

PROPOSED REVISIONS TO
TITLE IV
OF THE CANONS OF THE EPISCOPAL CHURCH

**FITNESS FOR MINISTRY,
ACCOUNTABILITY AND
ECCLESIASTICAL DISCIPLINE**

DISCUSSION DRAFT

JANUARY 6, 2005

TASK FORCE ON DISCIPLINARY POLICY AND PROCEDURE

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Introduction and Request for Comments

In 2000, the 73rd General Convention of the Episcopal Church created a Task Force on Disciplinary Policy and Procedure (also known as the Task Force on Title IV Revisions) to assess the present models of Church discipline, to study other models for addressing misconduct (especially those used by physicians, professors, lawyers and other professionals), to make an interim report to the 74th General Convention in 2003, and to make a final report and recommendations to the 75th General Convention in 2006.

During the triennium following the 73rd Convention, the Task Force focused on the theological underpinnings of accountability in the Church and studied various professional disciplinary systems. Our study of other systems and reflection on our understanding of Scripture and the teachings of the Church suggested that we offer a model grounded in and intended to promote reconciliation, healing, repentance, forgiveness, restitution, justice, and amendment of life. This is a significantly different approach to accountability, discipline and response to conditions of disability than is currently provided in Title IV, the Church's disciplinary canons. To more fully understand the reasoning of this approach, readers are invited to review the Blue Book Report of the Task Force for the 74th Convention (2003) (Blue Book, pages 355-68) and other materials in the Task Force's area on the General Convention web site, which may be accessed at www.episcopalchurch.org/gc/ccab.

The Task Force reported to the 74th Convention its conclusion that the Church's present disciplinary canons are in need not of adjustment, but of complete rewriting. The Task Force has thus far devoted its work in the triennium following the 74th Convention to redrafting Title IV in its entirety. The discussion draft which follows is the result of that work.

As the title indicates, this is a draft for discussion. It is not a final draft, and the Task Force anticipates further revision to it in the months leading up to the 75th Convention next year. To guide us in those further revisions, the Task Force sincerely and respectfully seeks your input, criticisms, suggestions, questions and other reflections on this draft. We ask that you submit your input in writing to the Task Force at the following address:

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Thank you for your very valuable assistance in this important work!

The Rt. Rev. Catherine Waynick, Chair
Task Force on Disciplinary Policy and Procedure
January 6, 2005

TITLE IV
FITNESS FOR MINISTRY,
ACCOUNTABILITY AND ECCLESIASTICAL DISCIPLINE

1 **CANON 1: Of Fitness for Ministry, Accountability and Ecclesiastical Discipline**
2

3 All persons serving in this Church shall abide by these Canons in their personal conduct and
4 in acts performed for or within the Church. The Church and each Diocese shall support
5 these persons in doing so, and shall hold each of these persons accountable as provided in
6 this Title. Unsuitability or lack of capacity to reasonably fulfill or continue to fulfill the
7 needs of particular Ministries or to conform personal conduct to Standards of Conduct
8 provided in this Title shall be grounds for proceedings under this Title.
9

10
11 **CANON 2: Of Terminology Used in this Title**
12

13 Except as otherwise expressly provided or unless the context otherwise requires, as used in
14 this Title the following terms and phrases shall have the following meanings:
15

16 **Advisor** shall mean a person designated to support, assist, consult with and advise
17 a Complainant or Respondent in any matter of Discipline under this Title as provided in
18 Canon IV.16.8.
19

20 **Bishop** shall mean the Bishop of the Diocese or, if there be none, the Standing
21 Committee or such other ecclesiastical authority established by the Constitution and Canons
22 of the Diocese.
23

24 **Church Attorney** shall mean an attorney selected pursuant to diocesan canons to
25 represent the Church in proceedings as provided in this Title.
26

27 **Community** shall mean **(a)** with regard to a Minister in Leadership, that part of the
28 Church in which such Minister in Leadership performs his or her Ministry, such as a
29 Diocese, Parish, Mission, school, seminary, hospital, camp or any similar institution, or **(b)**
30 with regard to a Minister other than a Minister in Leadership, the Parish or Mission where
31 the Minister participates in worship or other Ministry.
32

33 **Complainant** shall mean **(a)** the person or persons from whom the Intake Officer
34 receives information concerning an Offense or Impairment and **(b)** any Injured Person
35 designated by the Bishop who, in the Bishop's discretion, should be afforded the status of

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36 a Complainant, provided, however, that any Injured Person so designated may decline such
37 designation.

38

39 **Conciliator** shall mean a person appointed to seek the resolution of a matter under
40 Canon IV .9.

41

42 **Conference Panel** shall mean a panel of three (3) members of the Discipline and
43 Fitness for Ministry Board selected by the president of the board, to serve as the body before
44 which an informal conference is held as provided in Canon 11 of this Title, provided,
45 however, that no such member may serve as a member of the Reference Panel or the Hearing
46 Panel in the same case.

47

48 **Covenant** shall mean **(a)** in the case of conciliation, a resolution of the matter which
49 is negotiated and agreed between the Complainant and the Respondent or **(b)** in the case of
50 an Conference Panel proceeding, a resolution which is negotiated and agreed between the
51 Conference Panel, the Church Attorney and the Respondent. All Covenants shall meet the
52 requirements of Canon IV.13.

53

54 **Discipline and Fitness for Ministry Board** shall mean the body provided for in
55 Canon IV.5.1.

56

57 **Hearing Panel** shall mean a panel of three (3) members of the Discipline and Fitness
58 for Ministry Board selected by the president of the Board, to serve as the body before which
59 a hearing is held as provided in Canon 12 of this Title, provided, however, that no such
60 member may serve as a member of the Reference Panel or the Conference Panel in the same
61 case.

62

63 **Impairment** shall mean **(a)** any physical, emotional, spiritual, or mental condition
64 of such nature as to render a Minister in Leadership incapable of managing himself or herself
65 with the integrity and competency requisite for the particular Ministry in which such
66 Minister in Leadership is engaged or **(b)** any habitual use of or clinical addiction to alcohol,
67 drugs or any other substance or activity which impairs or tends to impair the ability of a
68 Minister in Leadership competently to perform the particular Ministry in which such
69 Minister in Leadership is engaged.

70

71 **Injured Person** shall mean a person, group or Community who has been, is, or may
72 be affected by an Offense or Impairment.

73

74 **Intake Officer** shall mean a person designated by the Bishop, with the concurrence
75 of the Discipline and Fitness for Ministry Board, to whom information regarding Offenses
76 or Impairments is reported.

77

78 **Investigator** shall mean a person having **(a)** sufficient knowledge, skill, experience,

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79 training and, where required by law, licensure, to conduct investigations under this Title and
80 **(b)** familiarity with the provisions and objectives of this Title. Investigators shall be
81 appointed by the Bishop in consultation with the president of the Discipline and Fitness for
82 Ministry Board.

83

84 **Member of the Clergy** shall mean **(a)** bishops, priests and deacons of this Church
85 or **(b)** all other ordained persons serving this Church.

86

87 **Minister** shall mean, consistent with the Catechism in the Book of Common Prayer,
88 **(a)** any lay person who is an adult member of this Church within the meaning of Canon I.17
89 and **(b)** any Member of the Clergy.

90

91 **Minister in Leadership** shall mean **(a)** any Member of the Clergy or **(b)** any
92 nominee, postulant, or candidate in the ordination process or **(c)** any Minister other than a
93 Member of the Clergy who has accepted a Ministry in this Church or in the Community.

94

95 **Ministry** shall mean **(a)** in the case of a Member of the Clergy, the office to which
96 he or she is ordained; or **(b)** in the case of any other Minister in Leadership, any Supervisory
97 Relationship entrusted to him or her by this Church.

98

99 **Offense** shall mean any act or omission for which a Minister may be held
100 accountable under Canons 3 or 4 of this Title.

101

102 **Order** shall mean **(a)** a written decision of a Conference Panel or a Hearing Panel
103 which is issued without the Respondent's consent or **(b)** written terms of discipline agreed
104 between the Respondent and the Bishop and approved as provided in Canon IV.13.11.

105

106 **Pastoral Direction** shall mean a written direction given by a Bishop to a Minister
107 in Leadership which meets the requirements of Canon 7 of this Title.

108

109 **Pastoral Relationship** shall mean any relationship between a Minister in Leadership
110 and any person to whom the Minister in Leadership provides or has provided counseling,
111 pastoral care, spiritual direction or guidance, regular ministration of any sacrament, or from
112 whom such Minister in Leadership has received information within the Rite of
113 Reconciliation of a Penitent.

114

115 **Privileged Communication** shall mean any communication or disclosure **(a)** made
116 in confidence within the Rite of Reconciliation of a Penitent; **(b)** between a client and the
117 client's attorney; **(c)** between a Respondent and an Advisor or a Complainant and an
118 Advisor; **(d)** between a psychotherapist and a client; **(e)** made in confidence between
119 spouses; or **(f)** between and among a Conciliator and participants in a conciliation under
120 Canon 9 of this Title.

121

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122 **Reference Panel** shall mean a panel of three (3) members of the Discipline and
123 Fitness for Ministry Board selected by the president of the Board, to serve as the body which
124 performs the duties prescribed in Canons 6 and 10 of this Title, provided, however, that no
125 such member may serve as a member of the Conference Panel or the Hearing Panel in the
126 same case.

127

128 **Respondent** shall mean any Minister **(a)** who is the subject of a matter referred for
129 conciliation or to the Conference Panel or to the Hearing Panel; **(b)** whose Ministry has been
130 restricted; **(c)** who has been placed on administrative leave; **(d)** who is the subject of an
131 investigation and is asked by an Investigator to provide information or to make a statement;
132 or **(e)** who agreed with the Bishop regarding terms of discipline pursuant to Canon IV.13.11.

133

134 **Review Panel** shall mean a panel of three (3) members of the Discipline and Fitness
135 for Ministry Boards of at least two (2) Dioceses in the same Province of the Diocese from
136 which an appeal of an Order is taken, selected by the president of the Province, to serve as
137 the body which performs the duties prescribed in Canon 14 of this Title.

138

139 **Sexual Abuse** shall mean any Sexual Behavior at the request of, acquiesced to, or
140 by a person over 18 and a person under 18, in high school, or legally incompetent.

141

142 **Sexual Behavior** shall mean any physical contact, bodily movement, speech,
143 communication or other activity sexual in nature or that is intended to arouse or gratify erotic
144 interest or sexual desires.

145

146 **Sexual Exploitation** shall mean Sexual Behavior at the request of, acquiesced to, or
147 by a Minister in Leadership and a person with whom the Minister in Leadership has a
148 Pastoral Relationship.

