



**CONSTITUTION  
&  
CANONS  
OF THE  
EPISCOPAL DIOCESE OF NEWARK**

***January 2008***

*(Article II, Section 4(ii) second reading to amend eligibility for canonical residency and end two-year waiting period for deacons; Canon 22, Trustees - added.)*

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# CONSTITUTION

## ARTICLE I ACCEDING TO THE GENERAL CONSTITUTION

The Church in the Diocese of Newark, as a constituent part of the Protestant Episcopal Church in the United States of America, accedes to the Constitution and Canons of that Church, and acknowledges their authority.

## ARTICLE II THE DIOCESAN CONVENTION

1. There shall be a Convention of the Church in this Diocese, on the second Saturday in May in each year, or on such other day as may be specially appointed by the Ecclesiastical Authority. The Convention shall be held at the Cathedral unless the Ecclesiastical Authority appoints otherwise.

### 2. SPECIAL CONVENTIONS

The Bishop, or if the Episcopate be vacant or the Bishop be incapacitated from acting, the Standing Committee shall have the power when it appears requisite for the good of the Church in this Diocese to call a Special Convention. No business shall be transacted at any such meeting other than that stated in the notice.

### 3. NOTICE OF CONVENTION

Written notice of every Convention shall be given by the Secretary of the Convention by mail at least four (4) weeks previous to the date of the Convention, stating the time and place. Such notice shall be given to all Clergy entitled to seat in the Convention, every Parish and Aided Parish in union with the Convention, and every Incorporated Mission and Mission. In the case of a Special Convention the notice shall specify the purpose for which the Convention is called.

### 4. MEMBERS OF THE CONVENTION

The Convention shall be composed of:

- (i) The Bishops:
- (ii) Every Presbyter and Deacon canonically resident in the Diocese fourteen (14) days immediately preceding the meeting of the Convention, except that a vote shall not be accorded to retired priests whose service in the Diocese was fewer than five years prior to retirement; and
- (iii) Three (3) Lay Deputies from each Parish and Aided Parish in union with the Convention and from each Incorporated Mission and Mission.

(iv) One (1) Youth Deputy and one (1) Alternate Youth Deputy elected by each District Convocation. Each shall be at least 14 years of age and under the age of 20, and none shall serve at more than two consecutive Diocesan Conventions.

## 5. EXCLUSION OF LAY DEPUTIES FROM VOTING IN CERTAIN CASES

Lay Deputies shall not be entitled to seat, voice or vote at any session of the Convention of this Diocese in any of the following circumstances:

(i) In case the Parish, Aided Parish, Incorporated Mission, or Mission sending such Deputies shall for the year immediately preceding have failed to report to the Bishop as required by Canon.

(ii) In case the Parish, Aided Parish, Incorporated Mission or Mission sending such Deputies, having been for the two (2) years immediately preceding without a Minister, and not having provided for regular services, shall have failed to notify the Bishop thereof, and to request that a Minister be assigned to it.

(iii) In case the Parish, Aided Parish, Incorporated Mission, or Mission sending such Deputies shall for one year immediately preceding willfully refuse to comply with any provision of this Constitution or the Canons after having been duly notified by the Ecclesiastical Authority of its failure to comply.

## 6. PRESIDENT OF CONVENTION

The President of the Convention shall be such one of the following as shall be present, and in the order named: the Bishop; the Bishop Coadjutor; the Suffragan Bishop; and the President of the Standing Committee.

## 7. QUORUM AND MANNER OF VOTING

Subject to the provisions of this Constitution pertaining to election of a Bishop, the Presbyters entitled to vote who may be present at the time of meeting, with the Deputies from ten (10) Parishes, Aided Parishes, Incorporated Missions, and Missions shall constitute a quorum.

On the demand of five (5) Presbyters entitled to vote, or of five (5) Lay Deputies each from a different Parish, Aided Parish, Incorporated Mission, or Mission, the vote upon any question shall be by orders, each Clerical and each Lay Deputy voting individually; and, when a vote is thus taken, a concurrent majority in both orders shall be necessary to carry any measure.

## 8. SECRETARY OF THE CONVENTION

At each annual Convention a Secretary shall be elected. The person elected shall be a communicant of the Diocese in good standing. The Secretary shall give notice of all Conventions as required by the Constitution, take Minutes of the proceedings, preserve the journals and records, attest the public acts of the Convention, and perform such other services as

may from time to time be prescribed by the Canons or by the Convention. At the commencement of the term of office of a successor, the outgoing Secretary shall deliver to his/her successor all books and papers relating to the concerns of the Convention and to the office of Secretary.

The term of Secretary shall commence at the adjournment of the Convention at which the Secretary was elected and shall continue until the adjournment of the next Annual Convention.

#### 9. ASSISTANT SECRETARIES

The Secretary shall appoint a sufficient number of Assistant Secretaries, not exceeding three, to assist in performing the duties of the office. In the event of a vacancy in the office of Secretary, the senior Assistant Secretary in point of service shall be acting Secretary. If no one of the Assistant Secretaries is able or willing to act as Secretary, the Secretary of the Standing Committee shall act until a Secretary is elected.

#### 10. SECRETARY TO PREPARE REPORT

The Secretary shall prepare, immediately after the adjournment of the Diocesan Convention next preceding the regular meeting of every General Convention, and forward forthwith to the Secretary of the House of Deputies of the General Convention, a report in the form and containing the information required by the Canons of the General Convention.

#### 11. TREASURER AND ASSISTANT TREASURER OF THE CONVENTION

At each Annual Convention a Treasurer and Assistant Treasurer shall be elected to serve until the next Annual Convention. Each shall give satisfactory security for the faithful performance of his/her duties. The Treasurer shall be entitled to a seat in the Convention and shall submit a statement of the accounts to each Annual Convention. The Assistant Treasurer shall perform such duties as may be assigned by the Treasurer of the Convention.

In case the Treasurer should die, resign, move from the Diocese or otherwise be incapable of acting, the Assistant Treasurer shall on certification of the Ecclesiastical Authority, assume all of the duties and powers of the Treasurer, until such time as the Treasurer shall resume his/her duties or a successor be elected or appointed. The Ecclesiastical Authority may fill a vacancy in the office of Treasurer or Assistant Treasurer.

### **ARTICLE III CHANCELLOR**

There shall be a Chancellor appointed by the Bishop for a term of three (3) years. The Chancellor shall be a communicant of the Diocese in good standing and learned in the law. He/she shall be the legal advisor of the Ecclesiastical Authority and the Convention and shall be entitled to a seat in the Convention.

**ARTICLE IV  
THE STANDING COMMITTEE**

The Standing Committee shall consist of four (4) Presbyters entitled to vote in the Convention and four (4) Lay Communicants of the Diocese who shall be elected by the Convention for a term of four (4) years, provided that no person shall be elected to serve more than two (2) full terms in succession. As soon as convenient after each election, the Standing Committee shall organize and choose a President from among its members and a Secretary. During the intervals when the Convention is not in session, the Standing Committee may fill vacancies in its membership.

**ARTICLE V  
DEPUTIES TO THE GENERAL CONVENTION**

1. At the Annual Convention in the calendar year next before the year in which the triennial General Convention is held, four (4) Clerical and four (4) Lay Deputies from the Diocese shall be elected. The voting shall be by ballot, the Clergy and Laity voting by orders, and a majority in both orders shall be necessary to constitute an election. Deputies so chosen shall hold office for three years. A corresponding number of supplementary Deputies in each order shall be elected in like manner, except that a majority of the total vote cast shall be necessary to constitute an election.

2. The Deputies-elect shall signify to the Bishop at least thirty (30) days before the meeting of General Convention their intention to perform their duties as such: in default of which the Bishop shall designate so many of the supplementary Deputies, in the order of their election, as may be necessary to insure a full representation of the Diocese. If such representation cannot be obtained from among the Deputies and supplementary Deputies, the Bishop shall appoint, with consent of the Standing Committee, sufficient individuals to achieve such representation. Supplementary Deputies so designated and other individuals so appointed shall have the same power and authority as Deputies elected by Convention. In case of a vacancy in the Episcopate, the power conferred in this section upon the Bishop, shall be exercised by the Standing Committee.

**ARTICLE VI  
DEPUTIES TO THE PROVINCIAL SYNOD**

Those persons elected as Deputies to General Convention pursuant to the provisions of Article V hereof shall by virtue of such election be Deputies to the Provincial Synod. Those persons elected as supplementary or alternate Deputies to General Convention pursuant to the provisions of Article V hereof shall by virtue of such election be supplementary or alternate Deputies to the Provincial Synod.

**ARTICLE VII  
ELECTION OF A BISHOP**

1. Election of a Bishop shall be made at an Annual Convention or at a Special Convention duly summoned as provided in this Constitution.
2. The voting shall be by ballot, the Clergy and Laity voting by orders and a concurrent majority of both orders shall be necessary to constitute an election. A quorum for the election of a Bishop shall be at least a majority of the Presbyters entitled to vote and Lay Deputies from a majority of Parishes, Aided Parishes, Incorporated Missions and Missions.

