

A Comprehensive Employee Benefits System for The Episcopal Church: The 2009 Amendments to Title I, Canon 8

Patrick S. Cheng¹

Introduction

In 2009, the 76th General Convention of The Episcopal Church created for the first time a comprehensive employee benefits system for the Church.² Since 1916, the canons of the Church have mandated a pension system for the clergy of the Church. However, the canons did not include any mandated pension coverage for lay employees. Nor did such canons include any mandated health care coverage for either actively-employed clergy or actively-employed lay employees.³

The General Convention of 2009, which was held in Anaheim, California, established a comprehensive employee benefits system by adopting two separate resolutions. The first resolution, 2009-A138, created a mandatory lay employee pension system for the Church.⁴ The second resolution, 2009-A177, created a mandatory denominational health plan for the Church.⁵

¹ Patrick S. Cheng is the Assistant Professor of Historical and Systematic Theology at the Episcopal Divinity School in Cambridge, Massachusetts. Prior to his appointment to the faculty of EDS, Cheng served as the General Counsel of the Church Pension Fund and its affiliates, and he assisted with the drafting and passage of the 2009 amendments to Title I, Canon 8, of the canons of The Episcopal Church.

² This article will use the term “Church” to refer to The Episcopal Church.

³ Although the national canons were silent about mandated health care coverage, most diocesan compensation guidelines specified that full-time clergy are entitled to church-provided health care benefits. See The Church Pension Group, *Serving the Church in a Season of Change: A Report to the Episcopal Church and the 76th General Convention* (2009), 140.

⁴ For the text of resolution 2009-A138, see *Journal of the 76th General Convention* (2009), 656-57. The text is also reproduced in Appendix A of this article.

⁵ For the text of resolution 2009-A177, see *Journal of the 76th General Convention* (2009), 640-42. The text is also reproduced in Appendix B of this article.

Through these two resolutions, the General Convention delegated the authority to create and administer these new benefits to the Church Pension Fund, the current administrator of the clergy pension system. As such, the resolutions also amended Title I, Canon 8, which is the canon relating to the Church Pension Fund.

This article will describe the process by which Title I, Canon 8, was amended by the General Convention. Part I of the article will describe the scope of Title I, Canon 8, immediately prior to the 2009 amendments. Part II will describe resolution 2009-A138 and the establishment of a mandatory lay employee pension system. Part III will describe resolution 2009-A177 and the establishment of a mandatory denominational health plan.

I. Title I, Canon 8, Prior to 2009

This part will provide a brief overview of the scope of Title I, Canon 8, immediately prior to the General Convention of 2009. At that time, the primary focus of this canon was on the clergy pension system of the Church. Specifically, the canon focused on the Church Pension Fund, which is the agency of the Church that is authorized by General Convention to administer the clergy pension system. This canon was originally adopted by the General Convention of 1916 as canon 56, “Of the Church Pension Fund.”⁶

The Church Pension Fund was incorporated in 1914 pursuant to a resolution adopted by the General Convention of 1913. Although the General Convention had passed various resolutions relating to the relief of widows and orphans of deceased clerics going as far back as 1853—and some dioceses had relief programs dating to the colonial era—the Church did not have a comprehensive mandatory clergy pension system until the founding of the Church Pension Fund.⁷ Originally founded with assets of \$8.7

⁶ Title I, Canon 8, is still labeled “Of The Church Pension Fund.”

⁷ For the story of the founding of the Church Pension Fund, see Harold C. Martin, *Outlasting Marble and Brass: The History of The Church Pension Fund* (New York: Church Publishing, 1986). For a history of Title I, Canon 8, and its precursors through 1979, see Volume 1 of Edwin Augustine White and Jackson A. Dykman, *Annotated Constitution and Canons for the Government of the Protestant Episcopal Church in the*

million, the Church Pension Fund had \$10.03 *billion* in assets as of March 31, 2011.

Section 1 of Title I, Canon 8, authorizes the Church Pension Fund to establish and administer the “clergy pension system” of the Church substantially in accordance with the principles adopted by the General Convention of 1913.⁸ The purpose of the clergy pension system is to provide “pensions and related benefits” for retired and disabled clergy as well as the surviving spouses and minor children of deceased clergy.⁹

Although section 1 refers to “life, accident and health benefits,” these are the “related benefits” that are provided to retired clergy under the clergy pension system. Two affiliates of the Church Pension Fund—Church Life Insurance Corporation (a licensed life insurance company) and the Episcopal Church Medical Trust (the sponsor of a voluntary employees’ beneficiary association)—are the actual entities through which such related benefits are provided to the retired clergy.