149

150 **Sexual Harassment** shall mean unwelcome sexual advances, requests for sexual
151 favors, or other verbal or physical conduct of a sexual nature when submission to or rejection
152 of this conduct explicitly or implicitly affects an individual's employment, volunteer,
153 Ministry position, or education, unreasonably interferes with an individual's work, volunteer,
154 Ministry or educational performance, or creates an intimidating, hostile or offensive work,
155 volunteer, Ministry, or educational environment. Sexual Harassment includes behavior
156 permitted, acquiesced to, or by a Minister in Leadership.

157

158 **Sexual Misconduct** shall mean Sexual Abuse, Sexual Exploitation or Sexual
159 Harassment.

160

161 **Supervisory Relationship** shall mean a relationship between any Minister in
162 Leadership and any other person or any Community in which such Minister in Leadership
163 has responsibility for oversight, care, leadership, teaching, instruction or supervision of such
164 other person or Community.

165

166 **CANON 3: Of Accountability**

167

168 **Sec. 1** A Minister shall be subject to proceedings under this Title for:

169 (a) the commission or omission of any act which would justify the use of the
170 Disciplinary Rubrics in the Book of Common Prayer.

171 (b) knowingly violating or attempting to violate, directly or through the acts of
172 another person, the Constitution or Canons of this Church or of any Diocese;

173 (c) failing without good cause to cooperate with any investigation or proceeding
174 conducted under authority of this Title;

175 (d) intentionally and maliciously bringing a false accusation, or knowingly providing
176 false testimony or false evidence in any investigation or proceeding under this Title.

177

178 **Sec. 2** A Minister in Leadership shall be accountable for any breach of the Standards
179 of Conduct set forth in Canon 4 of this Title.

180

181

182 **CANON 4: Of Standards of Conduct**

183

184 **Sec. 1** In exercising the Ministry to which a Minister in Leadership is ordained,
185 called to serve, elected or appointed, a Minister in Leadership shall:

186 (a) Act within the limits of the Minister in Leadership's competence, and strive to
187 expand her/his competency as appropriate to the needs of the Ministry;

188 (b) Respect and preserve the confidences of others;

189 (c) Perform the duties of the Ministry with diligence and integrity;

190 (d) Avoid conflicts of interest;

191 (e) Speak truthfully;

192 (f) Uphold the dignity of other persons, respecting also their needs of privacy and
193 safety.

194 (g) Obey the Bishop and other Ministers in Leadership in authority over the Minister
195 in Leadership;

196 (h) Support others in their Ministries, communicating with candor and respect while
197 honoring confidences;

198 (i) Advise and counsel with other Ministers in Leadership when requested to do so.

199 (j) Respect and keep safe the property and funds of the Church and Community;

200 (k) Report to the Intake Officer all matters which may constitute an Offense or
201 Impairment, including one's own Offenses and Impairments, except for matters disclosed
202 within the Rite of Reconciliation of a Penitent;

203 (l) Exercise his/her Ministry in accordance with applicable provisions of the
204 Constitution and Canons of this Church and of the Diocese, ecclesiastical licensure or
205 commission, and Community rule or bylaws;

206 (m) Assist other Ministers in Leadership to exercise only those acts of Ministry for
207 which they are duly qualified.

- 208 **(n)** Refrain from conduct which prejudices or brings scandal upon the Church or
209 Community;
210 **(o)** Maintain fitness for ministry and seek assistance in addressing one’s own
211 Impairment, reporting that Impairment to the Intake Officer.
212 **(p)** Refrain from exerting undue influence on or taking unfair advantage of any
213 person;
214 **(q)** Refrain from any act of Sexual Misconduct; and
215 **(r)** In the case of Members of the Clergy, refrain from:
216 **(1)** holding and teaching publicly or privately, and advisedly, any doctrine
217 contrary to that held by this Church;
218 **(2)** engaging in any secular employment, calling or business without the
219 consent of the Bishop of the Diocese in which the Member of the Clergy is
220 canonically resident;
221 **(3)** being absent from the Diocese in which the Member of the Clergy is
222 canonically resident for more than two years without the consent of the Bishop;
223 **(4)** substantially and materially abandoning the work of the Ministry of this
224 Church and the exercise of the office to which the Member of the Clergy was
225 ordained, without having given reasons satisfactory to the Bishop of the Diocese in
226 which the Member of the Clergy is canonically resident; and
227 **(5)** abandoning the Communion of this Church such as by open renunciation
228 of the doctrine, discipline or worship of this Church, by a formal admission into any
229 religious body not in communion with this Church, or in any other way, or, in the
230 case of a Bishop, by exercising episcopal acts in and for a religious body other than
231 this Church or another church in communion with this Church, so as to extend to
232 such body Holy Orders as this Church holds them, or to administer on behalf of such
233 religious body Confirmation without the express consent and commission of the
234 proper authority in this Church.
235

236 **Sec. 2.** A Minister in Leadership, whether exercising his/her Ministry or not, shall refrain
237 from:

- 238 **(a)** any criminal action, whether committed personally, assisting another or acting
239 through another; and
240 **(b)** conduct involving dishonesty, fraud, deceit or misrepresentation.
241
242

243 **CANON 5: Of Discipline and Fitness for Ministry Structures**
244

245 **Sec. 1** Each Diocese shall, by Canon, create a court to be known as the Discipline and
246 Fitness for Ministry Board as described in this Canon. Each such Board shall consist of not
247 less than nine (9) persons to be selected as determined by Diocesan Canon. The membership
248 of each Board shall include lay persons and priests or deacons, and the majority of the Board
249 members shall be priests or deacons, but by no more than one (1). Within two months
250 following each Diocesan Convention, the Board shall convene to elect a president for the

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251 following year.

252

253 **Sec. 2** The provisions of Canon 17 of this Title shall apply to all Discipline and Fitness for
254 Ministry Boards.

255

256 **Sec. 3** The following rules shall govern the operations of all Discipline and Fitness for
257 Ministry Boards:

258 (a) In the event of any Board member's death, resignation or declination to serve,
259 or disability rendering the member unable to act, the president shall declare a vacancy on the
260 Board.

261 (b) Notices or resignation or declination to serve shall be communicated in writing
262 to the president.

263 (c) If any Priest elected to the Board is elected a bishop, or any lay member is
264 ordained prior to the commencement of a proceeding under this Title, that person shall
265 immediately cease to be a member of the Board. If a proceeding has been commenced, that
266 person shall continue to serve on the Board for all proceedings in that matter through final
267 disposition.

268 (d) Each Diocese shall provide by Canon for the filling of vacancies on the Board.

269 (e) Proceedings of the panels of the Discipline and Fitness for Ministry Board shall
270 be conducted within the rules provided in the Title. The Board may adopt supplementary
271 rules consistent with the provisions of this Title.

272 (f) The rules of evidence for disciplinary and disability proceedings are as provided
273 in Canon 12.8 in this Title.

274 (g) Each Discipline and Fitness for Ministry Board shall appoint a clerk who may
275 be a member of the Board, who shall be custodian of all records and files of the Discipline
276 and Fitness for Ministry Board and who shall provide administrative services as needed for
277 the functioning of the Board.

278 (h) The Discipline and Fitness for Ministry Board shall keep a record of all
279 proceedings before its Hearing Panels. The record of each proceeding shall be certified by
280 the president of the panel. If the record cannot be certified by the president by reason of the
281 president's death, disability or absence, the record shall be certified by another member of
282 the panel selected by a majority of the remaining members of the panel.

283 (i) Any Diocese may agree with one or more other dioceses to develop and share
284 resources necessary to implement this Title, including members of Discipline and Fitness
285 for Ministry Boards, and administrative and financial support for proceedings under this
286 Title.

287 (j) Church Attorneys, Intake Officers, Advisors, Investigators and Conciliators need
288 not reside in or be members of the Diocese proceeding under this Title. Members of
289 Discipline and Fitness for Ministry Boards shall be members of the Diocese in which they
290 serve unless such diocese has entered into an agreement for the sharing of resources as
291 provided in subsection (i) of this Section.

292

293 **Sec. 4** In each Province there shall be a court to be known as the Review Board, with

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294 jurisdiction to receive and determine appeals from Hearing Panels of dioceses within the
295 Province and to determine venue issues as provided in Canon IV.17.5.

296 **(a)** The Review Board shall consist of three (3) bishops of the Province, six (6)
297 priests and deacons (but not more than two (2) deacons) canonically resident in a diocese
298 within the Province, and six (6) lay persons who are adult communicants in good standing
299 of this Church and who are domiciled in dioceses within the Province.

300 **(b)** The president of the Province shall, in the event of an appeal, appoint a Review
301 Board from members of Discipline and Fitness for Ministry Boards and Bishops from
302 dioceses other than the diocese from which the matter originated. The Review Board shall
303 select a president from among its members.

304 **(c)** The persons elected to the Review Board shall continue to serve until their
305 respective successor has been elected, except in case of death, resignation or declination to
306 serve.

307 **(d)** For each appeal, the President of the Review Board shall appoint a Review Panel
308 consisting of one bishop, two (2) Priests and two (2) lay members.

309 **(e)** No person shall sit on a Review Panel who has been excused pursuant to the
310 provisions of Title IV.5.3.c; or who for any reason upon objection made by either party to
311 the appeal is deemed by the other members of the panel to be disqualified.

312 **(f)** In the event of any Review Board member's death, resignation or declination to
313 serve, or disability rendering the member unable to act, the president of the Review Board
314 shall declare a vacancy on the Review Board. Notices of resignation or declination to serve
315 shall be communicated in writing to the president of the Review Board.

316 **(g)** Vacancies of bishops on the Review Board shall be filled by appointment by the
317 president of the Provincial Synod, who shall appoint the active bishop within the Province
318 next senior by consecration. If the bishop so appointed is unwilling or unable to serve, the
319 president of the Provincial Synod shall appoint the active bishop within the Province next
320 senior by consecration. Vacancies of Priests and lay members shall be filled by appointment
321 by the president of the Review Board of other persons similarly domiciled or canonically
322 resident, and from the same order.

323 **(h)** Each Review Board shall appoint a clerk who may be a member of the board,
324 who shall be custodian of all records and files of the Review Board and who shall provide
325 administrative services as needed for the functioning of the Review Board.

326 **(i)** The rules of procedure for appeals to the Review Board are as provided in Canon
327 14 of this Title; however the Review Board may adopt, alter or rescind supplemental rules
328 of procedure not inconsistent with the Constitution and Canons of this Church.

329 **(j)** The necessary charges and expenses of the Review Board operations and of
330 members and the clerk, except the costs of printing records or briefs, shall be a charge upon
331 the Province and shall be paid by the treasurer of the Province upon approval by the
332 president of the Review Board. Legal fees and expenses of the Church Attorney shall be a
333 charge upon the diocese from which the proceedings originated.

334 **(k)** The Review Board may obtain legal counsel to give the Review Board opinions
335 on any questions of law, procedure or evidence. Such legal counsel shall have no vote in any
336 proceeding before the Review Board.

