

Chapter 6

SUPERINTENDENCY

The *Discipline* contains separate provisions for the responsibilities of bishops that include judicial and administrative complaints against bishops. It is important when reading the separate paragraphs for bishops to read the clergy paragraphs as well, because all of these paragraphs interrelate. Most of the clergy paragraphs for judicial and administrative processes apply to complaints against bishops.

A. Complaints Against Bishops (§ 413)

Like clergy members of an annual conference, whenever bishops are accused of violating the sacred trust granted to them in their consecration as bishops, as well as in their ordination, their credentials as bishop and elder are subject to review. The purpose of this review is reconciliation and restoration of the bishop and the strengthening of the Church.

Any complaint concerning the effectiveness, competence or a chargeable offense (§ 2702) of a bishop is to be submitted to the president of the College of Bishops in that jurisdictional/central conference (if the initial complaint concerns the president, it is to be submitted to the secretary of the College). A complaint is a written statement claiming misconduct, unsatisfactory performance, or a chargeable offense(s) (§ 2702). The president of the College may attempt to resolve the initial complaint through an appropriate supervisory response, either on his/her own or with the assistance of other members of the College. The supervisory response will vary depending on the seriousness of the complaint. It may include:

1. Discussion of the issues with the bishop;
2. Consultation with the jurisdictional committee on episcopacy;
3. Meetings with the person(s) bringing the complaint;

4. A process seeking a just resolution in which the parties are assisted by a trained, impartial third party facilitator or mediator in reaching an agreement.

Note that this ¶ 413 does not explicitly address dismissal, unlike ¶ 362 for other clergy (added in 2004). “Complaints” may be dismissed by the College when no one is willing to put the complaint in writing or it is the judgment of the College that the complaint does not allege facts constituting chargeable offenses, or ineffectiveness or unwillingness. Complaints also may be dismissed by the College when the supervisory process leads to reconciliation between the parties and, in the judgment of the College, no additional action is necessary. When a complaint is dismissed for whatever reason, including reconciliation, it is advisable to keep a record of the complaint and the results in the personnel records of the bishop and the files of the College.

If an initial complaint is not resolved through the supervisory options chosen, or if supervision does not bring about reconciliation between those filing a complaint and the bishop accused of an offense, then the president or secretary of the College of Bishops may refer the matter as an administrative complaint to the jurisdictional/central conference committee on episcopacy.

When the jurisdictional/central conference committee on episcopacy determines the matter is serious enough, or when one or more offenses listed in ¶ 2702 are involved, the committee may refer the complaint back to the president and secretary of the College of Bishops for referral as a judicial complaint to the jurisdictional or central conference committee on investigation.

The president and secretary of the College of Bishops may refer the complaint to a bishop from another jurisdictional or central conference, or to an elder in full connection within the same jurisdictional or central conference, who shall serve as counsel for the Church. (¶ 2704.1a)

B. The Role of Counsel for the Church (§ 2704)

Counsel for the Church is selected by the president or secretary of the College to handle the particular matter that is going to be processed as a judicial complaint against a bishop. The same individual should serve as counsel for the Church throughout the entire judicial process involving that bishop. Care should be given in selecting counsel for the Church to find someone who has not previously considered the matter and will not give the appearance of a conflict of interest (*e.g.*, an elder who is supervised by the bishop against whom the complaint was filed could be perceived to be biased; a bishop who is a close personal friend of the accused bishop also could be perceived to be biased. It is helpful to select an individual for this role who is familiar with the Church's judicial process and comfortable serving in the role.

The role of counsel for the Church is to represent the Church in "pressing the claims of the person making the complaint" throughout the process. This means, in essence, that counsel for the Church is the Church's advocate in pursuing a judicial complaint against a bishop.

Counsel for the Church may, in his/her discretion, select one assistant counsel without voice, and this assistant counsel may be an attorney. It would be appropriate to select a conference chancellor to serve in this role, but care should be given not to select the conference chancellor who works directly for/with the bishop against whom the complaint was filed. It would be very helpful to select an individual who has experience with the Church's judicial process.