**ARTICLE VIII  
ADMISSION OF NEW PARISHES**

A new Parish may be admitted into union with this Convention by a majority of votes provided it shall have submitted:

- (i) Satisfactory evidence of the consent of the Bishop upon advice of the Standing Committee, or if the Episcopate is vacant, of the consent of the Standing Committee;
- (ii) Authenticated copies of the proceedings of its organization;
- (iii) A copy of its Certificate of Incorporation; and
- (iv) An authenticated copy of a resolution of its incorporators, Wardens, and Vestry promising conformity and obedience to the Doctrine, Discipline and Worship of the Protestant Episcopal Church in the United States of America and to the Constitution and Canons of that Church and of this Diocese.

**ARTICLE IX  
AMENDMENTS**

This Constitution may be amended in the following manner only:

The proposed amendment or amendments having been submitted to the Convention and approved by a majority of the members voting by orders shall lie over until the next Convention; and then if approved by a majority of the members voting by orders shall thereupon stand adopted. The second Convention at which such amendment or amendments are voted shall not be held less than four (4) months later than the prior Convention.

**ARTICLE X  
INCLUSIVE LANGUAGE**

The language of this constitution shall be inclusive.

**CANONS**

**CANON 1 THE CONVENTION**

**1. THE ROLL OF CLERGY**

The Bishop, or in the case of a vacancy in the Episcopate, the Standing Committee, shall no later than one (1) week before the day of meeting of a Convention or Special Convention, cause to be delivered to the Secretary of the Convention a certified list of all Clergy canonically resident in the Diocese and eligible for votes or seats at the Convention pursuant to Article II, section 4(ii) of the Constitution, together with the names of their respective cures or other stations or assignments. In the case of Clergy who have been ordained or received into the Diocese within the year immediately preceding, the date of their ordination or reception shall also be given. From the list so furnished, the Secretary shall prepare the roll of Clergy entitled to votes or seats in the Convention. The roll thus prepared shall be prima facie evidence of the rights of clerical members. Should any dispute arise, it shall be referred to a committee of two Presbyters and one Layperson appointed by the Convention, who shall decide and report on each case as early as may be; and the decisions thus made, if accepted by the Convention, shall not be called in question again during the same session.

**2. THE TESTIMONIAL OF LAY DEPUTIES**

Lay Deputies to the Convention shall present certificates of their election in the following form:

(Name of the Church, the Place, and Date)

This certifies that at a meeting of the Congregation of this Church, held for the purpose of electing Church Officers and Deputies and Alternate Deputies to the Diocesan Convention (or, for the purpose of electing Deputies and Alternate Deputies to the Diocesan Convention, if the meeting be for that object alone), A.B., C.D., and E.F., being Communicants of the Church in good standing, and qualified voters in this Parish (Aided Parish, Incorporated Mission, or Mission), were chosen as Deputies; and B.C., D.E., and F.G., also being Communicants in good standing, and qualified voters in this Parish (Aided Parish, Incorporated Mission, or Mission), were duly chosen as Alternate Deputies to represent the Parish (Aided Parish, Incorporated Mission or Mission), in that body for the year ensuing.

.....

In testimony of which I have hereunto set my hand (or if two Wardens subscribe, we have set our hands), the day or year above written.

This certificate in the case of a Parish or Aided Parish shall be signed by the Rector, or the Secretary or Clerk of the Vestry, or by the Wardens; and in the case of an Incorporated Mission or Mission by the Minister in charge, or by the Clerk, or by the Wardens, and transmitted to the Secretary of the Convention, within thirty (30) days after the election.

3. If any of the Deputies elected be unable to attend the Convention, the Rector, or the Minister

in charge of an Incorporated Mission or Mission, or if there be no Rector, then the Wardens, or if it be an Incorporated Mission or Mission, the Wardens, may designate so many of the Alternate Deputies, in order of their election, as may be necessary to insure a full representation of the Parish, Aided Parish, Incorporated Mission or Mission.

#### 4. THE ROLL OF LAY DEPUTIES

From the said certificate of Lay Deputies, the Secretary of the Convention shall prepare a roll of the Lay Deputies entitled to seats and vote in the Convention.

The roll thus prepared shall be prima facie evidence of the rights of the Lay Deputies. But should any dispute arise, it shall be referred to a committee of one (1) Presbyter and two (2) Lay persons appointed by the Convention, who shall decide and report on each case as early as may be; and the decisions thus made, if accepted by the Convention, shall not be called in question again during the same session.

#### 5. ATTENDANCE OF MEMBERS OF CONVENTION

It shall be the duty of every Clergyperson and Layperson having a seat in the Convention, to attend every meeting thereof.

#### 6. OPENING OF CONVENTION

Every Convention shall be opened with the celebration of the Holy Communion. The Bishop's Address and Episcopal Charge, if any, shall be published in the journal.

#### 7. CONVENTION RESOLUTIONS

Any Resolution calling for the establishment of a task force, committee, commission or any other entity with a lifespan of greater than one year shall also contain, at a minimum, each of the following elements:

1. A description of the purpose or mission of the entity to be created;
2. A mechanism for creating members of the entity, either through appointment or election, also including a definition of the terms of membership;
3. A statement of accountability identifying with particularity whether the entity to be created is responsible to the Bishop, the Convention or the Council;
4. A statement detailing whether the entity to be created will require funding and where that funding will come from;
5. A statement outlining the anticipated costs of the entity and the benefits to be gained from that expenditure; and

6. A statement of whether the entity to be created has a limited life span is permanent in nature or needs to be re-authorized by the Convention after a specific period of time.

## **CANON 2 VOTING AND ELECTIONS**

1. Upon any question for which provision is not otherwise specifically made in the Constitution or Canons, a voice vote shall be taken by "ayes" and "nays", all members present being entitled to vote. The President shall forthwith announce the result. But, if the President is in doubt or for other good cause or upon appeal from his/her announcement of the result, the vote shall be taken either by a standing vote or by a show of hands in which case each member shall have one vote.
2. If any of the Deputies elected be unable to attend the Convention, the Rector, or the Minister in charge of a Parish or Aided Parish, or if there be no Rector, then the Wardens, or if it be an Incorporated Mission or Mission, the Wardens, may designate so many of the Alternate Deputies, in order of their election, as may be necessary to insure a full representation of the Parish, Aided Parish, Incorporated Mission, or Mission.
3. In all elections in which provision is not otherwise specifically made in the Constitution or Canons, the vote shall be by ballot utilizing the Hare Preferential Ballot System (providing for a single ballot election with candidates ranked in order of preference) in accordance with voting procedures established in the Rules of Order of the Convention, and the candidates receiving the prescribed margin of the votes cast in each office shall be elected, and further provided however, that by unanimous consent, the ballot may in any case be dispensed with and an election made by vote as in paragraph 1 of this Canon or upon such other terms as the Convention may be by majority vote determine.
4. Where the Constitution or Canons provide for the filling of vacancies in the interim between Conventions, a person so chosen shall hold office only until the following Annual Convention.
5. Except in cases of death or incapacity, no individual elected or appointed pursuant to the Constitution or Canons may be relieved of his/her duties until a successor assumes such duties.
6. No person shall be eligible for election to any office at Convention, nor shall any person elected by Districts, or appointed to serve on Diocesan Council or other Diocesan Standing Committees, Commissions or Boards accede to that office, unless that person shall have first completed or arranged for the completion of anti-racism training as approved by the Bishop after consultation with the Mission to Dismantle Racism.

### **CANON 3 THE REGISTRAR**

The Bishop shall annually appoint a Registrar of the Diocese, whose duty it shall be to collect and act as custodian for records and documents relating to the history of the Church or which may be useful or necessary to the administration of the affairs of the diocese including but not by way of limitation:

journals of the proceedings of the Convention;

deeds or other instruments of title of property of the diocese including property held in the name of Trustees of the Episcopal Fund and Diocesan Properties of the Diocese of Newark;

the minute books and corporate records of corporations, committees and commissions operating under the authority of the Diocese;

registers of dissolved or dormant parishes and missions of the Diocese; copies of histories and other documents of historical interest pertaining to the history of the Diocese, its parishes and its missions.

The Diocesan Council shall provide such financial and other resources as may be reasonably necessary for the discharge of the duties of the Registrar. The Registrar shall act in accordance with such policies concerning the retention and disposal of documents as may be adopted by Diocesan Council from time to time or in absence or inapplicability of such policies as the Registrar may deem reasonable in the circumstances. The Registrar shall be entitled to seek the advice of the Chancellor in the discharge of Registrar's responsibilities. The Registrar shall report to the Diocesan Council and to the Convention annually describing the performance of the Registrar's duties during the year then ending.