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CANON 6: Of Intake and Referral of Complaints

Sec. 1 Each Diocese shall provide for and publicize methods and means of reporting information concerning Offenses and Impairments.

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

Sec. 3 Any Minister in Leadership other than the Intake Officer who receives information regarding an Offense or Impairment shall promptly forward the information to the Intake Officer.

Sec. 4 Upon receipt of such information, the Intake Officer shall reduce the information to a written intake report, including as much specificity as possible. The Intake Officer shall provide copies of the intake report to the president of the Discipline and Fitness Board and the Bishop. The president shall promptly appoint from the Discipline and Fitness Board a Reference Panel, a Conference Panel and a Hearing Panel, and shall designate a president of each Panel. Each Panel shall consist of not less than three (3) persons and shall include both clergy and lay members. The president may appoint herself/himself to one of the Panels and may designate herself/himself as its president.

Sec. 5 If the Intake Officer determines that the information, if true, would not constitute an Offense or Impairment, the Intake Officer shall dismiss the matter. The Complainant may appeal, in writing, the decision of dismissal to the president of the Reference Panel. The Intake Officer shall provide written notice to the Complainant, the president of the Discipline and Fitness Board and the Bishop of the decision of dismissal, the reason therefor, and the Complainant’s right to appeal the decision within thirty (30) days of the date of the notice.

Sec. 6 In the event of an appeal of a dismissal, the president of the Reference Panel shall, within thirty (30) 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, the Intake Officer, and the Bishop of the decision. If the decision is to overrule the dismissal, the president shall refer the intake report to the Reference Panel.

Sec. 7 If the Intake Officer determines that the information, if true, would constitute an Offense or Impairment, the Intake Officer shall promptly forward the report to the Reference Panel appointed in the matter.

Sec. 8 The Reference Panel shall meet as soon as possible after receiving the intake report or appeal of any dismissal, and shall confer with the Intake Officer and the Bishop to determine how to refer the report. Referral alternatives include **(a)** no action required other than appropriate pastoral response, **(b)** conciliation; **(c)** investigation or **(d)** referral for

380 possible agreement with the Bishop regarding terms of discipline pursuant to Canon
381 IV.13.11. Referral decisions shall require the approval of a majority of the Reference Panel.
382 The Intake Officer and the Bishop shall have voice but no vote at the meeting of the
383 Reference Panel.

384

385 **Sec. 9** If the determination of the Reference Panel is to take no action other than an
386 appropriate pastoral response, the Panel shall notify the Complainant and the person about
387 whom the complaint is directed of the determination and the basis for the determination to
388 take no action other than an appropriate pastoral response. If the referral is to conciliation,
389 the provisions of Canon 9 of this Title shall apply. If the referral is to investigation, the
390 provisions of Canon 10 of this Title shall apply.

391

392 **Sec. 10** Whenever a Bishop receives a report, as provided in the Rubrics, that a Member of
393 the Clergy has repelled a member of this Church from the Holy Communion or has informed
394 a member of this Church of an intention to refuse or repel him or her from the Holy
395 Communion, the Bishop shall promptly notify the Intake Officer of such occurrence and the
396 matter shall then proceed as a case of discipline in accordance with this Title. In such case,
397 the Member of the Clergy shall be designated as the Complainant and the member of the
398 Church as the Respondent; provided, however, that the Bishop shall have discretion to
399 restore the lay person to the Holy Communion of the Bishop's own accord at any time prior
400 to the referral of the matter as provided in Canon 11.8 of this Title, in which event the
401 proceedings under this Title shall be terminated.

402

403 **Sec. 11** All communications and deliberations during the intake and referral stages shall be
404 confidential except as the Bishop deems to be pastorally appropriate or as required by law.

405

406

407 **CANON 7: Of Pastoral Direction, Restricted Ministry and Administrative Leave**

408

409 **Sec. 1** At any time the Bishop may issue a Pastoral Direction to a Minister in Leadership
410 who is, in the case of a Member of the Clergy, canonically resident, actually resident, or
411 licensed in the Diocese, or in the case of any other Minister in Leadership, a member of the
412 Diocese.

413

414 **Sec. 2** A Pastoral Direction must **(a)** be made in writing; **(b)** set forth clearly the reasons for
415 the Pastoral Direction; **(c)** set forth clearly what is required of the Minister in Leadership;
416 **(d)** be issued in the Bishop's capacity as the pastor, teacher and overseer of the Minister in
417 Leadership; **(e)** be neither capricious nor arbitrary in nature nor in any way contrary to the
418 Constitution and Canons of the Church, both national and diocesan; and **(f)** be directed to
419 some matter which concerns the doctrine, discipline or worship of this Church or the manner
420 of life and behavior of the Minister in Leadership concerned; and **(g)** be promptly served
421 upon the subject Minister in Leadership. A copy of the Pastoral Direction shall be promptly
422 provided to the Church Attorney.

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423 **Sec. 3** If at any time the Bishop determines that a Minister in Leadership may have
424 committed any Offense or may have an Impairment, or that the good order, welfare or safety
425 of the Church or any Community may be threatened, the Bishop may, without prior notice
426 or hearing, **(a)** place restrictions upon the exercise of the Ministry of such Minister in
427 Leadership or **(b)** place such Minister in Leadership on administrative leave.

428

429 **Sec. 4** Any restriction on ministry imposed pursuant to Section 3(a) of this Canon must **(a)**
430 be made in writing; **(b)** set forth clearly the reasons for imposition of the restriction; **(c)** set
431 forth clearly what limitations are placed upon the exercise of the Ministry of the Minister in
432 Leadership and the duration thereof; **(d)** be neither capricious nor arbitrary in nature nor in
433 any way contrary to the Constitution and Canons of the Church, both national and diocesan;
434 **(e)** be promptly served upon the subject Minister in Leadership; and **(f)** advise the subject
435 Minister in Leadership of his/her right to be heard in the matter of the restriction as provided
436 in this Canon. A copy of such writing shall be promptly provided to the Church Attorney.

437

438 **Sec. 5** Any placement of a Minister in Leadership on administrative leave pursuant to
439 Section 3(b) of this Canon must **(a)** be made in writing; **(b)** set forth clearly the reasons for
440 placement of the Minister in Leadership on administrative leave; **(c)** set forth the duration
441 of the administrative leave; **(d)** be neither capricious nor arbitrary in nature nor in any way
442 contrary to the Constitution and Canons of the Church, both national and diocesan; **(e)** be
443 promptly served upon the subject Minister in Leadership; and **(f)** advise the subject Minister
444 in Leadership of his/her right to be heard in the matter of the administrative leave as
445 provided in this Canon. A copy of such writing shall be promptly provided to the Church
446 Attorney.

447

448 **Sec. 6** The duration of restriction on ministry or administrative leave may be for a stated
449 period or to continue until the occurrence of a specified event or the satisfaction of a
450 specified condition.

451

452 **Sec. 7** Pastoral Directions, restrictions on ministry, and administrative leaves may be issued
453 and imposed in any order and may be issued and imposed concurrently.

454

455 **Sec. 8** Any Pastoral Direction, restriction on ministry, or administrative leave under this
456 Canon shall be effective and binding upon delivery of the writing setting it forth to the
457 subject Member of the Clergy or Minister in Leadership or by communication to the subject
458 Member of the Clergy or Minister in Leadership of the contents of such writing. If delivery
459 of such writing is refused, the Pastoral Direction, restrictions on ministry, or administrative
460 leave, as the case may be, shall be binding upon such refusal.

461

462 **Sec. 9** If imposition of restriction on ministry or placement on administrative leave occurs
463 prior to the receipt of information by the Intake Officer, as provided in Canon 5 of this Title,
464 then the Bishop may forward a copy of the writing setting forth the restriction or
465 administrative leave to the Intake Officer, who shall receive such information as a report of

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466 an Offense or Impairment and proceed as provided in Canon 5 of this Title.

467

468 **Sec. 10** The Bishop may disclose such information concerning any Pastoral Direction,
469 restriction on ministry, or administrative leave as the Bishop deems pastorally appropriate
470 or as necessary to seek or obtain diocesan authority for resolution of the matter or any part
471 thereof.

472

473 **Sec. 11** Every imposition of restriction on ministry and placement on administrative leave
474 shall be subject to review upon the request of the subject Minister in Leadership at any time
475 in the duration thereof. A request for review must be in writing and addressed to the
476 president of the Discipline and Fitness for Ministry Board and the Church Attorney. A
477 Minister in Leadership who requests review shall become a Respondent under this Title.
478 Reviews shall be conducted within fourteen (14) days of the delivery of the request for
479 review to the president of the Discipline and Fitness for Ministry Board, unless extended
480 by consent of the Respondent.

481

482 **Sec. 12** If restriction on ministry or administrative leave is imposed prior to referral to the
483 Conference Panel, then the review shall be conducted by the Reference Panel. If restriction
484 on ministry or administrative leave is imposed subsequent to referral to the Conference Panel
485 but prior to referral to the Hearing Panel, the review shall be conducted by the Conference
486 Panel. If restriction on ministry or administrative leave is imposed subsequent to referral to
487 the Hearing Panel, the review shall be conducted by the Hearing Panel. The question before
488 a panel reviewing a restriction on ministry or administrative leave is whether, at the time of
489 the review and based upon information then available to the panel, the restrictions on
490 ministry or administrative leave and the terms and conditions thereof are warranted. The
491 review may be conducted either personally or telephonically. The Intake Officer, the
492 Respondent and/or the Respondent's Advisor, the Bishop, the Chancellor and the Church
493 Attorney shall each be afforded the opportunity to be present, either personally or
494 telephonically, at the review, and any such person present shall be heard by the panel if such
495 person desires to be heard. The panel may hear from other persons at the panel's discretion.

496

497 **Sec. 13** After conducting the review and hearing from such persons designated in Section 11
498 of this Canon as desire to be heard, the panel shall confer privately and make a determination
499 to **(a)** dissolve the restriction on ministry or administrative leave; **(b)** affirm the restriction
500 on ministry or administrative leave and the terms and conditions thereof; or **(c)** affirm the
501 restriction on ministry or administrative leave but with modification of the terms and
502 conditions thereof. The panel's determination shall be in writing and shall be delivered to
503 the Respondent, the Church Attorney, the Bishop and the Intake Officer, and shall be binding
504 in the same manner as provided in Section 8 of this Canon. In the event of the dissolution
505 of the restriction on ministry or administrative leave, the panel may give notice thereof to
506 such persons and Communities having notice of the restriction on ministry or administrative
507 leave as the panel deems appropriate.

508

509 **Sec. 14** Any Covenant or Order resulting from Canons 11 or 12 of this Title shall, unless
510 otherwise specified, supersede any restriction on ministry or administrative leave then in
511 effect.