Section 2 of the canon established the process by which the twenty-four elected trustees of the Church Pension Fund are to be elected by General Convention.¹⁰ In general, each trustee is elected for a term of six years and may serve up to two consecutive full terms before she or he must rotate off the Board of Trustees.

Section 3 of the canon authorizes the Church Pension Fund to “levy upon” and collect compensation-based “assessments” from all organizations that are “subject to the authority” of the Church. These organizations would include the parishes and missions of this Church. Section 3 also permits other Church “societies, organizations, or bodies” to elect to participate in the clergy pension system.

United States of America Otherwise Known as The Episcopal Church (New York: Seabury Press, 1981), 303-21.

⁸ These principles included the adoption of one pension system, recognition of accrued liabilities, balancing of contributions and continuing liabilities, adjustment of assessments as needed, maximum and minimum pensions. See *Outlasting Marble and Brass*, 67-68.

⁹ See *Constitution and Canons* (2006), 40.

¹⁰ The President of the Church Pension Fund serves as the twenty-fifth trustee, but she or he is appointed by—and serves at the pleasure of—the elected trustees.

Section 3 is critical to the functioning of the clergy pension system because it authorizes the Church Pension Fund to collect pension assessments directly from the organizations that are subject to the authority of the Church. Without this canonical delegation of power, the Church Pension Fund would not be able to fund the ongoing operations of the clergy pension system.

The other six sections of Title I, Canon 8—sections 4 through 9—relate primarily to administrative matters and thus are not directly relevant to the issues discussed in this article. In sum, although Title I, Canon 8, established the clergy pension system of the Church, prior to 2009 it did not authorize the establishment of a mandatory lay pension system, nor did it authorize the establishment of a denominational health plan.

II. Resolution 2009-A138 and Mandatory Lay Pensions

As noted above, the General Convention of 2009 adopted resolution 2009-A138, which established for the first time a mandatory lay employee pension system for the Church. This part will first provide some background to resolution 2009-A138 and the reasons why it was proposed. This part will then provide an overview of the content of the resolution. Finally, this part will describe how Title I, Canon 8, was amended by the resolution.

A. Background

The origins of resolution 2009-A138 can be traced back to the General Convention of 2006, which was held in Columbus, Ohio. Specifically, that General Convention adopted a resolution, 2006-A125, which authorized a number of studies that would lay the groundwork for adopting a mandatory lay employee pension system for the Church.¹¹

One such study involved a comprehensive survey by the Church Pension Group¹² of the Church's lay employees about a

¹¹ For the text of resolution 2006-A125, see *Journal of the 75th General Convention (2006)*, 573-74.

¹² The Church Pension Group is a collective term that refers to the Church Pension Fund and its affiliates.

number of workplace issues, including compensation and benefits. Another study involved a feasibility study by the Office of Ministry Development to examine whether “pension benefits for lay employees should be made compulsory and be administered by a single provider.” A third study involved the continuing work of the Task Force to Study Employment Policies and Practices in The Episcopal Church (the “Employment Task Force”) to ensure a fair and just workplace for all employees of the Church.

As a result of these various studies,¹³ the Employment Task Force drafted and submitted resolution 2009-A138 to the National Concerns Committee of the General Convention. According to the Employment Task Force, this resolution would propose a canonical change to “amend the pension provisions of the church to include mandatory pension benefits for lay employees.” The Employment Task Force determined that previous General Convention resolutions about lay pensions going back to 1991 were not mandatory and had not been “universally or uniformly applied.”¹⁴ As a result of this inconsistent application, the Employment Task Force concluded that a national canonical provision was required.

The resolution was approved by the Executive Council of The Episcopal Church in October 2008, and it was approved by the Church Pension Fund Board of Trustees in November 2008.¹⁵ The resolution was adopted by the General Convention of 2009 exactly as proposed by the Executive Council and the Church Pension Fund.