### **CANON 4 THE COMMISSION ON MINISTRY**

#### **COMPOSITION**

There shall be a Commission on Ministry consisting of the Bishop together with ten (10) Clergy and ten (10) Lay persons, who shall be appointed by the Bishop with the concurrence of the Convention. The appointed members shall serve for a term of four (4) years but no such member shall be eligible for reappointment until a year shall have elapsed after the completion of any two (2) terms of service. Vacancies may be filled by the Ecclesiastical Authority until the next Annual Convention.

No person shall serve as a member of the Commission on Ministry and the Standing Committee at the same time.

#### **DUTIES AND FUNCTIONS**

The Commission on Ministry shall perform such duties and in such manner as prescribed by the Canons of General Convention and as directed by the Ecclesiastical Authority.

## **CANON 5 THE DIOCESAN COUNCIL**

### **1. COMPOSITION**

There shall be a Diocesan Council consisting of the Bishops; The Secretary of the Convention, who shall also be a Secretary of the Diocesan Council; The Treasurer of the Convention, who shall also be Treasurer of the Diocesan Council; and up to twenty-six (26) additional members. The Chancellor as legal advisor to the Council shall be afforded seat and voice at all meetings of the Council.

Of the additional members, up to twenty-two (22) Council members shall be elected by the District Convocation, the number of such members to be set by Diocesan Council. Each District Convocation shall elect an equal number of representatives to the Council, half of whom shall be clergy persons and half lay persons, who shall take office upon adjournment of the Annual Convention. Each District Convocation may fill vacancies among its representatives to the Council. The remaining number shall be appointed by the Bishop.

The term of any additional member shall be two (2) years, and no person shall be reelected or reappointed at the expiration of two (2) consecutive complete terms. The Council shall have the authority to establish classes so that a representative from each district and half of the membership in each order will be elected each year.

### **2. PURPOSE**

The Diocesan Council shall act for the Convention in the interim between meetings, and working with the Bishops and staff, shall be responsible for long-range planning and determining program priorities, presenting them clearly to the Convention for consideration. The Council acting for the Convention, shall from time to time review and evaluate the program approved by the Convention. The Council shall have all power necessary to carry out its functions and duties subject to law, the Constitution and Canons of the General Church, and the Constitution and Canons of this Diocese.

### **3. ORGANIZATION**

The President of the Convention shall preside over the Council, and the Council shall have power to enact By-laws and Regulations for the performance of its duties not inconsistent with the Constitution and Canons of General Convention and of this Diocese. The Committees of Council shall be as set forth in its By-laws and shall include a Finance Committee. The Finance Committee may include a minority of non-Council members, as provided by the By-laws, who shall be appointed by the Bishop.

#### 4. DUTIES

- a. Analyze needs, determine primary concerns and program priorities, and develop goals and policy for the Diocese.
- b. Review and evaluate the program of the Diocese, set standards, gather and analyze data, and compare results with goals and policy.
- c. Establish such planning groups as the Council may deem appropriate to carry out its purposes and duties.
- d. Engage consultants and utilize resources sufficient to accomplish the planning process.
- e. Supervise the financial affairs of the Convention, including budgetary matters.
- f. Submit annually to the Convention a unified budget for the ensuing year to provide for the total operation of the Diocese.
- g. Adopt a working budget annually.
- h. Provide for the maintenance of sound and accepted business practices in the affairs of the Diocese, its institutions, organizations, and agencies, and its Parishes, Aided Parishes, Incorporated Missions, and Missions. To accomplish this duty the Council shall be empowered to make regulations concerning the investment of trust funds, the bonding of treasurers and custodians, methods of keeping books of account, provisions for auditing and reporting thereof, maintenance of insurance, and such other matters consistent with this Canon, provided that all such regulations shall be subject to review, alteration, or amendment by Convention.
- i. Give recognition to accredited organizations, institutions, and other activities of the Diocese and provide regulations whereby such recognition can be given. No such organization, institution, or other activity shall receive financial support from the budget for the program of the Diocese or shall be permitted to use in its title any designation indicating it to be affiliated with the Diocese or in any other way hold itself out as a Diocesan organization, institution, or agency without first having received recognition from the Diocesan Council. The Diocesan Council shall have the further power of establishing standards, requiring reports, and the like in connection with all such organizations, institutions, and activities.
- j. Approve ACTS/VIM, Ward J. Herbert and Congregational Growth and Development Fund grants.
- k. Together with the Diocesan Staff, to encourage the timeliness and accuracy of parochial reports.

## **CANON 6 DEPARTMENT OF FINANCE**

A Department of Finance is hereby provided for as required by Title 1, Canon 6, Section 2 of the Canons of the Protestant Episcopal Church in the United States of America. Said Department shall be headed by a Chief Financial Officer, who shall be appointed by the Bishop. The Convention, the Diocesan Council or the Bishop may delegate to said Department matters relating to the financial affairs of the Diocese. The Chief Financial Officer shall have the authority to act in the name and on behalf of the Department of Finance in all matters not inconsistent with the Constitution and Canons of the Protestant Episcopal Church in the United States of America or of this Diocese. Said Department and the Chief Financial Officer, as may be appropriate in the circumstances, shall report to the Convention, the Diocesan Council or the Bishop with regard to matters it has considered and actions taken.

## **CANON 7 DIOCESAN ADMINISTRATION**

1. The Bishop shall be responsible for the administration and implementation of all programs and functions adopted by the Convention.
2. The Bishop may allocate responsibilities for the program of the Convention among designated departments, commissions, and committees as necessary, which shall be subject to his/her regulation and control.
3. The Bishop shall be responsible for the coordination of the various Diocesan activities, organizations, and institutions, among themselves and with their counterparts in the General Church.
4. The Bishop may determine the manner and composition of each department, commission or committee, whether by the Bishop's own appointment, by Convention election, or otherwise subject to the provisions of such departments, etc., as may be incorporated, etc.
5. The Bishop shall have authority to employ and supervise such staff as may be necessary to administer the affairs of the Diocese within the limits of the administrative and program budget.
6. The Bishop shall assist the Diocesan Council in its function of review and evaluation.
7. The Bishop and staff shall participate in the planning process as necessary and as requested.
8. The Bishop may delegate any of the foregoing responsibilities to the Suffragan Bishop, if there be one.
9. Whenever the Bishop shall leave the Diocese, the Bishop may designate the Suffragan Bishop, if there be one, to be the ecclesiastical authority of the Diocese during the absence of the Bishop.

## **CANON 8 DISTRICT CONVOCATIONS**

1. The Diocesan Council shall divide the Diocese into districts in each of which there shall be a Convocation.

2. Each Convocation shall be composed of:

(i) Every Clergy person canonically resident or licensed to officiate in the Diocese, who regularly serves a Parish, Aided Parish, Incorporated Mission or Mission in the district as an officiating clergy person.

(ii) Three Lay persons (not less than one of whom shall be a Warden, Treasurer, Clerk or member of the Vestry or Executive Committee, and, if possible, at least one of whom shall be between the ages of 14 and 21) from each Parish, Aided Parish, Incorporated Mission or Mission in the district, elected at an annual or special meeting of the Parish, Aided Parish, Incorporated Mission or Mission.

3. Each Convocation shall elect its own officers in accordance with By-laws adopted by Diocesan Council.

4. The Convocations shall have the following functions and powers:

- (i) to elect their representatives to the Diocesan Council;
- (ii) to provide communication between the local congregations and the Diocese; and
- (iii) to provide a network of support for parish life and development, a clergy collegiality and lay leaders.

They shall also have further functions and powers as may be assigned or delegated to them by the Convention, the Ecclesiastical Authority or the Diocesan Council.

## **CANON 9 PARISHES AND MISSIONS**

### **1. CLASSIFICATION OF CONGREGATIONS**

(a) All congregations which are a part of the Diocese of Newark shall be classified in one of the following categories:

- (1) Parish
- (2) Aided Parish
- (3) Incorporated Mission
- (4) Mission

### **2. CREATION OF PARISHES**

Parishes shall be created as provided by the laws of the State of New Jersey and the Constitution

of this Diocese.

### 3. CREATION OF MISSIONS

(a) Missions shall be created by the Bishop who shall be ex-officio the rector thereof and who may appoint a Vicar to be in charge of each Mission and to serve during the pleasure of the Bishop. No termination of such appointment shall be made except on one (1) month's notice.

(b) The temporal affairs of a Mission shall be in charge of an Executive Committee which shall be elected at an organization meeting.

(c) Such organization meeting shall be held on the call of the Bishop, or at his/her direction of the Archdeacon having jurisdiction. The meeting shall be presided over by the Bishop or such Archdeacon, or by a priest designated by the Bishop. At the organization meeting such persons shall be entitled to vote as shall sign an application for the establishment of the Mission in such form as the Bishop shall require.