512

513

514 **CANON 8: Of Pastoral Response**

515

516 **Sec. 1** The Bishop shall provide for appropriate pastoral response whenever any report is
517 made to the Intake Officer. Such pastoral response shall embody respect, care, and concern
518 for affected persons and Communities. The response shall be designed so as to promote
519 healing, repentance, forgiveness, restitution, justice, amendment of life and the possibility
520 of reconciliation among all involved or affected.

521

522 **Sec. 2** In each pastoral response the Bishop shall consider offering pastoral care to all those
523 affected by the Offense or Impairment or allegations thereof. Pastoral care shall be
524 considered for the Complainant, the Complainant's family, the Respondent, the
525 Respondent's family, Injured Persons, Injured Persons' families, any Community, Ministers
526 in Leadership, witnesses, and the Discipline and Fitness for Ministry Board.

527

528 **Sec. 3** The exact nature of the pastoral care offered shall be determined for each case and
529 may include counseling, referral for spiritual direction and referral for consultation.

530

531 **Sec. 4** In every case, the Bishop may disclose such information concerning the Offense or
532 Impairment or allegations thereof as the Bishop deems pastorally appropriate.

533

534 **Sec. 5** The Bishop shall give consideration to the respective privacy interests and pastoral
535 needs of all affected persons.

536

537 **Sec. 6** The Bishop shall designate a person to be responsible for the implementation of the
538 pastoral response. Such person may be the Intake Officer. Such duties may include
539 coordination of pastoral care and coordination of communications between the Bishop and
540 Advisors.

541

542

543 **CANON 9: Of Conciliation**

544

545 **Sec. 1** Conciliation shall seek a resolution which promotes healing, repentance, forgiveness,
546 restitution, justice, amendment of life and the possibility of reconciliation among the
547 Complainant, Respondent, affected Community and other persons.

548

549 **Sec. 2** Where a matter is referred for conciliation, the Bishop shall appoint a Conciliator
550 to assist the Complainant, Respondent and other affected persons in reconciling. If the
551 conciliation is successful, a Covenant will be prepared as provided in Canon 13 of this Title.

552 If conciliation cannot be achieved within a reasonable time, the Conciliator will report such
553 to the Bishop, and the matter will be referred back to the Reference Panel.

554

555 **Sec. 3** A Conciliator shall be a person trained in dispute resolution techniques and without
556 conflict of interest in the matter. All communications between the Complainant and the
557 Conciliator, the Respondent and the Conciliator, and other participants in the conciliation
558 and the Conciliator shall be held in confidence except as the Conciliator may have the
559 permission of the respective person to disclose the information to the other participants in
560 the conciliation in order to promote efforts towards conciliation.

561

562

563 **CANON 10: Of Investigations**

564

565 **Sec. 1** In each Diocese there shall be one or more Investigators.

566

567 **Sec. 2** Upon referral of an intake report, the Investigator shall investigate all facts pertinent
568 to the factual claims of the intake report. The Investigator shall use appropriate investigative
569 means, with due consideration to pastoral sensitivities, and shall complete the investigation
570 as expeditiously as possible.

571

572 **Sec. 3** The Investigator shall present the findings of the investigation in writing to the
573 Reference Panel and to the Bishop. The Reference Panel shall then meet with the
574 Investigator, the Intake Officer and the Bishop, to consider the report and to determine
575 whether to **(a)** take no action other than an appropriate pastoral responses; **(b)** refer the
576 matter to the Bishop for consideration of proceedings under Canon 7 of this Title; **(c)** refer
577 the matter to conciliation; **(d)** require further investigation; or **(e)** refer the matter to the
578 Conference Panel. The determination shall be approved by a majority vote of the Reference
579 Panel.

580

581 **Sec. 4** If the determination is to refer for further investigation, the Investigator shall make
582 such further investigation as the Reference Panel may direct and shall submit a supplemental
583 report of findings to the Reference Panel and the Bishop. The Reference Panel, the Intake
584 Officer and the Bishop shall then reconvene and proceed as provided in Section 3 of this
585 Canon.

586

587 **Sec. 5** All investigations shall be confidential, and all persons contacted by the Investigator
588 shall be advised of the confidential nature of the investigation.

589

590

591 **CANON 11: Of Conference Panels**

592

593 **Sec. 1** Upon referral of a matter to a Conference Panel, the president of the Reference Panel
594 shall notify the president of the Discipline and Fitness for Ministry Board of the referral and

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595 shall forward to the Conference Panel the intake report, all of the Investigator's reports, and
596 any other writings or other file materials created or collected during the intake, investigative
597 or referral process.

598

599 **Sec. 2** The Conference Panel shall review the materials provided to determine who, in
600 addition to those listed in Section 2, should be invited to participate in the proceeding before
601 the Conference Panel in order to promote the purposes of this Title. Such may include, for
602 example, the Investigator, family members, representatives of the affected Community, or
603 other affected persons.

604

605 **Sec. 3** The Conference Panel shall issue a notice to the Respondent, the Respondent's
606 Advisor, the Church Attorney, the Complainant, the Complainant's Advisor, and any other
607 persons identified by the Conference Panel under Section 2, describing the alleged Offense
608 or Impairment with reasonable particularity and establishing a date, time and place at which
609 the Respondent is to appear before the Conference Panel.

610

611 **Sec. 4** The Respondent shall attend the conference.

612

613 **Sec. 5** The Church Attorney shall attend the conference, shall represent the Church and shall
614 be heard by the Conference Panel.

615

616 **Sec. 6** The Complainant may attend the conference but may not be required to do so. The
617 Complainant's Advisor may attend the conference regardless of whether the Complainant
618 attends. If the Complainant attends the conference, the Complainant and the Complainant's
619 Advisor shall be permitted to be heard.

620

621 **Sec. 7** The proceedings of the Conference Panel shall be informal and discussional. The
622 Conference Panel shall describe the alleged Offense or Impairment to the Respondent and
623 shall hear from the Respondent and the Respondent's Advisor. The Conference Panel shall
624 hear from the Complainant and/or the Complainant's Advisor, if either are present. At its
625 discretion, the Conference Panel may hear from the Investigator. At its discretion, the
626 Conference Panel may confer with the Respondent and the Respondent's Advisor, the
627 Church Attorney, the Complainant and the Complainant's Advisor or the Investigator
628 outside the presence of the other participants.

629

630 **Sec. 8** No witnesses shall be called to testify at the proceedings before the Conference
631 Panel. No record of the proceedings of the Conference Panel shall be made. The conference
632 shall be closed to all except the members of the Conference Panel, the Respondent, the
633 Respondent's Advisor, the Respondent's counsel, the Complainant, the Complainant's
634 Advisor, the Church Attorney, and the Investigator. Proceedings before the Conference
635 Panel shall be confidential except as may be provided in an Order or Covenant or as
636 provided elsewhere in this Title.

637

638 **Sec. 9** After the Conference Panel has heard from all in attendance at the conference, the
639 members of the Conference Panel shall first try to resolve the matter by agreement to a
640 Covenant. If a Covenant is not agreed to, the Conference Panel shall reach a determination
641 of the matter, which may include **(a)** dismissal of the matter; **(b)** referral for conciliation;
642 **(c)** referral to the Hearing Panel; or **(d)** issuance of an Order.
643

644 **Sec. 10** If the determination is to dismiss the matter, the Conference Panel shall issue an
645 Order which shall include the reasons for dismissal and which may contain findings
646 exonerating the Respondent. A copy of the Order shall be provided to the Bishop, the
647 Respondent, the Respondent's Advisor, the Complainant, the Complainant's Advisor, and
648 the Church Attorney.
649

650 **Sec. 11** If the resolution is the entry of a Covenant or the issuance of an Order other than
651 an Order of dismissal, then the provisions of Canon 13 of this Title shall apply.
652

653

654 **CANON 12: Of Hearing Panels**

655

656 **Sec. 1** If a matter is referred to the Hearing Panel, the president of the Conference Panel
657 shall promptly notify the president of the Discipline and Fitness Board of the referral, and
658 shall forward to the Hearing Panel the intake report, all reports of investigation, and any file
659 materials which may have been created or gathered during the intake, investigative or
660 referral processes.
661

662 **Sec. 2** The Respondent or the Church Attorney may refuse an Order issued by the
663 Conference Panel by giving written notice of the refusal to the president of the Conference
664 Panel within ten (10) days following issuance of the Order. Upon receipt of the notice of
665 refusal, the president of the Conference Panel shall notify the president of the Discipline and
666 Fitness Board of the refusal and shall forward to the Hearing Panel the intake report, all
667 reports of investigation, and any other file materials which may have been created or
668 gathered during the intake, investigative or referral processes, together with a copy of the
669 Order.
670

671 **Sec. 3** Upon receipt of a referral for Hearing Panel proceedings, the Hearing Panel shall
672 issue a notice to the Respondent, to the Respondent's Advisor, and to the Church Attorney.

673 **(a)** The notice shall describe the Offense or Impairment alleged with reasonable
674 particularity, communicate the date, time and place at which the Respondent is to appear
675 before the Hearing Panel for a formal disciplinary hearing; advise the Respondent that a
676 written response to the notice must be filed by the Respondent with the Hearing Panel within
677 thirty (30) days of the mailing date of the notice; and advise the Respondent that failure to
678 attend or participate in a scheduled or noticed hearing will result in a finding of default.

679 **(b)** A copy of the notice shall be sent to the Complainant and to the Complainant's
680 Advisor.

681 (c) Unless additional time is approved by the Hearing Panel, the Respondent shall
682 file with the Hearing Panel a written response signed by the Respondent or counsel for the
683 Respondent within thirty (30) days of the mailing date of the notice. The president of the
684 Hearing Panel shall forward a copy of the response to the Church Attorney.
685

686 **Sec. 4** All proceedings before the Hearing Panel shall include consideration of materials
687 forwarded to the Hearing Panel from the Reference Panel and the Conference Panel, except
688 the determination of the Conference Panel.
689

690 **Sec. 5** All proceedings before the Hearing Panel, except its private deliberations, shall be
691 public, provided, however, that the Hearing Panel may close any part of the proceedings at
692 its discretion to protect the privacy of any person. A record of the hearing shall be made by
693 such means as to enable the creation of a written transcript of the hearing.
694

695 **Sec. 6** The Church Attorney and counsel for the Respondent shall each be afforded
696 reasonable time prior to the hearing in which to reasonably prepare evidence for the hearing.
697 A preliminary conference shall be convened by the president of the Hearing Panel within
698 thirty (30) days of the notice prescribed in Section 3 of this Canon. The purpose of the
699 preliminary conference shall be to develop a discovery order and scheduling order governing
700 all discovery procedures and establishing a date for the hearing of the matter, which order
701 shall be issued by the president of the Hearing Panel.
702

703 **Sec. 7** In all proceedings of the Hearing Panel the testimony of witnesses shall be taken
704 orally and personally or by such other means as provided by order of the Hearing Panel. All
705 testimony shall be given under oath or solemn affirmation and be subject to cross-
706 examination. The proceedings shall be conducted as follows:

707 (a) The president shall regulate the course of the hearing so as to promote full
708 disclosure of relevant facts while affording all parties reasonable opportunity to present their
709 evidence.

