Reminder: At the March 9th Presbytery meeting we will be voting on the amendments to the Form of Government Only, Amendments 22-C through 22-S. All are expected to be included in the consent motion unless removed for separate consideration by any commissioner.

Proposed Amendments to the Constitution

These amendments to the *Book of Order* were approved by the 225th General Assembly (2022) and recommended to the presbyteries for their vote.

FROM THE STATED CLERK

The 225th General Assembly (2022) of the Presbyterian Church (U.S.A.) approved and recommended to the presbyteries, for their affirmative or negative votes, proposed changes in the language of the *Book of Order* that, if approved, will amend the Constitution.

- It is recommended that prior to voting, presbyters and clerks review each proposed amendment and its related information. Some sections have more than one proposed amendment.

- The rationale and advice from the Advisory Committee on the Constitution and other advisory and advocacy entities have been abbreviated for each amendment for this booklet. Please note that the advice applies to the original item of business and not necessarily the final version approved by the assembly.

- Each amendment has an item number, which is how the General Assembly tracked the business in both committee and in plenary. The entire record for each item is available in PC-Biz.

- Live links to the General Assembly item numbers are available throughout this document.

- Or, go to PC-Biz at www.pc-biz.org, click Search, and enter the item number. Click on the item number to reach the summary.

- Presbyteries may use a consent agenda or omnibus motion to vote on amendments as long as each proposed amendment is identified separately. Each amendment has a tracking number of 22-A, 22-B, etc.

- The final item in this booklet deals with replacing the Rules of Discipline in the *Book of Order* with an entirely new section entitled Church Discipline. Please carefully note that any approved amendments to the Rules of Discipline proposed in other items will be superseded by the approval of the new Church Discipline section.

- Presbytery stated clerks are to report a tally of their votes to the Office of the General Assembly no later than **July 9, 2023, at 11:59 p.m. eastern time**. Votes on amendments should be entered through the Stated Clerk's portal. Each month an updated tally will be mailed to all stated clerks. In order to make changes and publish the 2023–2025 *Book of Order* in a timely manner, receipt of votes prior to this deadline would be appreciated.

Thank you for your time and careful attention as you prepare to vote on these proposed amendments.

J. Herbert Nelson II
Stated Clerk of the General Assembly

INDEX

Foundations of Presbyterian Policy
22-A — F-1.0302c 3
22-B — F-1.0404 5
Form of Government
22-C — G-1.0501 7
22-D — G-1.0503 9
22-E — G-2.0503 11
22-F — G-2.0505a(1) 13
22-G — G-2.0603 15
22-H — G-2.0605 17
22-I — G-2.0804 19
22-J — G-2.1001 22
22-K — G-2.1002 24
22-L — G-2.1103 26
22-M — G-3.0104 29
22-N — G-3.0105 31
22-O — G-3.0106 33
22-P — G-3.0106 34
22-Q — G-3.0303c 36
22-R — G-3.0401 38
22-S — G-4.0301 40
Directory for Worship
22-T — W-3.0205 42
22-U — W-3.0409 43
22-V — W-3.0414 44
22-W — W-4.0403 45
22-X — W-5.0104 47
22-Y — W-5.0104 48
22-Z — W-5.0201 49
22-AA — W-5.0204 51
22-BB — W-5.0204 53
Rules of Discipline
22-CC — D-3.0106 55

22-DD — D-10.0302 58
22-EE — D-10.0303 60
22-FF — Amending “the accused” 62
22-GG — New Church Discipline section 64

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22-A — F-1.0302c

THE CALLING OF THE CHURCH

F-1.0302c THE CATHOLICITY OF THE CHURCH (POL-16 1a)

The 225th General Assembly (2022) directed the Stated Clerk to send the following proposed amendment to the presbyteries for their affirmative or negative votes:

Shall F-1.0302c in the Foundations of Presbyterian Polity be amended as follows?
(Deleted text is in ~~strikethrough~~; added text is in *italics*.)

"F-1.0302 The Marks of the Church …

c. The Catholicity of the Church …

… Because the church is catholic, it strives everywhere to testify to Christ's embrace of ~~men, women, and children~~ *all people* of all times, places, races, nations, ages, *abilities, genders,* conditions, and stations in life."

Background and Rationale

The current foundational statement (F-1.0403) already uses language inclusive of people with disabilities. This amendment seeks to use consistent language about disability throughout the foundational statements of the *Book of Order*. The PC(USA) resource "Well Chosen Words" (2010) states that using inclusive and expansive language is "one way to acknowledge and celebrate all people and bring recognition and a sense of belonging to people who have been historically marginalized in society and even in the church." This amendment would reflect this overture by making all parts of the *Book of Order* consistent in their inclusion of people with disabilities. People with disabilities include 26% of the U.S. population (CDC, 2020), making it the largest minority group in America. People with disabilities represent an important part of our church, and they should be named in lists of people to be included. Research shows a significant gap in presence and full participation for people with disabilities into the life of the church (Ault, Collins, and Carter, 2013). The inclusion of people with disabilities in our polity shows our intention to be inclusive of this group. We identify as being "people of the word," marking both our commitment to biblical scholarship and exegesis and the importance of the words that we use when preaching, teaching, and guiding our church's polity. These small corrections reflect the value and importance that we put on the use of consistent inclusive language throughout our policies.

Advice—From the Advisory Committee on the Constitution (ACC)

The Advisory Committee on the Constitution advises the 225th General Assembly (2022) to approve POL-16. While the ACC has expressed its aversion to unnecessarily creating lists of requirements and rubrics, in this present situation the list affirms the mission of Christ's church. Because a list is deemed to be exhaustive unless it states otherwise, an omission is regarded as exclusionary, not permissive. We believe the witness of scripture and the constitution testifies to the full inclusion of differently abled persons in the faith and governance of the church. A positive affirmation of this principle through constitutional amendment is consistent with this witness.

Comment—From the LGBTQIA+ Advocacy Task Force

The LGBTQIA+ Advocacy Task Force proposes that F-1.0302c be further amended to include: (Deleted text is in ~~strikethrough~~; added text is in [brackets and *italics*].)

"Christ's embrace of ~~men, women, and children~~ [*people*] of all times, places, races, nations, [*genders*], ages, abilities …," and that F-1.0404 be amended to include the reality of: "a community of ~~women and men of all~~ [*people of all genders*], ages, races, ethnicities, abilities …"

These changes honor the vital presence and contribution of our trans and nonbinary siblings in faith and are in line with the rationale for the use of "inclusive and expansive language" at the heart of this overture.

Advice and Counsel—From the Advocacy Committee for Women's Concerns (ACWC)

ACWC recommends the 225th GA (2022) approve this item with amendments as follows: (Deleted text is in ~~strikethrough~~; added text is in [brackets and *italics*].)

"Because the church is catholic, it strives everywhere to testify to Christ's embrace of ~~men, women, and children~~ [*all people*] of all times, places, races, nations, ages, abilities, [*genders*,] conditions, and stations in life."

"… a new openness in its own membership, becoming in fact as well as in faith a community of ~~women and men~~ [*all people*] of all ages, races, ethnicities, abilities, [*genders*,] and worldly conditions, made one in Christ by the power of the Spirit, as a visible sign of the new humanity.

We are grateful to the Presbytery of Northeast New Jersey for lifting up abilities as a much needed inclusion into our *Book of Order*. We ask the General Assembly to move further into the use of inclusive language by using the verbiage "all people" instead of men, women, and children.

Advice and Counsel—From the Advisory Committee on Social Witness Policy (ACSWP)

The Advisory Committee on Social Witness Policy (ACSWP) advises that the 225th General Assembly (2022) approve POL-16.

The Assembly Committee on Polity amended the overture language and then approved Item POL-16 1a, 27/2. The 225th General Assembly (2022) approved Item POL-16 1a, 381/13.

For the full report on POL-16, go to https://www.pc-biz.org/#/committee/3000082/business.

22-B — F-1.0404

OPENNESS TO THE GUIDANCE OF THE HOLY SPIRIT

F-1.0404 OPENNESS (POL-16 1b)

The 225th General Assembly (2022) directed the Stated Clerk to send the following proposed amendment to the presbyteries for their affirmative or negative votes:

Shall F-1.0404 in the Foundations of Presbyterian Polity be amended as follows?

(Deleted text is in ~~strikethrough~~; added text is in *italics*.)

"F-1.0404 Openness …

… a new openness in its own membership, becoming in fact as well as in faith a community of ~~women and men~~ *all people* of all ages, races, ethnicities, *abilities, genders,* and worldly conditions, made one in Christ by the power of the Spirit, as a visible sign of the new humanity."

Background and Rationale

The current foundational statement (F-1.0403) already uses language inclusive of people with disabilities. This amendment seeks to use consistent language about disability throughout the foundational statements of the *Book of Order*. The PC(USA) resource "Well Chosen Words" (2010) states that using inclusive and expansive language is "one way to acknowledge and celebrate all people and bring recognition and a sense of belonging to people who have been historically marginalized in society and even in the church." This amendment would reflect this overture by making all parts of the *Book of Order* consistent in their inclusion of people with disabilities. People with disabilities include 26% of the U.S. population (CDC, 2020), making it the largest minority group in America. People with disabilities represent an important part of our church and they should be named in lists of people to be included. Research shows a significant gap in presence and full participation for people with disabilities into the life of the church (Ault, Collins, and Carter, 2013). The inclusion of people with disabilities in our polity shows our intention to be inclusive of this group. We identify as being "people of the word," marking both our commitment to biblical scholarship and exegesis and the importance of the words that we use when preaching, teaching, and guiding our church's polity. These small corrections reflect the value and importance that we put on the use of consistent inclusive language throughout our policies.

Advice—From the Advisory Committee on the Constitution (ACC)

The Advisory Committee on the Constitution advises the 225th General Assembly (2022) to approve POL-16. While the ACC has expressed its aversion to unnecessarily creating lists of requirements and rubrics, in this present situation the list affirms the mission of Christ's church. Because a list is deemed to be exhaustive unless it states otherwise, an omission is regarded as exclusionary, not permissive. We believe the witness of scripture and the constitution testifies to the full inclusion of differently abled persons in the faith and governance of the church. A positive affirmation of this principle through constitutional amendment is consistent with this witness.

Comment—From the LGBTQIA+ Advocacy Task Force

The LGBTQIA+ Advocacy Task Force proposes that F-1.0302c be further amended to include: (Deleted text is in ~~strikethrough~~; added text is in [brackets and *italics*].)

"Christ's embrace of ~~men, women, and children~~ [*people*] of all times, places, races, nations, [*genders*], ages, abilities …," and that F-1.0404 be amended to include the reality of: "a community of ~~women and men of all~~ [*people of all genders*], ages, races, ethnicities, abilities …"

These changes honor the vital presence and contribution of our trans and nonbinary siblings in faith and are in line with the rationale for the use of "inclusive and expansive language" at the heart of this overture.

Advice and Counsel—From the Advocacy Committee for Women's Concerns (ACWC)

ACWC recommends the 225th GA (2022) approve this item with amendments as follows: (Deleted text is in ~~strikethrough~~; added text is in [brackets and *italics*].)

"Because the church is catholic, it strives everywhere to testify to Christ's embrace of ~~men, women, and children~~ [*all people*] of all times, places, races, nations, ages, abilities, [*genders*,] conditions, and stations in life."

"… a new openness in its own membership, becoming in fact as well as in faith a community of ~~women and men~~ [*all people*] of all ages, races, ethnicities, abilities, [*genders*,] and worldly conditions, made one in Christ by the power of the Spirit, as a visible sign of the new humanity.

We are grateful to the Presbytery of Northeast New Jersey for lifting up abilities as a much needed inclusion into our *Book of Order*. We ask the General Assembly to move further into the use of inclusive language by using the verbiage "all people" instead of men, women, and children.

Advice and Counsel—From the Advisory Committee on Social Witness Policy (ACSWP)

The Advisory Committee on Social Witness Policy (ACSWP) advises that the 225th General Assembly (2022) approve POL-16.

The Assembly Committee on Polity amended the overture language and then approved Item POL-16 1b, 27/2. The 225th General Assembly (2022) approved Item POL-16 1b, 381/13.

For the full report on POL-16, go to https://www.pc-biz.org/#/committee/3000082/business.

22-C — G-1.0501

MEETINGS OF THE CONGREGATION

G-1.0501 MEETINGS (ROD-06 2)

The 225th General Assembly (2022) directed the Stated Clerk to send the following proposed amendment to the presbyteries for their affirmative or negative votes:

Shall a new G-1.0501 be inserted into the Form of Government and the current G-1.0501 and subsequent sections be renumbered accordingly, as follows?

(Added text is in *italics*.)

"G-1.0501 *Meetings*

"*Meetings shall be opened and closed with prayer. Unless the congregation shall designate another parliamentary authority in its bylaws, meetings shall be conducted in accordance with the most recent edition of Robert's Rules of Order Newly Revised, except when it is in contradiction to this constitution.*

"*In accordance with the requirement of Robert's Rules of Order Newly Revised, congregations and their committees may meet electronically at the discretion of their sessions, provided that the technology employed allows for all members present to hear and be heard simultaneously. This includes joining one or more persons electronically to an otherwise in-person meeting. Congregations should adopt special rules of order and standing rules to govern such meetings.*

"*G-1.0502* Annual and Special Meetings

The congregation shall hold an annual meeting ..."

Background and Rationale

Rationale for Recommendation 3 (Note: No additional rationale was included for Recommendation 2.)

The Foundations of Presbyterian Polity states that in our church "decisions shall be reached in councils by vote, following opportunity for discussion and discernment, and a majority shall govern" (F-3.0205). At the core of our understanding of church governance is the notion that the Holy Spirit is present "where two of three are gathered" and guides us in discerning the will of God in our decision making.

The absence of constitutional language authorizing electronic meetings has proved problematic at all levels of the PC(USA) since the arrival of the COVID-19 pandemic, including in disciplinary processes. The proposed language would remedy that by authorizing electronic meetings in congregations and councils of the church, while still requiring that for proper discernment and decision making to occur, participants must be able to "hear and be heard simultaneously," or as it is stated in our parliamentary authority, provide for the "opportunity for simultaneous aural communication" (RONR 12th ed. 9:31).

It is not the intent of these additions to require electronic meetings or to mandate any specific processes or procedures. Congregations and councils may make those determinations themselves.

Additionally, the proposed revision of the Rules of Discipline sometimes explicitly states that meeting face to face is preferable. But as we all learned in 2020 and 2021, sometimes that is simply not possible. These additions provide the authorization required by our parliamentary authority to use electronic meetings whenever a congregation, council, or entity of a council determines that it should do so, in accordance with whatever rules that congregation or council so adopts.

Advice—From the Advisory Committee on the Constitution (ACC)

The Advisory Committee on the Constitution advises the 225th General Assembly to approve ROD-06. The adoption of these amendments assumes the adoption of the proposed revision of the Rules of Discipline of the *Book of Order* (Part II of the Constitution) and references the language of those amendments.

The amendments proposed in Recommendation 2 and 3 regarding electronic meetings enshrines the option in the constitution; thus, congregations and councils of the church have the ecclesiastical authority to meet by electronic means.

The Assembly Committee on Rules of Discipline approved Item ROD-06 2, 24/1. The 225th General Assembly (2022) approved Item ROD-06 2, 378/1.

For the full report on ROD-06, go to https://www.pc-biz.org/#/committee/3000083/business.

