

Resolution 2010-1: Resolution Regarding Technical Corrections to the Canons of the Diocese of Southwest Florida.

Offered by the Committee on Constitutions and Canons, meeting on July 23, 2010:

RESOLVED, by the 42nd Annual Convention of the Diocese of Southwest Florida meeting at Punta Gorda on the 9th day of October, 2010:

That the Canons of the Diocese of Southwest Florida be amended as follows:

Canon I, Section 1, paragraph b.

Clergy Members of Convention, as that term is used in these Canons, are those persons who are duly licensed and ordained as presbyters and deacons pursuant to the provisions of the Constitution and Canons of the General Convention of the Episcopal Church, are in good standing in the Episcopal Church, and are canonically resident in the Diocese of Southwest Florida. ALL CLERGY MEMBERS OF CONVENTION HAVE THE RIGHT TO SEAT AND VOICE.

Canon I, Section 1, paragraph d.

Clergy Members of Convention who are presbyters who have been called, subject to the provisions of Diocesan Canon VI, to serve a Congregation that is a member of this Diocese, who are serving pursuant to a written agreement with that Congregation, and who are retired from active service but WHO ARE SERVING IN POSITIONS pursuant to the provisions of Canon III.9.7 of the Episcopal Church, as amended, are Members of Convention with the right to seat, voice and vote.

Canon I, Section 1, paragraph f.

f. G. Clergy Members of Convention ~~who have retired from active service,~~ WHO DO NOT HAVE THE CREDENTIALS SPECIFIED IN SECTIONS 1.C., 1.D., 1.E., OR 1.F. OF THIS CANON, are Members of Convention with the right to seat and voice.

Canon I, Section 1, paragraph g.

g. F. Clergy Members of Convention who are deacons who have an assignment from the Bishop to serve a Congregation that is a member of this Diocese, who have entered into a written agreement, approved by the Bishop, with that Congregation, and who are not retired from active service, are Members of Convention with the right to seat, voice and vote

Explanation by the Sponsor:

The language to be removed is struck out: ~~example~~. The language to be added is in upper case letters: EXAMPLE. Underlined letters indicate that the letter will be in upper case when printed in normal text: EXAMPLE will be printed as Example in the normal format.

The reasons for the proposed changes are:

Canon I, Section 1, paragraph b.: This makes crystal clear that all canonically resident clergy of all orders, whether active or retired, have the right to seat and voice at meetings of the Convention. No substantive change is intended.

Canon I, Section 1, paragraph d.: There was a missing phrase in the original form of the canon which is corrected by the inserted language. No substantive change is intended.

Canon I, Section 1, paragraph f.: There are two changes proposed:

- to renumber this to become paragraph g. Based on the practical experience of those compiling the credentials roster for the past two years, it will assist if the provisions for all active clergy are contiguous in the canons. No substantive change is intended.
- to make the language of this paragraph consistent with the rest of the canon based on last year's granting of suffrage to deacons. The revised paragraph dovetails with the provisions of earlier paragraphs in Section 1 to clarify that clergy members of convention with written agreements or who are appointed by the bishop have the right to seat, voice and vote. All other clergy members of convention have the right to seat and voice. No substantive change is intended.

Canon I, Section 1, paragraph g: to renumber this to become paragraph f. Based on the practical experience of those compiling the credentials roster for the past two years, it will assist if the provisions for all active clergy are contiguous in the canons. No substantive change is intended.

Resolution 2010-2: Resolution Implementing Title IV of the Canons of The Episcopal Church, Regarding Ecclesiastical Discipline, from October 9, 2010 through July 1, 2011.

Offered by the Committee on Constitutions and Canons, meeting on July 23, 2010:

RESOLVED, by the 42nd Annual Convention of the Diocese of Southwest Florida meeting at Punta Gorda on the 9th day of October, 2010:

1. That this resolution shall be effective for the period from October 9, 2010 through July 1, 2011.
2. That the transitional provisions of Canon IV.20.3 of the Episcopal Church shall apply to any matters pending as of July 1, 2011 (hereafter referred to as "the Title IV Effective Date").
3. That the Members of the Ecclesiastical Trial Court holding office on the Title IV Effective Date shall on that date automatically and immediately become the initial members of the Disciplinary Board. On the Title IV Effective Date the Presiding Judge of the Ecclesiastical Trial Court shall automatically and immediately become the initial President of the Disciplinary Board.
4. That the Church Attorney who is serving in that capacity on the Title IV Effective Date, shall continue as Church Attorney under the provisions of Canon XXIII of the Diocese of Southwest Florida.