B. Content of Resolution

Resolution 2009-A138 sets forth a number of general operating principles for the mandatory lay pension system.

- First, the system applies only to those lay employees who worked at least 1,000 hours annually for any

¹³ For the text of the Church Pension Group study, see *Serving the Church in a Season of Change*, 65-109.

¹⁴ See the report of the National Concerns Committee in the *Report to the 76th General Convention Otherwise Known as The Blue Book* (2009), 654-56

¹⁵ See *Serving the Church in a Season of Change*, 20.

domestic diocese, parish, mission or other Church organization or body “subject to the authority of the Church.”

- Second, employers have the choice of offering either a defined benefit plan with a 9% employer contribution, or a defined contribution plan with a 4% employer contribution and 5% matching employer contribution.
- Third, existing defined benefit plans are grandfathered to the extent that they provide a minimum pension benefit that is equal or greater to the benefits mandated by the resolution.
- Fourth, the lay pension system is to be administered by the Church Pension Fund, but school employers are able to choose a plan with investment options managed by TIAA-CREF.
- Fifth, the lay pension system is to be operated on a financially sound basis.
- Sixth, Church organizations that are not required to participate in the lay pension system may elect voluntarily to come into the system.
- Seventh, contributions to the system are based upon future salaries (that is, the lay pension system will not provide retroactive benefits).
- Eighth, previous service in the Church prior to the implementation date does count for purposes of vesting.
- Ninth, the system is to be implemented between January 1, 2011, and January 1, 2012.¹⁶
- Tenth, the Church Pension Fund is to engage in “further study” to determine the feasibility of overseas dioceses in the Church participating in the lay pension system and report back to the 77th General Convention to be held in 2012 in Indianapolis, Indiana.¹⁷

¹⁶ The implementation deadline was subsequently extended by the Church Pension Fund to January 1, 2013.

¹⁷ See Appendix A for the complete text of Resolution 2009-A138.

The operating principles in the first half of Resolution 2009-A138 provided a detailed framework for how the mandatory lay pension system would be administered by the Church Pension Fund. The second half of Resolution 2009-A138 provided the language that would amend Canon I.8.

C. Canonical Changes

The second half of Resolution 2009-A138 amended Canon I.8 in two ways. First, the resolution amended Section 1 of the canon to expressly authorize the Church Pension Fund to “establish and administer the *lay employee pension system* of the Church” (emphasis added). This is important because, as we have seen above, the focus of Article I, Canon 8, has been on clergy pension benefits since 1916. The lay pension system would be established and administered “substantially in accordance with the principles adopted by the General Convention of 2009,” which are the operating principles described in the previous section of this article. Such a system would provide benefits to “eligible lay employees” and their “eligible beneficiaries.”

Second, the resolution amended Section 3 of Article I, Canon 8, to expressly authorize the Church Pension Fund to collect assessments based upon compensation from all “Parishes, Missions, and other Church organizations or bodies subject to the authority” of the Church as well as any other Church organizations that elect to join in the pension system.¹⁸ Again, this amendment is important because, prior to this resolution, the Church Pension Fund’s authority to collect assessments was limited to the clergy pension system.

¹⁸ According to guidance issued by the Church Pension Fund, each diocese will make the final determination as to whether a specific organization is “subject to the authority of the Church.” This guidance lists 21 factors to be considered in making such a determination. See Appendix D for the complete text of this document, which also can be found at http://download.cpg.org/pensions/forms/lay/pdf/church_authority.pdf (accessed August 29, 2011).

In sum, resolution 2009-A138 establishes for the first time a mandatory lay pension system for the Church. The studies authorized by the General Convention of 2006 demonstrated the need for such a resolution and for key changes to be implemented by canon.¹⁹

III. Resolution 2009-A177 and Denominational Health Plan

As noted above, the General Convention of 2009 also adopted resolution 2009-A177, which established for the first time a mandatory denominational health plan for the Church. This part will first provide some background to resolution 2009-A177 and the reasons for its proposal. It will then provide an overview of the content of the resolution. Finally, this part will describe how Title I, Canon 8, was amended by the resolution.

A. Background

As in the case of the mandatory lay pension resolution, the origins of resolution 2009-A177 can be traced back to the General Convention of 2006. Specifically, that General Convention adopted a resolution, 2006-A147, which endorsed a church-wide health care feasibility study to be conducted by the Church Pension Group. Furthermore, that resolution called upon the Church Pension Group to report its findings back to the General Convention of 2009.

