

Resolution
126th Diocesan Convention
Diocese of South Dakota

September 10-11, 2011
Pierre, South Dakota

Resolved; that the whole of the existing Canon 15 shall be repealed and the following enacted as Canon 15 of the Canons of the Diocese of South Dakota. This repeal and enactment shall be effective as directed in Section 5 of the new Canon 15.

Canon 15
ECCLESIASTICAL DISCIPLINE

SECTION 1 Title IV of General Canons. Those provisions of Title IV of the General Canons which are applicable to the Diocese are hereby incorporated as part of this Canon. The provisions of Title IV and those of this Canon shall be interpreted harmoniously to give effect to all such provisions, wherever possible. In any instance where Title IV prohibits modification or variance, 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 Discipline Structure.

1) Disciplinary Board. The Board shall consist of fifteen persons eight of whom shall be priests or deacons and seven of whom shall be laypersons.

- (a) The Bishop shall select the members of the Disciplinary Board in the following manner. From among the voting members of the Diocesan Council and the Standing Committee members, the Bishop shall eliminate from consideration any person who is prohibited from serving on the Disciplinary Board. From the persons remaining the Bishop shall select by lot eight (8) persons who are priests or deacons and seven (7) persons who are lay people. If there are not a sufficient number of eligible people to fill out the Disciplinary Board, then the Bishop shall appoint the required number of additional persons of the appropriate order to fill out the Disciplinary Board. These additional appointees must not be prohibited under Title IV from serving on the Disciplinary Board and must be either lay persons who are adult communicants in good standing in a congregation of this Diocese or priests or deacons who are canonically resident in this diocese. This selection shall be made annually within ten (10) business days of the close of the Diocesan Convention.
- (b) Once selected, members of the Discipline Board shall continue in office until the next annual selection except as noted below.

- (c) Once a case has been referred to the Reference Panel, the members of the Reference Panel shall continue to serve as the Reference Panel for that case and members of the Disciplinary Board for that case until such time as that case reaches final resolution or they are disqualified as required by this Canon or Title IV.
- (d) Once Impaneled for a case the members of the Conference Panel and Hearing Panel assigned to that case shall continue to be members of the Disciplinary Board for that case and members of their respective Panels for that case until such time as the case reaches final resolution or they are disqualified as required by this Canon or Title IV.
- (e) If at any time a clergy member of the Disciplinary Board shall cease to be canonically resident in the diocese or a lay member of the Disciplinary Board shall cease to be a communicant in good standing of a congregation in this diocese, that member shall be automatically disqualified from any current case and shall cease to be a member of the Disciplinary Board and the President of the Disciplinary Board shall proceed to fill the vacancy as directed by this canon.

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

- (a) Upon the determination that a vacancy exists, the President of the Board shall notify the Bishop of the vacancy and request the appointment of a replacement member of the same order as the member to be replaced.
- (b) If any members of the Diocesan Council or Standing Committee who were randomly removed from consideration as members of the Disciplinary Board are of the same order as the member to be replaced, then the Bishop shall randomly select one of these persons to serve on the Disciplinary Board.
- (c) If no person of the required order remains to be selected from the Diocesan Council or the Standing Committee, then the Bishop shall select a person of the required order who must be eligible for election to the Diocesan Council who, upon confirmation by the Reference Panel, shall serve on the Disciplinary Board.
- (d) With respect to a vacancy created for any reason other than pursuant to a disqualification or a challenge as provided below, the term of any person selected as a replacement Disciplinary Board member shall be until the next annual selection. With respect to a vacancy resulting from a disqualification or a challenge, the replacement Disciplinary Board member shall serve only for the proceedings for which the Disciplinary Board member is not serving as a result of the disqualification or challenge.

3) President. The Bishop shall appoint a President, a first Vice President, and a second Vice President of the Disciplinary Board from among the membership thereof. If the President is disqualified from serving on any case, the first Vice President shall immediately assume the duties of the President for that case. If the first Vice President shall be disqualified from the same case, then the second Vice President shall assume the duties of the President for that case. If one of the two Vice Presidents is selected to serve on either the Conference Panel or the Hearing Panel, the other Vice President may not serve on either of those panels for that case.

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

5) 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.

6) Church Attorney. Within sixty (60) days following each annual Convention, the Bishop in consultation with the Standing Committee shall appoint an attorney to serve as Church Attorney to serve for the following calendar year. The person so selected must be a Member of the Church and a duly licensed attorney, but need not reside within the Diocese.

7) Pastoral Response Coordinator. The Bishop may appoint a Pastoral Response Coordinator to serve at the will of the Bishop in coordinating the delivery of appropriate pastoral responses provided for in Title IV.8 of the General Canons and this Canon. The Pastoral Response Coordinator may be the Intake Officer, but shall not be a person serving in any other appointed or elected capacity under this Canon.

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

9) Clerk. If one has not been previously appointed, the President of the Disciplinary Board shall appoint a Board Clerk to assist the Board with records management and administrative support within two business days of the delivery of an intake report to the Reference Panel. The Clerk may be a member of the Board. The Clerk serves at the will of the President of the Disciplinary Board.

10) Impanelment When directed to do so by Canon IV.6.7, the President of the Disciplinary Board shall randomly select three members of the Disciplinary Board, at least one of whom shall be a lay person and at least one of whom shall be a priest or deacon, to serve on the Hearing Panel for that case. The President shall then randomly select three members of the Disciplinary Board to serve as the Conference Panel for this case. The President of the Disciplinary Board shall then select a president for each Panel from the membership of that Panel. The selection of presidents for the Panels is left to the discretion of the President of the Disciplinary Board. All these selections shall be made in the presence of the Clerk of the Disciplinary Board who shall assure that they are properly recorded and the impaneled members notified.

11) Preserving Impartiality. In any proceeding under this Canon or Title IV, if any member of a Conference Panel or Hearing Panel of the Disciplinary Board shall become aware of a personal conflict of interest or undue bias, that member shall immediately disqualify himself or herself, notify the President of the Disciplinary Board, and request a replacement member of the Panel. The Respondent and the Church Attorney shall have the right to challenge any member of a

Panel for conflict of interest or undue bias by motion to the Panel for disqualification of the challenged member. The members of the Panel not the subjects of the challenge shall promptly consider the motion and determine whether the challenged Panel member shall be disqualified from participating in that proceeding. These provisions are in addition to those found in Canon IV.19.14. If there are not a sufficient number of members of the Disciplinary Board remaining to fill vacancies in any Panel, then the President shall request that the Bishop appoint additional members to the Disciplinary Board who shall serve for this case only under the provisions for filling vacancies found in this canon.

SECTION 3 Costs and Expenses.

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

SECTION 4 Records.

1) Records of Proceedings. Records of active proceedings before the Disciplinary 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.

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

SECTION 5 Transitional Provisions

The effective date of this canon shall be July 1, 2011. Any matter which is pending under the predecessor to this canon on that date shall proceed as directed in the transitional provisions of Title IV. Except as required for the purpose of addressing matters pending upon that date, the predecessor to this canon shall stand repealed on the effective date of this canon. The Bishop shall make such initial appointments as are necessary to implement this canon on or before June 30, 2011 using the methods provided in this canon.