710 (b) The president:

711 (1) may exclude evidence that is irrelevant, immaterial or unduly
712 repetitious;

713 (2) shall exclude privileged evidence;

714 (3) may receive documentary evidence in the form of a copy or
715 excerpt if the copy or excerpt contains all pertinent portions of the original
716 document;

717 (4) may take official notice of any facts that could be judicially
718 noticed, including records of other proceedings and of technical or scientific
719 facts within the Hearing Panel's specialized knowledge;

720 (5) may not exclude evidence solely because it is hearsay;

721 (6) shall afford to the parties reasonable opportunity to present
722 evidence, argue and respond to argument, conduct cross-examination and
723 submit rebuttal evidence; and

724 (7) may, at the discretion of the Hearing Panel, give persons who are
725 not parties to the proceedings opportunity to present oral or written
726 statements at the hearing.

727 (c) Nothing in this section shall preclude the exercise of discretion by the president
728 in taking measures appropriate to preserve the integrity of the hearing.

729

730

731 **CANON 13: Of Covenants and Orders**

732

733 **Sec. 1** A Covenant may (a) provide any terms which promote healing, repentance,
734 forgiveness, restitution, justice, amendment of life and the possibility of reconciliation
735 among the Complainant, Respondent, affected Community and other persons; (b) place
736 restrictions on the Respondent's exercise of Ministry, (c) place the Respondent on
737 probation; (d) recommend to the Bishop that the Respondent, if a Member of the Clergy, be
738 suspended or deposed from Ministry; (e) remove the Respondent, if a lay person, from
739 Ministry; (f) expel the Respondent from the Community; or (g) any combination of the
740 foregoing. A Covenant may be conditioned on the Bishop imposing any recommended
741 suspension, deposition or conditions for restoration to ministry for a Member of the Clergy.
742 A Covenant providing for suspension of a Member of the Clergy from Ministry shall specify
743 on what terms or conditions and at what time the suspension shall cease. A Covenant
744 providing for removal of a lay person from ministry may include conditions for
745 reinstatement. Any Covenant providing for expulsion from the Community shall also
746 provide conditions for restoration.

747

748 **Sec. 2** If a Covenant results from a Conciliation, the Covenant shall be signed by the
749 Complainant, the Respondent and the Conciliator.

750

751 **Sec. 3** If a Covenant results from proceedings before a Conference Panel or a Hearing Panel,
752 the Complainant and the Complainant's Advisor shall have first been afforded an
753 opportunity to be heard by the Panel regarding the proposed terms of the Covenant. The
754 Covenant shall be signed by the Respondent, the Church Attorney and the president of the
755 Panel.

756

757 **Sec. 4** A copy of the Covenant shall be provided to the Complainant, the Complainant's
758 Advisor, the Respondent, the Respondent's Advisor, the Church Attorney, and the Bishop.

759

760 **Sec. 5** The Bishop shall have 45 days from receipt of the Covenant to approve or
761 disapprove of a Covenant. If the Bishop does not inform the signers of the Covenant, in
762 writing, within 45 days that the Bishop disapproves the Covenant, the Covenant will be
763 deemed to have been approved and the Bishop shall carry out any conditions or
764 recommendations of the Covenant to be performed by the Bishop. No Covenant shall be
765 disapproved without the Bishop having first afforded the Complainant, the Complainant's
766 Advisor, the Respondent, the Respondent's Advisor, and the Church Attorney an opportunity

767 to be heard. If the Bishop signs the Covenant, the Bishop shall provide a copy of the signed
768 Covenant to the Conciliator or to president of the Conference Panel or Hearing Panel
769 (whichever the matter was before when the Covenant was reached) who shall provide a copy
770 to the other signatories to the Covenant and to the Complainant and the Complainant's
771 Advisor. If the Bishop disapproves the Covenant, the proceedings before the Conciliator,
772 the Hearing Panel or the Conference Panel, as the case may be, shall resume.
773

774 **Sec. 6** An Order issued by a Conference Panel or Hearing Panel may **(a)** provide any terms
775 which promote healing, repentance, forgiveness, restitution, justice, amendment of life and
776 the possibility of reconciliation among the Complainant, Respondent, affected Community
777 and other persons; **(b)** place restrictions on the Respondent's exercise of Ministry, **(c)** place
778 the Respondent on probation; **(d)** recommend to the Bishop that the Respondent, if a
779 Member of the Clergy, be suspended or deposed from Ministry; **(e)** temporarily or
780 permanently remove the Respondent, if a lay person, from any Ministry; **(f)** expel the
781 Respondent from the Community; or **(g)** any combination of the foregoing. An Order
782 providing for suspension of a Member of the Clergy from Ministry shall specify on what
783 terms or conditions and at what time the suspension shall cease. An Order providing for
784 removal of a lay person from ministry may include conditions for reinstatement. Any Order
785 providing for expulsion from the Community shall also provide conditions for restoration.
786

787 **Sec. 7** Prior to the issuance of an Order by a Conference Panel or a Hearing Panel, the
788 issuing Panel shall afford the Complainant and the Complainant's Advisor each with an
789 opportunity to be heard on the proposed terms of the Order. The Bishop shall have forty-
790 five (45) days from receipt of the Order to approve or disapprove of an Order recommending
791 suspension or deposition. If the Bishop does not inform the signers of the Order within
792 forty-five (45) days that the Bishop disapproves the Order, the Order will be deemed to have
793 been approved and the Bishop shall impose any suspension, deposition or conditions for
794 restoration to Ministry as recommended in the Order. No Order shall be disapproved
795 without the Bishop having first afforded the Complainant, the Complainant's Advisor, the
796 Respondent, the Respondent's Advisor, and the Church Attorney an opportunity to be heard.
797

798 **Sec. 8** A Covenant or Order shall include **(a)** the name of the Respondent, **(b)** a reference
799 to the Canon specifying the Offense or Impairment and **(c)** general information regarding
800 the Offense or Impairment sufficient to afford protection from proceedings which are barred
801 under Canon IV.16.12.
802

803 **Sec. 9** A Covenant or Order is effective and binding when signed by the Bishop or when
804 deemed approved by the Bishop.
805

806 **Sec. 10** If the Order is issued by a Conference Panel, the Respondent may refuse the Order
807 in the same manner as provided in Canon IV.12.2 and the matter shall be referred to a
808 Hearing Panel for hearing as provided in Canon 12 of the Title.
809

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810 **Sec. 11** At any time before an Order has become effective and binding, the Respondent or
811 any Minister in Leadership who has not yet become a Respondent but who has committed
812 an Offense or has an Impairment may propose terms of discipline to the Bishop, or the
813 Bishop may propose terms of discipline to the Respondent or such Minister in Leadership.
814 If the Respondent or such Minister in Leadership and the Bishop reach agreement regarding
815 terms of discipline, such terms shall be set forth in a proposed Order. A Minister in
816 Leadership becomes a Respondent by reaching agreement with the Bishop regarding terms
817 of discipline.

818 (a) No such proposed Order shall be implemented or shall become effective and
819 binding until it has been approved by the Discipline and Fitness for Ministry Board. The
820 process of approval or disapproval of a proposed Order shall commence with the Bishop's
821 forwarding the proposed Order to the appropriate panel of the Board, determined as follows:

822 (1) If the matter which is the subject of the proposed Order has not
823 previously been submitted to the intake process or if it is pending before the
824 Reference Panel, then the proposed Order shall be submitted to the Reference Panel.

825 (2) If the matter which is the subject of the proposed Order is pending before
826 the Conference Panel, then the proposed Order shall be submitted to the Conference
827 Panel.

828 (3) If the matter which is the subject of the proposed Order is pending before
829 the Hearing Panel or the Review Panel, then the proposed Order shall be submitted
830 to the Hearing Panel.

831 (b) The panel to which the proposed Order is submitted shall determine whether to
832 approve the proposed Order. Regardless of which panel makes the determination, the means
833 by which the determination shall be made shall be the procedure provided for Conference
834 Panels under Canon 13 of this Title. In addition to those persons whose attendance is
835 required or permitted under Canon 13, the Bishop shall attend the conference, and the
836 Respondent's Advisor and the Chancellor of the diocese may attend the conference.

837 (c) The panel shall approve the proposed Order if the panel finds that (1) the
838 Respondent is aware of the discipline to be imposed and the effect thereof; (2) the
839 Respondent has had adequate opportunity to consult and seek advice, or has in fact consulted
840 and received advice, from counsel of the Respondent's choosing; and (3) the proposed Order
841 adequately promotes healing, repentance, forgiveness, restitution, justice, amendment of life
842 and the possibility of reconciliation among the Complainant, Respondent, affected
843 Community and other persons and is otherwise an appropriate resolution of the matter. If
844 the panel finds that any of the foregoing considerations are not satisfied, the panel shall
845 disapprove the proposed Order but may make recommendations to the Bishop and the
846 Respondent regarding correction of any deficiencies found. Any revised proposed Order
847 reached between the Bishop and the Respondent shall be resubmitted to the panel for further
848 determination.

849 (d) Notwithstanding anything in this section to the contrary, if the proposed Order
850 is submitted to the Reference Panel and the matter which is the subject thereof has not been
851 investigated or, in the opinion of the Reference Panel, requires further investigation, the
852 Reference Panel may cause an investigation to be made pursuant to Canon 10 of this Title

853 before making its determination whether to approve the proposed Order.

854 (e) A proposed Order which has been approved by the panel shall be signed by the
855 Bishop, the Respondent and the president of the panel, whereupon it shall become an
856 effective and binding Order which shall be implemented as if it were issued by a Hearing
857 Panel and approved by the Bishop, provided, however, that the Respondent shall have no
858 right to appeal the Order or the imposition of any discipline thereunder.

859
860

861 **CANON 14: Of Review**

862

863 **Sec. 1** Within ten (10) days after service of an Order from a Hearing Panel, the Respondent
864 or the Church Attorney may appeal to the Review Board of that Province, by serving written
865 notice of the appeal upon the Bishop of the diocese, with copies of the notice to the
866 presidents of the Hearing Panel and the Province. The notice of appeal shall be signed by
867 the Respondent or Respondent's counsel or the Church Attorney, and shall include a copy
868 of the Order from which the appeal is taken and shall state the grounds of the appeal.

869

870 **Sec. 2** Not less than thirty (30) days after service of an Order of a Hearing Panel on the
871 Respondent, the Bishop shall, if the Order so provides, suspend, depose or remove the
872 Respondent from Ministry, unless the Respondent has filed an appeal as provided in Section
873 1 of this Canon. No suspension, deposition or removal from Ministry may be imposed while
874 an appeal of the matter is pending. However, the Bishop may, while an appeal is pending,
875 place restrictions upon the exercise of the Respondent's Ministry, or place the Respondent
876 on administrative leave, or continue any such restriction or administrative leave as was in
877 effect at the time of the issuance of the Order.