22-D — G-1.0503

MEETINGS OF THE CONGREGATION

G-1.0503 BUSINESS PROPER TO CONGREGATIONAL MEETINGS (ROD-06 1)

The 225th General Assembly (2022) directed the Stated Clerk to send the following proposed amendment to the presbyteries for their affirmative or negative votes:

Shall G-1.0503 in the Form of Government be amended as follows?
(Deleted text is in ~~strikethrough~~; added text is in *italics*.)

"G-1.0503 Business Proper to Congregational Meetings

Business to be transacted at meetings of the congregation shall be limited to matters related to the following: …

… f. approving a plan for the creation of a joint congregational witness, or amending or dissolving the joint congregational witness (G-5.05)~~.~~*;*

***g. receiving a disciplinary decision against a member of the congregation as required by D-9.0102.*"**

Background and Rationale

Rationale for Recommendation 1

Adoption of these amendments is assumed in the proposed revision, which references the language of the amendments.

The proposed revision of the Rules of Discipline, to become Church Discipline, includes a new requirement for decisions with a finding of guilt in disciplinary processes against church members to be reported to the congregation of membership. This is to ensure that such findings are known to the body of membership as part of the overall goal of the restoration of trust in the community. It is a parallel to the requirement that disciplinary decisions against ministers of the Word and Sacrament be read to the entire presbytery of membership (current D-11.0700, and proposed D-9.0102b).

This provision is referenced in both proposed D-9.0102a (dealing with disciplinary decisions of sessions) and proposed D-9.0102c (dealing with disciplinary decisions of presbyteries against members of congregations). It should be noted that this meeting is also required when an alternative resolution is adopted, because of the requirement that such a resolution must be transmitted "to the clerk of session or the stated clerk, who shall report it according to the provisions of D-9.0102."

The amendment is necessary because business at congregational meetings is limited to those matters specifically listed in G-1.0503.

Advice—From the Advisory Committee on the Constitution (ACC)

The Advisory Committee on the Constitution advises the 225th General Assembly to approve ROD-06. The adoption of these amendments assumes the adoption of the proposed revision of the Rules of Discipline of the *Book of Order* (Part II of the Constitution) and references the language of those amendments.

The amendment proposed in Recommendation 1 will synchronize the Form of Government with the Rules of Discipline.

The Assembly Committee on Rules of Discipline approved Item ROD-06 1, 24/1. The 225th General Assembly (2022) approved Item ROD-06 1, 378/1.

For the full report on ROD-06, go to https://www.pc-biz.org/#/committee/3000083/business.

22-E — G-2.0503

MINISTERS OF WORD AND SACRAMENT

G-2.0503 CATEGORIES OF MEMBERSHIP (POL-07)

The 225th General Assembly (2022) directed the Stated Clerk to send the following proposed amendment to the presbyteries for their affirmative or negative votes:

Shall G-2.0503 in the Form of Government be amended as follows?
(Deleted text is in ~~strikethrough~~; added text is in *italics*.)

"G-2.0503 Categories of Membership

A minister of the Word and Sacrament is a member of a presbytery and shall be engaged in a ministry validated by that presbytery, a member-at-large as determined by the presbytery, or ~~honorably~~ retired. …

… c. ~~Honorably~~ Retired
Upon request of a member of presbytery, the presbytery may designate the member ~~honorably~~ retired ~~because of age or physical or mental disability~~."

Background and Rationale

The only designation of retirement for ministers of the Word and Sacrament allowed in the current *Book of Order* is "Honorably Retired." That designation may be perfectly fitting for many Presbyterian ministers as they retire from active pastoral roles, but presbyteries sometimes face situations in which a minister's service has been marked by difficulties and challenges that do not rise to the level of formal disciplinary charges and censure, but which are hardly worthy of the label "Honorable."

An example of such a situation might be when a pastor has acted inappropriately but no disciplinary charges are brought because of the belief that the damage to a particular church or harmed person would be more devastating than just letting a pastor leave. Victims are then revictimized when that pastor is granted the status of "Honorably Retired." Another factor might be that church members or others mistrust or do not understand the processes to bring charges. A third example is when a pastor commits boundary violations after honorably serving and leaving a congregation to move to other endeavors. There may also be situations that occurred during a pastor's membership in a previous presbytery that could be unreported during a transfer process and only later come to light following retirement in a different presbytery.

So how do presbyteries today respond when ministers with service marked by difficulties or challenges on their records seek retirement? Some may maintain those ministers as members at-large or in other in-between statuses rather than offering retirement, to avoid characterizing the minister's service as "Honorable." Other presbyteries may go ahead and honorably retire ministers of all types, regardless of the quality and faithfulness of their service. In doing so, however, the term "Honorably" loses its meaning for anyone. Such a retirement may confuse or, as noted above, revictimize people who have been harmed by a troubled pastorate and who may feel that the presbytery is praising the pastor's service despite the gravity of its problems.

The proposed amendment would maintain the "Retired" category but remove the mandatory designation of "Honorably" that now applies to all retirements. The new designation of "Retired" would be effective for retirements approved by presbyteries on or after the effective date of the amendment under G-6.04e of the *Book of Order*.

This proposed amendment would have no impact whatsoever on a minister of the Word and Sacrament's access to Board of Pension retirement benefits. That Board of Pensions process is completely separate from a presbytery granting "Retired" status to a minister on its rolls.

Advice—From the Advisory Committee on the Constitution (ACC)

The Advisory Committee on the Constitution advises the 225th General Assembly (2020) that POL-07 presents issues. The item seeks to amend G-2.0503 and G-2.0503c by striking "honorably" before "retired" in the two places where it occurs, and by adding "or other factors satisfactory to the presbytery" to G-2.0503c.

The ACC finds that deleting "honorably" does not alter the substance of those provisions or affect other constitutional provisions.

The ACC advises the assembly, however, that a similar overture was considered by the 210th GA (1998). The overture was referred to the Office of the General Assembly, which presented an amended overture to the 211th GA (1999). That overture would have removed "honorably" but also included a new provision that would have allowed a presbytery to "designate a retired minister as an honorably retired minister if the presbytery is moved by affection and gratitude to do so." The ACC did not raise any constitutional issues to the proposed amendment, which was subsequently approved by the 211th GA (1999), but then failed to receive the affirmative vote of a majority of the presbyteries.

The amendment as proposed, in addition to striking "honorably" adds "or other factors satisfactory to the presbytery." The ACC is unaware of any factors other than those already listed in G-2.0503c that would appropriately lead to the retirement of a minister, and the rationale includes no discussion of the additional language. The ACC is concerned that there could be unintended consequences of this language and advises that if the assembly believes that the intent of this overture is appropriate, the additional words "or other factors satisfactory to the presbytery" be stricken.

The Assembly Committee on Polity amended the overture language following advice from the ACC and then approved Item POL-07, 28/2. The 225th General Assembly (2022) approved Item POL-07, 270/128.

For the full report on POL-07, go to https://www.pc-biz.org/#/committee/3000082/business.

22-F — G-2.0505a(1)

MINISTERS OF THE WORD AND SACRAMENT

G-2.0505a(1) TRANSFER OF MINISTERS OF OTHER DENOMINATIONS (POL-15)

The 225th General Assembly (2022) directed the Stated Clerk to send the following proposed amendment to the presbyteries for their affirmative or negative votes:

Shall G-2.0505a(1) in the Form of Government be amended as follows?
(Deleted text is in ~~strikethrough~~; added text is in *italics*.)

"G-2.0505a(1) Transfer of Ministers of Other Denominations

"a. …

"(1) In the case of ministers for immigrant fellowships and congregations, a presbytery may, if it determines that its strategy for mission with that group requires it, *and in consultation and partnership with that community,* recognize the ordination and receive as a member of presbytery a new immigrant minister who furnishes evidence of good standing in a denomination~~, even though~~. *If* at the time of enrollment that minister lacks the educational history required of candidates, ~~and~~ *the presbytery should* provide such educational opportunities as seem necessary and prudent for that minister's successful ministry in the presbytery."

Background and Rationale

Often immigrant fellowship members come from cultures that recognize a pastor as the leader of the church from their home country. These pastors many times have theological education from Presbyterian institutions in their home countries and have been ordained by their denomination, which may also be in partnership with the PC(USA). However, these pastors, new immigrants themselves, may face cultural and linguistic challenges in the United States. Therefore, taking and passing the ordination exams may be very difficult for them. Developing an educational and/or mentoring program for these pastors is paramount for their successful transition to the PC(USA).

Advice—From the Advisory Committee on the Constitution (ACC)

[Editor's note: The Advisory Committee on the Constitution advised the 225th General Assembly (2022) that the overture presented constitutional issues. The ACC presented alternative language to produce the intent of allowing presbyteries to commission ruling elders to service in multiple situations. The committee amended the original overture following ACC advice, and the assembly approved the language. The following is edited advice from the ACC on the original overture.]

The ACC advises the 225th General Assembly that Item POL-15 presents the following issues that the assembly should consider. The item proposes that presbyteries should ordain immigrant ministers from other denominations and provide a means by which immigrant ministers may receive alternative

training and mentoring as their ordination in another denomination is recognized and they are enrolled as members of a presbytery.

Comment—From the General Assembly Committee on Representation (GACOR)

Our structure and polity often create barriers to ministry for the far-too-few areas of diversity within our denomination (for example, see item RGJ-07 *A Resolution Addressing the Lack of Installed Pastoral Leadership in People of Color Congregations in the PC(USA)*). If the PC(USA) is serious about its commitment to diversity, we must be more flexible in order to meet the needs of diverse communities. A more collaborative and individualized approach ensures credentialing does not become a gate-keeping method.

The General Assembly Committee on Representation was formed as a result of the 1983 reunion of the northern and southern streams to become what is now the PC(USA). The vision for GACOR was to address the need for relationships and vision around a better way to embody the diversity of the church. It is tasked with bringing attention and interpretation to representational access and norms around race, gender, sexual orientation, language, disability, theological diversity, and more (G-3.0103). GACOR's comments are designed to bring the richness and complexity of these intersecting realities into the conversation for the body of commissioners.

The Assembly Committee on Polity amended the overture language and then approved Item POL-15, 28/0. The 225th General Assembly (2022) approved Item POL-15, 371/23.

For the full report on POL-15, go to https://www.pc-biz.org/#/committee/3000082/business.

22-G — G-2.0603

PREPARATION FOR MINISTRY

G-2.0603 PURPOSE OF INQUIRY (HSB-05 2)

The 225th General Assembly (2022) directed the Stated Clerk to send the following proposed amendment to the presbyteries for their affirmative or negative votes:

Shall G-2.0603 in the Form of Government be amended as follows?
(Added text is in *italics*.)

"G-2.0603 Purpose of Inquiry

"The purpose of the inquiry phase is to provide an opportunity for the church and those who believe themselves called to ordered ministry as ministers of the Word and Sacrament to explore that call together so that the presbytery can make an informed decision about the inquirer's suitability for ordered ministry. *They shall provide a certificate of completion of boundary training, which includes the topic of sexual misconduct, and child sexual abuse prevention training with recertification at least every thirty-six months. The presbytery shall determine which trainings are approved to meet the criteria of these two requirements.*"

Background and Rationale

Editor's note: This proposed amendment originated as Recommendation 2 from the Survivors of Sexual Misconduct Task Force, with the following rationale:

Recommendations 1–5 and 8 are in response to the following referral: 2018 Referral: Item 11-09, A Resolution on Sexual Misconduct in the PC(USA). Recommendation 5. The Task Force will Undertake a Comprehensive Examination of Presbyterian Policy, Judicial Process and Rules of Discipline—from the Advocacy Committee for Women's Concerns (*Minutes*, 2018, Part 1, p. 1024.)

Rationale for Recommendation 2: The FaithTrust Institute, which provides "Healthy Boundaries" training, and the national organization Darkness to Light, which provides the "Stewards of Children" child sexual abuse prevention training, have both discovered that regularly required training is the most effective way to prevent sexual misconduct and abuse in the church. One of the best ways to provide justice for those who have already been harmed is to require prevention training so that sexual misconduct doesn't happen again. Therefore, the Survivors of Sexual Misconduct Task Force is recommending this constitutional change to require participation in boundary training and child sexual abuse prevention training as a part of a candidate's preparation for ministry.

Advice—From the Advisory Committee on the Constitution (ACC)

The Advisory Committee on the Constitution advised that the 225th General Assembly (2022) disapprove the original Recommendation 2 of Item HSB-05. The committee amended the original recommendation 2 following the ACC advice.

Advice and Counsel—From the Advocacy Committee for Women's Concerns (ACWC)

The Advocacy Committee for Women's Concerns commends and strongly concurs with Recommendation 2 regarding Boundary and Child Protection training for ministers of the Word and Sacrament and commissioned ruling elders. ACWC would highly recommend that deacons and ruling elders also be included in all trainings, as they are church-mandated reporters of abuse as well. All sexual abuse is, at the core, an abuse of power. That is why certain populations—such as children and youth, developmentally disabled adults, and immigrant night shift workers—are more vulnerable to abuse and are often the targets of sexual misconduct. Clergy sexual misconduct sends out ripple effects beyond individual victims to impact spouses and children, families and marriages, congregations, and presbyteries.

Advice and Counsel—From the Advisory Committee on Social Witness Policy (ACSWP)

As a denomination, we affirm the need to care for individuals who are victim of sexual misconduct and the need to hold accountable those who commit sexual misconduct against others. However, we still fall short in identifying and addressing situations where sexual misconduct occurs. This item seeks to strengthen the church's response to sexual misconduct and put procedures in place at all levels to prevent sexual misconduct from happening. ACSWP commends the work of the Survivors of Sexual Misconduct Task Force and wholeheartedly lifts up their work presented in this overture.

Comment—From the Office of the General Assembly (OGA)

Regarding Recommendation 2, the Office of the General Assembly supports the importance of including boundary training during the preparation for ministry process.

The Assembly Committee on Health Safety and Benefits amended the original Recommendation 2 by adding the amendment to G-2.0603 instead of G-2.0607e and deleted language about "good standing," then approved Item HSB-05 2, 39/1. The 225th General Assembly (2022) approved Item HSB-05 2, 318/46.

For the full report on HSB-05, go to https://www.pc-biz.org/#/committee/3000084/business.

22-H — G-2.0605

PREPARATION FOR MINISTRY

G-2.0605 OVERSIGHT (HSB-05 1)

The 225th General Assembly (2022) directed the Stated Clerk to send the following proposed amendment to the presbyteries for their affirmative or negative votes:

Shall G-2.0605 in the Form of Government be amended as follows?
(Added text is in *italics*.)

"G-2.0605 Oversight

During the phases of inquiry and candidacy the individual continues to be an active member of his or her congregation and subject to the concern and discipline of the session. *However, during the time the individual is enrolled as an inquirer or candidate, the session shall report to the presbytery any matters of sexual misconduct.* In matters relating to preparation for ministry, the individual is subject to the oversight of the presbytery within the context of their covenant relationship."

Background and Rationale

This proposed amendment originated as Recommendation 1 from the Survivors of Sexual Misconduct Task Force, with the following rationale:

Recommendations 1–5 and 8 are in response to the following referral: 2018 Referral: Item 11-09, A Resolution on Sexual Misconduct in the PC(USA). Recommendation 5. The Task Force will Undertake a Comprehensive Examination of Presbyterian Policy, Judicial Process and Rules of Discipline—from the Advocacy Committee for Women's Concerns (*Minutes*, 2018, Part 1, p. 1024.)