Explanation by the Sponsor:

Title IV of the Canons for the Government of The Episcopal Church, entitled *Ecclesiastical Discipline*, prescribes standards and procedures for enforcing the ordination vows taken by members of the clergy by which they undertake special responsibilities and accountabilities for doctrine, discipline, worship and obedience. Title IV was comprehensively revised by the 76th General Convention, meeting in Anaheim, California, through Resolution 2009-A185, which will take effect on July 1, 2011. Revised Title IV in the form of the final adopted version of Resolution A185 may be found at http://www.episcopalarchives.org/CnC_ToC_2009.html.

The revision eliminates the current procedures that use an Ecclesiastical Trial Court and a Diocesan Review Committee for ecclesiastical discipline. It replaces these and requires each Diocese to create a body to be known as the Disciplinary Board and prescribes certain criteria as to its membership. These criteria require a complete revision of Canons XII and XXII of the Canons of the Diocese of Southwest Florida. Resolution 2009-A185 also made comparable changes to the process for ecclesiastical discipline of bishops, but those procedures are dealt with at a provincial and national church level and therefore require no coverage in diocesan canons.

This resolution is submitted to the 42nd Annual Diocesan Convention in order to prepare for election of the new Disciplinary Board by the 43rd Annual Diocesan

Convention and also to assure (by July 1, 2011), conformity to the mandates of Canon IV.5.1 of the national canons. Under the provisions of this resolution, when the Revised Title IV provisions take effect on July 1, 2011, the members of the Ecclesiastical Trial Court shall become the initial members of the Disciplinary Board, and will serve until new members are elected by Diocesan Convention. Similarly, the Presiding Judge of the Ecclesiastical Trial Court shall become the initial President of the Disciplinary Board on July 1, 2011, and the Church Attorney serving on that date shall continue to serve as Church Attorney.

There is no need for an transitional canonical charge with respect to the Diocesan Review Committee since under the combination of existing Diocesan and national canons, the members of that committee elected at or serving in that capacity at the end of the 2010 Diocesan Convention shall continue to serve until the Revised Title IV provisions take effect on July 1, 2011, at which point the Diocesan Review Committee ceases to exist.

Resolution 2010-3: Resolution Implementing Title IV of the Canons of The Episcopal Church, Regarding Ecclesiastical Discipline, beginning July 1, 2011.

Offered by the Committee on Constitutions and Canons, meeting on July 23, 2010:

RESOLVED, by the 42nd Annual Convention of the Diocese of Southwest Florida meeting at Punta Gorda on the 9th day of October, 2010:

5. That this resolution shall be effective on July 1, 2011 (hereafter referred to as the "Effective Date".)
6. That Canons XII and XXII of the Canons of the Diocese of Southwest Florida are repealed except to the extent required by the application of the transitional provisions of Canon IV.20.3 of The Episcopal Church to any matters pending as of the Effective Date.
7. That Canon IV, Section 2 of the Canons of the Diocese of Southwest Florida be amended as follows:

Section 2. The Standing Committee shall consist of five (5) presbyters and four (4) electors, the term of office of each to be three (3) years. No member, either clergy or lay, shall serve more than two (2) consecutive three (3) year terms. ~~Neither A current member of the Ecclesiastical Trial Court DISCIPLINARY BOARD nor a current member of the Diocesan Review Committee~~ shall NOT be eligible for CONCURRENT membership on the Standing Committee AND A MEMBER OF THE STANDING COMMITTEE SHALL NOT BE ELIGIBLE FOR CONCURRENT MEMBERSHIP ON THE DISCIPLINARY BOARD. Members' terms of office shall be staggered so that the Convention shall elect annually three (3) members of the Standing Committee. Of those three (3), at least one (1) shall be a member of the clergy and at least one (1) shall be a member of the laity.

8. That a new Canon XXIII be adopted, with the following provisions:

**CANON XXIII
ECCLESIASTICAL DISCIPLINE**

Section 1. Title IV of General Canons. The ecclesiastical discipline of a bishop, priest or deacon shall be governed by Title IV of the Canons for the Government of The Episcopal Church. Those provisions of Title IV of the General Canons which are applicable to the Diocese are hereby incorporated as part of this Canon. To the extent, if any, that any of the provisions of this Canon are in conflict or inconsistent with the provisions of Title IV, the provisions of Title IV shall govern.