Under the terms of resolution 2006-A147, the General Convention of 2006 “urged” dioceses, parishes, and other church institutions to “cooperate” with the study by submitting data relating to health care costs. The resolution also noted that the study will include “an analysis of the potential for a mandated denominational healthcare benefits program” along with a “recommended solution and an actionable implementation plan.”²⁰

¹⁹ For the amended canon, see *Constitution and Canons* (2009), 41-42. See Appendix C of this article for the current text of sections 1 and 3 of Title I, Canon 8.

²⁰ For the text of resolution 2006-A147, see *Journal of the 75th General Convention* (2006), 574-75.

In 2009, the Church Pension Group released the results of its feasibility study, which concluded that the General Convention of 2009 should adopt a mandatory denominational health plan.²¹ Prior to this resolution, individual units within the Church such as dioceses and parishes could purchase their active health benefits from a variety of vendors, including – but not limited to – the Episcopal Church Medical Trust.

Among other things, the feasibility study concluded that such a plan would result in savings of \$64 million in the first four years of its operation. In particular, the plan would allow the Church to take advantage of its size to allow for “large-scale purchasing of employee healthcare benefits.”²² However, the plan would also allow flexibility for individual dioceses in terms of plan design and other features. The study concluded that a denominational health plan would not only be “designed with fairness and equity in mind, but the savings it will generate, the benefits it will enhance, and the access it will provide, are unmatched by any available alternative.”²³

B. Content of Resolution

Resolution 2009-A177 sets forth a number of general operating principles for the denominational health plan. As an initial matter, only clergy and lay employees who work at least 1,500 hours annually for domestic organizations or bodies (e.g., dioceses, parishes, missions, etc.) that are subject to the authority of the Church are required to participate in the denominational health plan.

The resolution then lists nine operating principles.

²¹ For the full text of the Church Pension Group study, “Healthcare Coverage Feasibility Study and Recommendation to the 76th General Convention of the Episcopal Church,” see *Serving the Church in a Season of Change*, 110-59.

²² See *Serving the Church in a Season of Change*, 132. As part of its report to the General Convention, the Church Pension Group provided sample premium costs for congregations, dioceses, and institutions based upon size. See *Serving the Church in a Season of Change*, 139-48.

²³ See *Serving the Church in a Season of Change*, 110.

- First, the denominational health plan is to be designed and administered by the trustees and officers of the Church Pension Fund, following “best industry practices” for comparable plans.
- Second, the denominational health plan would allow dioceses to choose from a number of plan design options. Similarly, the denominational health plan would allow individual dioceses to make decisions with respect to minimum cost-sharing guidelines, same-sex domestic partner benefits, and whether schools and other diocesan institutions are required to participate in the plan.²⁴
- Third, the denominational health plan would provide benefits that are comparable to current benefits of domestic dioceses and parishes.²⁵
- Fourth, it would provide equal access to health care benefits for clergy and lay employees.
- Fifth, such benefits would be provided through the Episcopal Church Medical Trust, which would be the sole plan sponsor and be operated on a financially-sound basis.
- Sixth, the denominational health plan would have a Church-wide advisory committee appointed by the Church Pension Fund, and such advisory committee would receive annual reports about the denominational health plan.
- Seventh, the denominational health plan would cover the “domestic” dioceses of the Church, including the dioceses of Puerto Rico and the U.S. Virgin Islands.

²⁴ Note that the denominational health plan differs from the mandatory lay employee pension system in that individual dioceses under the latter system do *not* have the discretion to exclude schools and other diocesan institutions that are subject to the authority of the Church. For guidance from the Church Pension Fund on whether an organization is “subject to the authority of the Church,” see Appendix D.

²⁵ Resolution 2009-A177 is silent as to whether dioceses are required to amend their constitutions and canons to reflect the denominational health plan. However, Title I, Canon 8 would presumably preempt any diocesan provisions that conflicted with this canon.