(d) The Bishop may appoint one (1) or two (2) Wardens and a Treasurer for the Mission. There shall also be an Executive Committee consisting of the Vicar, the Wardens, the Treasurer, and not less than three (3) nor more than nine (9) additional persons who shall be elected at the organization meeting. The terms of such elected members shall continue until the next Annual Meeting. The Executive Committee shall elect one of their number as Clerk.

(e) The annual election of members of the Executive Committee shall be held on the Monday following the first Sunday in Advent or such other day as the Bishop shall appoint. At the first annual election the notice of the annual election or of any special meeting shall be given as provided in the case of Parish meetings. The Vicar, or such persons as may be designated by the Bishop, shall preside at all meetings of the Mission or Incorporated Mission and of the Executive Committee.

(f) The Bishop shall have the power to set aside any election, to suspend the annual election and to remove from office any and all officers and members of the Executive Committee of a Mission.

(g) Title to all real and personal property of a Mission, excepting funds received for the current expenses thereof, shall be vested in the Trustees of the Episcopal Fund and Diocesan Properties of the Diocese of Newark, a New Jersey corporation, or another corporation designated by it. Upon the Mission becoming an incorporated Parish in union with the Convention, the Trustees of the Episcopal Fund and Diocesan Properties, or such corporation, shall with the consent of the Bishop and Standing Committee transfer all such property to the Parish.

(h) All powers and authority given by the preceding subsections of this section to the Bishop shall in the event of vacancy in the Episcopate be exercised by the Standing Committee.

#### 4. REGISTERS AND REPORTS

(a) In every Parish, Aided Parish, Incorporated Mission and Mission there shall be maintained a register in which shall be recorded under the appropriate date the names of all persons baptized, confirmed, married or buried. In the case of baptism of children, the names of the parents and sponsors also shall be recorded. Each entry shall be signed by the person performing the action.

(b) Every Parish, Aided Parish, Incorporated Mission and Mission shall maintain such other records and make such reports as may be provided by General Convention or by or pursuant to authority of the Convention of this Diocese.

#### 5. QUALIFICATION OF VOTERS

The persons entitled to vote at any meeting of a Parish, Aided Parish, Incorporated Mission or Mission shall be:

(a) Baptized;

(b) At least 16 years of age;

(c) Of good moral character;

(d) Adherents of the Protestant Episcopal Church;

(e) Regular attendance at the services of the Parish, Aided Parish, Incorporated Mission or Mission for six (6) calendar months before the meeting; and

(f) Regular contributors for the same period of time to the current expenses of the Parish, Aided Parish, Incorporated Mission or Mission. A record of the regular contributors for the support of the Parish, Aided Parish, Incorporated Mission or Mission shall be maintained by the Treasurer, with the dates of their contributions. Such records shall be sufficient evidence as to the qualification of a voter with respect to the last preceding requirement.

#### 6. QUALIFICATION OF OFFICERS

(a) The persons entitled to hold office in any Parish, Aided Parish, Incorporated Mission or Mission shall be qualified voters of the Parish, Aided Parish, Incorporated Mission or Mission. A person entitled to hold Diocesan office or office in a District Convocation, a Warden, and a Deputy or Alternate Deputy to the Diocesan Convention shall be a Confirmed Communicant in good standing in addition to being a qualified voter.

(b) No person shall hereafter succeed herself or himself more than twice in the office of Warden, and no person shall serve more than six (6) consecutive years in such office.

## 7. BOUNDARIES OF PARISHES, AIDED PARISHES, INCORPORATED MISSIONS AND MISSIONS

In any case where it shall be expedient, the Bishop, upon the advice of the Standing Committee, or if the Episcopate be vacant the Standing Committee may establish the boundaries of Parishes, Aided Parishes, Incorporated Missions and Missions of this Diocese. An opportunity to be heard shall first be granted to the various representatives of any Parish, Aided Parish, Incorporated Mission or Mission which may be affected by the establishment of such boundaries. Boundaries thus constituted shall be valid for all canonical purposes, and also for fixing Parochial connection of all persons desiring, or entitled to, the ministrations of this church, who have not by some act of their own become attached to a congregation and for defining for each Rector or Vicar the extent of his/her responsibility for the cure of souls.

## 8. CLERGY COMPENSATION

(a) All Parishes, Aided Parishes, Incorporated Missions and Missions within the Diocese of Newark shall provide their full-time clergy with not less than the minimum stipend and other perquisites established by Diocesan Convention, except with the consent of the Bishop and the Standing Committee. Nothing herein shall prevent the acceptance of voluntary service by non-stipendiary clergy. The provisions of this paragraph shall not apply to Clergy holding cures within the Diocese at the time of its adoption with respect to such cures.

(b) Any Parish which is unable to pay the minimum compensation to its Rector may notify the Diocese of its need for financial assistance. During any period of Diocesan assistance, it shall continue to function as a Parish of the Diocese in all respects except that during such temporary status, no assets or endowment funds of the Parish shall be expended without notification to the Finance Office of the Diocese.

## 9. AIDED PARISHES

(a) A Parish may be reclassified to Aided Parish status if:

- (1) The Parish requests reclassification; OR
- (2) The Parish is no longer able to support the necessary operating expenses and indebtedness of the parish; OR
- (3) The Parish is so diminished in numbers that it is no longer viable as a Parish; OR
- (4) The Parish fails to elect officers in compliance with its corporate charter; OR
- (5) The Parish persistently fails to comply with the constitutional and canonical requirements for Parish status; OR
- (6) The Parish fails to hold its assets in accordance with the Canons of the Episcopal Church.

(b) A Parish may be reclassified to Aided Parish status as follows:

- (1) Report by the Bishop to the Standing Committee with recommendation of reclassification;  
AND
- (2) Concurring action by the Bishop and Standing Committee recommending reclassification to

the Diocesan Council; AND

(3) Written notification by the Standing Committee to the Rector and Vestry advising of recommendation of reclassification and of their right to appear before the Diocesan Council to oppose reclassification, such notice to be given not less than thirty (30) days prior to the Diocesan Council considering such recommendation; AND

(4) A hearing before the Diocesan Council at a regular or special meeting thereof on not less than thirty (30) days prior notice to the members of the Diocesan Council; AND

(5) The affirmative vote of not less than two-thirds of the members of the Diocesan Council present and voting.

(c) An Aided Parish shall continue to function as a Parish of the Diocese in all respects as follows:

(1) It shall be eligible to apply for financial assistance from the Diocese;

(2) Title to all real and personal property and endowment funds shall immediately be transferred to the Trustees of the Episcopal Fund and the Diocesan Properties of the Diocese of Newark, in trust for that church until subsequently reclassified.

(d) No congregation may maintain the status of Aided Parish for more than three (3) consecutive years. At the third Diocesan Convention following the reclassification to Aided Parish status, such congregation shall be (a) restored to full Parish status; or (b) reclassified to Incorporated Mission status, effective on the third anniversary of reclassification to aided parish status. The Bishop and Standing Committee may, at the request of a majority of the members of the Vestry of an Aided Parish, delay action on reclassification to incorporated mission status to the fourth Diocesan Convention following reclassification to Aided Parish status.

(e) At any time prior to the expiration of three (3) years, an Aided Parish may be restored to full and regular Parish status by approval of the Bishop and Standing Committee or the Diocesan Convention either upon the initiative of the Bishop or upon petition of the Vestry of the Aided Parish. If an Aided Parish shall remain in such status for a period of three (3) years, then a special meeting of the Aided Parish shall be called, and by majority vote thereof, shall determine to petition for restoration to full Parish status or to be changed to the status of an Incorporated Mission.

(f) The Diocesan Council shall be responsible for administering all Diocesan financial aid to Aided Parishes, subject to guidelines and procedures adopted by it. All decisions pertaining to financial aid to Aided Parishes shall require the consent of the Diocesan Council.

## 10. INCORPORATED MISSIONS

(a) An Aided Parish may be reclassified to Incorporated Mission status as follows:

(1) Certification by Bishop that Aided Parish is no longer viable to the Rector, Wardens and Vestry of the Parish concerned;

(2) Report by Bishop to an annual or special Convention of the Diocese together with his/her recommendation that the Parish be reclassified; and

(3) Adoption by Convention of the recommendation of the Bishop.

(b) The failure of Convention to adopt the recommendation of the Bishop for reclassification to Incorporated Mission Status will have the effect of restoring the Aided Parish to full Parish status.

(c) If a Parish or an Aided Parish requests reclassification to Incorporated Mission in writing signed by a majority of all current members of the Vestry, the Bishop may present such request before Standing Committee which may act on such request and reclassify.

(d) The Ecclesiastical status of an Incorporated Mission shall be that of a Mission, and it shall be governed by all of the provisions of these Canons applicable to Missions, except as otherwise specifically provided herein.

(e) Upon reclassification to Incorporated Mission status, the Rector relinquishes tenure, except Rectors in cures at the time of adoption of this canon. Any such Rector will retain tenure notwithstanding reclassification, but upon vacancy in the office of Rector, the Incorporated Mission lose the right to call a successor while so classified. A Rector retaining tenure under this section shall become the Vicar of the Incorporated Mission, and shall act at all times under the authority of the Bishop who shall be the ex officio Rector of such Incorporated Mission and President of the corporation.