Section 2. Disciplinary Board.

a. Establishment. There is hereby established a Disciplinary Board (hereafter referred to as the "Board") consisting of nine (9) persons, five (5) of whom are members of the Clergy and four (4) of whom are Lay persons. No member of the Board, either Clergy or Lay person, who has served two (2) full consecutive terms of office, shall be eligible for re-election to the Board until one (1) year has expired since the termination of such person's last term. No person specified in the first sentence of Canon IV.5.3(c) of Canons of the Episcopal Church, as amended, nor any person affiliated in the practice of law or in any business relationship or in any family relationship with any of such persons, shall be eligible to serve as a member of the Board.

b. Clergy Members. The Clergy members of the Board must be clergy Members of Convention.

c. Lay Members. The lay members of the Board shall be electors of Congregations who are at least twenty one (21) years of age as of the time of their election.

d. Election. (i) The members of the Board shall be elected by the Convention. Each member shall be elected for a three (3) year term; except, if a member is elected by the Convention to fill a vacancy in an unexpired term, the person elected shall serve only the unexpired term. The terms of the members shall commence on the first day of the month following election, except that the terms of the members who prior to July 1, 2011 were serving as members of the former Ecclesiastical Trial Court shall commence on the Effective Date, and shall end on the last day of the month in which the 2011 Diocesan Convention is held.

(ii) The terms of office of the Board shall be staggered and arranged into three (3) classes. Clergy and Lay people who are serving as members of the Board at the time of that election pursuant to the provisions of Section 2.d. of this Canon shall be eligible for nomination. At each Convention thereafter, the Convention shall elect three (3) persons to fill any positions vacant at the time of that Convention, provided that those nominated and elected at Convention as Clergy Members of the Board must qualify under Section 2.b. of this Canon and those nominated and elected at Convention as Lay Members must qualify under Section 2.c. of this Canon.

e. Vacancies. Vacancies on the Board due to death, resignation, declination to serve, disability rendering the member unable to serve, ordination, or the removal of a member of the Board from the Diocese to an extent that the President of the Board determines that the removed member is no longer able to fulfill their responsibilities as a member of the Board, shall be noticed and filled as follows:

(i) The President of the Disciplinary Board shall declare a vacancy if the President determines, with regard to a member of the Board, that the member:

- (a) has died, has become disabled to such an extent that such person is unable to serve, or has resigned or declined to serve in accordance with the procedures state in Canon IV.5.3(b) of the Canons of the Episcopal Church, as amended; or
- (b) if a lay member, is no longer qualified under Section 2.c. of this Canon, or becomes disqualified under Canon IV.5.3(c) of the Canons of the Episcopal Church, as amended; or
- (c) if a clergy member, is no longer qualified under Section 2.b. of this Canon, or becomes disqualified under Canon IV.5.3(c) of the Canons of the Episcopal Church, as amended.

(ii) All vacancies shall be filled as follows:

- (a) Upon the determination that a vacancy exists, the President of the Board shall notify the Bishop, the members of the Standing Committee and the other members of the Board of the vacancy.
- (b) The President of the Board shall appoint a replacement Board member after consultation with the other members of the Board and with the members of the Standing Committee.
- (c) Persons appointed to fill vacancies on the Board shall be of the same order in which the vacancy has occurred and shall meet the same eligibility requirements as apply to elected Board members.
- (d) With respect to a vacancy created for any reason other than pursuant to a challenge which arises under the process set out in Section 2.f. of this Canon, the term of any person selected as a replacement Board member shall be until the next annual Convention. With respect to a vacancy resulting from a challenge, the replacement Board member shall serve only for the proceedings for which the elected Board member is not serving as a result of the challenge.

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

g. President. Within two (2) months following each annual Diocesan Convention, the members of the Board shall elect from among themselves, by majority vote, one (1) person to serve as President for a one (1) year term. In the absence of an elected President or if the elected President is disqualified in a particular case, the member of the Board with the longest period of continuous service who is not disqualified shall serve as President pro tempore. A Board Member shall be eligible to be re-elected to one (1) or more subsequent terms as President. The President may be either a lay Member or a clergy member of the Board.

h. Electronic Meetings. The Board may hold conferences by electronic means to elect the President, to select the Church Attorney and for other administrative matters as the President deems necessary. Any meeting held under this Canon, other than a hearing at which evidence may be taken or examined, may be conducted in person, by telephone, by another means of electronic communications, or in any combination of thereof, provided that all persons participating in the meeting are able to hear each other at the same time.

Section 3. Appointed Positions

a. Intake Officer shall be appointed from time to time by the Bishop after consultation with the Board. The Bishop may appoint one (1) or more Intake Officers according to the needs of the Diocese. The Bishop shall publish the name(s) and contact information of the Intake Officer(s) throughout the Diocese.

