Review will be nominated by the Presiding Bishop after consultation with the Joint Standing Committee on Nominations, and then elected by the House of Bishops at a regular meeting of the General Convention.
- d.** The Clergy and lay members and alternates on the Court of Review will be elected by the House of Deputies at a regular meeting of the General Convention.

1. Except for a member filling a vacancy, the term of office of a member of the Court of Review begins at the adjournment of the regular meeting of the General Convention at which the member was elected and expires on the adjournment of the second regular meeting of the General Convention following.
  2. Members of the Court of Review will serve staggered terms of office such that the terms of half of the members expire at each regular meeting of the General Convention. The Joint Standing Committee on Nominations must make its nominations in a manner that supports this staggering of terms.
  3. Any member who has served 12 or more consecutive years will be ineligible for reelection to the Court of Review until the next regular meeting of the General Convention following the one at which the member was ineligible for reelection to the Court of Review. A person's service as an alternate will not count against these term limitations.
- e.** The Court of Review must select a President from among its members. The President must be a Priest, Deacon, or lay person.
- f.** The persons appointed to the Court of Review will 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 will continue to serve until the Panel has completed its work.
- g.** Whenever a matter is referred to the Court of Review, the President must appoint a Panel for that case consisting of one Bishop, two Members of the Clergy, and two lay persons. No Bishop or Clergy member of the Court of Review may serve in any matter originating from the Diocese in which such Bishop or Clergy member is canonically resident or is then currently licensed to serve, and no lay member may serve in a matter originating from the Diocese of the lay member's primary residence or a Diocese in which the lay member is then currently active. In such event, the President shall appoint another member of the Court from the same Order to serve; if no other member is available to serve the President must appoint an alternate of the same Order to serve.
- h.** If any member of the Court of Review is excused under Canon IV.5.3.c, or, upon objection made by either party to the appeal, is found by the other members of the Court of Review to be disqualified, an alternate shall serve.
- i.** In the event of any Court of Review member's death, resignation, or declination to serve, or disability rendering the member unable to act, and in the further event that no other member of the Court is available to serve, the President of the Court of Review must declare a vacancy on the Court of Review. Notices of resignation or declination to serve must be communicated in writing to the President of the Court of Review.

- j.** Vacancies on the Court of Review must be filled by the President of the House of Deputies for lay and Clergy members and by the Presiding Bishop for Bishop members.
- k.** The Court of Review must appoint a clerk who may be a member of the Court, who will be custodian of all records and files of the Court of Review, and who will provide administrative services as needed for the functioning of the Court.
- l.** 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.
- m.** For good cause shown, the Court of Review may extend any deadline in this Title pertaining to the Court of Review except the time to file a notice of appeal.

#### Canon III.11.8

- a.** Within ten days after the election of a Bishop Diocesan, a Bishop Coadjutor, or a Bishop Suffragan by a Diocesan Convention, delegates constituting no less than ten percent of the number of delegates casting votes on the final ballot may file with the Secretary of the Convention written objections to the election process, setting forth in detail all alleged irregularities. Within ten days after receipt thereof, the Secretary of the Convention shall forward copies of the same to the Bishop Diocesan, the Chancellor and Standing Committee of the Diocese, and to the Presiding Bishop, who shall request the Court of Review to investigate the complaint. The Court of Review may invite response by the Bishop Diocesan, the Chancellor, the Standing Committee and any other persons within the Diocese for which the Bishop was elected. Within 45 days after receipt of the request, the Court of Review shall send a written report of its findings to the Presiding Bishop, a copy of which report the Presiding Bishop, within fifteen days, shall cause to be sent to the Bisop Diocesan, the Chancellor, the Standing Committee and the Secretary of the Convention of the electing Diocese. The Secretary shall send a copy of the report to each of the delegates who filed objection to the election process.
- b.** The report of the Court of Review shall be sent to the Standing Committees of the several Dioceses, with the Certificate of the Secretary of the electing Convention relating to consent to ordain. Likewise, the Presiding Bishop shall include the report in the communication to the Bishops exercising jurisdiction. The 120 day period for Standing Committees and Bishops to consent to the election begins with these communications.