Rationale for Recommendation 1: Inquirers and candidates should be held accountable by the presbytery of care. There have been instances where an inquirer or candidate is accused of unethical behavior or even sexual misconduct, and a real conflict of interest exists through family and friends who serve on or influence their home church session. If inquirers and candidates are accountable to the presbytery for ensuring proper biblical and theological training, they should also be accountable to the presbytery for ensuring proper ethical behavior during their preparation for ministry as well.

Advice—From the Advisory Committee on the Constitution (ACC)

The Advisory Committee on the Constitution advised that the 225th General Assembly (2022) disapprove the original Recommendation 1 of Item HSB-05. The committee amended the original Recommendation 1 following the ACC advice.

Advice and Counsel—From the Advocacy Committee for Women's Concerns (ACWC)

The Advocacy Committee for Women's Concerns commends and strongly concurs with the recommendation. All sexual abuse is, at the core, an abuse of power. That is why certain populations—such as children and youth, developmentally disabled adults, and immigrant night shift workers—are more vulnerable to abuse and are often the targets of sexual misconduct. Clergy sexual misconduct sends

out ripple effects beyond individual victims to impact spouses and children, families and marriages, congregations, and presbyteries.

Advice and Counsel—From the Advisory Committee on Social Witness Policy (ACSWP)

As a denomination, we affirm the need to care for individuals who are victim of sexual misconduct and the need to hold accountable those who commit sexual misconduct against others. However, we still fall short in identifying and addressing situations where sexual misconduct occurs. This item seeks to strengthen the church's response to sexual misconduct and put procedures in place at all levels to prevent sexual misconduct from happening. ACSWP commends the work of the Survivors of Sexual Misconduct Task Force and wholeheartedly lifts up their work presented in this overture.

Comment—From the Office of the General Assembly (OGA)

The committee amended recommendation 1 following OGA advice.

The Assembly Committee on Health Safety and Benefits amended the original Recommendation 1 by removing "subject to the concern and discipline of the presbytery" and inserting "the session shall report," then approved Item HSB-05 1, 33/5. The 225th General Assembly (2022) approved Item HSB-05 1, 324/46.

For the full report on HSB-05, go to https://www.pc-biz.org/#/committee/3000084/business.

22-I — G-2.0804

CALL AND INSTALLATION

G-2.0804 TERMS OF CALL (HSB-06)

The 225th General Assembly (2022) directed the Stated Clerk to send the following proposed amendment to the presbyteries for their affirmative or negative votes:

Shall G-2.0804 in the Form of Government be amended as follows?
(Added text is in *italics*.)

"G-2.0804 Terms of Call

The terms of call shall always meet or exceed any minimum requirement of the presbytery in effect when the call is made. The session shall review annually the minister's terms of call and shall propose for congregational action (G-1.0501) such changes as the session deems appropriate, provided that they meet the presbytery's minimum requirements. The call shall include *provision for a minimum of twelve weeks paid family medical leave and* participation in the benefits plan of the Presbyterian Church (U.S.A.) including both pension and medical coverage, or any successor plan approved by the General Assembly."

Background and Rationale

This proposed amendment originated as a recommendation from the Family Leave Policy Task Force as Recommendation 1. The Family Leave Policy Task Force provided the following edited rationale in part:

Recommendation 2 approved by the General Assembly included a General Assembly policy definition of Family Leave as:

- Leave to accommodate the birth, foster placement, or adoption of a child.
- Leave to provide care to an ill or disabled family member.
- Leave to heal following a loss or tragic event.

In recent years the General Assembly has taken actions to encourage various councils of the church to honor the full humanity of its members and employees. The 221st General Assembly (2014) encouraged presbyteries and churches to create parental leave policies with the minimum of six weeks and 100% pay without using other forms of paid leave. The 222nd General Assembly (2016) also voted to encourage the six agencies of the General Assembly (Board of Pensions, Foundation, Office of the General Assembly, Presbyterian Investment and Loan Program, Inc., Presbyterian Mission Agency, and the Presbyterian Publishing Corporation) to improve their paid parental leave policies in accordance with the advice of the 221st General Assembly (2014). The 223rd General Assembly created a task force with a charge of determining the most effective method for ensuring a robust family leave policy throughout the PC(USA). Through its research and deliberations, the Family Leave Policy Task Force (FLPTF) has determined the most effective method of accomplishing this goal for called and installed ministers is through a constitutional mandate. The task force recommends that family leave be interpreted as a dimension of wholeness, one that responds to the need for time away from work. The task force believes there are theological, developmental, and societal justifications for committing to a denomination-wide family leave policy, and while this specific

recommendation provides for called and installed pastors, the task force would urge adoption of this same provision of care for all PC(USA) workers.

Advice—From the Advisory Committee on the Constitution (ACC)

This item proposed to introduce specific minimum terms of call within the Constitution of the Presbyterian Church (U.S.A.). This step creates constitutional problems, and we recommend disapproval of Item HSB-06. The language of Item HSB-06 introduces administrative-operational detail into the *Book of Order*. Councils have a responsibility and should be trusted to adopt policies appropriate to their circumstances that support and nurture their members, families and staff (see G3.0301c, for example). The choice of twelve weeks reflects the societal sensibilities of the present day toward fair employment practices. Likely changes in those sensibilities mean that G-2.0804, if amended in this fashion now, may well require further and repeated amendment in the years ahead. Such amendments are more appropriate in an operations manual than a constitutional document.

Advice and Counsel—From the Advocacy Committee for Women's Concerns (ACWC)

The Advocacy Committee for Women's Concerns recommends the approval of HSB-06. The PC(USA), as an employer from the national level down to the local congregation, has the opportunity to model just employment practices through family leave policies that encourage balance in life between work and family and are consistent with PC(USA) theology and policies on work and workers.

Advice and Counsel—From the Advisory Committee on Social Witness Policy (ACSWP)

The Advisory Committee on Social Witness Policy advises that the 225th General Assembly (2022) approve item HSB-06. As a denomination, we have affirmed the importance of supporting families. However, in practice, we have created a situation where the majority of our pastors have been left with no parental leave. Without a paid family leave policy, the PC(USA) forces parents to make a choice between proper healthcare for themselves and their children, and adequate income to provide for their families. It forces family members with sick parents or children to choose work over care, which is antithetical to our call to be compassionate to the ill and infirm. By approving this amendment, the PC(USA) can shape our polity in a way that shows the value we place on human life and relationship. Need to care for individuals who are victim of sexual misconduct and the need to hold accountable those who commit sexual misconduct against others. However, we still fall short in identifying and addressing situations where sexual misconduct occurs. This item seeks to strengthen the Church's response to sexual misconduct and put procedures in place at all levels to prevent sexual misconduct from happening. ACSWP commends the work of the Survivors of Sexual Misconduct Task Force and wholeheartedly lifts up their work presented in this overture.

Advice and Counsel—From the Racial Equity Advocacy Committee (REAC)

The Racial Equity Advocacy Committee advises that the 225th General Assembly (2022) approve this item. The Racial Equity Advocacy Committee (REAC) supports the need to have appropriate time of leave for ministers.

Comment—From the General Assembly Committee on Representation (GACOR)

The General Assembly Committee on Representation (GACOR) acknowledges that the procedures of employment matter. Unfortunately, in the area of parental and family leave, the denominational instruction is not as clear. GACOR has continuously supported efforts to create an equitable family leave policy. Often councils and individual congregations do not have parental/family

leave policies in place and must do so if and when the case arises (putting the individual requesting the leave in a precarious position). This can result in decision-making that focuses on the financial cost of the leave rather than the care of the leader and family. The proposed amendment would provide the framework for individuals needing parental or family leave. Committees on representation at the presbytery and synod levels, or the committees tasked with such work, should serve as a resource to their councils concerning employment practices as stated in G-3.0103.

The Assembly Committee on Health Safety and Benefits amended and approved Item HSB 06, 34/3. The 225th General Assembly (2022) amended and approved Item HSB 06, 346/33.

For the full report on HSB-06, go to https://www.pc-biz.org/#/committee/3000084/business.

22-J — G-2.1001

COMMISSIONING RULING ELDERS TO PARTICULAR PASTORAL SERVICE

G-2.1001 FUNCTIONS (MC-08)

The 225th General Assembly (2022) directed the Stated Clerk to send the following proposed amendment to the presbyteries for their affirmative or negative votes:

Shall G-2.1001 in the Form of Government be amended as follows?
(Deleted text is in ~~strikethrough~~; added text is in *italics*.)

"G-2.1001 Functions

When the presbytery, in consultation with ~~the session~~ *one or more sessions* or other responsible committees, determines that its strategy for mission requires it, the presbytery may authorize a ruling elder to be commissioned to limited pastoral service *as a commissioned pastor also known as commissioned ruling elder* as assigned by the presbytery. A ruling elder so designated may be commissioned to serve ~~in a validated ministry~~ *one or more validated ministries* of the presbytery. Presbytery, in its commission, may authorize the ruling elder to moderate the session of the congregation *or congregations* to which he or she is commissioned, to administer the Sacraments, and to officiate at marriages where permitted by state law. This commission shall also specify the term of service, which shall not exceed three years but shall be renewable. The presbytery shall review the commission at least annually."

Background and Rationale

[Editor's note: This item was brought by Palo Duro Presbytery and concurred by four presbyteries and a synod. Palo Duro Presbytery presented the following edited background and rationale. For full text on the original overture, please see the PC-Biz link below.]

This overture originated in Palo Duro Presbytery, a presbytery in the PC(USA) covering 72 counties in northwest Texas and comprising 40 congregations. The use of commissioned pastors (CP) or commissioned ruling elders (CRE) in ministry has become more common and more needed, especially in geographically large presbyteries like Palo Duro. … It would be beneficial in all situations if a presbytery could have CREs or CPs who are commissioned to more than one church, or even to a group of churches to be called on as needed. … The exact language of G-2.1001 leaves room to conclude that a CRE or a CP is intended to authorize a commission only to a single congregation or mission. There remains conversation and controversy regarding what the *Book of Order* allows presbyteries to do regarding its commissioning of CREs or CPs to service in multiple settings.

Advice—From the Advisory Committee on the Constitution (ACC)

The Advisory Committee on the Constitution advised the 225th General Assembly (2022) that the overture presented constitutional issues. The ACC presented alternative language to produce the intent of allowing presbyteries to commission ruling elders to service in multiple situations. The committee amended the original overture following ACC advice, and the assembly approved the language. The following is edited advice from the ACC on the original overture:

The item seeks to amend G-2.1001 by striking language that references commission of elders to a single ministry and inserting language that explicitly authorizes commissioning to multiple ministries. The ACC notes first, that in 2014, the GA adopted an authoritative interpretation that states, in part, "a ruling elder commissioned for limited pastoral service is not authorized to perform any pastoral service outside of the commission of the presbytery, unless the presbytery gives its permission for any specific service ... ." If the assembly favors expanding the limits of commissioned pastoral service to include commissioning to multiple congregations, language similar to the overture's proposed changes in the first three sentences of G-2.1001 are appropriate, with some recommended edits. [Editor's note: The assembly adopted the language recommended by the ACC.]

Advice and Counsel—From the Racial Equity Advocacy Committee (REAC)

The Racial Equity Advocacy Committee advises that the 225th General Assembly (2022) approve this item. The overture stresses the intention of F-1.0403, which states, "The unity of believers in Christ is reflected in the rich diversity of the Church's membership. In Christ, by the power of the Spirit, God unites persons through baptism regardless of race, ethnicity, age, sex, disability, geography, or theological conviction. There is therefore no place in the life of the Church for discrimination against any person."

The Assembly Committee on Mid Councils amended the overture following language proposed by the ACC and then approved Item MC-08, 32/0. The 225th General Assembly (2022) approved Item MC-08, 399/9.

For the full report on MC-08, go to https://www.pc-biz.org/#/committee/3000080/business.

22-K — G-2.1002

COMMISSIONING RULING ELDERS TO PARTICULAR PASTORAL SERVICE

G-2.1002 TRAINING, EXAMINING, AND COMMISSIONING (HSB-05 3)

The 225th General Assembly (2022) directed the Stated Clerk to send the following proposed amendment to the presbyteries for their affirmative or negative votes:

Shall G-2.1002 in the Form of Government amended as follows?
(Added text is in *italics*.)

"G-2.1002 Training, Examining, and Commissioning

A ruling elder who seeks to serve under the terms of G-2.1001 shall receive such preparation and instruction as determined by the presbytery to be appropriate to the particular commission. *Such preparation shall include a certificate of completion of boundary training, which includes the topic of sexual misconduct, and child sexual abuse prevention training with recertification at least every thirty-six months. The presbytery shall determine which trainings are approved to meet the criteria of these two requirements.* The ruling elder shall be examined by the presbytery as to personal faith, motives for seeking the commission, and the areas of instruction determined by the presbytery. A ruling elder who has been commissioned and later ceases to serve in the specified ministry may continue to be listed as available to serve but is not authorized to perform the functions specified in G-2.1001 until commissioned again to a congregation or ministry by the presbytery."

Background and Rationale

This proposed amendment originated as Recommendation 3 from the Survivors of Sexual Misconduct Task Force, with the following rationale:

Recommendations 1–5 and 8 are in response to the following referral: 2018 Referral: Item 11-09, A Resolution on Sexual Misconduct in the PC(USA). Recommendation 5. The Task Force will Undertake a Comprehensive Examination of Presbyterian Policy, Judicial Process and Rules of Discipline—from the Advocacy Committee for Women's Concerns (*Minutes*, 2018, Part 1, p. 1024.)

Rationale for Recommendation 3: The FaithTrust Institute, which provides "Healthy Boundaries" training, and the national organization Darkness to Light, which provides the "Stewards of Children" child sexual abuse prevention training, have both discovered that regularly required training is the most effective way to prevent sexual misconduct and abuse in the church. One of the best ways to provide justice for those who have already been harmed is to require prevention training so that sexual misconduct doesn't happen again.

The task force concluded that the denomination needs to mandate boundary training and child protection training for commissioned ruling elders and that training needs to be updated every 36 months.

Advice—From the Advisory Committee on the Constitution (ACC)

The Advisory Committee on the Constitution advised that the 225th General Assembly (2022) disapprove the original Recommendation 3 of Item HSB-05. The committee revised the original recommendation following the ACC advice.

Advice and Counsel—From the Advocacy Committee for Women's Concerns (ACWC)

The Advocacy Committee for Women's Concerns commends and strongly concurs with Recommendation 3 regarding boundary and child protection training for ministers of the Word and Sacrament and commissioned ruling elders. ACWC would highly recommend that deacons and ruling elders also be included in all trainings, as they are church-mandated reporters of abuse as well. All sexual abuse is, at the core, an abuse of power. That is why certain populations—such as children and youth, developmentally disabled adults, and immigrant night shift workers—are more vulnerable to abuse and are often the targets of sexual misconduct. Clergy sexual misconduct sends out ripple effects beyond individual victims to impact spouses and children, families and marriages, congregations, and presbyteries.

Advice and Counsel—From the Advisory Committee on Social Witness Policy (ACSWP)

As a denomination, we affirm the need to care for individuals who are victim of sexual misconduct and the need to hold accountable those who commit sexual misconduct against others. However, we still fall short in identifying and addressing situations where sexual misconduct occurs. This item seeks to strengthen the church's response to sexual misconduct and put procedures in place at all levels to prevent sexual misconduct from happening. ACSWP commends the work of the Survivors of Sexual Misconduct Task Force and wholeheartedly lifts up their work presented in this overture.

