

RESOLUTION

No. 29-4

ORIGINATOR: The Standing Committee on Canons

SUBJECT: Canon 27, Ecclesiastical Trial Court

RESOLVED, that Canon 27 and Canon 28 of the Canons of The Diocese of West Tennessee be amended in their entirety to provide as follows:

CANON 27: ECCLESIASTICAL DISCIPLINE

Sec. 1. Title IV of General Canons. Those provisions of Title IV of the Canons of the General Convention of The Episcopal Church (the "General Canons") which are applicable to the Diocese are hereby incorporated as part of this Canon. To the extent, if any, that any of the provisions of this Canon are in conflict or inconsistent with the provisions of Title IV of the General Canons, the provisions of Title IV of the General Canons shall govern.

Sec. 2. Discipline Structure.

(a) Disciplinary Board. The Board shall consist of seven persons, four of whom are members of the Clergy and three of whom are Laity.

(b) Clergy Members. The Clergy members of the Board must be canonically and geographically resident within the Diocese.

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

(d) 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.

(e) Vacancies. Vacancies on the Board shall be filled as follows:

(i) 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.

(ii) The Bishop shall appoint a replacement Board member with the advice and consent of the Standing Committee.

(iii) Persons appointed to fill vacancies on the Board shall meet the same eligibility requirements as apply to elected Board members.

(iv) 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.

(f) Preserving Impartiality. In any proceeding under this Canon, 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.

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

(h) 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.

(i) 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.

(j) Church Attorney. Within sixty (60) days following each annual Convention, the Bishop in consultation with the Standing Committee 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.

(k) 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 Canon. 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 Canon.

(l) Advisors. In each proceeding under this Canon, 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 Canon, and shall not include Chancellors or Vice Chancellors of this Diocese or any person likely to be called as a witness in the proceeding.

(m) 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.

Sec. 3. Costs and Expenses.

(a) 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 Diocese, subject to budgetary constraints as may be established by the Bishop and Council.

(b) 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 Diocese, subject to budgetary constraints as may be established by the Bishop and Council.

Sec. 4. Records.

(a) 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 office.

(b) Permanent Records. The Bishop shall make provision for the permanent storage of records of all proceedings under this Canon at the Diocese and the Archives of the Episcopal Church, as prescribed in Title IV of the General Canons; and be it further

RESOLVED, that Canon 29 and Canon 30 are amended by renumbering to Canon 28 and Canon 29; and be it further

RESOLVED, that the foregoing resolutions shall become effective July 1, 2011.

EXPLANATION

After more than nine years of work, study and debate, the 76th General Convention passed a resolution amending in its entirety Title IV of the Constitution and Canons of The Episcopal Church on ecclesiastical discipline.

The new Title IV adopted at General Convention has four basic elements: (a) safety for all persons involved in the process; (b) truth-telling; (c) healing; and (d) reconciliation. This Resolution brings the diocesan canons in line with the same ecclesiastical disciplinary process as adopted by General Convention.

There were two versions of model diocesan policies provided to dioceses from which they could select one. One version of the model provided for multiple dioceses to have joint ecclesiastical discipline with joint committees, and the other model provided for ecclesiastical discipline for a single diocese. The one presented here was chosen by the Standing Committee on Canons as the one which best fits the needs of The Diocese of West Tennessee. It has been presented in detail to the diocesan clergy.

Canon 29 and Canon 30 will, of necessity, need to be renumbered because Canon 28 has been absorbed into the new Canon 27.