Counsel for the Church prepares, signs and forwards the judicial complaint to the jurisdictional/central conference committee on investigation. Counsel then represents the Church in any proceedings of the committee on investigation. Counsel for the Church also represents the Church in any trial proceedings.

It is important for counsel for the Church to take great care to review the initial complaint and redraft the judicial complaint, as necessary to ensure that it contains sufficient information to allow the respondent bishop an opportunity to prepare a response to the allegations. Counsel for the Church should make all necessary revisions (including additional information) to the complaint before signing and forwarding it. (See *Decision 784*).

C. Statute of Limitations (¶ 2704)

The statute of limitations for bishops is now consistent with the statute of limitations for clergy: six years, except in cases of sexual or child abuse. In the case of sexual or child abuse, there shall be no limitation. Previously, the statute of limitations for bishops was two years for all chargeable offenses. This new statute of limitations went into effect on April 27, 1996 for bishops.

The Judicial Council has ruled that: “a change in a statute of limitations may not take effect retroactively, nor may Church laws defining chargeable offenses be made retroactively Any charges filed must be in the language of the Discipline at the time the offense was committed.” (*Decisions 691, 704, 723 and 761*) What this means is that complaints against bishops based on alleged offenses committed prior to April 27, 1996, come under the old two-year statute of limitations. Complaints against bishops based on alleged offenses which occurred on April 28, 1996, or thereafter, fall under the six-year statute of limitations (and no limitations period for sexual or child abuse starting on April 27, 1996). See the discussion in the chapter on Statutes of Limitations and ¶ 2702.

D. Suspension (§ 413.3a)

When a bishop is accused of a chargeable offense under § 2702, one of the actions that may be taken by the College of Bishops is suspension from all episcopal responsibilities for a period of time not to exceed 60 days, during the period of the supervisory response. (Other clergy can be suspended up to 90 days.) During the suspension, salary, housing and benefits are continued. Suspension gives the college the means by which the interests of the Church, the complaining party, and the bishop can be protected for a limited period of time under urgent circumstances. It also gives the College time to address serious accusations that may require some additional consideration and action.

This initial 60 day suspension by the College may be not be renewed or extended, but when necessary, it may be supplemented by a judicial suspension by the jurisdictional committee on episcopacy upon recommendation by the jurisdictional committee on investigation. § 2704.1c.

This suspension requires:

1. A decision by the College to suspend, made
2. With consultation with the jurisdictional/central conference committee on episcopacy.

E. Remedial Action - Administrative Complaints (§ 413.3e)

When a complaint against a bishop is referred as an administrative complaint, because it is based on allegations of incompetence, ineffectiveness, unwillingness, or an inability to perform episcopal duties, it goes through an administrative track rather than a judicial track. The jurisdictional/central conference committee on episcopacy has a number of options for remedial action under these circumstances. The form of remedial

action chosen should address the seriousness and breadth of the allegations. The options are a) involuntary retirement (§ 409.3); b) incapacity leave (§ 411.4); or c) remedial measures (§ 362.4a).

Remedial measures may include: a) program of continuing education (§ 351); b) leave of absence, voluntary or involuntary (§ 354); c) early or involuntary retirement (§ 359.2 or .3) or d) sabbatical leave (§ 352); e) honorable location (§ 360); f) withdraw from the ordained ministerial office (§ 361.2); g) personal counseling or therapy; h) program of career evaluation; i) peer support and supervision; j) private reprimand; or k) administrative location.

When one or more offenses listed in § 2702 are involved, the jurisdictional/central conference committee on episcopacy may refer the complaint back to the president or secretary of the College of Bishops for referral as a judicial complaint. These cases would then go forward by counsel for the Church to the jurisdictional/central conference committee on investigation.

The provisions of § 362 for fair process in administrative hearings apply to the administrative process involving bishops.

F. Fair Process in Judicial Proceedings Against Bishops (§ 2701)

(See section on Fair Process discussed under § 2701 below)

G. Jurisdictional/Central Conference Committee on Investigation (§§ 2703-2706)

(See section on committee on investigation under §§ 2703-2706 below)

H. Trial Procedures Involving a Bishop (§ 2712)

(See section on Trials under (§§ 2707-2712 generally below)