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

c. Church Attorney. Within sixty (60) days following each annual Convention, the Board, after consultation by the President of the Board with the Standing Committee and with the Bishop, shall select, by majority vote of the Board, an attorney to serve as Church Attorney to serve for the following year. The person so selected must be a duly licensed attorney and a member in good standing of the Florida Bar. No Chancellor, Vice Chancellor, Advisor, Conciliator, Intake Officer, or Investigator, nor any person affiliated in the practice of law or otherwise with any of such persons shall be eligible to serve as a Church Attorney. A vacancy in the office of Church Attorney shall be filled by the Board, after consultation by the President of the Board with the Standing Committee and with Bishop, and such appointment shall be effective until the next annual Diocesan Convention.

d. Pastoral Response Coordinator. The Bishop may appoint a Pastoral Response Coordinator, to serve at the will of the Bishop, to coordinate the

delivery of appropriate pastoral responses provided for in this Canon and in Title IV.8 of the Canons of the Episcopal Church, as amended. The Pastoral Response Coordinator may be the Intake Officer, but shall not be a person serving in any other appointed or elected capacity under this Canon.

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

f. Clerk. The Board shall appoint a Clerk to assist the Board with records management and administrative support. The Clerk may, but is not required to, be a member of the Board.

g. Panel Members. Upon the referral of an intake report to the Reference Panel, the President of the Board shall select members of the Board to Conference Panels and Hearing Panels, by lot or other random means, that maintains as closely as possible the balance of Lay Members and Clergy Members as is specified for the Board as a whole. The presidents of the Conference Panel and Hearing Panel immediately shall be selected by the President of the Board, the selections being at the sole discretion of the President.

Section 4. Costs and Expenses

a. Costs Incurred by the Church. The reasonable costs and expenses of the Board, the Intake Officer, the Investigator, the Church Attorney, the Advisors, the Board Clerk and the Pastoral Response Coordinator shall be the obligation of the Diocese, subject to budgetary constraints as may be established by the Diocesan Council.

b. Costs Incurred by the Respondent. In the event of a final Order dismissing the complaint, or by provisions of a Covenant approved by the Bishop, upon recommendation of the Bishop or the Board, the reasonable defense fees and costs incurred by the Respondent may be paid or reimbursed by the Diocese, subject to budgetary constraints as may be established by the Diocesan Council.

Section 5. Records

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

b. Permanent Records. The Bishop shall make provision for the permanent storage of records of all proceedings under this Title at the Diocese and the Archives of the Episcopal Church, as prescribed in Title IV of the Canons of the Episcopal Church, as amended.

Section 6. Terminology. Capitalized terms used in this Canon shall have the meanings assigned to them in Title IV of the Canons of the Episcopal Church, as amended.

Explanation by the Sponsor:

Title IV of the Canons for the Government of The Episcopal Church, entitled *Ecclesiastical Discipline*, prescribes standards and procedures for enforcing the ordination vows taken by members of the clergy by which they undertake special responsibilities and accountabilities for doctrine, discipline, worship and obedience. Title IV was comprehensively revised by the 76th General Convention, meeting in Anaheim, California, through Resolution 2009-A185, which will take effect on July 1, 2011. Revised Title IV in the form of the final adopted version of Resolution A185 may be found at <http://gc2009.org/ViewLegislation>. The revision eliminates the current procedures that use an Ecclesiastical Trial Court and a Diocesan Review Committee for ecclesiastical discipline. It replaces these and requires each Diocese to create a body to be known as the Disciplinary Board and prescribes certain criteria as to its membership. These criteria require a complete revision of Canons XII and XXII of the Canons of the Diocese of Southwest Florida. Resolution 2009-A185 also made comparable changes to the process for ecclesiastical discipline of bishops, but those procedures are dealt with at a provincial and national church level and therefore require no coverage in diocesan canons.

This resolution is submitted to the 42nd Annual Diocesan Convention in order to prepare for election of the new Disciplinary Board by the 43rd Annual Diocesan Convention and also to assure (by July 1, 2011), conformity to the mandates of Canon IV.5.1 of the Canons of the Episcopal Church.

Resolution 2010-4: Resolution Regarding Encouragement of Adoption of the Anglican Covenant by the General Convention of the Episcopal Church.