878

879 **Sec. 3** Any Order from a Hearing Panel finding that a Respondent did not commit an alleged
880 Offense involving a question of the doctrine, faith or worship of the Church may be appealed
881 by the Bishop upon the written request of at least two (2) Bishops of other jurisdictions
882 within the Province. Such an appeal shall be taken on the question of the Church's doctrine,
883 faith and worship only, and may not seek to reverse the finding of the Hearing Panel of non-
884 commission of other Offenses. An appeal under this section may be taken by service of a
885 notice of appeal by the Bishop upon the Respondent, the Church Attorney and the presidents
886 of the Hearing Panel and the Province within thirty (30) days after the Order of the Hearing
887 Panel is received by the Bishop.

888

889 **Sec. 4** If an appeal is taken from a Hearing Panel of a diocese which is non-provincial, the
890 appeal shall be taken before the Review Board of the Province geographically closest to that
891 diocese.

892

893 **Sec. 5** An appeal shall be heard on the record on appeal of the Hearing Panel. The record
894 on appeal may be corrected, if defective, but no new evidence shall be taken by the Review
895 Panel.

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896 **Sec. 6** The standards for and conditions of appeal to the Review Panel shall be as follows:
897 (a) Where an Order is issued against a Respondent who fails to appear before the
898 Hearing Panel or who otherwise fails to participate in proceedings before the Hearing Panel,
899 such Order shall be upheld unless a review of the record on appeal shows the Hearing Panel
900 made a clear error in issuing such Order. The Review Panel shall review the facts and record
901 in the light most favorable to the Respondent.

902 (b) In all other appeals, the Review Panel shall grant relief to the appealing party
903 only if, on the basis of the record on appeal, it determines that the party seeking review has
904 been substantially prejudiced by any of the following:

905 (1) The action taken below violates the Constitution and Canons of the
906 Episcopal Church or the Diocese;

907 (2) The Hearing Panel has exceeded the jurisdiction conferred by this Title;

908 (3) The Hearing Panel has not decided all of the issues requiring resolution;

909 (4) The Hearing Panel has erroneously interpreted or applied the canons;

910 (5) The Hearing Panel has engaged in procedural error or a decision-making
911 process contrary to this Title;

912 (6) Members of the Hearing Panel making the decision were subject to
913 disqualification; or

914 (7) The factual determinations of the Hearing Panel are not supported by
915 substantial evidence when viewed in the whole light of the record on appeal.
916

917 **Sec. 7** It shall be the duty of the Hearing Panel to produce the record on appeal, consisting
918 of a transcript of the proceedings before the Hearing Panel together with documentary
919 evidence received by the Hearing Panel. The record shall be printed or otherwise
920 reproduced as shall have been authorized by the president of the Review Panel. Within
921 thirty (30) days after receiving the record on appeal from the Hearing Panel, the party
922 appealing shall serve two (2) copies of the record of appeal, the notice of appeal and the
923 appealing party's brief, if any, upon the opposite party, and shall deliver five (5) copies to
924 the president of the Review Panel. Within thirty (30) days after receiving a copy of the
925 record on appeal, the party opposing the appeal shall serve the brief in opposition, if any,
926 upon the appealing party, with five (5) copies to the president of the Review Panel. Any
927 reply brief of the appealing party shall be served likewise within ten (10) days following
928 service of the brief in opposition.
929

930 **Sec. 8** In any appeal by a Respondent, the Standing Committee of the originating diocese
931 shall be considered the party opposing the appeal.
932

933 **Sec. 9** All members of the Review Panel appointed for an appeal shall be present for any
934 oral proceedings of the appeal.
935

936 **Sec. 10** The Review Panel shall keep a record of all proceedings. The Review Panel shall
937 appoint a reporter who shall provide for the recording of the proceedings, and who shall
938 serve at the pleasure of the Review Panel.

939 **Sec. 11** At the hearing of the appeal, the Review Panel shall afford the Respondent an
940 opportunity to be heard in person or by Respondent’s counsel, and shall permit the Church
941 Attorney to be heard. The Review Panel may otherwise regulate the number of counsel to
942 be heard.

943
944 **Sec. 12** No Order or determination of a Hearing Panel shall be overturned solely for
945 technical or harmless error.

946
947 **Sec. 13** If, after a notice of appeal has been filed the appealing party fails to pursue the
948 appeal as provided in this Canon, the Review Panel may dismiss the appeal.

949
950 **Sec. 14** Following a hearing of the appeal and private deliberation, the Review Panel may
951 (a) dismiss the appeal; (b) reverse or affirm in whole or in part the Order of the Hearing
952 Panel; or (c) grant a new hearing before the Hearing Panel.

953
954 **Sec. 15** The concurrence of a majority of the Review Panel shall be required to decide an
955 appeal. The Review Panel shall issue its decision in writing, signed by the members
956 concurring therein, stating its decision and the reasons for the decision. The decision shall
957 be attached to the record. If there is not a concurrence by a majority of the Review Panel,
958 the Order of the Hearing Panel shall stand as affirmed except for any part of the Order for
959 which there is concurrence.

960
961 **Sec. 16** Upon determination of the appeal, the president of the Review Panel shall give
962 notice of the determination in writing to the appealing party, the party in opposition, and to
963 the Bishop and Church Attorney. The appeal record shall be certified by the clerk of the
964 Review Panel and the president, and shall be delivered to the Bishop along with a copy of
965 the record of appeal from the Hearing Panel.

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967
968 **CANON 15: Of Disability Leave or Suspension Proceedings**

969

970 **Sec. 1 (a)** If a Priest or Deacon has been judicially declared incompetent or is involuntarily
971 committed on the grounds of incompetency, any other Priest or Deacon with knowledge of
972 such facts shall notify the Intake Officer and the Bishop. The Intake Officer shall initiate
973 an appropriate pastoral response and shall forward the information to the Discipline and
974 Fitness Board to consider whether to recommend to the Bishop a transfer of the Priest or
975 Deacon to disability status for an indefinite period until further determination of the
976 Discipline and Fitness Board. A copy of the Board’s recommendation shall be served upon
977 the Priest or Deacon’s guardian or, if no guardian or legal representative has been appointed,
978 upon the director of the institution to which the Priest or Deacon has been committed.

979 (b) If it is alleged in the course of a disciplinary proceeding that a Priest or Deacon
980 is unable to assist in a response to the complaint in the proceeding due to mental or physical
981 incapacity, the Discipline and Fitness Board shall recommend to the Bishop that the Priest

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982 or Deacon be transferred to disability status pending a determination of the incapacity. If
983 the Board thereafter determines the claim of inability to defend is valid, the disciplinary
984 proceeding shall be deferred and the Priest or Deacon retained on disability status until the
985 Bishop on recommendation from the Board subsequently considers a petition to transfer the
986 Priest or Deacon to active status. If the petition to transfer to active status should be granted,
987 the interrupted disciplinary proceedings may resume. If the Board determines the claim of
988 incapacity to defend is invalid, the disciplinary proceeding shall resume.

989 (c) Information relating to a Priest or Deacon’s physical or mental condition which
990 adversely affects the Priest or Deacon’s ability to perform ministerial functions shall be
991 investigated at the instigation of the Intake Officer or Bishop, and where warranted, shall be
992 the subject of further proceedings by the Discipline and Fitness Board to recommend to the
993 Bishop whether the Priest or Deacon shall be transferred to disability status. Proceedings
994 shall be conducted in the same manner as disciplinary proceedings, except that all of the
995 proceedings shall be confidential. The Board may take and direct whatever action it deems
996 necessary and proper to determine whether the Priest or Deacon is so incapacitated,
997 including the examination of the Priest or Deacon by qualified experts designated by the
998 Board. If, upon due consideration of the matter, the Board concludes that the Priest or
999 Deacon is incapacitated from continuing to practice the Ministry of this Church, the Board
1000 shall recommend to the Bishop the issuance of an Order transferring the Priest or Deacon
1001 to disability status for an indefinite period and until further Order of the Bishop. Any
1002 pending disciplinary proceedings against the Priest or Deacon shall be held in abeyance.

1003 (d) No Priest or Deacon transferred to disability status may resume active status
1004 except by order of the Bishop. Any Priest or Deacon transferred to disability status shall be
1005 entitled to petition the Discipline and Disciplinary Board for transfer to active status once
1006 a year, or at whatever shorter intervals the Discipline and Fitness Board may direct. Upon
1007 the filing of a petition for transfer to active status, the Discipline and Fitness Board shall
1008 conduct an investigation and proceedings to determine whether the disability has been
1009 removed, including a direction for an examination of the Priest or Deacon by qualified
1010 experts designated by the Board. In its discretion, the Board may direct that the expense of
1011 the examination be paid by the Priest or Deacon. The Priest or Deacon filing the petition for
1012 reinstatement to active status shall be required to disclose the name of each health care
1013 provider and hospital or other institution by whom or in which the Priest or Deacon has been
1014 examined or treated related to the disability since the transfer to disability status. The Priest
1015 or Deacon shall provide to the Discipline and Fitness Board a written consent to each listed
1016 provider to divulge information and records relating to the disability if requested by the
1017 Board or the Board’s appointed experts. The Board shall recommend to the Bishop approval
1018 of the petition for transfer to active status upon a showing by clear and convincing evidence
1019 that the disability has been removed. If the Priest or Deacon was transferred to disability
1020 status on the basis of a judicial determination of incompetence and is subsequently judicially
1021 declared to be competent, the Discipline and Fitness Board may dispense with further
1022 evidence that the Priest or Deacon’s disability has been removed and may immediately
1023 recommend to the Bishop that the Priest or Deacon be reinstated to active status upon terms
1024 that are deemed proper and advisable.

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CANON 16: Of Discipline and Disability 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 a Member of the Clergy who is subject to proceedings is a bishop, the following terms used in Canons 5 through 15 and Canon 17 shall have the following respective meanings:

(a) Discipline and Fitness Board shall mean the Discipline and Fitness Board for Bishops as provided in section 3 of this canon.

(b) Intake Officer shall mean a person appointed by the Presiding Bishop.

(c) Bishop 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 17.22 of this Title.

(d) Minister in Leadership, as used in Canon 7, shall mean the bishop who is subject to proceedings.

(e) Church Attorney shall mean a person appointed by the Presiding Bishop to serve as the National Church Attorney in any matter in which a Member of the Clergy who is amenable to Discipline is a bishop.

(f) Investigator shall mean any person who is qualified to serve as an Investigator under this Title, selected by the Presiding Bishop.

(g) Hearing Panel shall mean the Court for Trial of a Bishop as provided in section 4(c) and (d) of this canon.

(h) Review Board shall mean the Court of Review as provided in section 5 of this canon.