Comment—From the Office of the General Assembly (OGA)

Regarding Recommendation 3, the Office of the General Assembly supports the importance of including boundary training for commissioned ruling elders.

The Assembly Committee on Health Safety and Benefits amended the original Recommendation 3 and then approved Item HSB-05 3, 39/1. The 225th General Assembly (2022) approved Item HSB-05 3, 358/13.

For the full report on HSB-05, go to https://www.pc-biz.org/#/committee/3000084/business.

22-L — G-2.1103

CERTIFIED CHURCH SERVICE

G-2.1103 CHRISTIAN EDUCATORS (HSB-05 4)

The 225th General Assembly (2022) directed the Stated Clerk to send the following proposed amendment to the presbyteries for their affirmative or negative votes:

Shall G-2.1103 in the Form of Government be amended as follows?
(Added text is in *italics*.)

"G-2.1103 Christian Educators

a. Skills and Training

Certified Christian educators are persons certified and called to service in the ministry of education in congregations and councils. They shall have skills and training in biblical interpretation, Reformed theology, worship and sacraments, human development, faith development, religious education theory and practice, and the polity, programs and mission of the Presbyterian Church (U.S.A.). ***Certified Christian educators shall provide a certificate of completion of boundary training, which includes the topic of sexual misconduct, and child sexual abuse prevention training with recertification at least every thirty-six months. The presbytery shall determine which trainings are approved to meet these two requirements.***

b. Presbytery Responsibility

The presbytery shall establish minimum requirements for compensation and benefits for Certified Christian educators and Certified Associate Christian educators and shall provide access to the area of the presbytery that oversees ministry (G-3.0307). During their term of serve in an educational ministry under the jurisdiction of the presbytery, Certified Christian Educators are entitled to the privilege of the floor with voice only at presbytery meetings, and in the case of Certified Christian Educators who are ruling elders, the privilege of voice and vote at all meetings. ***Certified Christian educators and Certified Associate Christian educators shall provide to the presbytery in which they serve a certificate of completion of boundary training, which includes the topic of sexual misconduct, and child sexual abuse prevention training with recertification at least every thirty-six months. The presbytery shall determine which trainings are approved to meet these two requirements. Presbytery shall report a certificate of completion to the national certifying body for these two trainings.*****"**

Background and Rationale

The General Assembly included this comment:

"The committee encourages the Christian Educators Certification Committee to take up the oversight of the certified Christian educators in presbyteries and congregations, particularly the tracking of required trainings. Gaps in oversight are where it is difficult to ensure that vulnerable people are protected."

This proposed amendment originated as Recommendation 4 from the Survivors of Sexual Misconduct Task Force, with the following rationale:

Recommendations 1–5 and 8 are in response to the following referral: 2018 Referral: Item 11-09, A Resolution on Sexual Misconduct in the PC(USA). Recommendation 5. The Task Force will Undertake a Comprehensive Examination of Presbyterian Policy, Judicial Process and Rules of Discipline—from the Advocacy Committee for Women's Concerns (*Minutes*, 2018, Part 1, p. 1024.)

Rationale for Recommendation 4: The FaithTrust Institute, which provides "Healthy Boundaries" training, and the national organization Darkness to Light, which provides the "Stewards of Children" child sexual abuse prevention training, have both discovered that regularly required training is the most effective way to prevent sexual misconduct and abuse in the church. One of the best ways to provide justice for those who have already been harmed is to require prevention training so that sexual misconduct doesn't happen again.

The task force concluded that the denomination needs to mandate boundary training and child protection training for certified Christian educators and certified associate Christian educators and that training needs to be updated every 36 months.

Advice—From the Advisory Committee on the Constitution (ACC)

The Advisory Committee on the Constitution advised the 225th General Assembly (2022) disapprove the original Recommendation 4 of Item HSB-05. The committee revised the original recommendation following the ACC advice.

Advice and Counsel—From the Advocacy Committee for Women's Concerns (ACWC)

The Advocacy Committee for Women's Concerns commends and strongly concurs with Recommendation 4 regarding boundary and child protection training for Certified educators. ACWC would highly recommend that deacons and ruling elders also be included in all trainings, as they are church-mandated reporters of abuse as well. All sexual abuse is, at the core an abuse of power. That is why certain populations—such as children and youth, developmentally disabled adults, and immigrant night shift workers—are more vulnerable to abuse and are often the targets of sexual misconduct. Clergy sexual misconduct sends out ripple effects beyond individual victims to impact spouses and children, families and marriages, congregations, and presbyteries.

Advice and Counsel—From the Advisory Committee on Social Witness Policy (ACSWP)

As a denomination, we affirm the need to care for individuals who are victim of sexual misconduct and the need to hold accountable those who commit sexual misconduct against others. However, we still fall short in identifying and addressing situations where sexual misconduct occurs. This item seeks to strengthen the church's response to sexual misconduct and put procedures in place at all levels to prevent sexual misconduct from happening. ACSWP commends the work of the Survivors of Sexual Misconduct Task Force and wholeheartedly lifts up their work presented in this overture.

Comment—From the Office of the General Assembly (OGA)

Regarding Recommendation 4, the Office of the General Assembly, which oversees educator certification through the work of the Educator Certification Committee, the national certifying body, is

committed to this ministry which provides an intensive process of education for those serving in ministries of Christian education/formation.

The Assembly Committee on Health Safety and Benefits amended the original Recommendation 4 and then approved Item HSB-05 4, 40/0. The 225th General Assembly (2022) approved Item HSB-05 4, 305/60.

For the full report on HSB-05, go to https://www.pc-biz.org/#/committee/3000084/business.

22-M — G-3.0104

GENERAL PRINCIPLES OF COUNCILS

G-3.0104 OFFICERS (MC-05)

The 225th General Assembly (2022) directed the Stated Clerk to send the following proposed amendment to the presbyteries for their affirmative or negative votes:

Shall G-3.0104 in the Form of Government be amended as follows?
(Added text is in *italics*.)

"G-3.0104 Officers

The pastor of a congregation shall be the moderator of the session of that congregation. In congregations where there are co-pastors, they shall both be considered moderators and have provisions for designating who presides at a particular meeting. If it is impractical for the pastor to moderate, he or she shall invite another minister of the Word and Sacrament who is a member of the presbytery, or a person authorized by the presbytery to serve as moderator. If there is no installed pastor, or if the installed pastor is unable to invite another moderator, the presbytery shall make provision for a moderator. *It is appropriate for councils to adopt procedures that may allow for electronic session meetings*."

Background and Rationale

[Editor's note: This proposed amendment originated as an overture from the Presbytery of Southern Illinois to allow moderators to moderate from a remote location. The assembly committee amended it following ACC advice. The following rationale was for the original overture.]

In larger metropolitan areas when there is a need for substitute session moderator leadership, there are usually several pools of people from which to draw, such as the pool of retired ministers of the Word and Sacrament or ministers of the Word and Sacrament serving in Presbyterian congregations. The reality is different in presbyteries that have wide geography and very small congregations, many of which lack full-time pastoral leadership. …We propose a modest change to the *Book of Order*, under which presbyteries would be allowed to establish their own procedures for expeditious one-time appointment of a ruling elder to moderate a session meeting or, alternatively, for the appointment of a minister of the Word and Sacrament to moderate the meeting electronically.

Advice—From the Advisory Committee on the Constitution (ACC)

This proposed amendment originated as an overture from the Presbytery of Southern Illinois to allow moderators to moderate from a remote location. The assembly committee amended following ACC advice. The following edited advice was for the original overture:

The ACC advises the 225th GA to disapprove MC-05 [as] … the proposed language is redundant and unnecessary. …The ACC finds that the Constitution allows councils to meet electronically, provided such meetings are authorized in a council's bylaws or manual of administrative operations.

The Assembly Committee on Health Safety and Benefits amended and approved Item MC-05, 25/6. The 225th General Assembly (2022) amended and approved Item MC-05, 376/21.

For the full report on MC-05, go to https://www.pc-biz.org/#/committee/3000080/business.

22-N — G-3.0105

GENERAL PRINCIPLES OF COUNCILS

G-3.0105 MEETINGS (ROD-06 3)

The 225th General Assembly (2022) directed the Stated Clerk to send the following proposed amendment to the presbyteries for their affirmative or negative votes:

Shall G-3.0105 in the Form of Government be amended as follows?
(Added text is in *italics*.)

"G-3.0105 Meetings

"Meetings of councils shall be opened and closed with prayer. Meetings shall be conducted in accordance with the most recent edition of Robert's Rules of Order Newly Revised, except when it is in contradiction to this Constitution. Councils may also make use of processes of discernment in their deliberations prior to a vote as agreed upon by the body.

"*In accordance with the requirement of Robert's Rules of Order Newly Revised, councils and their commissions and committees may meet electronically, provided that the technology employed allows for all members present to hear and be heard simultaneously. This includes joining one or more persons electronically to an otherwise in-person meeting. Councils should adopt special rules of order and standing rules to govern such meetings.*"

Background and Rationale

Rationale for Recommendation 3

The Foundations of Presbyterian Polity states that in our church, "decisions shall be reached in councils by vote, following opportunity for discussion and discernment, and a majority shall govern" (F-3.0205). At the core of our understanding of church governance is the notion that the Holy Spirit is present "where two of three are gathered," and guides us in discerning the will of God in our decision making.

The absence of constitutional language authorizing electronic meetings has proved problematic at all levels of the Presbyterian Church (U.S.A.) since the arrival of the COVID-19 pandemic, including in disciplinary processes. The proposed language would remedy that by authorizing electronic meetings in congregations and councils of the church, while still requiring that for proper discernment and decision making to occur, participants must be able to "hear and be heard simultaneously," or as it is stated in our parliamentary authority, provide for the "opportunity for simultaneous aural communication" (RONR 12th ed. 9:31).

It is not the intent of these additions to require electronic meetings or to mandate any specific processes or procedures. Congregations and councils may make those determinations themselves. Additionally, the proposed revision of the Rules of Discipline sometimes explicitly states that meeting face to face is preferable. But as we all learned in 2020 and 2021, sometimes that is simply not possible. These additions provide the authorization required by our parliamentary authority to utilize electronic

meetings whenever a congregation, council, or entity of a council, determines that it should do so, and in accordance with whatever rules that congregation or council so adopts.

Advice—From the Advisory Committee on the Constitution (ACC)

The Advisory Committee on the Constitution advises the 225th General Assembly to approve ROD-06. The adoption of these amendments assumes the adoption of the proposed revision of the Rules of Discipline of the Book of Order (Part II of the Constitution) and references the language of those amendments.

The amendments proposed in Recommendation 2 and 3 regarding electronic meetings enshrines the option in the Constitution; thus, congregations and councils of the church have the ecclesiastical authority to meet by electronic means.

The Assembly Committee on Rules of Discipline approved Item ROD-06 3, 24/1. The 225th General Assembly (2022) approved Item ROD-06 3, 378/1.

For the full report on ROD-06, go to https://www.pc-biz.org/#/committee/3000083/business.

22-O — G-3.0106

GENERAL PRINCIPLES OF COUNCILS

G-3.0106 ADMINISTRATION OF MISSION (HSB-05 9)

The 225th General Assembly (2022) directed the Stated Clerk to send the following proposed amendment to the presbyteries for their affirmative or negative votes:

Shall G-3.0106 in the Form of Government be amended as follows?
(Added text is in *italics*.)

"G-3.0106 Administration of Mission

Mission determines the forms and structures needed for the church to do its work. Administration is the process by which a council implements its decisions. Administration enables the church to give effective witness in the world to God's new creation in Jesus Christ and strengthens the church's witness to the mission of the triune God.

Councils higher than the session may provide examples of policies and procedures that may be gathered into advisory handbooks. These examples illumine practices required by the Constitution but left to councils for specific implementation. Such handbooks may also offer information that enhances or secures the ministry of the particular council.

Each council shall develop a manual of administrative operations that will specify the form and guide the work of mission in that council.

All councils shall adopt and implement a sexual misconduct policy and a child and youth protection policy. *Each council's policy shall include requirements for boundary training which includes the topic of sexual misconduct, and child sexual abuse prevention training for its members at least every thirty-six months.*"

Background and Rationale

This proposed amendment originated as a recommendation from the GA Health Safety and Benefits Committee as Recommendation 9 attached to the Survivors of Sexual Misconduct Task Force recommendations. The HSB committee concluded that the denomination needs to mandate boundary training and child protection training for all members of councils including sessions of congregations, presbyteries, synods and the general assembly.

The Assembly Committee on Health Safety and Benefits amended the original Recommendation 4 and then approved Item HSB-05 9, 36/2. The 225th General Assembly (2022) approved Item HSB-05 9, 351/24.

For the full report on HSB-05, go to https://www.pc-biz.org/#/committee/3000084/business.

22-P — G-3.0106

GENERAL PRINCIPLES

G-3.0106 ADMINISTRATION OF MISSION (POL-10)

The 225th General Assembly (2022) directed the Stated Clerk to send the following proposed amendment to the presbyteries for their affirmative or negative votes:

Shall the fourth paragraph of G-3.0106 in the Form of Government be amended as follows? (Deleted text is in ~~strikethrough~~; added text is in *italics*.)

"G-3.0106 Administration of Mission …

… "All councils shall adopt and implement ~~a sexual misconduct policy and a child and youth protection policy~~ *the following policies: a sexual misconduct policy, a harassment policy, a child and youth protection policy, and an antiracism policy*."

Background and Rationale

From Selma to Montgomery, from Tuskegee to Tuscaloosa, from Auburn to Anniston, from the Black Belt to Birmingham, the Presbytery of Sheppards and Lapsley knows the pain of our racist history and the difficulty of changing behavior. We recognize the General Assembly's call for "Facing Racism," for study and action, and give thanks for the resource materials provided. Nevertheless, we see that councils have been slow to respond. Councils have adopted and enforced sexual misconduct policies and policies to protect vulnerable populations. Why have councils not been doing the work of "Facing Racism"? Why have councils responded differently? The responses regarding sexual misconduct and protecting vulnerable people have been directed by "shall," while "Facing Racism" merely urges, makes available, encourages, and commends. This presbytery, whose very name reflects black and white, women and men, working together in mission for education and health care, calls upon the General Assembly to turn overcoming racism into a "shall" for all our councils.

Advice—From the Advisory Committee on the Constitution (ACC)

The Advisory Committee on the Constitution advises that the constitution is not intended to serve as a manual of operations. Generally, this would advocate against the creation of lists of requirements or rubrics on how to implement requirements.

Advice and Counsel—From the Advisory Committee on Social Witness Policy (ACSWP)

The Advisory Committee on Social Witness Policy (ACSWP) advises that the 225th General Assembly (2022) approve this item…The Presbytery of Sheppards and Lapsley and other concurring presbyteries are to be commended for their sincere desire to see the PC(USA) implementing the "Facing Racism" policy (2018, renewing a 1999 version). If this overture is passed, it is important that there are both personal and shared outcomes for any antiracism policy and training. Training in and of itself does not mandate tangible action beyond certification that a training is offered, was attended, and completed. In a church that is 89% white and largely suburban, the amendment we propose is meant to encourage mid councils to be both visionary and realistic about the kind of training required to dismantle white supremacy and transform us into the Beloved Community in our particular areas.

Advice and Counsel—From the Advocacy Committee for Women's Concerns (ACWC)

ACWC advises that the assembly approve this item. We concur with the Racial Equity Advocacy Committee and encourage the approval of including an antiracism policy with suggested language, but we also believe it should be included in a stand-alone manner separate from the mandate to have a sexual misconduct policy and a child and youth protection policy.