- Eighth, the Church Pension Fund would continue to work with the other non-domestic dioceses to make recommendations about funding health care benefits in a way that is consistent with their local circumstances.
- Ninth, the denominational health plan would be implemented no later than the end of 2012.²⁶

The operating principles in the first half of Resolution 2009-A177 provided a detailed framework for how the denominational health plan would be administered by the Church Pension Fund. The second half of Resolution 2009-A177 provided the language that would amend Canon I.8.

C. Canonical Changes

Resolution 2009-A177 also amended Title I, Canon 8 in two ways. These changes paralleled the changes that were made by the mandatory lay pension system resolution. First, section 1 of Title I, Canon 8, was amended to authorize the Church Pension Fund to establish and administer the denominational health plan substantially in accordance with the principles articulated in Resolution 2009-A177. The canon was also amended to authorize the provision of health benefits to both eligible clergy and eligible lay employees.

Second, section 3 of Title I, Canon 8, was amended to authorize the Church Pension Fund to establish a formal benefits enrollment process that would determine eligibility for participation in the denominational health plan. This in itself is a significant step because, prior to the passage of resolution 2009-A177, there was no centralized database of lay employees of the Church.²⁷ Section 3 of the canon was also amended to authorize the Church Pension Fund to collect contributions for health care benefits from organizations that are subject to the authority of the Church. As noted above, this was an important amendment because, prior to this amendment, the

²⁶ See Appendix B for the complete text of Resolution 2009-A177.

²⁷ There was, of course, a centralized database of clerics as a result of the clergy pension system and the fact that The Church Pension Fund serves as the Recorder of Ordinations for the General Convention.

authority of the Church Pension Fund to collect contributions were limited to assessments for the clergy pension system.

In sum, resolution 2009-A177 established for the first time a mandatory denominational health plan for the Church. As in the case of resolution 2009-A138, the feasibility study endorsed by the General Convention of 2006 demonstrated the need for such a resolution and for key changes to be implemented by canon.²⁸

Conclusion

The 76th General Convention of the Episcopal Church, held in 2009 at Anaheim, California, was a watershed moment for the Church in terms of employee benefits. For the first time, the Church established a comprehensive employee benefits system for both its clergy and lay employees.

Prior to the General Convention of 2009, the only mandatory employee benefits program for the Church was the clergy pension system. All this changed with the adoption of resolution 2009-A138, which established a mandatory lay employee pension system, and the adoption of resolution 2009-A177, which established a mandatory denominational health plan for both actively employed clergy and lay employees. Both resolutions specified that the Church Pension Fund would administer such programs and, as such, amended Title I, Canon 8, to expand the authority of the Church Pension Fund accordingly.

There are a number of significant advantages to having a centrally-administered system of pension and health benefits for both clergy and lay employees of the Church. These include cost savings as a result of more efficient administration and economies of scale with respect to investments. Other advantages include a uniform recordkeeping mechanism to ensure that all employees of the Church are being treated fairly, justly, and in accordance with the will of the General Convention.

²⁸ For the amended canon, see *Constitution and Canons* (2009), 41-42. See Appendix C of this article for the current text of sections 1 and 3 of Title I, Canon 8.

While it is still early to assess the overall impact of resolutions 2009-A138 and 2009-A178 on the Church, it is safe to say that future generations will view the General Convention of 2009 as an important turning point with respect to employee benefits and the Church.

Appendix A
Resolution 2009-A138

Resolved, That this Church establish a mandatory lay employee pension system for employees who are scheduled to work a minimum of 1,000 hours annually for any domestic Diocese, Parish, Mission or other ecclesiastical organization or body subject to the authority of the Church, in accordance with the following principles:

1. The lay employee pension system shall provide benefits that shall, initially, include defined benefit plan(s) and defined contribution plan(s);
2. If a defined benefit plan is selected, the employer assessment and/or contribution shall be not less than nine (9) percent of the employee's compensation; if a defined contribution plan is selected, the employer shall contribute not less than five (5) percent of the employee's compensation and match at least four (4) percent of the employee's contributions. The Trustees of the Church Pension Fund shall have the authority to increase or decrease the assessment and/or contribution percentages required for the lay pension system;
3. Existing defined benefit plans will be permitted to continue as long as their plan design delivers pension benefits not less than the pension benefits required by this resolution, as determined by the plan administrator. If the plan does not provide the pension benefits required by this resolution,

such plan shall be amended to provide for such pension benefits no later than January 1, 2012.