Sec. 3 The Discipline and Fitness Board for Bishops is hereby established as a court of this Church to have original jurisdiction over matters of Discipline of bishops, to hear appeals from summary suspensions of bishops and to determine venue issues as provided in Canon IV.17.5. The Discipline and Fitness Board for Bishops shall consist of eighteen (18) bishops elected by the House of Bishops at General Convention, six (6) priests or deacons and six (6) lay persons, each elected by the House of Deputies at General Convention. Of members who are priests or deacons, the majority shall be priests. All lay persons elected to serve shall be confirmed adult communicants in good standing. Members of the Board shall be elected to serve staggered terms, with full terms of six (6) years.

Sec. 4 Within two months following each General Convention, the Board shall convene to elect a President for the following triennium. If there is no President, the bishop who is senior by consecration shall perform the duties of the President.

Sec. 5 The Reference Panel shall consist of three (3) bishops, one (1) priest or deacon and

1068 one (1) lay person. The Conference Panel shall consist of five (5) bishops, two (2) priests
1069 and/or deacons and two (2) lay persons. The Hearing Panel for Offenses other than doctrine
1070 shall consist of five (5) bishops, two (2) priests and/or deacons and two (2) lay persons. The
1071 Hearing Panel for alleged Offenses pertaining to the doctrine of this Church shall consist of
1072 nine (9) bishops.

1073

1074 **Sec. 6** The Court of Review is hereby established as a court of this Church to have
1075 jurisdiction to hear appeals from Trial Court Panels of the Court of Trial of a Bishop.

1076 (a) The Court of Review shall consist of nine (9) members, all of whom shall be
1077 bishops. Three (3) bishops shall be elected by the House of Bishops at each regular meeting
1078 of the General Convention, to serve until the adjournment of the third (3rd) succeeding
1079 regular meeting of General Convention. All members shall serve until their successors are
1080 elected and qualify, however, there shall be no change in the composition of the Court
1081 following the hearing and while a proceeding is pending unresolved before the Court.

1082 (b) The bishops elected to the Court of Review shall continue to serve until their
1083 respective successor has been elected, except in the case of death, resignation or declination
1084 to serve.

1085 (c) From among their number, the members shall elect a president.

1086 (d) Not less than five (5) members shall constitute a quorum of the Court of Review.
1087 The concurrence of six (6) members shall be required to pronounce a decide an appeal, but
1088 any lesser number may adjourn the Court from time to time.

1089 (e) The reasonable and necessary expenses of the Court of Review, including fees,
1090 costs, disbursements and expenses of the members, clerks, reporters, and Church Attorneys
1091 shall be charged upon the General Convention and paid by the Treasurer of the General
1092 Convention upon Order of the president of the Court of Review. The Court of Review shall
1093 have the authority to contract for and bind the General Convention to payment of these
1094 expenses.

1095

1096

1097 **CANON 17: Of General Provisions**

1098

1099 **Sec. 1** Discipline and disability proceedings under this Title are neither civil nor criminal
1100 but ecclesiastical in nature. These proceedings represent the responsibility of this Church
1101 to determine who shall serve as Ministers in Leadership of this Church, reflecting the polity
1102 and order of this hierarchical church. Ministers in Leadership have voluntarily sought and
1103 accepted positions in this Church and have given their express consent to subject themselves
1104 to the Discipline of this Church. They may not claim in proceedings under this Title
1105 constitutional guarantees otherwise associated with secular court proceedings.

1106

1107 **Sec. 2** No member of this Church, whether lay or ordained, may seek to have the
1108 Constitution and Canons of this Church interpreted by a secular court, or resort to a secular
1109 court to address a dispute arising under the Constitution and Canons, or for any purpose of
1110 delay, hindrance, review or otherwise affecting any proceeding under this Title.

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1111 **Sec. 3** No secular court shall have authority to review, annul, reverse, restrain or otherwise
1112 delay any proceeding under this Title. No action shall be brought in any secular court to
1113 enforce the terms or provisions of any Covenant or Order unless otherwise expressly
1114 provided therein.

1115
1116 **Sec. 4** There shall be no period of limitation beyond which a Minister in Leadership may
1117 no longer be subject to proceedings under this Title. However, a Respondent may assert
1118 unreasonable or undue delay as a defense to proceedings under this Title as follows:

1119 (a) A Respondent in a matter that does not include allegations of Sexual Abuse may
1120 assert a defense before the Hearing Panel, or in an appeal from a proceeding before a
1121 Hearing Panel in which such defense was asserted, that unreasonable or undue delay in
1122 initiating proceedings under this Title unfairly limits the availability of evidence necessary
1123 to the Respondent's defense, but only if at least seven (7) years have elapsed between the
1124 date of the Offense or manifestation of Impairment which is the subject of the proceeding
1125 and the date on which proceedings are initiated under this Title.

1126 (b) A Respondent in a matter that includes allegations of Sexual Abuse may assert
1127 a defense before the Hearing Panel, or in an appeal from a proceeding before a Hearing
1128 Panel in which such defense was asserted, that unreasonable or undue delay in initiating
1129 proceedings under this Title unfairly limits the availability of evidence necessary to the
1130 Respondent's defense, but only if at least seven (7) years have elapsed between the
1131 eighteenth birthday of the person allegedly subjected to the Sexual Abuse, or the date on
1132 which such person's legal competency is restored, whichever is later, and the date on which
1133 proceedings are initiated under this Title.

1134
1135 **Sec. 5** Jurisdiction and venue for proceedings under this Title shall be as follows:

1136 (a) A Minister shall be subject to proceedings under this Title for the alleged
1137 commission of an Offense in the diocese in which the Minister is canonically resident or in
1138 any diocese in which an Offense is alleged to have occurred.

1139 (b) A Minister shall be subject to proceedings under this Title for any alleged
1140 Impairment in the diocese in which the Minister is canonically resident or in any diocese in
1141 which the Minister has performed his or her ministry and in which the Minister's
1142 Impairment has adversely affected the performance of his or her ministry.

1143 (c) Whenever a referral of a matter is going to be made by an Intake Officer
1144 regarding a Minister who is not canonically resident in that diocese, the Intake Officer shall
1145 immediately notify the Bishop of the Diocese where the Minister is canonically resident so
1146 that that Diocese can decide whether it wants to conduct the proceedings regarding the
1147 matter under this Title. The Bishop of the Diocese of canonical residence shall have thirty
1148 (30) days within which to notify the Bishop of the notifying Diocese that it wants to conduct
1149 the proceedings. The Bishop of the notifying Diocese shall have twenty (20) days to notify
1150 the Bishop of canonical residence whether it agrees to allow the Diocese of canonical
1151 residence to conduct the proceedings or whether it wants to conduct the proceedings. If any
1152 Bishop fails to respond to any notice under this section within the time provided, it shall be
1153 deemed that the Bishop has agreed to the notice that was not responded to.

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1154 **(d)** If the Bishops of the Dioceses that want to conduct the proceedings cannot
1155 promptly agree on which Diocese will conduct the proceedings, the disagreement will be
1156 resolved as follows:

1157 **(1)** If they are in the same Province, either may promptly petition the
1158 President of the Provincial Review Panel to decide which Diocese shall conduct the
1159 proceedings. If they are in different Provinces, they shall promptly petition the
1160 President of the Discipline and Fitness Board for Bishops to decide which Diocese
1161 shall conduct the proceedings.

1162 **(2)** The petitioning Bishop shall provide copy of the petition to the other
1163 Bishop. A reply to the petition shall be made by the non-petitioning Bishop within
1164 twenty (20) days of service of the petition.

1165 **(3)** The President shall have the discretion hold a hearing in person or
1166 telephonically to hear from the Bishops or their attorneys on the petition. The
1167 President shall have the discretion to request additional submissions from the
1168 Bishops.

1169 **(4)** The President shall decide which diocese shall conduct the proceedings
1170 within forty-five (45) days of service of the petition.

1171 **(e)** For purposes of this section, the canonical residence of a lay person shall be *[draft*
1172 *in process]*.

1173 **(f)** *[Proceedings in absentia – draft in process]*

1174

1175 **Sec. 6** In order for conduct to be the subject of proceedings under this Title, the Offense or
1176 Impairment complained of must be material and meaningful, as determined by the Reference
1177 Panel.

1178

1179 **Sec. 7** In computing any period of time for procedures described in this Title, the day of the
1180 act or event from which the designated time period begins to run shall not be included. The
1181 last day of the time period shall be included, unless it is a Saturday, Sunday or legal holiday
1182 in that jurisdiction, in which event the period runs until the end of the next day which is not
1183 a Saturday, Sunday or legal holiday in that jurisdiction. Whenever a party has the right or
1184 is required to do an act within a prescribed period after the service of notice or other paper,
1185 if the service is served by mail, five (5) days shall be added to the prescribed period.
1186 Whenever it is provided in this Title that an act be done promptly, such act shall be done as
1187 quickly as is reasonably possible under the circumstances.

1188

1189 **Sec. 8** In all cases in this Title where an action is performed or power exercised by a
1190 canonical body consisting of several members, and the full membership has been notified
1191 to convene, a majority of the members of the body shall be a quorum; and a majority of the
1192 members present when a quorum exists shall be competent to act, unless otherwise required
1193 by provisions of this Title.

1194

1195 **Sec. 9** Each Diocese shall make provision for Advisors to be available to Respondents and
1196 Complainants as provided in this canon for the purposes of support, assistance, consultation

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1197 and advice regarding the process provided in this Title and the rights, responsibilities,
1198 consequences and alternatives pertaining thereto.

1199 **(a)** The Bishop shall make an Advisor available to the Respondent not later than the
1200 earliest of **(1)** reference for conciliation, to the Conference Panel or to the Hearing Panel, **(2)**
1201 the imposition of restriction on ministry or placement on administrative leave or **(3)** any
1202 interrogation or request for a statement or other information from the Respondent.

1203 **(b)** The Bishop shall make an Advisor available to the Complainant not later than the
1204 earliest of **(1)** the forwarding of the intake report to the Reference Panel, **(2)** the
1205 Complainant's appeal of a dismissal of a complaint under Canon IV.6.6 or **(3)** the Bishop's
1206 designation of an Injured Person as a Complainant.

1207 **(c)** The following shall be disqualified from serving as an Advisor: the Bishop, the
1208 Church Attorney, any member of the Discipline and Fitness for Ministry Board, the Intake
1209 Officer, any Investigator, any person who is likely to be a witness in any pertinent
1210 proceeding, and the Chancellor any vice-chancellor of the diocese.

1211 **(d)** No Respondent or Complainant shall be required to accept the services of any
1212 Advisor made available by the Bishop. Any Respondent or Complainant may use the
1213 services of any Advisor of his/her choice and shall also be entitled to the counsel of an
1214 attorney of his/her choice.

1215 **(e)** All communications between the Respondent and his/her Advisor or attorney and
1216 between the Complainant and his/her Advisor or attorney shall be privileged.