Advice and Counsel—From the Racial Equity Advocacy Committee (REAC)

The Racial Equity Advocacy Committee advises that the 225th General Assembly (2022) approve this item … Over the years, the *Book of Order* has been reduced in scope and specific content. Noticeably absent is language related to addressing systemic and structural racism. Previous efforts to address racism in the church and society are not enough. Though they have brought awareness, they have not yielded the desired results for people of color. Facing racism and overcoming racism are only steps to achieving God's beloved community of eradicating racism. White supremacy and other racist attitudes undermine the work of the church. Therefore, REAC advises the inclusion of "All councils shall adopt and implement a dismantling structural and systemic racism policy and training" as a stand-alone requirement.

Comment—From the General Assembly Committee on Representation (GACOR)

The General Assembly Committee on Representation believes that training in cultural proficiency, implicit bias, and antiracism are important at all levels of the denomination. The inclusion of such training in the *Book of Order* would ensure that members are equipped and aware of the implications of racism in their work. Training like this would be best if connected to the constitutional requirement of advocating for diversity in leadership and equipping the church.

With that affirmation, we also want to highlight the fact that mandatory stand-alone training around bias and privilege have been shown to actually reinforce bias when they are not accompanied by actual strategies for overcoming bias, structural commitment to undoing structural barriers to equity, etc. In other words, the "how" of a mandatory training matters just as much, if not more, as the "if"—without attention to this wider matrix of needs, including best-practices, required antiracism training risks becoming simply another box to check without any greater commitment to transformed interactions, norms and structures within our institutions and within the body of Christ.

The General Assembly Committee on Representation (GACOR) was formed as a result of the 1983 reunion of the northern and southern streams of what is now the PC(USA). The vision for GACOR was to address the need for relationships and vision of a better way to embody the diversity of the church together. It is tasked with bringing attention and interpretation to representational access and norms around race, gender, sexual orientation, language, disability, theological diversity, and more (G-3.0103). GACOR's comments are designed to bring the richness and complexity of these intersecting realities into the conversation for the body of commissioners.

The Assembly Committee on Polity amended the overture language and then approved Item POL-10, 25/3. The 225th General Assembly (2022) amended and approved Item POL-10, 372/31.

For the full report on POL-10, go to https://www.pc-biz.org/#/committee/3000082/business.

22-Q — G-3.0303c

THE PRESBYTERY

G-3.0303c RELATIONS WITH SESSIONS (MC-03)

The 225th General Assembly (2022) directed the Stated Clerk to send the following proposed amendment to the presbyteries for their affirmative or negative votes:

Shall G-3.0303c in the Form of Government be amended as follows?
(Added text is in *italics*.)

"G-3.0303 Relations with Sessions …

"… c. establish minimum compensation standards, *including provisions for dissolution terms,* for pastoral calls *and for those serving in temporary pastoral service*, Certified Christian Educators and Certified Associate Christian Educators within the presbytery;"

Background and Rationale

[Editor's note: This rationale was prepared for the original overture, which was significantly amended by the assembly and may or may not apply to the proposed amendment above.]

In 1993, the General Assembly Permanent Judicial Commission ruled in the case Saurbaugh v. the Presbytery of Great Rivers that "the *Book of Order* does not give the presbyteries power to require congregations to pay compensation upon dissolution of pastoral relationships" (*Minutes*, 1994, Part I, p. 155, Remedial Case 206-13,11.094 attached). In subsequent years, the church has maintained that while a presbytery can have guidelines and policies concerning severance for ministers at the dissolution of a pastorate, the presbytery has no authority to enforce those policies. This overture seeks to remedy that omission in the *Book of Order* by making explicit the authority of presbyteries to create and enforce severance policies by linking that authority to the power to set minimum wages and approve calls.

The overture does not attempt to set a national severance policy but rather to clarify the presbytery's relationship to both the session and the minister during times of transition.

Advice—From the Advisory Committee on the Constitution (ACC)

[Editor's note: This advice was prepared for the original overture, which was significantly amended by the assembly.]

The ACC advises the 225th General Assembly (2022) to disapprove [original] MC-03. …

The ACC finds that nothing in the proposed amendment would change the requirement that only agreed-upon [by the congregation approving terms or change to terms of call] terms of dissolution are enforceable ….

Advice and Counsel—From the Advisory Committee on Social Witness Policy (ACSWP)

The Advisory Committee on Social Witness Policy (ACSWP) advises that the 225th General Assembly (2022) approve this item.

When a pastor and a church need to end their mutual relationship, there needs to be equity in severance. Sometimes a pastor leaves without a just severance, which creates unfair stress in a time of transition. Some pastors might receive a fair severance package, others might receive none. This overture calls for presbyteries to establish minimums to prevent both undue hardship and retaliation in the moments that lead to the termination of the relationship between pastor and church.

According to the 2009 "God's Work in Women's Hands: Just Compensation and Just Compensation," the PC(USA) defines pay equity as seeking fairness in compensation. While the policy addresses gender discrimination in compensation, this call for equity should apply to severance packages regardless of gender. By requiring presbyteries to set minimum severance policies, the denomination can move toward a more equitable compensation in the church.

The Assembly Committee on Mid Councils amended the overture language and then approved Item MC-03, 32/0. The 225th General Assembly (2022) approved Item MC-03, 386/18.

For the full report on MC-03, go to https://www.pc-biz.org/#/committee/3000080/business.

22-R — G-3.0401

THE SYNOD

G-3.0401 COMPOSITION AND RESPONSIBILITIES (MC-06)

The 225th General Assembly (2022) directed the Stated Clerk to send the following proposed amendment to the presbyteries for their affirmative or negative votes:

Shall G-3.0401 in the Form of Government be amended as follows?
(Added text is in *italics*.)

"G-3.0401 Composition and Responsibilities

"The synod is the intermediate council serving as a corporate expression of the church throughout its region. It shall consist of not fewer than three presbyteries within a specific geographic region.

"When a synod meets, it shall be composed of commissioners elected by the presbyteries. Each presbytery shall elect at least one ruling elder and one minister of the Word and Sacrament to serve as commissioners to synod. A synod shall determine a plan for the election of commissioners to the synod, as well as the method to fulfill the principles of participation and representation found in F-1.0403 and G-3.0103; both plans shall be subject to approval by a majority of the presbyteries in the synod. The commissioners from each presbytery shall be divided equally between ruling elders and ministers of the Word and Sacrament. *A synod may enroll, or provide by rule for the enrollment of, ministers of Word and Sacrament and ruling elders, in numbers as nearly equal as possible, during terms of elected service to the synod. Such enrollment may be used, among other purposes, for fulfilling the principles of participation and representation and may include representation from the synod's racial ethnic active leadership.* Each person elected moderator or other officer shall be enrolled as a member of the synod until a successor is elected and installed."

Background and Rationale

[Editor's note: This item came as an overture from Lake Huron Presbytery and received concurrence from four presbyteries and one synod. The edited rationale follows.]

The current language of G-3.0401 creates a problem in fulfilling the requirements both for the election of commissioners and the principles of participation and representation. Since synods "shall be composed of commissioners elected by presbyteries," a synod may be prevented from "[hearing] the voices of peoples long silenced" (*Book of Confessions*, A Brief Statement of Faith, 11.4, Line 70) who might not be elected as commissioners. Since synods cannot compel the election of particular commissioners, important constituencies of synods—such as racial ethnic caucuses, immigrant communities, or mission networks—could be excluded from participation in the decisions of the synod. … The proposed language permits synods to adopt rules, subject to the approval of a majority of their presbyteries, to extend voting privileges to additional persons in the synod for the purpose of participation and representation. … The amendment … would preserve the principle of governance by ruling elders and teaching elders (F-3.0202) by requiring that such additional members be balanced as nearly equally as

possible. It would also free synods to find ways to fulfill both the plan for election of commissioners and the plan for participation and representation according to their particular mission needs with creativity and integrity.

Advice—From the Advisory Committee on the Constitution (ACC)

The Advisory Committee on the Constitution advised the 225th General Assembly (2022) approve item MC-06 with amendment. The overture provides a path [that] synods may use in order to a) fulfill the principles of participation and representation found in F-1.0403 and G-3.0103, while b) retaining the principle of government by elders (F-3.0202) and c) protecting the rights of lower councils to choose those who represent them in higher councils. … The overture seeks to allow synods to obtain other voting members. In this respect, the overture shares important parallels with part of G-3.0301: "A presbytery may enroll, or may provide by its own rule for the enrollment of, ruling elders during terms of elected service to the presbytery or its congregations."

Advice and Counsel—From the Racial Equity Advocacy Committee (REAC)

The Racial Equity Advocacy Committee advises that the 225th General Assembly (2022) approve this item. The overture stresses the intention of F-1.0403, which states, "The unity of believers in Christ is reflected in the rich diversity of the Church's membership. In Christ, by the power of the Spirit, God unites persons through baptism regardless of race, ethnicity, age, sex, disability, geography, or theological conviction. There is therefore no place in the life of the Church for discrimination against any person."

The Assembly Committee on Mid Councils amended the overture language following language proposed by the ACC and REAC and then approved Item MC-06, 30/2. The 225th General Assembly (2022) approved Item MC-06, 385/13.

For the full report on MC-06, go to https://www.pc-biz.org/#/committee/3000080/business.

22-S — G-4.0301

CONFIDENCE AND PRIVILEGE

G-4.0301 TRUST AND CONFIDENTIALITY (ROD-07)

The 225th General Assembly (2022) directed the Stated Clerk to send the following proposed amendment to the presbyteries for their affirmative or negative votes:

Shall G-4.0301 in the Form of Government be amended as follows?
(Deleted text is in ~~strikethrough~~; added text is in *italics*.)

"G-4.0301 Trust and Confidentiality

"In the exercise of pastoral care, ministers of the Word and Sacrament and ruling elders who have been commissioned by a presbytery to limited pastoral service (G-2.10) ~~shall maintain a relationship of trust and confidentiality, and shall~~ *work to create communities of trust, accountability, and confidentiality while protecting the vulnerable. Confidentiality creates safe and sacred space for individuals to share concerns, questions, and/or burdens and seek spiritual guidance. Confidentiality should not be an excuse to hold secret the knowledge or risk of harm especially when related to the physical abuse, neglect, sexual abuse of a minor or an adult who lacks mental capacity. Ministers of the Word and Sacrament and commissioned ruling elders shall* hold in confidence all information revealed to them in the course of providing care and all information relating to the exercise of such care~~.~~ *except:*

"When the person whose confidences are at issue gives express consent to reveal confidential information, then a minister of the Word and Sacrament or a *commissioned ruling elder* ~~commissioned pastor (also known as commissioned ruling elder)~~ may, but cannot be compelled to, reveal confidential information, *or when a* ~~A~~ minister of the Word and Sacrament or a *commissioned ruling elder* ~~commissioned pastor *(also known as commissioned ruling elder)* may reveal confidential information when she or he~~ reasonably believes that there is risk of imminent bodily harm to any person."

Background and Rationale

This recommendation is in response to the following referral: 2018 Referral: Item 11-09, A Resolution on Sexual Misconduct in the PC(USA). Recommendation 5. The Task Force Will … Undertak[e] a Comprehensive Examination of Presbyterian Policy, Judicial Process, and Rules of Discipline—From the Advocacy Committee for Women's Concerns (*Minutes*, 2018, Part I, p. 1024).

… Our privilege of confidentiality is not an invitation to sweep abuse under the rug to protect the institution or to protect perpetrators of misconduct. The scriptures are clear, our mandate to protect the vulnerable and the victimized is greater than our responsibility to those who hold power.

- God has taken his place in the divine council; in the midst of the gods he holds judgment: "How long will you judge unjustly and show partiality to the wicked? Give justice to the weak and the orphan; maintain the right of the lowly and the destitute. Rescue the weak and the needy; deliver them from the hand of the wicked." (Ps. 82: 1–4)

- [Jesus says,] "If any of you put a stumbling-block before one of these little ones who believe in me, it would be better for you if a great millstone were fastened around your neck and you were drowned in the depth of the sea. Woe to the world because of stumbling-blocks! Occasions for stumbling are bound to come, but woe to the one by whom the stumbling-block comes! … Take care that you do not despise one of these little ones. …" (Mt. 18:6–7; 10)

In light of these biblical mandates, when talking about confidence and privilege, it is essential that we begin with protecting the vulnerable. …Concerns about the need for confidence in pastoral care and to confess sin do not outweigh the need to protect those who have been victimized.

Advice—From the Advisory Committee on the Constitution (ACC)

[Editor's note: The Advisory Committee on the Constitution advised the 225th General Assembly (2022) to disapprove the original Item ROD-07. The GA Rules of Discipline Committee recommended disapproval of the original recommendation following the ACC advice. The assembly significantly amended it with a substitute motion and approved the proposed amendment. The ACC gave oral advice to the General Assembly regarding the revised proposed amendment language, which does not significantly change the current constitutional requirement to keep in confidence all information revealed in the exercise of providing pastoral care, the permission to reveal confidential information when the person who revealed it gives express consent, and the ability to reveal confidential information if the person receiving the information reasonably believes that there is a risk of imminent bodily harm to any person.]

The Assembly Committee on Rules of Discipline recommended disapproval of the original ROD-07, 19/5. The 225th General Assembly (2022) amended with a substitute motion and approved Item ROD-07, 325/65.

For the full report on ROD-07, go to https://www.pc-biz.org/#/committee/3000083/business.

22-T — W-3.0205

GATHERING

W-3.0205 CONFESSION AND FORGIVENESS (TWE-05 1)

The 225th General Assembly (2022) directed the Stated Clerk to send the following proposed amendment to the presbyteries for their affirmative or negative votes:

Shall W-3.0205 in the Directory for Worship amended as follows?
(Added text is in *italics*.)

"W-3.0205 Confession and Forgiveness …

"… Other actions may follow—a song of praise, such as 'Glory be to the Father' or 'Glory to God'; a summary of the law or call to faithfulness; *the sacrament of baptism;* and the sharing of peace as a sign of reconciliation in Christ."

Background and Rationale

The recommendations in TWE-05 are in response to the following referral: 2018 Referral: Item 14-02. On Amending Portions of the Directory for Worship. Recommendation 1.–10. The Assembly Referred Recommendations 1.–10. To the Presbyterian Mission Agency, Office of Theology and Worship—From the Presbytery of Santa Fe (*Minutes*, 2018, Part I, pp. 14, 17, 355–58 of the print copy, pp. 1198–1205 of the electronic copy). This amendment acknowledges the common practice of celebrating the sacrament of baptism early in the Service for the Lord's Day while retaining the Reformed emphasis on baptism as a response to the Word.

Advice—From the Advisory Committee on the Constitution (ACC)

The Advisory Committee on the Constitution advises the 225th General Assembly (2022) to disapprove Recommendation 1 of Item TWE-05. Recommendation 1 seeks to amend W-3.0205, a section in the Directory for Worship that describes confession and forgiveness as an element of the worship service. The proposed language would articulate the possibility that the sacrament of baptism might be administered following confession and proclamation of forgiveness in the worship service.

Although the language of this recommendation is clear and consistent with its intent, the ACC finds that it is unnecessary. Reformed theology commonly links Word and Sacrament as in W-1.0106, but W-3.0307 already provides for the sacrament of baptism to ordinarily be in response to the Word. It does not require that the sacrament only be administered at that time in the service.

The Assembly Committee on Theology, Worship, and Education approved Item TWE-05 1, 30/2. The 225th General Assembly (2022) approved Item TWE-05 1, 395/4.