Offered by the Rector, the Rev. Fredrick A. Robinson, the Senior Warden, Dr. Thomas Patrick Fitzgerald, the Clerk, Ms. Carolyn H. Peet, and the Vestry of the Church of the Redeemer, Sarasota, Florida:

RESOLVED, by the 42nd Annual Convention of the Diocese of Southwest Florida meeting at Punta Gorda on the 9th day of October, 2010:

That the deputies from the Diocese of Southwest Florida and the Rt. Rev. Dabney Smith, Bishop of the Diocese of Southwest Florida, work toward the adoption of the Ridley Cambridge Draft of the Anglican Communion Covenant by the Episcopal Church at the next meeting of the General Convention of the Episcopal Church.

Explanation by Sponsor:

The authority to effect change within the Episcopal Church resides with the General Convention and the House of Bishops. The next meeting of the General Convention and House of Bishops is in 2012.

The Rector, Wardens, and Vestry of the Church of the Redeemer are greatly concerned about current issues in the Episcopal Church being the cause of division within the Episcopal Church and threatening the Anglican Communion as a whole. We believe that a positive course of action to move the Episcopal Church and the Anglican Communion toward reconciliation and greater unity is given in the Ridley Cambridge Draft of the Anglican Communion Covenant. Therefore, we recommend that the Convention of the Diocese of Southwest Florida resolve that our esteemed bishop and the deputies from this diocese be encouraged to work toward the adoption of Ridley Cambridge Draft of the Anglican Communion Covenant at the next meeting of the General Convention.

Resolutions Committee Review:

The Resolutions Committee has reviewed and considered the above proposed resolution. Pursuant to Canon II, Section 4(c)(3)(b), the Resolutions Committee reports Resolution 2010-4 to the floor with a recommendation that the proposed resolution be defeated for the following reasons: The proposed resolution provides instruction to the deputies with respect to their conduct at the next general Convention. Based on the following excerpt from Daniel Stevick, *Canon Law: A Handbook*. The Seabury Press, Inc., 1965, p. 202, the Resolutions Committee finds that the proposed resolution may impermissibly impinge on the autonomy of a deputy to the General Convention and therefore, on this basis alone, recommends that Resolution 2010-4 should be defeated.

One of the important tasks of the diocesan convention is the selection of clerical and lay deputies for the General Convention. In discussing the relationship of the dioceses to the national church, the question is often raised as to the legitimacy of deputies being sent with official diocesan "instructions" on issues which are to come before General Convention. Certainly diocesan discussion and action with reference to matters which are also before the national church will influence the deputies in their own thinking. But generally it would seem contrary to good principles of representative government to send deputies to Convention bound by instructions from home. The deputies must be free to use their own judgment on the basis of the best information available to them at Convention. To contend otherwise would destroy the integrity of General Convention. That is, if the deputies all went to Convention with binding instructions on key issues, there would be little need for General Convention at all; the decision of the national church could as readily be secured by taking a poll of the diocesan conventions. The General Convention must be free to engage in real debate and to declare its own mind. If a diocese does not like the voting record of its deputies, it need not return the same delegation three years later; but it has no guarantee that any other deputies it may choose will not also think for themselves in light of Convention discussion.

Resolution 2010-5: Resolution Regarding Endorsement of the Ridley Cambridge Draft of the Anglican Communion Covenant

Offered by the Rector, the Rev. Fredrick A. Robinson, the Senior Warden, Dr. Thomas Patrick Fitzgerald, the Clerk, Ms. Carolyn H. Peet, and the Vestry of the Church of the Redeemer, Sarasota, Florida:

RESOLVED, by the 42nd Annual Convention of the Diocese of Southwest Florida meeting at Punta Gorda on the 9th day of October, 2010:

That the Convention of the Diocese of Southwest Florida endorses in principle the Ridley Cambridge Draft of the Anglican Communion Covenant.

Explanation by Sponsor:

Apparently, the adoption of the Ridley Cambridge Draft of the Anglican Communion Covenant at the national level will be a lengthy process, extending to the General Conventions of 2012 and 2015. In addition, conflict within the Episcopal Church continues to trouble the consciences of many, causing the Church a loss of members, and impeding the Mission of the Church. The Rector, Wardens, and Vestry of the Church of the Redeemer believe that a positive course of action to ease consciences, to refocus on the Mission of the Church, and to move the Episcopal Church and the Anglican Communion toward reconciliation and greater unity, is given in the Ridley Cambridge Draft of the Anglican Communion Covenant. Therefore, we strongly urge the Diocese of Southwest Florida to endorse the Covenant in principle, seeking to order its actions accordingly.

Resolutions Committee Review:

The Resolutions Committee has reviewed and considered the above proposed resolution. Pursuant to Canon II, Section 4(c)(3)(c), the Resolutions Committee reports Resolution 2010-5 to the floor without comment by the Committee.