## Summary of Work

The Court of Review held training sessions on December 21, 2022, June 1, 2023, and November 6-8, 2023.

The Court of Review held several meetings related to the individual matters before it.

As the work of the Court of Review began, the matter concerning the Election of a Bishop Coadjutor of the Diocese of Florida (May 2022 Election) was already underway. The prior Court of Review investigated and deliberated on the matter. The Court of Review issued a report on August 2, 2022 which made the following findings:

- The Convention did not achieve a quorum in the clergy order as required by the diocese's governing documents, Robert's Rules of Order and Florida law and was unable to conduct business.
- The irregularities in the Convention process itself cast a shadow over the legitimacy of the election.
- The action of the Diocese in changing its manner of voting two days prior to the election was fundamentally unfair to the Delegates of the Convention and the candidates who relied on the April 7, 2022 notice in preparation for the election.

On August 19, 2022, the candidate securing the most votes withdrew his acceptance of the election result and the Diocese of Florida chose to move forward with a second election.

The Court of Review received the Letter of Objection, dated November 28, 2022, concerning the Election of a Bishop Coadjutor of the Diocese of Florida (September 2022 Election). The Court of Review investigated and deliberated on the matter. The Court of Review issued a report on January 31, 2022 which made the following findings on the five principal allegations of the Objectors:

- The reasons for the discrepancies regarding the number of clergy participants noted by the Objectors to be clearly understood, harmless, and not indicative of any material errors in the vote count.
- Multiple clergy who were otherwise entitled to vote in the election were denied that right due to disparate treatment in the granting of canonical residence. This action constituted an irregularity in the election process which could have affected the outcome of the vote in the clergy order. Furthermore, the interviews suggest a pattern and practice of LGBTQ+ clergy and those who opposed the Bishop's stated views not being treated equally with similarly situated clergy in the securing and exercising of their rights to ordination, licensing and the granting of canonical residency. These apparent actions may also have contributed to and influenced the determination of which clergy were deemed eligible to vote at the Second Special Election

Convention and, accordingly, its results. These findings cast doubt on the integrity of the election process.

- In the denial of duly selected lay delegates from having seat, voice and vote at the November Special Election, the Diocese was not in compliance with the Diocesan Articles of Reincorporation, the Diocesan Canons and its own Second Special Convention Rules of Order. Moreover, the Diocesan process utilized for the appointment of new delegates for those unable to attend the Second Special Electing Convention was irregular and not in conformity with Diocesan Canons. Additionally, the change in the Diocesan procedures for selecting delegates only a month before the special convention was fundamentally unfair to parishes and to all who relied on this established process. Any disenfranchisement of duly selected delegates creates a doubt as to the integrity of an election. The Court cannot state conclusively whether the addition of these delegates would have changed the outcome of the election; it can state that this disenfranchisement casts a shadow over the election process.
- The failure of the Diocese to achieve its stated goal to have a bishop coadjutor in place by November 5, 2022 did not constitute an irregularity in the election process. Additionally, Resolution 2021-001 did not call for a new profile nor an update of the candidate's profile.
- Although it is not prudent to have a bishop-elect come on staff while an objection to the election is under review or remain on staff when he or she is a candidate in a second election necessitated by an objection to the first election, the Court of Review cannot conclude whether this position gave the asserted candidate-elect any material advantage in the second election.

The candidate-elect failed to receive a majority of consents from the diocesan bishops and diocesan standing committees by July 22, 2022.

The Court of Review is currently in the process of deliberating on a Title IV appeal.

The Court also reviewed the Canons of the Episcopal Church and discussed potential amendments to better assist our work, and further clarify the role of the Court of Review and prepared resolutions to achieve those purposes.