For the full report on TWE-05, go to https://www.pc-biz.org/#/committee/3000081/business.

22-U — W-3.0409

SACRAMENT

W-3.0409 THEOLOGY OF THE LORD'S SUPPER (TWE-05 2)

The 225th General Assembly (2022) directed the Stated Clerk to send the following proposed amendment to the presbyteries for their affirmative or negative votes:

Shall W-3.0409 in the Directory of Worship be amended as follows?
(Added text is in *italics*.)

"W-3.0409 Theology of the Lord's Supper …

"… The opportunity to eat and drink with Christ is not a right bestowed upon the worthy, but a privilege given to the undeserving who come in faith, repentance, and love. All who come to the table are offered the bread and cup, regardless of their age or understanding. If some of those who come have not yet been baptized, an invitation, *when appropriate,* to baptismal preparation and Baptism should be graciously extended."

Background and Rationale

The recommendations in TWE-05 are in response to the following referral: 2018 Referral: Item 14-02. On Amending Portions of the Directory for Worship. Recommendation 1.–10. The Assembly Referred Recommendations 1.–10. To the Presbyterian Mission Agency, Office of Theology and Worship—From the Presbytery of Santa Fe (*Minutes*, 2018, Part I, pp. 14, 17, 355–58 of the print copy, pp. 1198–1205 of the electronic copy).

This amendment provides for gracious hospitality at the Lord's Supper, emphasizes the theological connection between the sacraments, and underscores pastoral discretion in the invitation to baptism.

Advice—From the Advisory Committee on the Constitution (ACC)

The Advisory Committee on the Constitution advises the 225th General Assembly (2022) to disapprove Recommendation 2 of Item TWE-05. This recommendation seeks to amend W-3.0409 to emphasize pastoral discretion regarding an invitation to baptismal preparation when persons who have not previously been baptized participate in the sacrament of the Lord's Supper. The ACC finds that the proposed change has the potential to weaken the link between baptism and the Lord's Supper. The use of "should," rather than the mandatory "shall," already provides latitude for pastoral discretion in determining the appropriateness of an invitation to baptismal preparation.

The Assembly Committee on Theology, Worship, and Education approved Item TWE-05 2, 30/2. The 225th General Assembly (2022) approved Item TWE-05 2, 395/4.

For the full report on TWE-05, go to https://www.pc-biz.org/#/committee/3000081/business.

22-V — W-3.0414

SACRAMENT

W-3.0414 COMMUNION (TWE-05 4)

The 225th General Assembly (2022) directed the Stated Clerk to send the following proposed amendment to the presbyteries for their affirmative or negative votes:

Shall the second paragraph of W-3.0414 in the Directory of Worship be amended as follows?

(Deleted text is in ~~strikethrough~~; added text is in *italics*.)

> **"W-3.0414 Communion …**
>
> **"… When all have received the bread and cup, the remaining elements are placed on the table. ~~The minister of Word and Sacrament then leads the people in prayer.~~ *A prayer follows*, thanking God for the gift of the Sacrament and asking for grace to live and serve faithfully until the coming of Christ's realm in fullness."**

Background and Rationale

The recommendations in TWE-05 are in response to the following referral: 2018 Referral: Item 14-02. On Amending Portions of the Directory for Worship. Recommendation 1.–10. The Assembly Referred Recommendations 1.–10. To the Presbyterian Mission Agency, Office of Theology and Worship—From the Presbytery of Santa Fe (*Minutes*, 2018, Part I, pp. 14, 17, 355–58 of the print copy, pp. 1198–1205 of the electronic copy).

This amendment provides for more flexibility in the prayer after communion, including the use of a unison congregational prayer.

Advice—From the Advisory Committee on the Constitution (ACC)

The Advisory Committee on the Constitution advises the 225th General Assembly (2022) to approve Recommendation 4 of Item TWE-05. Recommendation 4 in this overture would eliminate the requirement that the prayer after communion be led only by a minister of the Word and Sacrament or ruling elder authorized by the presbytery to administer communion. The ACC finds that the language of W-3.0414 is unnecessarily restrictive and amendment is advisable.

The Assembly Committee on Theology, Worship, and Education approved Item TWE-05 4, 31/0. The 225th General Assembly (2022) then approved Item TWE-05 4, 395/4.

For the full report on TWE-05, go to https://www.pc-biz.org/#/committee/3000081/business.

22-W — W-4.0403

ORDINATION, INSTALLATION, AND COMMISSIONING

W-4.0403 ORDER OF WORSHIP (TWE-06)

The 225th General Assembly (2022) directed the Stated Clerk to send the following proposed amendment to the presbyteries for their affirmative or negative votes:

Shall W-4.0403 in the Directory of Worship be amended as follows?
(Added text is in *italics*.)

"W-4.0403 Order of Worship

"A service of ordination, installation, or commissioning focuses on Christ and the joy and responsibility of serving him through the mission and ministry of the church. Following the sermon, the moderator (or designee) of the appropriate council briefly states the nature of the ministry to which persons are being ordained, installed, or commissioned. Those who are being ordained, installed, or commissioned gather at the baptismal font. The moderator (or designee) of asks them the constitutional questions (see W-4.0404). A ruling elder asks the corresponding questions of the congregation. When all questions have been answered in the affirmative, those to be ordained will kneel, if able, for the laying on of hands and the prayer of ordination. (The presbytery commission lays on hands at the ordination of minister of the Word and Sacrament; its moderator may invite other ministers of the Word and Sacrament and ruling elders to participate. Members of the session lay on hands at the ordination of ruling elders and deacons; the session may invite other ruling elders and ministers of the Word and Sacrament to participate. Because ordination only takes place once for each office, the laying on of hands is not repeated.) Those previously ordained will stand, if able, along with the congregation, for the prayer of installation. *Signs and symbols of blessing may be conferred on the newly installed or commissioned person.* After this, the moderator makes the declaration of ordination, installation, or commissioning. Members of the session or presbytery welcome the newly ordained, installed, or commissioned person(s). In the case of the installation of a minister of the Word and Sacrament, persons may be invited to charge the minister of the Word and Sacrament and congregation to faithfulness in ministry and mutuality in relationship. When a minister of the Word and Sacrament is ordained or installed, it is appropriate for that person to preside at the Lord's Supper in the same service; she or he may also give the blessing at the conclusion of the service. When ruling elders or deacons are ordained or installed, it is appropriate for one or more of them to give the charge to the congregation at the conclusion of the service."

Background and Rationale

[Editor's note: The TWE Committee amended the overture following the advice of the Advisory Committee on the Constitution and the Presbyterian Mission Agency. This edited background and rationale is for the original overture's proposed amendment. For the full rationale and original overture, see the PC-Biz link below.]

The laying on of hands is not a sacrament but an act of diverse meanings as witnessed in scripture and the Reformed tradition. It is affirmed by the *Book of Order* and Directory for Worship as an act that is appropriate to various situations in the worship of life of Presbyterians, an act that conveys the "gracious action of God and communicate[s] our grateful response" (W-1.0303, see also W-2.0202, W-3.0407, W-4.0401–.0403, W-5.0204).

The Confession of 1967 includes these words in 9.39–9.40: "… In recognition of special gifts of the Spirit and for the ordering of its life as a community, the church calls, trains, and authorizes certain members for leadership and oversight. The persons qualified for these duties in accordance with the polity of the church are set apart by ordination or other appropriate act and thus made responsible for their special ministries. The church thus orders its life as an institution with a constitution, government, officers, finances, and administrative rules. These are instruments of mission, not ends in themselves. …"

Ordination is an act of the institution, one of the ways we order our life for mission. Candidates are ordained to a particular service, a call, emphasizing the pragmatic, functional nature of ordained ministry. As the *Book of Order* says, "In baptism, each Christian is called to ministry in Christ's name. God calls some persons from the midst of congregations to *fulfill particular functions*, so that the ministry of the whole people of God may flourish. …" (W-4.0401, emphasis added). And, "… The gifts of the Spirit are for building up the Church. Every action in worship is to glorify God and contribute to the good of the people. Worshipers and worship leaders must avoid actions that only call attention to themselves and fail to serve the needs of the whole congregation. …" (W-2.0202)

The proposed change to the Directory of Worship is from restrictive language to permissive language: the laying on of hands would not be required at installations as there may be occasions when, because of ecumenical considerations or a candidate's preferences regarding physical contact, it would not be appropriate or edifying. In such a change we reaffirm Calvin's own guide for worship practices: "But love will best judge what may hurt or edify; and if we let love be our guide, all will be safe" (*Institutes*, IV.x.30).

Advice—From the Advisory Committee on the Constitution (ACC)

This advice applies to the original overture.

Should the 225th General Assembly (2022) desire to authorize some act of the congregation to signify its blessing upon the newly installed or commissioned person, the Advisory Committee on the Constitution advises that W-4.0403 be amended as follows (suggestions appear in ~~strikethrough~~ and *italics*): "… [Because ordination only takes place once for each office, the laying on of hands is not repeated.] ~~The moderator may invite the commission and all members of the congregation to participate in the laying on of hands for commissioning and blessing the newly installed minister of Word and Sacrament, ruling elders, or deacons.~~ Those previously ordained will stand, if able, along with the congregation, for the prayer of installation. [*Signs and symbols of blessing may be conferred on the newly installed or commissioned person*.] After this, the moderator makes the declaration of ordination, installation, or commissioning. Members of the session or presbytery welcome the newly ordained, installed, or commissioned person(s)." (The remainder of the paragraph remains unchanged.)

The Assembly Committee on Theology, Worship, and Education amended and approved Item TWE-06, 27/3. The 225th General Assembly (2022) approved Item TWE-06, 371/23.

For the full report on TWE-06, go to https://www.pc-biz.org/#/committee/3000081/business.

22-X — W-5.0104

WORSHIP AND PERSONAL LIFE

W-5.0104 HOUSEHOLD WORSHIP (TWE-05 5)

The 225th General Assembly (2022) directed the Stated Clerk to send the following proposed amendment to the presbyteries for their affirmative or negative votes:

Shall W-5.0104 in the Directory of Worship be amended as follows?
(Added text is in *italics*.)

"W-5.0104 Household Worship

"We respond to God's grace in the context of personal relationships, particularly when Christians who live together worship together. *Household worship is a central and important practice within the Reformed tradition, an important means of faith formation.* Opportunities for household or family worship include: sabbath-keeping and rhythms of daily prayer; Bible reading, study, or memorization; prayers before meals; singing hymns, psalms, and spiritual songs; and expressions of giving, sharing, and service to others. Congregations are encouraged to nurture and equip households and families for these practices."

Background and Rationale

The recommendations in TWE-05 are in response to the following referral: 2018 Referral: Item 14-02. On Amending Portions of the Directory for Worship. Recommendation 1.–10. The Assembly Referred Recommendations 1.–10. To the Presbyterian Mission Agency, Office of Theology and Worship—From the Presbytery of Santa Fe (*Minutes*, 2018, Part I, pp. 14, 17, 355–58 of the print copy, pp. 1198–1205 of the electronic copy).

This amendment asserts the importance of household worship in faith formation.

Advice—From the Advisory Committee on the Constitution (ACC)

The Advisory Committee on the Constitution advises the 225th General Assembly (2022) that this item does not present issues of polity. Recommendation 5 of Item TWE-05 would add a sentence emphasizing the role of household worship. If the 225th General Assembly (2022) believes that the intent of Item TWE-05 Recommendation 5 is appropriate, the ACC advises that the proposed language is clear and consistent with that intent.

The Assembly Committee on Theology, Worship, and Education approved Item TWE-05 5, 31/0. The 225th General Assembly (2022) approved Item TWE-05 5, 395/4.

For the full report on TWE-05, go to https://www.pc-biz.org/#/committee/3000081/business.

22-Y — W-5.0104

WORSHIP AND PERSONAL LIFE

W-5.0104 HOUSEHOLD WORSHIP (TWE-05 6)

The 225th General Assembly (2022) directed the Stated Clerk to send the following proposed amendment to the presbyteries for their affirmative or negative votes:

Shall W-5.0104 in the Directory of Worship be amended to add a third paragraph as follows? (Added text is in *italics*.)

"W-5.0104 Household Worship …

"… ***Prayers of thanks and blessing, and lament at the household table draw upon ancient Jewish practice and the examples of Jesus, his disciples, and the early Christian community. Mealtime prayers provide opportunities to give thanks to God's works of creation and redemption by which we are sustained for Christ's service. We respond with heartfelt thanks and praise in the sharing of our daily bread."***

Background and Rationale

The recommendations in TWE-05 are in response to the following referral: 2018 Referral: Item 14-02. On Amending Portions of the Directory for Worship. Recommendation 1.–10. The Assembly Referred Recommendations 1.–10. To the Presbyterian Mission Agency, Office of Theology and Worship—From the Presbytery of Santa Fe (*Minutes*, 2018, Part I, pp. 14, 17, 355–58 of the print copy, pp. 1198–1205 of the electronic copy).

This amendment stresses the significance of mealtime prayers in household worship.

Advice—From the Advisory Committee on the Constitution (ACC)

The Advisory Committee on the Constitution advises the 225th General Assembly (2022) that this item does not present issues of polity. Recommendation 6 in TWE-05 would add a paragraph emphasizing the role of mealtime prayers to the section on household worship. If the 225th General Assembly (2022) finds Recommendation 6 is appropriate, the ACC advises that the proposed language is clear and consistent with that intent.

The Assembly Committee on Theology, Worship, and Education approved Item TWE-05 6, 30/1. The 225th General Assembly (2022) approved Item TWE-05 6, 395/4.

For the full report on TWE-05, go to https://www.pc-biz.org/#/committee/3000081/business.

22-Z — W-5.0201

WORSHIP AND THE CHURCH'S MINISTRY WITHIN THE COMMUNITY OF FAITH

W-5.0201 THE CHURCH'S MINISTRY WITHIN THE COMMUNITY OF FAITH (TWE-05 9, 1 & 2)

The 225th General Assembly (2022) directed the Stated Clerk to send the following proposed amendment to the presbyteries for their affirmative or negative votes:

1. Shall W-5.0201 in the Directory of Worship be amended as follows? (Added text is in *italics*.)

"W-5.0201 The Church's Ministry within the Community of Faith

"God calls the Church in the name of Jesus Christ to mutual love, *discipleship,* and service. Jesus' ministry and the church's worship are deeply connected; indeed, worship is ministry. The church's ministry springs from its worship, where God builds up the body of Christ through the gifts of the Holy Spirit. The church's ministry flows back into worship as we bring to God the celebrations and concerns of the community of faith.

"Within the church, we seek to love and serve one another through the rhythm of daily prayer, the ministries of Christian education and pastoral care, the activities of councils of the church, and other gatherings of believers. The church's ministries are shaped and nourished by the Word and Sacraments, and are to be carried out in the spirit of *faithful discipleship and* constant prayer *(F-1.0301; F-1.0302a; F-1.0303; F-1.0403)*."

2. Shall W-5.0301 in the Directory of Worship be amended as follows? (Added text is in *italics*.)

"W-5.0301 The Church's Mission in the World

"God sends the Church in the power of the Holy Spirit to join the mission of Jesus Christ in service to the world. Jesus' mission and the church's worship are deeply connected; indeed, worship is mission. The church's mission springs from its worship, where we glimpse the reality and the promise of God's eternal realm. The church's mission flows back into worship as we bring to God the joy and suffering of the world.