4. The lay employee pension system shall be designed and administered by the Trustees and officers of the Church Pension Fund; the investment managers of the system shall initially include, but not necessarily be limited to, the Church Pension Fund and, in the case of a defined contribution plan offered to school employees, TIAA-CREF;
5. The lay employee pension system will be operated on a financially sound basis, as determined by the Trustees of the Church Pension Fund;
6. Other societies, organizations or bodies in the Church not mandated to participate may, under the regulations of the Church Pension Fund, elect to come into the lay employee pension system;
7. No right or obligation to have assessments paid on compensation paid prior to plan participation will be part of the mandatory lay employee pension system;
8. Service in The Episcopal Church prior to plan implementation shall be recognized for vesting purposes;
9. The implementation of the mandatory lay employee pension system shall be completed no sooner than January 1, 2011 and no later than January 1, 2012; and
10. Further study be undertaken by the Church Pension Fund on the feasibility of inclusion of overseas Episcopal dioceses in the lay employee pension system and report back to the 77th General Convention

And be it further

Resolved, That Canon I.8 shall be amended as follows:

Sec. 1. The Church Pension Fund, a corporation created by Chapter 97 of the Laws of 1914 of the State of New York as subsequently amended, is hereby authorized to establish and administer the clergy pension system, including life, accident and health benefits, of this Church, substantially in accordance with the principles adopted by the General Convention of 1913

and approved thereafter by the several Dioceses, with the view to providing pensions and related benefits for the Clergy who reach normal age of retirement, for the Clergy disabled by age or infirmity and for the surviving spouses and minor children of deceased Clergy. The Church Pension Fund is also authorized to establish and administer the lay employee pension system of the Church, substantially in accordance with the principles adopted by the General Convention of 2009, with the view to providing pensions and related benefits for the eligible lay employees of this Church, as well as their eligible beneficiaries.

Sec. 3. For the purpose of administering the pension system, the Church Pension Fund shall be entitled to receive and to use all net royalties from publications authorized by the General Convention, and to levy upon and to collect from all Parishes, Missions and other ecclesiastical organizations or bodies subject to the authority of this Church, and any other organizations, or bodies in the Church which under the regulations of the Church Pension Fund shall elect to come into the pension system, assessments based upon the salaries and other compensation paid to Clergy by such Parishes, Missions and other ecclesiastical organizations or bodies for services rendered currently or in the past, prior to their becoming beneficiaries of the Fund. For the purpose of administering the lay employee pension system, the Church Pension Fund shall be entitled to collect from all Parishes, Missions and other ecclesiastical organizations or bodies subject to the authority of this Church, and any other societies, organizations or bodies in the Church which under the regulations of the Church Pension Fund shall elect to come into the lay employee pension system, assessments and/or contributions based upon the salaries and other compensation paid to eligible lay employees by such Parishes, Missions and other ecclesiastical organizations or bodies.²⁹

²⁹ *Journal of the 76th General Convention* (2009), 656-57.

Appendix B
Resolution 2009-A177

Resolved, That this church establish The Denominational Health Plan of this church for all domestic dioceses, parishes, missions and other ecclesiastical organizations or bodies subject to the authority of this church, for clergy and lay employees who are scheduled to work a minimum of 1,500 hours annually, in accordance with the following principles:

1. The Denominational Health Plan shall be designed and administered by the Trustees and officers of the Church Pension Fund, following best industry practices for comparable plans;
2. The Denominational Health Plan shall provide that, subject to the rules of the plan administrator, each diocese has the right to make decisions as to plan design options offered by the plan administrator, minimum cost- sharing guidelines for parity between clergy and lay employees, domestic partner benefits in accordance with General Convention Resolution 1997- C024 and the participation of schools, day care facilities and other diocesan institutions (that is, other than the diocese itself and its parishes and missions) in the Denominational Health Plan;
3. The Denominational Health Plan shall provide benefits that are comparable in coverage to those benefits currently provided by the domestic dioceses and parishes of this church;
4. The Denominational Health Plan shall provide equal access to health care benefits for eligible clergy and eligible lay employees;
5. The Denominational Health Plan shall provide benefits through the Episcopal Church Medical Trust, which shall be the sole plan sponsor for such benefits and continue to be operated on a financially sound basis;
6. The Denominational Health Plan shall have a church-wide advisory committee that is representative of the broader