(f) An Incorporated Mission shall retain the corporate structure it had as a Parish and shall elect officers and conduct its business in accordance with the provisions of its corporate charter, subject to the provisions of these Canons.

(g) An Incorporated Mission may be reclassified to Mission status upon the approval of the Bishop, the Standing Committee, and a majority of the deputies to an annual or special Convention of the Diocese voting by orders. In addition, if an Incorporated Mission requests such reclassification in writing signed by a majority of the qualified voting members of congregation, an Incorporated Mission may become a Mission with the consent of the Bishop and Standing Committee.

(h) Upon reclassification to Mission status, the church continues to function as a Mission of the Diocese, but the Parish corporation shall be dissolved.

## 11. AREA MINISTRIES

Two or more Parishes may choose to enter into a compact to establish an Area Ministry with the prior consent of the Bishop and the Standing Committee. Similarly, one or more Parishes may choose to enter into a compact to establish an Area Ministry with one or more Incorporated Missions or Missions operating under the authority of the Diocesan Council. The terms and conditions of such compact shall be as are agreed upon by the respective Rectors, Wardens and Vestries (in the case of Parishes), the Diocesan Council, and the respective Executive Committees (in the case of Missions and Incorporated Missions) and approved by the Bishop and Standing Committee. Those terms and conditions shall include the following:

- (1) Provisions for the selection, term and compensation of clergy serving the Area Ministry;
- (2) Provisions for the administration of such Area Ministry;
- (3) Provisions for withdrawal from any Area Ministry by any member church; and
- (4) Provisions for the dissolution of the Area Ministry.

## 12. EMERGENCY POWERS

- (a) In the event that the capital assets of a Parish are in imminent danger of being transferred, expended or dissipated in violation of the Canons of the Episcopal Church, the Bishop, with the consent of three-fourths (3/4) of the members of the Standing Committee, may direct that no such transfer or expenditure be made pending a determination by the Diocesan Council as to whether reclassification to Aided Parish Status is appropriate.
- (b) In the event that the Treasurer of any Parish fails to act in accordance with his or her duties or engages in acts which are contrary to his or her duties or the Canons of the Episcopal Church, and the Vestry having failed to secure the Treasurer's compliance with his or her duties or the Canons, the Bishop, with the consent of three-fourths (3/4) of the members of the Standing Committee, may temporarily suspend such Treasurer and appoint a temporary replacement until the Treasurer either resigns from that office or agrees to comply. Such action may be appealed to the Diocesan Council, which may over-rule the suspension.

## 13. DISSOLUTION OF MISSIONS

The Bishop and Standing Committee in any case where they deem it be in the best interests of the Church to terminate a Mission may declare such Mission to be dissolved.

### **CANON 10 LEASES**

A Parish may enter into a lease or leases of Parish-owned property, other than for residential use, without the prior consent of the Bishop and Standing Committee provided the term of such lease does not exceed (1) year in duration, and the lease does not obligate the Parish to extend or renew the tenancy beyond one year. No Parish-owned property shall be used or leased for residential purposes without the prior consent of the Bishop and Standing Committee, in writing, regardless of the extent of such use and the duration of such lease, except that no such consent shall be required for the occupancy of Parish-owned property by Clergy or lay employee(s) of such Parish.

### **CANON 11 PLEDGE TO BUDGET**

It is the responsibility of every congregation in the Diocese of Newark to make a financial pledge to the Unified Budget of the Diocese of Newark. Written pledges, in accordance with the approved system of diocesan giving, for each calendar year are due in the Diocesan Finance Office by December 1 of the preceding year.

### **CANON 12 ARCHDEACONS**

The Bishop shall appoint such Archdeacons, assign them such jurisdiction and impose upon them such duties as is deemed expedient.

### **CANON 13 COMMITTEE ON THE CHURCH PENSION FUND**

1. The Bishop shall appoint annually a Committee on the Church Pension Fund whose duties shall be to implement the participation of the Diocese in that Fund by obtaining and transmitting such information, rendering such reports and taking such other action as may be required or appropriate on the part of this Diocese.

2. It shall be the duty of the person charged with paying the compensation of any clergyperson in the Diocese to submit all information in connection therewith as may be required by the Church Pension Fund, and to pay to that Fund all premiums which may become due with respect to such compensation.

3. It shall be the duty of every clergy person canonically resident in or serving in this Diocese to inform the Church Pension Fund promptly of such facts, as dates of birth, or ordination, or reception, of marriage, births of children, deaths and changes in cures or salaries, as may be necessary for its proper administration and to cooperate with said Fund in such other ways as may be necessary in order that said Fund may discharge its obligations in accordance with the intention of the General Convention in respect thereto.

### **CANON 14 INSURANCE**

The Diocese of Newark shall obtain a group policy or group policies which will provide life and health insurance coverage for the clergy of the Diocese. Participation by Parishes, Aided Parishes, Incorporated Missions and Missions is mandatory. The premium cost attributable to insurance coverage for clergy employed by a Parish, Aided Parish, Incorporated Mission or Mission shall be paid by that Parish, Aided Parish, Incorporated Mission or Mission. The effective date of this shall be January 1, 1985.

### **CANON 15 TRUSTEES OF THE FUND FOR AGED AND INFIRM CLERGY**

1. The Trustees of the Fund for Aged and Infirm Clergy consisting of the Bishop and the members of the Standing Committee, shall administer the several funds committed to their care pursuant to the trusts upon which they were established.

#### **2. THE AUTOMATIC PENSION FUND**

In the case of the Automatic Pension Fund the Trustees shall annually divide as of May first the income received on the Fund during the preceding year among those Clergy who:

(a) have attained the age of sixty-five (65) years and have notified the Trustees of that fact prior to May first of the year in question; and

(b) were canonically resident in the Diocese for the five (5) years immediately preceding such

notification; and

(c) were for at least five (5) years of their last term of canonical residence settled Ministers or Missionaries duly appointed by the Ecclesiastical Authority; and

(d) have retired on account of age or disability.

No such clergy person shall receive in excess of \$1,000.00 from this fund in any one (1) year and all surplus of income, if any, and gifts and donations to the Automatic Pension Fund shall be added to the principal of the Fund.

### 3. FUND FOR THE RELIEF OF CLERGY AND THEIR DEPENDENTS.

In the case of the Fund for the Relief of Clergy and Their Dependents, the Trustees shall at their discretion annually as of May first appropriate the estimated income of the Fund during the current year for:

(a) the relief of disabled clergy canonically resident in the Diocese;

(b) the relief of the widows, widowers, and children and the defraying of the funeral expenses of deceased clergy who were canonically resident in the Diocese at the time of their demise.

Unappropriated income shall in the discretion of the Trustees be reserved as a contingency fund for the foregoing purposes or may be added to the principal of the Fund.

## **CANON 16 THE DIOCESAN INVESTMENT TRUST**

The management of the Diocesan Investment Trust shall be under the control of the Bishop of the Diocese, who shall be President thereof, and ten (10) other Trustees who shall be elected by the Bishop and the Standing Committee for terms of five (5) years. In the case of a vacancy in the Episcopate, the election shall be by the Standing Committee. If a trustee leaves office without having served the full term for which he or she was elected, a successor shall be elected for the unexpired term.

Initially, trustees may be elected for terms of less than five (5) years, but only for the purpose of establishing a program whereby the terms of two (2) trustees shall expire each year.

## **CANON 17 THE ECCLESIASTICAL COURT**

### 1. COMPOSITION

There shall be an Ecclesiastical Court for the Trial of a Priest or Deacon which shall be composed of four (4) Priests or Deacons elected by the Convention for a term of four (4) years and three (3) Lay Persons, who are confirmed adult communicants of this Church in good standing, elected by the Convention for a term of three (3) years. No member of the Court may be a member of the Standing Committee or the Diocesan Review Committee. The Court shall appoint not less than one nor more than three Lay Persons who are confirmed adult

communicants of this Church in good standing, learned in the law, as Assessors. A Lay Assessor need not reside in or be a member of the Diocese.