"Through its mission in the world, the church seeks to bear witness to God's reign through the proclamation of the gospel, acts of compassion, work for justice and peace, and the care of creation. The church's mission is shaped and nourished by the Word and Sacraments, and represents the living out of our prayer for the world *(F-1.01; F-1.0303; F-1.0304)*."

Background and Rationale

The recommendations in TWE-05 are in response to the following referral: 2018 Referral: Item 14-02. On Amending Portions of the Directory for Worship. Recommendation 1.–10. The Assembly Referred Recommendations 1.–10. To the Presbyterian Mission Agency, Office of Theology and Worship—From the Presbytery of Santa Fe (*Minutes*, 2018, Part I, pp. 14, 17, 355–58 of the print copy, pp. 1198–1205 of the electronic copy).

This amendment contributes an emphasis on communal discipleship within the church's practice of ministry and mission.

Advice—From the Advisory Committee on the Constitution (ACC)

The Advisory Committee on the Constitution advises the 225th General Assembly (2022) to approve the amendment to W-5.0201 and disapprove the [original] amendment to W-5.0301. Recommendation 9 in this item would introduce the concept of discipleship in various places in paragraphs describing a) the church's ministry within the community of faith (W-5.0201) and b) the church's mission in the world (W-5.0301). The ACC finds that sections W-5.0201 and W-5.0301 should be seen as complementary, not contradictory or mutually exclusive. It is unnecessary to amend W-5.0301 to incorporate discipleship as this is sufficiently addressed by the proposed amendment to W-5.0201.

The Assembly Committee on Theology, Worship, and Education amended and approved Item TWE-05 9 1 & 2, 32/0. The 225th General Assembly (2022) approved Item TWE-05 9 1 & 2, 395/4.

For the full report on TWE-05, go to https://www.pc-biz.org/#/committee/3000081/business.

22-AA — W-5.0204

WORSHIP AND THE CHURCH'S MINISTRY WITHIN THE COMMUNITY OF FAITH

W-5.0204 PASTORAL CARE (TWE-05 7)

The 225th General Assembly (2022) directed the Stated Clerk to send the following proposed amendment to the presbyteries for their affirmative or negative votes:

Shall the third paragraph of W-5.0204 in the Directory of Worship be amended as follows? (Deleted text is in ~~strikethrough~~; added text is in ~~italics~~.)

"W-5.0204 Pastoral Care …

"… All members are called to take part in the ministry of pastoral care, visiting the sick, supporting the weak, and comforting those who mourn. Ruling elders, deacons, and ministers of the Word and Sacrament have particular responsibility for the exercise of pastoral care within the community of faith. Those with special gifts and appropriate training may be called to ~~the~~ *particular specialized pastoral care* ministries ~~of pastoral counseling, or chaplaincy~~. In certain circumstances, persons may need to be referred to other qualified and credentialed professionals to receive appropriate counseling and care."

Background and Rationale

The recommendations in TWE-05 are in response to the following referral: 2018 Referral: Item 14-02. On Amending Portions of the Directory for Worship. Recommendation 1.–10. The Assembly Referred Recommendations 1.–10. To the Presbyterian Mission Agency, Office of Theology and Worship—From the Presbytery of Santa Fe (*Minutes*, 2018, Part I, pp. 14, 17, 355–58 of the print copy, pp. 1198–1205 of the electronic copy).

This amendment includes spiritual direction among the examples of specialized ministries of pastoral care while seeking to avoid the appearance of an exhaustive list.

Advice—From the Advisory Committee on the Constitution (ACC)

The Advisory Committee on the Constitution advises the 225th General Assembly (2022) that Recommendation 7 of Item TWE-05 presents issues that the assembly should consider. This recommendation would add "spiritual direction' to the already named ministries of pastoral care. It has added "particular specialized" and "such as" so that the list created by the addition of "spiritual direction" would not be presumed to be exhaustive. However, the addition of more language is counter to recent constitutional changes that give various councils parameters and responsibility to define their own practices. Decisions about appropriate validated ministries are properly left to the individual presbyteries. In addition, the creation of a list invites more items to be added to it.

The ACC finds that if the assembly believes it is appropriate to expand the understanding of pastoral care ministries, it can be better accomplished, while addressing the issues presented above, by striking "the ministries of pastoral counseling or chaplaincy" in W-5.0204 and inserting "particular specialized pastoral care ministries" so that it would read "Those with special gifts and appropriate

training may be called to ~~the ministries of pastoral counseling or chaplaincy~~ [*particular specialized pastoral care ministries*]."

The Assembly Committee on Theology, Worship, and Education amended and approved Item TWE-05 7, 32/0. The 225th General Assembly (2022) approved Item TWE-05 7, 395/4.

For the full report on TWE-05, go to https://www.pc-biz.org/#/committee/3000081/business.

22-BB — W-5.0204

WORSHIP AND THE CHURCH'S MINISTRY WITHIN THE COMMUNITY OF FAITH

W-5.0204 PASTORAL CARE (<u>TWE-05</u> 8)

The 225th General Assembly (2022) directed the Stated Clerk to send the following proposed amendment to the presbyteries for their affirmative or negative votes:

Shall the fourth paragraph of W-5.0204 in the Directory of Worship be amended as follows? (Deleted text is in ~~strikethrough~~; added text is in *italics*.)

"W-5.0204 Pastoral Care…

"Services of wholeness and healing are one way of enacting the church's ministry of pastoral care. The central element in these services is prayer, calling upon God's saving grace or giving thanks for healing received<u>,</u> *in life and in death, in body, mind, or spirit.* A service of wholeness includes the proclamation of the Word, focusing on the promise of *peace and* abundant life in Christ. Prayer may be enacted through the laying on of hands and anointing with oil, provided that these actions are carefully introduced and interpreted: healing ~~always~~ *in its many forms* comes as a gift from God, not as ~~a product~~ *an accomplishment* of human prayer. The Lord's Supper is a fitting way to seal the promise of wholeness proclaimed in the Word. Services of wholeness are to be authorized by the session and are under the direction of the minister of Word and Sacrament, but may involve leadership from ruling elders, deacons, and others with gifts for prayer. They may take place on a regular basis, as an occasional event, or as a part of the Service for the Lord's Day."

Background and Rationale

The recommendations in TWE-05 are in response to the following referral: 2018 Referral: Item 14-02. On Amending Portions of the Directory for Worship. Recommendation 1.–10. The Assembly Referred Recommendations 1.–10. To the Presbyterian Mission Agency, Office of Theology and Worship—From the Presbytery of Santa Fe (*Minutes*, 2018, Part I, pp. 14, 17, 355–58 of the print copy, pp. 1198–1205 of the electronic copy).

This amendment offers theological and pastoral perspective on the nature of healing and wholeness: that healing happens in a variety of ways and wholeness is not necessarily synonymous with physical recovery.

Advice—From the Advisory Committee on the Constitution (ACC)

The Advisory Committee on the Constitution advises the 225th General Assembly (2022) to approve Recommendation 8 of Item TWE-05. This recommendation would amend the paragraph describing services of wholeness and healing. The ACC finds that the first proposed amendment, the insertion of the words "in life and in death, in body, mind, or spirit;" the deletion of "abundant" and insertion of "ultimate well-being through" are unnecessary stylistic changes that do not present issues of polity. The ACC finds that a) deletion of the word "always" and insertion of "in its many forms" and b)

deletion of “a product” and insertion of “not an accomplishment of human prayer” are helpful clarifications.

The Assembly Committee on Theology, Worship, and Education approved Item TWE-05 8, 31/0. The 225th General Assembly (2022) approved Item TWE-05 8, 395/4.

For the full report on TWE-05, go to https://www.pc-biz.org/#/committee/3000081/business.

22-CC — D-3.0106

JURISDICTION IN JUDICIAL PROCESS

D-3.0106 WHEN JURISDICTION ENDS (ROD-05)

The 225th General Assembly (2022) directed the Stated Clerk to send the following proposed amendment to the presbyteries for their affirmative or negative votes:

> **Shall D-3.0106 in the current Rules of Discipline be amended as follows?**
> (Deleted text is in ~~strikethrough~~; added text is in *italics*.)
>
> **"D-3.0106 ~~When Jurisdiction~~ Ends *Upon Renunciation of Jurisdiction***
>
> **~~Jurisdiction in the~~ *The* judicial process ~~ends~~ *does not end* when a person in an ordered ministry or a member renounces the jurisdiction of the church. Should the accused in a disciplinary case renounce the jurisdiction of the church as provided in G-2.0407 or G-2.0509, the clerk or stated clerk shall report to the council both the renunciation and the status of the matter at that time, including the name of the accused, *and* the date and fact of renunciation during an investigation or trial~~, and the charges filed~~. *The judicial process shall then proceed per the Rules of Discipline.*"**

Background and Rationale

[Editor's note: The assembly approved the above proposed amendment to the current Rules of Discipline in the event that the Rules of Discipline will not be replaced by Church Discipline. If Church Discipline is approved by majority vote of presbyteries, it will replace the entire current Rules of Discipline including any amendments to the current Rules of Discipline. The assembly amended D-7.0302e(2) in the proposed Church Discipline to address the underlying concerns (rather than the exact text) of this proposed amendment. 2. The last line is also new to the current rules of discipline.D-3.0106.]

The stated purposes of the Rules of Discipline are "to honor God by making clear the significance of membership in the body of Christ; to preserve the purity of the church by nourishing the individual within the life of the believing community; to achieve justice and compassion for all participants involved; to correct or restrain wrongdoing in order to bring members to repentance and restoration; to uphold the dignity of those who have been harmed by disciplinary offenses; to restore the unity of the church by removing the causes of discord and division; and to secure the just, speedy, and economical determination of proceedings" (D-1.0101).

Currently in D-3.0106 an accused person may choose to walk away from church nourishment, correction, and restoration by renouncing the jurisdiction of the church. That choice is the individual's to make. The church cannot and should not prevent that choice. The church should document and report when that choice is made.

However, also currently in D-3.0106, when an accused person renounces the jurisdiction of the church, the accused individual(s) receives the power to deny the wider church full access to promised justice, dignity, and a just, speedy, and economical determination of disciplinary proceedings.

Under the current Rules of Discipline, when the accused renounces jurisdiction, the judicial process ends. Investigating committees stop. …

This overture seeks to give investigating committees, permanent judicial commissions, and councils the ability to proceed through the remainder of the judicial process, per the Rules of Discipline, while honoring obligations to the accused. The accused would be informed through every step of the continued process and would be invited to participate. All communication to the accused would still be required. Those who renounce jurisdiction would retain the option to fully participate, to observe but remain silent, or to not participate at all. They may choose to send an advocate to represent them in their absence.

However, the amendments recommended in this overture allow the church and the councils to also honor our obligations to the accusers or those in the wider church who may have suffered harm. …

With this simple overture, councils will be allowed and encouraged to respect and honor all people in and beyond the church, even if one person chooses to break oaths and walk away.

Advice—From the Advisory Committee on the Constitution (ACC)

The Advisory Committee on the Constitution advises the 225th General Assembly to disapprove Item ROD-05. ROD-03 requests the amendment of the current Rules of Discipline. The proposed Church Discipline revision is before the same assembly which would, if approved, replace the current Rules of Discipline section of the *Book of Order*. Should the General Assembly affirmatively adopt Church Discipline as proposed by the Rules of Discipline Task Force, the Advisory Committee on the Constitution would recommend to the General Assembly that this overture be answered by the Assembly's action on Church Discipline.

Should the General Assembly not adopt Church Discipline as proposed by the Rules of Discipline Task Force, the Advisory Committee on the Constitution advises the General Assembly that ROD-05 should be disapproved.

The advice given by the Advisory Committee on the Constitution to the 211th General Assembly (1999) Assembly when faced with a similar overture stated:

At the time of renunciation of the accused, the church has no further authority over the accused, nor is the accused any longer accountable to the church (D-10.0102, which defines the parties to a disciplinary case and D-11.0301). Further, continuation of discipline after renunciation of membership could result in liability in the secular courts. The 202nd General Assembly (1990) in response to a request for constitutional interpretation unanimously adopted the following interpretation of renunciation in relation to a disciplinary trial: "The trial would cease immediately should the person renounce the jurisdiction of the church" (*Minutes*, 1990, Part I, p. 239, paragraph 21.129). …

The disciplinary process is not intended nor designed to discipline people who are not members of the PC(USA). An individual who has renounced the jurisdiction of the church has forsaken the Christian fellowship of the PC(USA) and, further, has given up office in the church, including ordination. The ultimate punishment of the church is exclusion from Christian fellowship. It is difficult to rationalize continuation of a process in a case in which the member has already passed ultimate judgment upon himself or herself. The overture is not clear about how completion of the trial in such a circumstance is redemptive for the church or for the victim.

This advice remains sound. Foundational to our church discipline is that the disciplinary process is undertaken against an individual who has consented by joining a congregation or by ordination to ordered ministry to submit to that jurisdiction. Once that consent has been removed by renunciation of jurisdiction, the councils of the church cannot compel an individual to participate in judicial proceedings or to accept any censure imposed.

Advice and Counsel—From the Advocacy Committee for Women's Concerns (ACWC)

The Advocacy Committee for Women's Concerns recommends that the 225th General Assembly (2022) approve ROD-05. As the creators of 222nd General Assembly (2016)-approved resolution 05-09, to Ensure Adoption and Implementation of Child/Youth Protection Policies and Resources in the PC(USA) and 223rd General Assembly (2018)-approved resolution 11-09 on Sexual Misconduct in the PC(USA), the ACWC has long been on the forefront of advocating for policy changes that will prevent sexual abuse within the PC(USA).

ACWC is in strong support of amendment D-3.0106, which prevents pastor abusers from walking away from the impact of that abuse by renouncing jurisdiction.

The Assembly Committee on Rules of Discipline amended and approved Item ROD-05, 14/9. The 225th General Assembly (2022) approved Item ROD-05, 334/50.

For the full report on ROD-05, go to https://www.pc-biz.org/#/committee/3000083/business.

22-DD — D-10.0302

COMMUNICATE DETERMINATION

D-10.0302 IF CHARGES ARE TO BE FILED (ROD-04 3)

The 225th General Assembly (2022) directed the Stated Clerk to send the following proposed amendment to the presbyteries for their affirmative or negative votes:

Shall D-10.0302 in the current Rules of Discipline be amended as follows?
(Deleted text is in ~~strikethrough~~; added text is in *italics*.)

"D-10.0302 If Charges Are to Be Filed

"If the investigating committee has decided to file charges, it shall promptly inform the accused in writing of the charges it will make, including a summary of the facts it expects to prove at trial to support those charges. It shall ask the accused if ~~that person~~ *they* wish ~~es~~ to plead guilty to the charges to avoid full trial and indicate the censure it will recommend to the session or permanent judicial commission."

Background and Rationale

[Editor's Note: The assembly approved the above proposed amendments to the current Rules of Discipline in the event that the Rules of Discipline will not be replaced by Church Discipline. If Church Discipline is approved by majority vote of presbyteries, it will replace the entire current Rules of Discipline including any amendments to the current Rules of Discipline.]

Accusations are extremely easy to make, whether made by an individual or by a person doing so on behalf of another. When the credibility of those accusations has been substantiated, the Constitution clearly and unambiguously states that an investigative committee "shall promptly inform the accused" if charges are to be made. However, it is silent about the accused's right to be notified when no charges are to be filed, even though written notice of this outcome is provided to the accuser. When individuals in positions of trust have gone through the protracted ordeal of being forced to defend themselves against charges and accusations that can neither be substantiated by objective facts and/or are deemed to be completely untrue, equity requires they be expeditiously notified of this conclusion as well. This omission constitutes a procedural error and undermines the justice process.