- church and appointed by the Church Pension Fund, and such church-wide advisory committee shall receive an annual report about the status of the Denominational Health Plan;
7. For purposes of this resolution, the term “domestic” shall mean ecclesiastical organizations and bodies located in the United States, including the Dioceses of Puerto Rico and Virgin Islands;
 8. The Church Pension Fund shall continue to work with the Dioceses of Colombia, Convocation of American Churches in Europe, Dominican Republic, Ecuador Central, Ecuador Litoral, Haiti, Honduras, Micronesia, Taiwan and Venezuela to make recommendations with respect to the provision and funding of healthcare benefits of such dioceses under the Denominational Health Plan; and
 9. The implementation of the Denominational Health Plan shall be completed as soon as practicable, but in no event later than by the end of 2012; and be it further

Resolved, That Canon I.8 shall be amended as follows:

Sec. 1. The Church Pension Fund, a corporation created by Chapter 97 of the Laws of 1914 of the State of New York as subsequently amended, is hereby authorized to establish and administer the clergy pension system, including life, accident and health benefits, of this Church, substantially in accordance with the principles adopted by the General Convention of 1913 and approved thereafter by the several Dioceses, with the view to providing pensions and related benefits for the Clergy who reach normal age of retirement, for the Clergy disabled by age or infirmity and for the surviving spouses and minor children of deceased Clergy. *The Church Pension Fund is also authorized to establish and administer the denominational health plan of this Church, substantially in accordance with the principles adopted by the General Convention of 2009 in Resolution A177, with the view to providing health care and related benefits for the eligible Clergy and*

eligible lay employees of this Church, as well as their eligible dependents.

Sec. 3. For the purpose of administering the pension system, the Church Pension Fund shall be entitled to receive and to use all net royalties from publications authorized by the General Convention, and to levy upon and to collect from all Parishes, Missions and other ecclesiastical organizations or bodies subject to the authority of this Church, and any other societies, organizations or bodies in the Church which under the regulations of the Church Pension Fund shall elect to come into the pension system, assessments based upon the salaries and other compensation paid to Clergy by such Parishes, Missions, and other ecclesiastical organizations or bodies for services rendered currently or in the past, prior to their becoming beneficiaries of the Fund. *For the purpose of administering the denominational health plan, the Church Pension Fund shall determine the eligibility of all Clergy and lay employees to participate in the denominational health plan through a formal benefits enrollment process, and the Church Pension Fund shall be entitled to levy upon and collect contributions for health care and related benefits under the denominational health plan from all Parishes, Missions and other ecclesiastical organizations or bodies subject to the authority of this Church with respect to their Clergy and lay employees.*³⁰

³⁰ *Journal of the 76th General Convention (2009), 640-42.*

Appendix C
Title I, Canon 8 (2009)

CANON 8: Of The Church Pension Fund

Sec. 1. The Church Pension Fund, a corporation created by Chapter 97 of the Laws of 1914 of the State of New York as subsequently amended, is hereby authorized to establish and administer the clergy pension system, including life, accident and health benefits, of this Church, substantially in accordance with the principles adopted by the General Convention of 1913 and approved thereafter by the several Dioceses, with the view to providing pensions and related benefits for the Clergy who reach normal age of retirement, for the Clergy disabled by age or infirmity and for the surviving spouses and minor children of deceased Clergy. *The Church Pension Fund is also authorized to establish and administer the lay employee pension system and denominational health plan of the Church, substantially in accordance with the principles adopted by the General Convention of 2009 in Resolution 2009-A177,³¹ with the view to providing pensions, health care and related benefits for the eligible Clergy and eligible lay employees of this Church, as well as their eligible beneficiaries and dependents.³²*

...

Sec. 3. For the purpose of administering the pension system, the Church Pension Fund shall be entitled to receive and to use all net royalties from publications authorized by the General Convention, and to levy upon and to collect from all Parishes, Missions and other ecclesiastical organizations or bodies subject to the authority of this Church, and any other societies, organizations or bodies in the Church which under the regulations of the Church Pension Fund

³¹ For the sake of parallelism, this clause should be interpreted as including a reference to "Resolution 2009-A138" as well as "Resolution 2009-A177." The phrase "Resolution 2009-A177" was added to the text of resolution 2009-A177 during its hearing before the 2009 General Convention Committee on Constitution and Canons, but the parallel phrase was not added to the text of resolution 2009-A138.