## 2. VACANCIES

a. The death, disability rendering a person unable to act, resignation or declination to serve as a member of an Ecclesiastical Trial Court shall constitute a vacancy on the Court. Notice of resignations or declinations to serve shall be given by members of the Court in writing to the Presiding Judge of the Court. If any Priest elected to an Ecclesiastical Court is elected a bishop, or if any lay person elected to an Ecclesiastical Trial Court is ordained prior to the commencement of a Trial, that person shall immediately cease to be a member of the Ecclesiastical Court. Notwithstanding the foregoing, however, following the commencement of a Trial, all members of the court shall continue to serve until the completion of the Trial and the rendering of a Verdict thereon. For the purposes of this Section, the term Verdict shall be deemed to include the imposition of sentence. Vacancies, other than for cause under subsection b of this Canon, occurring in any Ecclesiastical Court shall be filled by the remaining members of the Court until the next meeting of the Convention.

b. Members of the Ecclesiastical Court may be challenged by either the Respondent or the Church Attorney for cause stated to the Court. The Court shall determine the relevancy and validity of challenges for cause. Vacancies caused by challenges determined by the Court shall be filled by majority vote of the Court from persons otherwise qualified for election under these canons. Vacancies filled by the Court shall be from the same order as the person challenged was when first elected to the Court.

c. Any member of the Ecclesiastical Court may recuse himself or herself from any Trial. Any vacancy caused by such recusal shall be filled by majority vote of the Court from persons otherwise qualified for election under these canons. Vacancies filled by the Court shall be from the same order as the recused person was when first elected to the Court.

d. In the event that the Ecclesiastical Court cannot be convened due to vacancies, declinations to act, absences, resignations, challenges or otherwise or due to the determination by the Diocesan Review Committee for good cause shown that change in venue is needed, the Ecclesiastical Authority shall arrange for the Trial to be held by an Ecclesiastical Trial Court of another Diocese in Province II reasonably convenient for the parties.

## 3. ORGANIZATION

Annually within two (2) months following the Convention, the Court shall organize itself to include the election of a Presiding Judge from among its members. The Court shall also choose a Clerk and, if necessary, Assistant Clerks who shall be Priests or Deacons or adult confirmed communicants in good standing of this Church and who shall serve at the pleasure of the Court. The Ecclesiastical Court shall also appoint a Reporter who shall provide for the recording of the proceedings and who shall serve at the pleasure of the Court.

## 4. QUORUM

Five (5) members of the Court shall constitute a quorum.

## 5. DUTIES OF THE LAY ASSESSORS

The Assessors shall sit with the Court to advise it upon questions of law, procedure or evidence.

## 6. THE CHURCH ATTORNEY

A Church Attorney shall be appointed by the Standing Committee with the advice and consent of the Ecclesiastical Court for a term of three (3) years. The Church Attorney shall be a confirmed adult communicant of this Church in good standing, learned in the law, and admitted to practice law in the State of New Jersey. The Church Attorney need not reside in or be a member of the Diocese. The Church Attorney may not be the Chancellor or a Vice Chancellor of the Diocese or a member of the Standing Committee, the Diocesan Review Committee or the Diocesan Council and may not be from the same law firm as the Chancellor, the Clergy Consultant, or any Lay Assessor. The Ecclesiastical Court shall have the power, with or without cause, to remove (or suspend) the Church Attorney by vote of two-thirds (2/3) of its members. Upon any such removal or suspension, the Standing Committee with the advice and consent of the Ecclesiastical Court, shall appoint a temporary replacement (in the case of a suspension) and shall fill the office of Church Attorney (in the event of a removal).

## 7. THE CLERGY CONSULTANT

A Clergy Consultant shall be appointed by the Standing Committee with the advice and consent of the Ecclesiastical Court for a term of three (3) years. The Clergy Consultant shall be a confirmed adult communicant of this Church in good standing, learned in the law, and admitted to practice law in the State of New Jersey or a Priest, chaplain or other person familiar with the procedures, alternatives, requirements and consequences of the disciplinary Canons. The Clergy Consultant need not reside in or be a member of the Diocese. The Clergy Consultant may not be the Chancellor or a Vice Chancellor of the Diocese or a member of the Standing Committee, the Diocesan Review Committee or the Diocesan Council and may not be from the same law firm as the Chancellor, the Church Attorney, or any Lay Assessor. The Consultant shall be available to consult with and advise the priest or Deacon and his or her legal advisors at reasonable times prior to the issuance of a Presentment. The Consultant shall explain the rights of the Priest or Deacon and the alternatives available under this Canon. A Priest or Deacon shall be notified of the availability and identity of the Consultant at the earliest of (a) the communication to the Priest or Deacon of a Charge; (b) any interrogation or request for a statement; (c) the service of a Temporary Inhibition; (d) submission to the Ecclesiastical Authority; or (e) prior to the Execution of a Waiver and Voluntary Submission to Discipline. All communications between the Consultant and the Priest or Deacon, or his or her legal advisors shall be Privileged Communications. No Consultant shall be required to respond to any questions regarding any Priest or Deacon for whom the Consultant has acted as a Consultant. The expenses of the Consultant shall be the obligation of the Diocese.

## 8. RIGHT TO COUNSEL

In all proceedings under the disciplinary Canons, whenever a Priest or Deacon suspected of an

offense is required or permitted to appear, the Priest or Deacon shall have the right to be represented by counsel of her or his own choice. The right shall be in addition to the right to the advice and assistance of the Clergy Consultant.

## 9. DUTY TO APPEAR, RESPOND AND GIVE TESTIMONY

Except as otherwise expressly provided by Canon, it shall be the duty of all Members of this Church to appear and testify or respond when duly served with a Notice or Citation by the Standing Committee or the Ecclesiastical Court in any matter arising under the disciplinary Canons of this Church.

## **CANON 18 THE PRESENTMENT AND TRIAL OF A PRESBYTER OR DEACON**

### A. DIOCESAN REVIEW COMMITTEE

1. There shall be a Diocesan Review Committee which shall be composed of four (4) Priests or Deacons elected by the Convention for a term of four (4) years and three (3) Lay Persons, who are confirmed adult communicants of this Church in good standing, elected by the Convention for a term of three (3) years. No member of the Diocesan Review Committee may be a member of the Standing Committee or the Ecclesiastical Court.

2. Vacancies on the Diocesan Review Committee shall be filled by the Standing Committee until the next succeeding Diocesan Convention.

3. Annually within two (2) months following the Convention, the Diocesan Review Committee shall organize itself to include the election of a President and a Secretary from among its members.

4. Five (5) members of the Diocesan Review Committee shall constitute a quorum.

5. If the person against whom a Charge or Complaint is made is a Member of the Diocesan Review Committee or if the Diocesan Review Committee is not able to consider a Charge or a Complaint, the Ecclesiastical Authority shall arrange to have the Charge or Complaint reviewed by the Diocesan Review Committee of another Diocese within Province II reasonably convenient to both parties.

### B. PRESENTMENTS

1. A Presentment to the Ecclesiastical Court may be issued only by the Diocesan Review Committee as provided in this Canon.

2. A Charge against a Priest or Deacon shall be in writing, verified and addressed to the Diocesan Review Committee of the Diocese wherein the Priest or Deacon is canonically resident, except as otherwise expressly provided in this Title. It shall concisely and clearly inform as to the nature of and facts surrounding each alleged Offense.

3. A Charge may be made:

(a) by a majority of the lay Members of the Vestry of the Parish of which the Respondent is the Rector;

(b) by any three Priests canonically resident in the Diocese wherein the Respondent is canonically resident or canonically resident in the Diocese wherein the Respondent is alleged to have committed the Offense; or

(c) by any seven adult communicants in good standing in the Diocese wherein the Respondent is canonically resident or in the Diocese wherein the Respondent is alleged to have committed the Offense; or

(d) in a case where the alleged Offense is the violation of Ordination vows involving the disregard or disobedience of a Pastoral Direction issued by a Bishop, only by that Bishop or the Ecclesiastical Authority of that Diocese, or by another Bishop, if the Bishop who issued the Pastoral Direction has resigned, retired, or died or is unable to act; or

(e) in a case where the Offense alleged is a Charge specifying the Offenses of Crime, Immorality or Conduct Unbecoming a Member of the Clergy, by any adult who is (i) the alleged Victim, or (ii) a parent or guardian of an alleged minor Victim or of an alleged Victim who is under a disability, or (iii) the spouse or adult child of a Victim; or

(f) in a case where the Offense alleged is that of holding and teaching publicly or privately any doctrine contrary to that held by this Church only, by a majority of the members of the Diocesan Review Committee of the Diocese in which the Member of the Clergy is canonically resident or of the Diocese wherein the Respondent is alleged to have committed the Offense; or

(g) by a majority of the Diocesan Review Committee of the Diocese in which the Member of the Clergy is canonically resident or of the Diocese wherein the Respondent is alleged to have committed the Offense whenever the Diocesan Review Committee shall have good and sufficient reason to believe that any Priest or Deacon has committed the Offense; or

(h) the Ecclesiastical Authority of the Diocese in which the Respondent is alleged to have committed the Offense, if different from the Diocese of canonical residence.

4. If a complaint or accusation is brought to the Bishop by an adult who is (i) the alleged Victim, or (ii) a parent or guardian of an alleged minor Victim or of an alleged Victim who is under a disability, or (iii) the spouse of an alleged Victim, of an Offense of Crime, Immorality or Conduct Unbecoming a Member of the Clergy, the Bishop, after consultation with the alleged Victim, the alleged Victim's spouse, or the alleged Victim's parent or guardian or adult child, may appoint an Attorney to assist those persons in understanding and participating in the disciplinary processes of this church, obtain assistance to formulate and submit an appropriate Charge and in obtaining assistance in spiritual matters, if the Victim, spouse, parent or guardian so choose. Any alleged victim or Complainant may be represented by an attorney and/or advocate of their choice.

