

Constitution and Canons

CANON 13

PROCEDURES FOR THE APPOINTMENT, TERMINATION OF APPOINTMENT, OR TRANSFER OF INCUMBENTS

1. APPOINTMENT

- A. Incumbents shall be appointed by the Bishop by Letter of Appointment, which Letter shall include statements regarding:
 - i. Scope of Responsibility
 - ii. remuneration and benefits
 - iii. term of appointment
 - iv. exclusivity
 - v. mobility
 - vi. confidentiality
- B. Appointments to parishes shall be made by the Bishop in conformity with Canon 11.

2. TERMINATION OF APPOINTMENT AND REMOVAL FROM OFFICE

- A. Any Incumbent may, at any time, resign his or her appointment by giving three (3) months written notice to the Bishop. The Bishop may, at his or her discretion, shorten this period.
- B. An appointment may be revoked and the license terminated by the Bishop with just and sufficient cause or for administrative reasons.
- C. Just and sufficient cause shall include, but not be limited to:
 - i. breaches of discipline as outlined in the Diocesan, Provincial and General Synod Canons
 - ii. failure or inability to exercise effective ministry
 - iii. the loss of the incumbent's good name among up-right and serious-minded persons, or aversion to the Incumbent, when it can be foreseen that these factors will not quickly come to an end.
 - iv. a manner of acting which causes grave harm or disturbance to ecclesiastical communion.
 - v. bad administration of the temporalities of office with grave harm to the Church, when no other remedy can be found to eliminate this harm.

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- D. Termination of an appointment for reasons other than those included in C) above, or the transfer of Incumbents, may occur for administrative reasons and shall include, but not be limited to:-
 - i. redefinition of a particular ministry
 - ii. reorganization and restructuring of the Diocese, or any or all of the Deaneries.
 - iii. abolition of an existing position
 - iv. economic grounds

3. GENERAL PRINCIPLES

- A. One is removed from office by a decree of the Bishop canonically issued. One who is the subject of a Decree of Removal has recourse to the pastoral intervention of the Metropolitan of the Province under the provision of Provincial Canon 11. 3(2) and to the Primate under General Synod Canon 111. 8.a)
- B. In the case of termination of an appointment for just and sufficient cause, no Notice shall be required to be given by the Bishop.
- C. In the case of termination of an appointment for administrative reasons, every effort will be made to offer a suitable alternative or to provide such counselling or assistance as is available in order to assist in finding another position or suitable employment.

4. PROCEDURES

- A. If an investigation shows that there exists a reason mentioned in paragraph 2. C) and D) above, the Bishop is to discuss the matter with the Archdeacons. If he or she then believes that he or she should proceed with the removal from office, the Bishop must indicate to the Incumbent the reasons and the arguments, and in a pastoral manner persuade the Incumbent to resign the office within four weeks. The resignation can be given not only purely and simply, but even upon a condition, provided the condition is one which the Bishop can lawfully accept and does in fact accept.
- B. If the Incumbent has not replied within the time prescribed, the Bishop is to renew his or her invitation and extend the period of time within which a reply is to be made.

If it is clear to the Bishop that the Incumbent has received this second invitation but has not replied, even though not prevented from doing so by any impediment, or refuses to resign and gives no reason for this, the Bishop is to issue a Decree of Removal.

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- C. If however, the Incumbent opposes the case put forward and the reasons given in it, but advances arguments which seem to the Bishop to be insufficient, then the Bishop must:
 - i. invite the Incumbent to inspect the acts of the case and put together the objections, or contrary evidence, in a written answer
 - ii. after this, complete the instruction of the case, if this is necessary, and again weigh the matter, including the written answer, with the Archdeacons
 - iii. finally, decide whether or not the Incumbent is to be removed, and without delay, issue the appropriate decree.

- D. Before having recourse, the person must seek in writing from the Bishop, the revocation or amendment of the Decree. Once this petition has been lodged, it is by that very fact understood that the execution of the Decree is suspended, until the resolution of the case by the Metropolitan or the Primate, or the cessation of the recourse. The petition must be lodged within a time-limit of two weeks from the time the Decree was lawfully notified.

- E.
 - i. An Incumbent who has been removed from office in terms of section 2.c. iii) above, must abstain from exercising any function of that office, leave the house of residence, if any, free as soon as possible, and hand over everything pertaining to the office to the person to whom the Bishop has entrusted it.
 - ii. If, however, it is a question of a sick person who cannot be transferred elsewhere from the house of residence without inconvenience, the Bishop is to leave the Incumbent the use of the house for as long as this necessity lasts.
 - iii. While recourse against a Decree of Removal is pending, the Bishop cannot Institute and Induct a new Incumbent to the office, but is to make provision in the meantime by way of a Priest-in-Charge.

5. TRANSFER OF AN INCUMBENT

- A. A grave reason is required if a transfer is made against the will of the holder of an office and, always without prejudice to the right to present reasons against the transfer
- B. The Bishop is to propose the transfer to the Incumbent, in writing, and by pastoral persuasion seek to gain consent.
- C. If the Incumbent does not acquiesce in the Bishop's advice and persuasion, the Incumbent must notify the Bishop in writing of the reasons.

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- D. Despite the reasons put forward, the Bishop may judge that he or she should not withdraw from his or her proposal. In this case, the Bishop is to weigh the matter with the Archdeacons, considering the reasons which favour and those which oppose the transfer. If the Bishop still considers that the transfer should proceed, he or she is to renew his or her pastoral exhortation to the Incumbent.
- E. If, when these things have been done, the Incumbent still refuses and the Bishop still believes that a transfer ought to take place, the Bishop is to issue a Decree of Transfer stating that, when a prescribed time has elapsed, the Parish shall be vacant.
- F. When this time has elapsed without result, the Bishop is to declare the Parish vacant.
- G. In the process of transfer, the first office is vacated by taking canonical possession of the other and the person transferred receives the emoluments attached to the first office until the moment of taking canonical possession of the other office.