## Proposed Resolutions

### **A103 Amend Canon III.11.8**

That Canon III.11.8 is hereby amended to read as follows:

**<Amended text as it would appear if adopted and concurred. Scroll below the line of asterisks (\*\*\*\*\*) to see the version showing all deleted and added text.>**

III.11.8

a. Within ten days after the election of a Bishop Diocesan, a Bishop Coadjutor, or a Bishop Suffragan by a Diocesan Convention, delegates constituting no less than ten percent of the number of delegates casting votes on the final ballot may file with the Secretary of the Convention written objections to the election process, setting forth in detail all alleged irregularities. Within ten days after receipt thereof, the Secretary of the Convention shall forward copies of the same to the Bishop Diocesan, the Chancellor and Standing Committee of the Diocese, and to the Presiding Bishop, who shall request the Court of Review to investigate the complaint. At its sole discretion, the Court may use an investigator of its choosing. The Court of Review may invite response by the Bishop Diocesan, the Chancellor, the Standing Committee and any other persons within the Diocese for which the Bishop was elected. The Court may provide for a pastoral response to any affected parties, as it deems appropriate. Within 45 60 days after receipt of the request, the Court of Review shall send a written report of its findings to the Presiding Bishop, a copy of which report the Presiding Bishop, within fifteen days, shall cause to be sent to the Bishop Diocesan, the Chancellor, the Standing Committee and the Secretary of the Convention of the electing Diocese. The Secretary shall send a copy of the report to each of the delegates who filed objection to the election process.

b. The report of the Court of Review shall be sent to the Standing Committees of the several Dioceses, with the Certificate of the Secretary of the electing Convention relating to consent to ordain. Likewise, the Presiding Bishop shall include the report in the communication to the Bishops exercising jurisdiction. The 120 day period for Standing Committees and Bishops to consent to the election begins with these communications.

\*\*\*\*\*

<Proposed amended resolution text showing exact changes being made:>

III.11.8

a. Within ten days after the election of a Bishop Diocesan, a Bishop Coadjutor, or a Bishop Suffragan by a Diocesan Convention, delegates constituting no less than ten percent of the number of delegates casting votes on the final ballot may file with the Secretary of the Convention written objections to the election process, setting forth in detail all alleged irregularities. Within ten days after receipt thereof, the Secretary of the Convention shall forward copies of the same to the Bishop Diocesan, the Chancellor and Standing Committee of the Diocese, and to the Presiding Bishop, who shall request the Court of Review to investigate the complaint. *At its sole discretion, the Court may use an investigator of its choosing.* The Court of Review may invite response by the Bishop Diocesan, the Chancellor, the Standing Committee and any other persons within the Diocese for which the Bishop was elected. *The Court may provide for a pastoral response to any affected parties, as it deems appropriate.* Within ~~45~~ 60 days after receipt of the request, the Court of Review shall send a written report of its findings to the Presiding Bishop, a copy of which report the Presiding Bishop, within fifteen days, shall cause to be sent to the Bishop Diocesan, the Chancellor, the Standing Committee and the Secretary of the Convention of the electing Diocese. The Secretary shall send a copy of the report to each of the delegates who filed objection to the election process.

b. The report of the Court of Review shall be sent to the Standing Committees of the several Dioceses, with the Certificate of the Secretary of the electing Convention relating to consent to ordain. Likewise, the Presiding Bishop shall include the report in the communication to the Bishops exercising jurisdiction. The 120 day period for Standing Committees and Bishops to consent to the election begins with these communications.

#### EXPLANATION

This proposed amendment makes three changes to the work of the Court of Review in conducting investigations when an episcopal election is challenged by members of an electing convention. Since its inception, the Court of Review has conducted three episcopal election investigations pursuant to Title III. In each matter, the time frame needed to complete the necessary investigation and finalize the report was difficult to meet. The first change empowers the Court of Review to use an investigator of its own choosing to help it more expeditiously and professionally complete its work. The second change increases to 60 days the time period for completing the required work. The third change authorizes the Court to provide for pastoral response to parties impacted by its investigation. At present, no one within The Episcopal Church is canonically empowered to provide such pastoral care, and, given the nature of these proceedings, it may well be impossible and/or inappropriate for either the electing Diocese or members of the Court itself to provide such pastoral care. This change would enable the Court to make provision for such pastoral care to parties affected by its Title III work.



### **A104 Amend Canon IV.6.9**

That Canon IV.6.9 is hereby amended to read as follows:

**<Amended text as it would appear if adopted and concurred. Scroll below the line of asterisks (\*\*\*\*\*) to see the version showing all deleted and added text.>**

IV.6.9.