5. Whenever the Bishop has sufficient reason to believe that any Priest or Deacon

canonically resident in this Diocese has committed an Offense and the interests and good order and discipline of the church require investigation by the Diocesan Review Committee, the Bishop shall concisely and clearly inform the Diocesan Review Committee in writing as to the nature and facts surrounding each alleged Offense and the specification of each Offense but without judgment or comment upon the allegations or guilt, and the Diocesan Review Committee shall proceed as if a Charge had been filed.

6. Any Priest or Deacon canonically resident in this Diocese who deems himself or herself to be under imputation, by rumor or otherwise, of any Offense or misconduct for which he or she could be tried in an Ecclesiastical Court, may on his or her own behalf complain to and request of the Bishop that an inquiry with regard to such imputation be instituted. Upon receipt of such request by a member of the clergy, it shall be the duty of the Bishop to cause the matter to be investigated and to report the result to the Priest or Deacon.

7. Any Charge against a Priest or Deacon shall be promptly filed with the President of the Diocesan Review Committee.

8. Upon the filing of a Charge with the Diocesan Review Committee, the Diocesan Review Committee shall promptly communicate the same to the Bishop and the Respondent.

9. In a case of a Priest or Deacon canonically resident in this Diocese convicted in a criminal Court of Record in a cause involving Immorality, or against whom a judgment has been entered in a civil Court of Record in a cause involving Immorality, the Priest or Deacon shall notify the Ecclesiastical Authority of the diocese in which the priest or Deacon is canonically resident, in writing, of such conviction or entry of judgment, within thirty days thereof, whether or not any time for appeal has expired. It shall be the duty of the Ecclesiastical Authority to give notice of the conviction or entry of judgment to the Diocesan Review Committee of the Diocese in which the Priest or Deacon is canonically resident, in which case, or if the Diocesan Review Committee shall otherwise have knowledge of such conviction of judgment, it shall be the duty of the Diocesan Review Committee to institute an inquiry into the matter. If the conviction or judgment be established, the Diocesan Review Committee shall issue a Presentment against the Priest or Deacon for Trial.

10. Within thirty days after the filing of a Charge, other than a Charge alleging a conviction in a criminal Court of Record in a cause involving Immorality or alleging the entry of a judgment in a civil Court of Record in a cause involving Immorality, the Diocesan Review Committee shall convene to consider the Charge. If after such consideration the Diocesan Review Committee determines that an Offense may have occurred if the facts alleged be true, the Diocesan Review Committee shall prepare a written general statement of the Charge and the facts alleged to support the Charge and transmit the same to the Church Attorney.

11. The Church Attorney shall promptly make such investigation of the matter.

12. Within sixty days after receipt of the statement from the Diocesan Review Committee, unless delayed for good and sufficient cause stated, the Church Attorney shall render a confidential Report to the Diocesan Review Committee of the findings of that investigation and as to whether or not an Offense may have been committed if the facts disclosed by the

investigation be found to be true upon Trial, and with a recommendation as to the matter in the interest of justice and the good order and discipline of this Church and based upon such other matters as shall be pertinent. The Report of the Church Attorney shall be confidential for all purposes as between the Church Attorney and the Diocesan Review Committee. Provided, however, the Diocesan Review Committee shall share the Report of the Church Attorney with the Bishop of the Diocese.

13. Within thirty days after the receipt of the Report of the Church Attorney, the Diocesan Review Committee shall convene to consider the Report and whether or not a Presentment shall issue. In its deliberations, the Diocesan Review Committee may consider the Church Attorney's Report, responsible writings or sworn statements pertaining to the matter, including expert's statement, whether or not submitted by the Church Attorney. The Diocesan Review Committee shall issue a Presentment for an Offense when the information before it, if proved at Trial, provides Reasonable Cause to believe that (i) an Offense was committed, and (ii) the Respondent committed the Offense.

14. A vote of a majority of all the members of the Diocesan Review Committee shall be required to issue a Presentment. No member shall disclose his or her vote or the vote of any member to any person not a member of the Diocesan Review Committee. In the event that, due to members who have been excused or vacancies in office, the Diocesan Review Committee does not have sufficient voting members to meet the requirements of this Section, the action of the Diocesan Review Committee shall be postponed until such time as there are sufficient members in office to fulfill the voting requirements of this Section.

15. If a Presentment be issued, it shall be in writing, dated, and signed by the President or the Secretary of the Diocesan Review Committee on behalf of the Diocesan Review Committee whether or not that officer voted in favor of the Presentment. In the event that there be no President or Secretary, or they be absent, a member of the Diocesan Review Committee appointed for that purpose shall sign the Presentment. The Presentment also shall contain (i) a separate accusation addressed to each Offense, if there be more than one, and (ii) a plain and concise factual statement of each separate accusation sufficient to clearly apprise the Respondent of the conduct which is the subject of the Presentment.

16. Promptly after the issuance of a Presentment, the Diocesan Review Committee shall cause the original to be filed with the President of the Ecclesiastical Trial Court with a true copy thereof served upon the Bishop, the Respondent, the Clergy Consultant, the Church Attorney and each Complainant and, unless waived in writing, the alleged Victim, and the Ecclesiastical Authority of the Diocese in which the Respondent is canonically resident, in which the Respondent is licensed, and in which the Respondent resides.

17. If the Diocesan Review Committee votes not to issue a Presentment, then that decision shall be in writing and shall include an explanation. A copy shall be served upon the Bishop who shall file it with the Secretary of the Convention of the Diocese, the Respondent, The Clergy Consultant, the Church Attorney, each Complainant, and unless waived in writing, the alleged Victim.

18. Prior to the issuance of a Presentment or a determination not to issue a Presentment

as the case may be, the matter shall be confidential, except as may be determined to be pastorally appropriate by the Ecclesiastical Authority.

19. Non-compliance with time limits set forth in this Canon shall not be grounds for the dismissal of a Presentment unless such non-compliance shall cause material and substantial injustice to be done or seriously prejudice the rights of an Respondent as determined by the Trial Court on motion and hearing.

### C. TRIALS

1. Ecclesiastical Courts shall be governed by the Rules of Procedure set forth in Appendix A to the Canons of the Episcopal Church and other such procedural rules or determination as the Ecclesiastical Court deems appropriate and not inconsistent with such Canons, and by The Federal Rules of Evidence in the conduct of the Trial.

2. The Ecclesiastical Court shall keep a record of the proceedings in each case brought before it and the record shall be certified by the Presiding Judge of the Court. If the record cannot be authenticated by the Presiding Judge by reason of the Presiding Judge's death, disability or absence, it shall be authenticated by a member of the Court designated for that purpose by majority vote of the Court.

3. The Ecclesiastical Court shall permit the Respondent to be heard in person, and by the Clergy Consultant, and by counsel of the Respondent's own selection. In every Trial the Court may regulate the number of counsel who may address the Court or examine witnesses.

4. (a) Upon receiving a Presentment, the Presiding Judge shall, within thirty days, send to each member of the Court a copy of the Presentment.

(b) The Presiding Judge of the Court shall, within not more than three calendar months from the Presiding Judge's receipt of the Presentment, summon the Respondent to answer the Presentment in accordance with the Rules of Procedure.

(c) Respondent's answer or other response to the Presentment in accordance with the Rules of Procedure shall be duly recorded and the Trial shall proceed; Provided, that for sufficient cause the Court may adjourn from time to time; and Provided, also, that the Respondent shall, at all times during the Trial, have liberty to be present, and may be accompanied by the Clergy Consultant or other counsel and one other person of his or her own choosing, and in due time and order to produce testimony and to make a defense.

(d) If the Respondent fails or refuses to answer or otherwise enter an appearance, except for reasonable cause to be allowed by the Court, the Church Attorney may, no sooner than thirty days after the answer is due, move for Summary Judgment of Offense in accordance with the Rules of Procedure. If the motion is granted, the Respondent shall be given notice that Sentence of Admonition, Suspension or Deposition will be adjudged and pronounced by the Court at the expiration of thirty days after the date of the Notice of Sentence, or at such convenient time thereafter as the Court shall determine. Sentence of Admonition, Suspension or of Deposition from the Ordained Ministry may, thereafter, be adjudged and pronounced by the Court.

5. In all Ecclesiastical Trials, the Church Attorney shall appear on behalf of the Diocese

which shall then be considered the party on one side and the Respondent the party on the other. Each Complainant or alleged Victim shall be entitled to be present throughout and observe the trial and for each to be accompanied by counsel or another person of their own choosing.