³² The italicized text represents the changes from the 2006 version of Title I, Canon 8.

shall elect to come into the pension system, assessments based upon the salaries and other compensation paid to Clergy by such Parishes, Missions, and other ecclesiastical organizations or bodies for services rendered currently or in the past, prior to their becoming beneficiaries of the Fund. *For the purpose of administering the lay employee pension system and denominational health plan, The Church Pension Fund shall be entitled to collect from all Parishes, Missions, and other ecclesiastical organizations or bodies subject to the authority of this Church, and any other societies, organizations, or bodies in the Church which under the regulations of The Church Pension Fund shall elect to come into the lay employee pension system, assessments and/or contributions based upon the salaries and other compensation paid to eligible lay employees by such Parishes, Missions, and other ecclesiastical organizations or bodies, determine the eligibility of all Clergy and lay employees to participate in the denominational health plan through a formal benefits enrollment process, and The Church Pension Fund shall be entitled to levy upon and collect contributions for health care and related benefits under the denominational health plan from all Parishes, Missions, and other ecclesiastical organizations or bodies subject to the authority of this Church with respect to their Clergy and lay employees.*³³

Appendix D

Questions to Consider When Determining if an Organization is Subject to the Authority of the Church³⁴

Both Resolution A138 and A177 contain the following phrase with regard to the applicability of the Resolutions: "...any domestic Diocese, Parish, Mission or other ecclesiastical organization or body subject to the authority of the Church." While this phrase has existed in the Constitution and Canons since 1914 [sic], the recent

³³ *Constitution and Canons* (2009), 41-42.

³⁴ This document was drafted by the Church Pension Fund and can be found at http://download.cpg.org/pensions/forms/lay/pdf/church_authority.pdf (accessed August 29, 2011).

enactment of Resolutions A137 and A177 has resulted in many questions regarding the meaning of the phrase.

The final determination as to whether or not a specific organization is subject to the authority of the Church will be made by each Diocese. Since each diocese will be asked to identify their organizations during the rollout of the registration system, the following are questions to consider when determining if an organization is “under the authority of the Church.”

1. Is the organization subject to the Constitution or Canons of the General Convention?
2. Is the organization subject to the Constitution or Canons of your diocese?
3. Does your annual Convention/Council/Synod elect or approve the appointment of a majority of the governing body of the organization?
4. Does the Bishop appoint or approve the election of a majority of the governing body of the organization?
5. Was the organization created by the diocese?
6. Is the organization separately incorporated from the diocese?
7. Does the organization use the diocese or parish’s tax exemption (501(c)(3)) or does it have its own exemption?
8. Does the organization use the diocese or parish’s tax or employer ID number or does it have its own?
9. Do the organization’s founding documents (e.g., articles of incorporation) link its mission, operations, or assets to the diocese or parish?
10. Is the organization required to have the approval of the Bishop or Chancellor or some person or body in the diocese to amend its Articles or Bylaws or other governing documents?
11. Is the Bishop the *ex officio* Chair or President of the governing body?
12. Does the organization have the word “Episcopal” in its name?
13. Has the organization been treated as part of the diocese?

14. Is the organization listed in the diocesan directory or journal?
15. Is there a close, day-to-day coordination of the religious, educational, or other charitable activities of the diocese or parish and the organization?
16. Does the organization manage its own assets and have its own bank accounts and payroll or are any of those managed by the diocese or parish?
17. Is the organization required to obtain approval of the diocese or parish to leverage or dispose of its property?
18. Does the diocese or parish have the right to set objective standards for the organization's operations and/or audit the organization's records to determine compliance with such objective standards?
19. Does the diocese or parish have the right to sanction the organization by liquidating the organization, terminating the organization's founding documents, or otherwise?
20. Does the diocese or parish have the right to the organization's assets upon the organization's liquidation?
21. Is the organization required to submit an annual report and/or audited financial statements to the diocese or parish?

Please note that the above is provided for informational purposes only and should not be viewed as legal or other advice. We recommend that you consult with your legal advisor before determining which organizations within your diocese are subject to the authority of the Church.