Absent extraordinary circumstances, and notwithstanding any other provision of this Title, all matters reported to an Intake Officer shall reach final, non-appellate, resolution within 15 months of the initial Intake Report date. The Reference Panel shall monitor the progress of each referral on a monthly basis to ensure that the matter is 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. 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. The President of the Disciplinary Board, following consultation with the relevant panels, may, in their sole discretion, reasonably adjust any time periods specified in this title related to matters before panels, for the purposes of ensuring timely progress.

\*\*\*\*\*

**<Proposed amended resolution text showing exact changes being made:>**

IV.6.9.

*Absent extraordinary circumstances, and notwithstanding any other provision of this Title, all matters reported to an Intake Officer shall reach final, non-appellate, resolution within 15 months of the initial Intake Report date. The Reference Panel shall monitor the progress of each referral on a monthly basis to ensure that the matter is 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. The President of the Disciplinary Board, following consultation with the relevant panels, may, in their sole discretion, reasonably adjust any time periods specified in this title related to matters before panels, for the purposes of ensuring timely progress.*

## EXPLANATION

One of the persistent concerns the Court of Review has heard from the church since its inception, is the length of time it takes Title IV matters to progress from Intake to final resolution. In many cases, the longer a matter is pending, the greater the harm experienced by potentially injured parties, affected communities, complainants, and dioceses. Further, it has been the repeated experience of Hearing Panels conducted in The Episcopal Church that process delay has become an intentional procedural tactic employed by various participants. While the canons provide specific opportunities to limit delay at some later stages of the process, even those tools are often ineffective in the face of extensive discovery and motion arguments, continuance requests, scheduling conflicts, and other sources of delay. This amendment would attempt to reduce overall process length by prioritizing the needs of injured parties, affected communities, complainants, and Dioceses, by setting an overall time limit of 15 months from the date of the initial written Intake Report within which Title IV matters must reach final adjudication, absent extraordinary circumstances (such as, for example, pending criminal trials). It would also empower the President of the Disciplinary Board, after consultation with the relevant panel, to adjust any time periods prescribed by Title IV at various stages of panel consideration to accomplish this objective. This approach helps our disciplinary process better balance the overall objectives of Title IV and the needs of all the various parties.

### **A105 Amend Canon IV.5.4.g**

That Canon IV.15.4.g is hereby amended to read as follows:

**<Amended text as it would appear if adopted and concurred. Scroll below the line of asterisks (\*\*\*\*\*) to see the version showing all deleted and added text.>**

IV.5.4.g

**g.** Whenever a matter is referred to the Court of Review, the President must appoint a Panel for that case consisting of one Bishop, two Members of the Clergy, and two lay persons. No Bishop or Clergy member of the Court of Review may serve in any matter originating from the Diocese in which such Bishop or Clergy member is canonically resident or is then currently licensed to serve, and no lay member may serve in a matter originating from the Diocese of the lay member's primary residence or a Diocese in which the lay member is then currently active. In such event, the President shall appoint another member of the Court from the same Order to serve; if no other member is available to serve, the President must appoint an alternate of the same Order to serve.

\*\*\*\*\*

<Proposed amended resolution text showing exact changes being made:>

IV.5.4.g

~~g. Whenever a matter is referred to the Court of Review, the President must appoint a Panel for that case consisting of one Bishop, two Members of the Clergy, and two lay persons. No Bishop or Clergy member of the Court of Review may serve in any matter originating from the Diocese in which such Bishop or Clergy member is canonically resident or is then currently licensed to serve, and no lay member may serve in a matter originating from the Diocese of the lay member's primary residence or a Diocese in which the lay member is then currently active. In such event, the President shall appoint another member of the Court from the same Order to serve; if no other member is available to serve, the President must appoint an alternate of the same Order to serve.~~

#### EXPLANATION

The provisions stricken from this section may have been left inadvertently when Title IV was amended to remove the Provincial Courts of Review. In any case, there is no benefit or reason to designate panels within the Court of Review. Moreover, it is already difficult enough for the Joint Nominating Committee to recommend slates of candidates who have the requisite “skills, gifts, and experience” the Court needs, while also representing the cultural and geographic diversity of the church, including historically underrepresented voices. To create a subset of the Court which still contained this diversity would be both impossible and create a hardship for some members of the Court.