1217 **(f)** The reasonable costs and expenses of providing Advisors made available by the
1218 Bishop shall be the obligation of the Diocese in which the matter of Discipline is proceeding
1219 unless otherwise provided in a Covenant or Order. The reasonable costs and expenses of
1220 providing Advisors chosen by the Respondent or Complainant and not made available by
1221 the Bishop shall be the obligation of such Respondent or Complainant unless otherwise
1222 provided in a Covenant or Order.

1223 **(g)** In all proceedings under this Title the Advisor to a Respondent or Complainant
1224 shall have the right to be present.

1225

1226 **Sec. 10** No person subject to the authority of this Church may attempt to coerce or
1227 improperly influence, directly or indirectly, the actions of any body performing functions
1228 under this Title, or any member of such body or any other person involved in such
1229 proceedings.

1230

1231 **Sec. 11** In all proceedings under this Title whenever a Respondent suspected of an Offense
1232 or Impairment is required or permitted to appear, the Respondent shall have the right to be
1233 accompanied by counsel of his or her choice. The Respondent shall have the right to be
1234 represented by counsel of his or her choice before the Hearing Panel and the Review Panel.

1235

1236 **Sec. 12** Proceedings under this Title, other than pastoral responses, shall be barred to the
1237 extent that the specific Offense or manifestation of Impairment has been the subject of any
1238 prior proceeding under this Title against the same Minister in Leadership which resulted in
1239 an Order or Covenant. Additionally, in the case of a Member of the Clergy who has been

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1240 the subject of proceedings under any predecessor to this Title, proceedings under this Title,
1241 other than pastoral responses, shall be barred to the extent that the specific Offense or
1242 manifestation of Impairment was previously included in a presentment against the Member
1243 of the Clergy or was expressly set forth in the Member of the Clergy's waiver and voluntary
1244 submission to discipline upon which a sentence was been imposed and pronounced or in the
1245 report of a conciliator.

1246
1247 **Sec. 13** Impartiality of officials and bodies described in this Title shall be addressed as
1248 follows:

1249 (a) Any bishop exercising authority under this Title shall disqualify herself or
1250 himself in any proceeding in which the bishop's impartiality may reasonably be questioned.
1251 The bishop shall also disqualify himself or herself when the bishop, the bishop's spouse, or
1252 a person within the third degree of relationship to either of them, or the spouse of such
1253 person, (1) is the Respondent, Complainant or Injured Person, or (2) is likely to be a witness
1254 in the proceeding.

1255 (b) Any member of any Panel provided for in this Title, shall disqualify himself or
1256 herself in any proceeding in which the member's impartiality may reasonably be questioned.
1257 The member shall also disqualify himself or herself when the member, the member's spouse,
1258 any person within the third degree of relationship to either of them, or the spouse of such
1259 person, (1) is the Respondent, Complainant or an Injured Person, (2) is likely to be a witness
1260 in the proceeding, (3) has a personal bias or prejudice concerning the Respondent,
1261 Complainant or any Injured Person, (4) has personal knowledge of disputed evidentiary facts
1262 concerning the proceeding, (5) has a personal financial interest in the outcome of the
1263 proceeding or in the Respondent, Complainant, any Injured Person or any other interest that
1264 could be substantially affected by the outcome, or (6) is a member of the same congregation
1265 or otherwise has a close personal or professional relationship with the Respondent, the
1266 Complainant, any Injured Person or any witness in the matter.

1267 (c) Any member of any Panel provided for in this Title who has not disqualified
1268 himself or herself as provided in this Section may be subject to challenge by the Church
1269 Attorney, the Respondent or the Respondent's counsel, the Complainant or the
1270 Complainant's Advisor on grounds described in this Section. The challenge shall be
1271 investigated by the remaining members of the Panel who shall determine whether the
1272 challenged member of the Panel should be disqualified and replaced according to the
1273 procedures of this Title for filling vacancies.

1274 (d) No Bishop or Panel shall accept from the parties to the proceeding any waiver
1275 of any ground for disqualification enumerated in this Section unless preceded by full
1276 disclosure of the basis for the disqualification, on the record, to all parties.

1277
1278 **Sec. 14** There shall be a presumption that the Respondent did not commit the Offense and
1279 does not have an Impairment. The standard of proof required to find an Offense by a
1280 Respondent shall be that of a preponderance of the evidence.

1281
1282 **Sec. 15** In all matters under this Title, it shall be the burden of the Church through the

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1283 Church Attorney to establish an Offense or Impairment by any Respondent.
1284

1285 **Sec. 16** Except as otherwise provided in this Title, it shall be the duty of all members of this
1286 Church to appear and testify or respond when duly served with a notice to do so from any
1287 Panel in any matter arising under this Title.
1288

1289 **Sec. 17** No Chancellor or Vice Chancellor of a Diocese shall serve as Church Attorney in
1290 that Diocese. No Chancellor or Vice Chancellor of any Province shall serve as Church
1291 Attorney in any Diocese of that Province or any provincial proceeding. The Presiding
1292 Bishop's Chancellor shall not serve as National Church Attorney in any proceeding. The
1293 Church Attorney in any proceeding shall not be from the same law firm as any Chancellor
1294 or Vice Chancellor otherwise disqualified under this Section.
1295

1296 **Sec. 18** Notices or other papers to be served according to procedures of this Title shall be
1297 deemed to have been duly served if a copy is delivered to the person to be served, is left with
1298 an adult resident of the abode of the person to be served, or is mailed by certified mail to the
1299 person's usual place of abode. Notice by publication in a newspaper of general circulation
1300 in the jurisdiction of the person's usual place of abode. Acceptance of service renders
1301 unnecessary any further process.
1302

1303 **Sec. 19** A reference in this Title to a bishop intending to mean bishop with jurisdiction
1304 pursuant to Article II of the Constitution of this Church, shall include a bishop coadjutor if
1305 specific jurisdiction for matters contemplated by this Title has been assigned to the bishop
1306 coadjutor pursuant to Canon III.19.1(c).
1307

1308 **Sec. 20** Except as expressly provided in this Title, or applicable Diocesan canon, all costs,
1309 expenses and fees of the several parties shall be the obligation of the party incurring them.
1310 The record of proceedings of a Hearing Panel shall be the expense of the Diocese. The
1311 record of proceedings of a Hearing Panel shall be the expense of the Province, provided that,
1312 where a Respondent refuses to accept a Conference Panel adjudicative Order, resulting in
1313 further proceedings before a Hearing Panel, and said Respondent subsequently accepts the
1314 Conference Panel Order before the proceedings have been completed, the Hearing Panel may
1315 assess costs of such proceedings against the Respondent. The record of proceedings of a
1316 Review Committee, the Court for the Trial of a Bishop and the Court of Review of a Trial
1317 of a Bishop shall be the expense of the General Convention. Nothing in this Title precludes
1318 the voluntary payment of a Respondent's costs, expenses and fees by any other party or
1319 person, including a Diocese.
1320

1321 **Sec. 21** If the Presiding Bishop is unavailable to act by virtue of absence, disability or other
1322 disqualification, actions to be performed by the Presiding Bishop in this Title shall be
1323 performed by that Bishop who would be the next qualified President of the House of
1324 Bishops.
1325

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1326 **Sec. 22** If the bishop of a diocese shall be subject to suspension from Ministry, the body or
1327 person who would be the Ecclesiastical Authority of that diocese if there were no bishop
1328 shall have authority to request episcopal assistance and Episcopal Acts from another bishop
1329 of this Church.

1330
1331 **Sec. 23** Wherever in this Title it is provided that any matter shall be confidential, the
1332 following rules shall apply:
1333 *[Draft in process]*
1334

1335 **Sec. 24** Privileged Communication shall not be disclosed, nor shall any negative inference
1336 be drawn respecting the claim of the privilege, unless the privilege is waived by the person
1337 to whom the privilege belongs. Waiver of a privilege may occur by (a) voluntary disclosure;
1338 (b) failure to timely object to use of a Privileged Communication; or (c) placing the
1339 Privileged Communication at issue.

1340
1341 **Sec. 25** Non-compliance with any procedural requirements set forth in this Title shall not
1342 be grounds for the dismissal of any proceeding unless the non-compliance shall cause
1343 material and substantial injustice to be done or seriously prejudice the rights of a Respondent
1344 as determined by the Court on motion and hearing.

1345
1346 **Sec. 26** Solely for the purposes of the application of these Canons to persons who have
1347 received the pronouncement of the former Sentence of removal, the former Sentence of
1348 removal shall be deemed to have been a Sentence of Deposition.

1349
1350 **Sec. 27** Records of proceedings shall be preserved as follows:
1351 (a) Each Hearing Panel and Review Panel shall keep a complete and accurate record
1352 of its proceedings. When all proceedings have been concluded, the president of the Panel
1353 shall certify the record. If the president did not participate in the proceeding for any reason,
1354 the Panel shall elect another member of the Panel to certify the record.
1355 (b) The Panel may make provision for the preservation and storage of a copy of the
1356 record of each proceeding in the diocese in which the proceeding originated.
1357 (c) The Panel shall promptly deliver the original certified record of its proceedings
1358 to the Archives of the Episcopal Church.
1359 (d) The Bishop shall promptly deliver to the Archives of the Episcopal Church a
1360 copy of any Order which has become effective and a record of any action of remission or
1361 modification of any Order.

1362
1363 **Sec. 28** Any Minister canonically resident in the Diocese who deems himself or herself to
1364 be under imputation, by rumor or otherwise, of any Offense or Impairment for which
1365 proceedings could be had under this Title, may on his or her own behalf request the Bishop
1366 to conduct an inquiry with regard to such imputation. Upon receipt of such request by a
1367 Minister, it shall be the duty of the Bishop to cause the matter to be investigated and to
1368 report the result to the Minister.

1369

1370 **Sec. 29** The integrity of the Discipline and Fitness Board shall be preserved by a system of
1371 challenge as to the membership of any panel of the Board appointed for a proceeding. Each
1372 Diocese shall provide by Canon for a system of challenge. If the canons of the Diocese
1373 make no provision for challenging a member of the Board, any member of a panel appointed
1374 for a proceeding may be challenged by the Church Attorney or the Respondent on grounds
1375 conflict of interest of undue bias. The remaining members of the Board shall determine
1376 whether the challenge is relevant and factually supported, and shall determine whether the
1377 challenged member shall be excused from that proceeding. If the member is excused,
1378 another member of the Board shall be appointed to the panel to fill the vacancy created by
1379 the challenge, maintaining the appropriate balance of lay and ordained members.

1380

1381 **Sec. 30** Implementation by the Bishop of any Covenant or Order providing for the
1382 suspension or removal of a Member of the Clergy from the office to which he/she is
1383 ordained shall constitute sentences of suspension and deposition, respectively.

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1386 **CANON 18: Of Implementation Provisions**

1387

1388 *[To be drafted after initial comments have been received on this draft]*