6. Before a vote is taken on the findings and in the presence of the Respondent and counsel, counsel for the parties may submit requested proposed instructions. The Presiding Judge of the Ecclesiastical Court, after consultation with the Lay Assessors, shall declare which of the proposed instructions shall be issued and also instruct the members of the court as to the elements of the Offense and charge them (i) that the Respondent must be presumed to be innocent until the Respondent's guilt is established by clear and convincing evidence, and unless such standard of proof be met the Respondent must be acquitted, and (ii) that the burden of proof to establish the Respondent's commission of the Offense is upon the Church Attorney in the name of the Diocese.

7. A separate vote shall be taken first upon the findings as to the commission of an offence by the Respondent. The Presiding Judge shall cause the Respondent, the Clergy Consultant, the Church Attorney, each Complainant, and, unless waived in writing, the alleged Victim to be advised of and provided with a copy of the findings of the Court.

8. For a Judgment that the Respondent has committed an Offense, the affirmative vote of not less than two-thirds of the Members of the Ecclesiastical Court then serving for the Trial shall be necessary. Failing such two-thirds vote, the Presentment shall be dismissed.

9. No vote shall be taken on the Sentence to be imposed until at least thirty days after the Priest or Deacon, the Clergy Consultant, the Church Attorney, each Complainant and, unless waived in writing, the Victim have been informed of the Judgment and each has had a reasonable opportunity to offer matters in excuse or mitigation or to otherwise comment on the Sentence. All matters in excuse or mitigation or comments on the Sentence shall be served on the Respondent, Church Attorney, Complainants and, unless waived in writing, the Victim. The Court shall provide a reasonable time for response to the Court which shall also be served as provided above. The Court may schedule hearings on the submissions. The Members of the Court shall vote upon the Sentence.

10. The concurrence of not less than two-thirds of the members of the Ecclesiastical Court the serving for that Trial shall be necessary to adjudge and impose a Sentence upon a Priest or Deacon found to have committed an Offense. The Court shall then vote upon a sentence to be adjudged and imposed upon the Priest or Deacon and the decision so signed shall be recorded as the Judgment of the Court. The decision of the Court as to all the Charges shall be reduced to writing, and signed by those who assent to it.

11. The Judgment and any Sentence adjudged on a Judgment shall be communicated promptly to the Bishop of the Diocese wherein the Trial was held, the Ecclesiastical Authority, if there be no Bishop, the Standing Committee, the Ecclesiastical Authority of the Diocese in which the Respondent is canonically resident, the Priest or Deacon, the Clergy Consultant, the Church Attorney, each Complainant, and, unless waived in writing, the Victim.

#### D. TEMPORARY INHIBITIONS

1. If a priest or deacon is charged with an Offense or Offenses or serious acts are complained of to the Bishop that would constitute the grounds for a Charge of an Offense and, in the opinion of the Bishop, the Charge is supported by sufficient facts, the Bishop may issue a Temporary Inhibition.

2. Any Temporary Inhibition shall: (i) be in writing, (ii) set forth the reasons for its issuance, (iii) be specific in its terms, (iv) define the Offense or Offenses charged or serious acts complained of, (v) describe in reasonable detail the act or acts inhibited, (vi) be promptly served upon the Priest or Deacon to be inhibited, and (vii) become effective upon being served upon the Priest or Deacon to be inhibited.

3. A Temporary Inhibition may be issued without prior written or oral notice to the Priest or Deacon.

4. Any Priest or Deacon against whom a Temporary Inhibition has been issued, modified or extended may request a hearing concerning the Temporary Inhibition before the Diocesan Review Committee, which shall hear the same at the earliest possible time, but not later than fourteen days after the date of receipt of the request. The Diocesan Review Committee by a two-thirds vote may dissolve or modify the Temporary Inhibition. The Bishop, the Clergy Consultant and the Church Attorney shall be given notice of such hearing and shall be permitted to attend and be heard.

5. At any time, a Bishop may dissolve or reduce the terms of a Temporary Inhibition.

6. A Temporary Inhibition shall continue in full force and effect until the earlier of (i) the issuance of an Inhibition as otherwise permitted by Title IV of the Canons of the Episcopal Church, (ii) the withdrawal of the Charge or the allegations, (iii) the refusal of the Diocesan Review Committee to make a Presentment on the Charges alleged, (iv) dissolution of the Temporary Inhibition, (v) imposition of a Sentence following a voluntary submission to discipline, or (vi) a period of ninety days measured from the date of service of the Temporary Inhibition; provided, however, the ninety-day period may be extended by the Bishop upon the advice and consent of a majority of all the members of the Diocesan Review Committee for additional ninety-day periods upon good cause.

7. In the event the Temporary Inhibition is dissolved or reduced or otherwise expires, the Ecclesiastical Authority shall so notify all persons to whom notice of the issuance of the Temporary Inhibition was given.

8. If a Presentment has been made by the Diocesan Review Committee against a Priest or Deacon, or if a Priest or Deacon has been convicted in a criminal Court of Record in a cause involving Immorality, or if a judgment has been entered against a Priest or Deacon in a civil Court of Record in a cause involving Immorality, the Bishop may issue an Inhibition to the Priest or Deacon until after the judgment of the Ecclesiastical Trial Court becomes final.

## **CANON 19 AMENDMENTS**

## 1. COMMITTEE ON CONSTITUTION AND CANONS

The Committee on Constitution and Canons shall consist of ten (10) members elected at each Annual Convention, who shall serve from the adjournment of said Annual Convention until the adjournment of the next Annual Convention, and the Chancellor who shall be a member ex officio and shall serve as its chair and one vice chancellor, if there be any, to be named to the committee by the Chancellor. Vacancies in the interim shall be filled by the Ecclesiastical Authority.

## 2. ADOPTION OF AMENDMENTS TO CONSTITUTION AND CANONS

Unless unanimous consent be given by the Convention for the introduction of amendments to the Constitution or the introduction of amendments to the Canons, no such Amendment shall be considered unless it be submitted by its proponents seventy-five (75) days before the Convention meets. The Committee shall transmit a copy of such proposed amendment to the Secretary of Convention and may recommend to the Convention that the amendment be adopted or that it be rejected. A proposed amendment may also be submitted by the Committee without recommendation. The Committee may suggest however to the proponent of an amendment changes which, if made in the proposed amendment, would secure the Committee's favorable recommendation. If the proponent does not accept the Committee's proposed change or changes, the Committee may transmit to the Secretary of the Convention both the proponent's original proposed amendment and the substitute amendment as recommended by the Committee. The Secretary of the Convention shall distribute copies of all proposed amendments to each person entitled to receive notice of the meeting of the Convention.

## 3. EFFECTIVE DATE OF AMENDMENTS

All amendments to the Canons shall take effect immediately upon their adoption unless otherwise provided.

### **CANON 20 INTERPRETATION OF CANONS**

1. Any person, being either a presbyter of this Diocese or a member of a congregation of this Diocese, having a bona fide question as to the proper interpretation or application of the Constitution or Canons of the Diocese may pose such question to the Chancellor in writing. The Chancellor shall thereafter render a formal written opinion responding to the question. Such written opinion shall be provided to the person propounding the question, and copies thereof shall be filed with the Bishop, the Standing Committee and the Secretary of Convention, and copies thereof shall be mailed to all Presbyters of the Diocese.

2. All such formal written opinions of the Chancellor shall be submitted by the Secretary of Convention to the Committee on Constitution and Canons within thirty (30) days after filing. Within sixty (60) days of receipt, the Committee on Constitution and Canons shall render an opinion by the affirmative vote of a majority of its members, affirming, rejecting or modifying the opinion of the Chancellor. The opinion of the Committee shall be in writing. Such written opinion shall be provided to the person propounding the question, and copies thereof shall be filed with the Bishop, the Standing Committee and the Secretary of Convention, and copies

thereof shall be mailed to all Presbyters of the Diocese and, prior to the next regular meeting of the Convention of the Diocese, to all lay members thereof. Upon such filing, the decision of the Committee on Constitution and Canons shall have the legal force of Canon until the next meeting of the Diocesan Convention, at which such decision shall be either confirmed or overruled by a majority of members thereof.

3. Upon confirmation by Convention, such ruling shall have the force of Canon until amended or repealed as provided in Canon 19 above.

### **CANON 21 SERVICE ON MULTIPLE COMMITTEES**

No elected or appointed person shall serve as a member of more than one (1) of the following bodies at the same time: the Standing Committee, the Diocesan Council, and the ACTS/VIM Board.

### **CANON 22 TRUSTEES OF THE EPISCOPAL FUND & DIOCESAN PROPERTIES**

The composition, duties and powers of the Trustees of the Episcopal Fund and Diocesan Properties of the Diocese of Newark, are set forth in the New Jersey Statutes of the Episcopal Church, N.J.S.A. 16:12-20 to 16:12-22 (first enacted 1880) and of Religious Corporations and Associations, N.J.S.A. 16:4-1.