#### **A106 Amend Canon IV.15.5.a**

That Canon IV.15.5.a is hereby amended to read as follows:

<Amended text as it would appear if adopted and concurred. Scroll below the line of asterisks (\*\*\*\*\*) to see the version showing all deleted and added text.>

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

- 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, which substantially prejudiced the Respondent. The Court of Review shall review the facts and record in the light most favorable to the Respondent.

\*\*\*\*\*

<Proposed amended resolution text showing exact changes being made:>

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

- 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, *which substantially prejudiced the Respondent*. The Court of Review shall review the facts and record in the light most favorable to the Respondent.

EXPLANATION

When a Respondent chooses not to participate in proceedings or appear for hearing, they necessarily forfeit certain options to subsequently challenge a hearing panel's order. This is particularly the case since Title IV proceedings are neither civil nor criminal in nature, but ecclesiastical. Ordained persons who chose not to participate or appear in a Title IV proceeding against them have expressed in such actions a profound disregard for the life and health of the Body of Christ. Such disregard in itself, absent any allegations of misconduct, suggests unfitness for ordained ministry. Not all avenues of appeal which are open to Respondents who participate in the proceedings and in the hearing should be available to a Respondent who had intentionally chosen not to participate. It appears that the language of "clear error" is intended to parallel the secular appellate review standard set out in *U.S. v. Gypsum*, 333 U.S. 364 (1948) for questions of fact that leave the reviewing court "with the clear impression that a mistake has been committed" in the issuance of a hearing panel order. However, the Court of Review is concerned that without the proposed clarifying language, it could too persuasively be argued that an error which was clear but did not prejudice the Respondent could provide a basis for a Respondent bent on delaying final resolution of a matter to do so to the prejudice of the process, complainants, and the Church. The suggested language assures that the reviewing court retains the ability to set aside orders which are mistaken, while retaining the ability to bring closure where appropriate.

## **A107 Amend Canon IV.19.12**

That Canon IV.19.12 is hereby amended to read as follows:

**<Amended text as it would appear if adopted and concurred. Scroll below the line of asterisks (\*\*\*\*\*) to see the version showing all deleted and added text.>**

**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. Counsel representing respondents may not withdraw from their representation without both providing notice to the Respondent and the Church Attorney, and receiving permission to withdraw from the Panel to whom the matter is currently referred. Respondent shall be permitted the opportunity to be heard concerning the withdrawal of counsel. Notwithstanding Respondent's right to be accompanied by and represented by counsel of their choice, any counsel determined to have previously withdrawn from representation without permission of the relevant Panel shall not be eligible to represent respondents in Title IV matters within The Episcopal Church. 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.

\*\*\*\*\*

**<Proposed amended resolution text showing exact changes being made:>**

**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. *Counsel representing respondents may not withdraw from their representation without both providing notice to the Respondent and the Church Attorney, and receiving permission to withdraw from the Panel to whom the matter is currently referred. Respondent shall be permitted the opportunity to be heard concerning the withdrawal of counsel. Notwithstanding Respondent's right to be accompanied by and represented by counsel of their choice, any counsel determined to have previously withdrawn from representation without permission of the relevant Panel shall not be eligible to represent respondents in Title IV matters within The Episcopal Church.* 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.

EXPLANATION

While Respondents are not required to be represented by counsel at any point in Title IV matters, those who choose to be so represented have a reasonable expectation that they will be well-served by their counsel. In recent years, the unanticipated withdrawal of counsel chosen by respondents has created significant hardship in the administration of Title IV matters. Unlike in the practice of secular law, where ethically concerning behavior by attorneys is subject to professional discipline, The Episcopal Church's clergy disciplinary process lacks any way of enforcing sanctions upon attorneys once they are no longer representing participants in a Title IV process. This resolution amends the canons to bar from any future representation of respondents an attorney who withdraws from representing a Respondent without permission of the relevant Panel. This will provide the strongest possible protections the canons can offer to protect respondents from being abandoned by their attorneys, and to protect injured parties and other affected individuals and communities from the potential delays in final adjudication associated with unanticipated or untimely attorney withdrawals.