The Constitution's current language also conveys an impression of bias and partiality, in that it describes one member (the "accused") by way of labeling but uses supportive and affirming language to describe the other ("the person who submitted the written statement"). Labeling one and not the other is harmful because, consciously or subliminally, it fosters a presumption of guilt on the accused and freedom from guilt on the person making the accusation. Reframing the Constitution's language removes these false assumptions and more faithfully takes into consideration the purpose of church discipline (D-1.01011).

The additional word revisions would, respectively, promote language consistency throughout the document and provide grammatical clarity.

Advice—From the Advisory Committee on the Constitution (ACC)

The Advisory Committee on the Constitution advises the 225th General Assembly to disapprove ROD-04.

ROD-03 requests the amendment of the current Rules of Discipline. The proposed Church Discipline revision is before the same assembly which would, if approved, replace the current Rules of Discipline section of the *Book of Order*. Should the General Assembly affirmatively adopt Church Discipline as proposed by the Rules of Discipline Task Force, the ACC would recommend that this overture be answered by the assembly's action on Church Discipline (ROD-03).

Should the General Assembly not adopt Church Discipline as proposed by the Rules of Discipline Task Force, the ACC advises the General Assembly as follows:

The overture proposes three changes to the current Rules of Discipline. Recommendation 3 would amend Section 10.0302 by deleting the phrase, "if that person wishes" to "if he or she wishes." Should the General Assembly change "the accused" to "the person accused," such a change makes grammatical sense but the General Assembly should consider whether gender binary language is necessary. Should the General Assembly not amend as recommended in Recommendation 2, the change in Recommendation 3 would not be necessary.

The Assembly Committee on Rules of Discipline amended and approved Item ROD-04 3, 18/4. The 225th General Assembly (2022) approved Item ROD-04 3, 326/19.

For the full report on ROD-04, go to https://www.pc-biz.org/#/committee/3000083/business.

22-EE — D-10.0303

COMMUNICATE DETERMINATION

D-10.0303 PETITION FOR REVIEW (ROD-04 1)

The 225th General Assembly (2022) directed the Stated Clerk to send the following proposed amendment to the presbyteries for their affirmative or negative votes:

Shall the first paragraph of D-10.0303 in the current Rules of Discipline be amended as follows?

(Deleted text is in ~~strikethrough~~; added text is in *italics*.)

"D-10.0303 Petition for Review

"If no charges are filed, the investigating committee shall file a written report of that fact alone with the clerk of session or stated clerk of the presbytery, and notify ~~the person who submitted the written statement~~ *, in writing, both the person who has been accused and the person making the accusation.*"

Background and Rationale

[Editor's note: The assembly approved these proposed amendments to the current Rules of Discipline in the event that the Rules of Discipline will not be replaced by Church Discipline. If Church Discipline is approved by majority vote of presbyteries, it will replace the entire current Rules of Discipline, including any amendments to the current Rules of Discipline.]

Accusations are extremely easy to make, whether made by an individual or by a person doing so on behalf of another. When the credibility of those accusations has been substantiated, the Constitution clearly and unambiguously states that an investigative committee "shall promptly inform the accused" if charges are to be made. However, it is silent about the accused's right to be notified when no charges are to be filed, even though written notice of this outcome is provided to the accuser. When individuals in positions of trust have gone through the protracted ordeal of being forced to defend themselves against charges and accusations that can neither be substantiated by objective facts and/or are deemed to be completely untrue, equity requires they be expeditiously notified of this conclusion as well. This omission constitutes a procedural error and undermines the justice process.

The Constitution's current language also conveys an impression of bias and partiality, in that it describes one member (the "accused") by way of labeling but uses supportive and affirming language to describe the other ("the person who submitted the written statement"). Labeling one and not the other is harmful because, consciously or subliminally, it fosters a presumption of guilt on the accused and freedom from guilt on the person making the accusation. Reframing the Constitution's language removes these false assumptions and more faithfully takes into consideration the purpose of church discipline (D-1.01011).

The additional word revisions would, respectively, promote language consistency throughout the document and provide grammatical clarity.

Advice—From the Advisory Committee on the Constitution (ACC)

The Advisory Committee on the Constitution advises the 225th General Assembly to disapprove ROD-04.

ROD-03 requests the amendment of the current Rules of Discipline. The proposed Church Discipline revision is before the same assembly which would, if approved, replace the current Rules of Discipline section of the *Book of Order*. Should the General Assembly affirmatively adopt Church Discipline as proposed by the Rules of Discipline Task Force, the ACC would recommend that this overture be answered by the assembly's action on Church Discipline (ROD-03).

Should the General Assembly not adopt Church Discipline as proposed by the Rules of Discipline Task Force, the ACC advises the General Assembly as follows:

The overture proposes three changes to the current Rules of Discipline.

The Advisory Committee on the Constitution recommends to the 225th General Assembly that Recommendation 1 be approved. Recommendation 1 changes the requirement that, if no charges are filed, the clerk or stated clerk notifies in writing both the person who has been accused and the person making the accusation. Equity requires that both parties be advised of the investigating committee's decision not to file charges and is an appropriate change to the Rules of Discipline.

The Assembly Committee on Rules of Discipline amended and approved Item ROD-04 1, 18/4. The 225th General Assembly (2022) approved Item ROD-04 1, 326/19.

For the full report on ROD-04, go to https://www.pc-biz.org/#/committee/3000083/business.

22-FF — AMENDING "THE ACCUSED"

AMENDING THE USE OF "THE ACCUSED" IN THE CURRENT RULES OF DISCIPLINE (ROD-04 2)

The 225th General Assembly (2022) directed the Stated Clerk to send the following proposed amendment to the presbyteries for their affirmative or negative votes:

> **Further, that all other sections referring to "the accused" in the current Rules of Discipline be modified to read *the person accused.***

Background and Rationale

[Editor's note: The assembly approved the above proposed amendments to the current Rules of Discipline in the event that the Rules of Discipline are not be replaced by Church Discipline. If Church Discipline is approved by a majority vote of presbyteries, it will replace the entire current Rules of Discipline, including any amendments to the current Rules of Discipline.]

Accusations are extremely easy to make, whether made by an individual or by a person doing so on behalf of another. When the credibility of those accusations has been substantiated, the Constitution clearly and unambiguously states that an investigative committee "shall promptly inform the accused" if charges are to be made. However, it is silent about the accused's right to be notified when no charges are to be filed, even though written notice of this outcome is provided to the accuser. When individuals in positions of trust have gone through the protracted ordeal of being forced to defend themselves against charges and accusations that can neither be substantiated by objective facts and/or are deemed to be completely untrue, equity requires they be expeditiously notified of this conclusion as well. This omission constitutes a procedural error and undermines the justice process.

The Constitution's current language also conveys an impression of bias and partiality, in that it describes one member (the "accused") by way of labeling but uses supportive and affirming language to describe the other ("the person who submitted the written statement"). Labeling one and not the other is harmful because, consciously or subliminally, it fosters a presumption of guilt on the accused and freedom from guilt on the person making the accusation. Reframing the Constitution's language removes these false assumptions and more faithfully takes into consideration the purpose of church discipline (D-1.01011).

The additional word revisions would, respectively, promote language consistency throughout the document and provide grammatical clarity.

Advice—From the Advisory Committee on the Constitution (ACC)

The Advisory Committee on the Constitution advises the 225th General Assembly to disapprove ROD-04.

ROD-03 requests the amendment of the current Rules of Discipline. The proposed Church Discipline revision is before the same assembly which would, if approved, replace the current Rules of Discipline section of the *Book of Order*. Should the General Assembly affirmatively adopt Church Discipline as proposed by the Rules of Discipline Task Force, the ACC would recommend that this overture be answered by the assembly's action on Church Discipline (ROD-03).

Should the General Assembly not adopt Church Discipline as proposed by the Rules of Discipline Task Force, the Advisory Committee on the Constitution advises the General Assembly as follows:

The overture proposes three changes to the current Rules of Discipline.

The Advisory Committee on the Constitution recommends to the 225th General Assembly that Recommendation 2 presents issues that should be considered.

Recommendation 2 would amend "the accused" to "the person accused," in order to neutralize what appears to be bias against one who is accused of an offense as opposed to the person who submits the written statement. However, the identification of "the person who submits the written statement," is appropriate within the context of the Rules of Discipline in that a person may be filing a statement from their own personal knowledge; or, may be filing a written statement based upon their knowledge of information from any source that an offense has occurred (See D-10.0101(b)). The term "the accused" accurately reflects the position one is in when an accusation has been made. It should also be noted that within the Rules of Discipline, being accused of an offense does not imply in any way that the person is guilty of the offense. Should the General Assembly believe that this language should be adopted, there is no constitutional impediment in making such a change.

The Assembly Committee on Rules of Discipline amended and approved Item ROD-04 2, 18/4. The 225th General Assembly (2022) approved Item ROD-04 2, 326/19.

For the full report on ROD-04, go to https://www.pc-biz.org/#/committee/3000083/business.

22-GG — CHURCH DISCIPLINE SECTION

REPLACING THE CURRENT "RULES OF DISCIPLINE" WITH A NEW "CHURCH DISCIPLINE" SECTION (ROD-03)

The 225th General Assembly (2022) directed the Stated Clerk to send the following proposed amendment to the presbyteries for their affirmative or negative votes:

Shall the current Rules of Discipline be replaced with Church Discipline as follows?

CHURCH DISCIPLINE

CHAPTER I

PRINCIPLES OF CHURCH DISCIPLINE

PREAMBLE

D-1.01 Power Vested in Christ's Church

The power that Jesus Christ has vested in his Church, a power manifested in the exercise of church discipline, is one for building up the body of Christ, not for destroying it, for redeeming, not for punishing. It should be exercised as a dispensation of mercy and not of wrath, so that the great ends of the Church may be achieved, that all children of God may be presented faultless in the day of Christ.

D-1.02 Church Discipline Defined

D-1.0201 Church Discipline Defined

Church discipline is the church's exercise of authority given by Christ, both to guide, control, and nurture its members, and for the correction and restraint of wrongdoing. The church's judicial process does not exist as a substitute for the secular judicial system, but to do what the secular judicial system cannot do. The Constitution of the Presbyterian Church (U.S.A.) is infused with principles and standards to which all active members of congregations and ministers of the Word and Sacrament voluntarily submit.

D-1.0202 Limits of Church Discipline

Church discipline alone is not adequate to mediate intrinsic differences of theology, polity, policy, power, or trust. Broader issues of conflict are also addressed by constitutional amendment, mediation, administrative review, and administrative commissions. Church discipline through the judicial process shall be used when individuals or councils of the church are unable to bring about settlement of issues or when such settlement would be unwise, unjust, or ineffective, and have determined after prayerful deliberation that judicial process is necessary to ensure that individuals or councils are held accountable for their actions or inactions.

D-1.03 Purpose of Church Discipline

D-1.0301 Purpose of Church Discipline

Thus, the purpose of church discipline is:

- **To honor God by making clear the significance of membership in the body of Christ;**
- **To preserve the purity of the church by nourishing the individual within the life of the believing community;**
- **To pursue and reveal the truth;**
- **To achieve justice and compassion for all participants involved;**
- **To correct or restrain wrongdoing in order to bring members to repentance and restoration;**
- **To uphold the dignity of those who have been harmed by offenses;**
- **To restore the unity of the church by removing the causes of discord and division; and**
- **To secure the just, speedy, and economical determination of proceedings.**

D-1.0302 Due Process

In all respects, participants are to be accorded procedural safeguards and due process consistent with these Principles of Church Discipline.

D-1.04 Conciliate and Mediate

The traditional biblical obligation to conciliate, mediate, and adjust differences without strife is not diminished by church discipline. Although these rules describe the way in which judicial process within the church shall be conducted, it is not their intent or purpose to encourage judicial process or to make it more expensive or difficult. Those contemplating the use of judicial process shall recall the biblical duty to "come to terms quickly with your accuser while you are on the way to court . . ." (Matthew 5:25). They shall attempt prayerfully and seriously to bring about an adjustment or settlement of the issue asserted and avoid formal proceedings under judicial process unless after prayerful deliberation, it is determined to be necessary to preserve the peace, unity, and purity, or accomplish the purposes of the church. Nor shall this duty to consider other forms of resolution end upon the commencement of judicial process.

CHAPTER II

JUDICIAL PROCESS DEFINED

D-2.01 Judicial Process

D-2.0101 Processes of Accountability

Church discipline in the Presbyterian Church (U.S.A.) is accomplished through judicial processes of accountability. Accountability of councils is accomplished through remedial process. Accountability of individuals is accomplished through disciplinary process.

D-2.0102 Councils of the Church

The councils of the church are sessions, presbyteries, synods, and the General Assembly. Sessions conduct trials of church members in disciplinary processes. Presbyteries, synods, and the General Assembly conduct trials and appeals of both remedial and disciplinary processes through permanent judicial commissions.

D-2.02 Remedial Process

D-2.0201 Accountability of Councils

Remediation is the process by which councils are held accountable to the church, to their members, and to each other. Through remediation, actions or omissions contrary to the Constitution by a lower council or an entity of the General Assembly may be corrected by a higher council.

D-2.0202 Irregularities and Delinquencies

As defined in D-4.0201, actions contrary to the Constitution of the Presbyterian Church (U.S.A.) are known as "irregularities," while omissions contrary to the Constitution of the Presbyterian Church (U.S.A.) are known as "delinquencies."

D-2.03 Disciplinary Process

D-2.0301 Accountability of Individuals

Disciplinary process is the process by which active members of congregations and ministers of the Word and Sacrament are held accountable to the church and to each other, and may be censured for an offense for the purpose of restoring the wholeness of the body of Christ.

D-2.0302 Definition of an Offense

An offense as defined in D-7.0103 is any act or omission by a member of a congregation or a minister of the Word and Sacrament that is contrary to the Scriptures or the Constitution of the Presbyterian Church (U.S.A.).

D-2.04 Standards and Process

Standards and procedures used in judicial processes are those contained in the Constitution of the Presbyterian Church (U.S.A.).

CHAPTER III

PERMANENT JUDICIAL COMMISSIONS

D-3.01 Election

D-3.0101 Composition

The General Assembly, each synod or set of cooperating synods, and each presbytery shall elect a permanent judicial commission from the ministers of the Word and Sacrament and ruling elders subject to its jurisdiction. Each permanent judicial commission shall be composed of ministers of the Word and Sacrament and ruling elders in numbers as nearly equal as possible, nominated in accordance with the principles for the election of a nominating entity required by G-3.0111 and in conformity to the church's commitment to unity in diversity (F-1.0403). When the permanent judicial commission consists of an odd number of members, the additional member may be either a minister of the Word and Sacrament or a ruling elder.

a. The General Assembly commission shall be composed of one member from each of its constituent synods.

b. Synod commissions shall be composed of no fewer than eleven members distributed equally, insofar as possible, among the constituent presbyteries. In those synods with fewer than eleven presbyteries, each presbytery shall have at least one member. When a set of two or more synods form a shared permanent judicial commission, the commission shall be composed of no fewer than twelve members, with each synod in the set electing members proportional to the number of the presbyteries in each synod, insofar as possible. The cooperating synods shall designate between them one stated clerk to process the cases filed with the shared permanent judicial commission.

c. Presbytery commissions shall be composed of no fewer than seven members, with no more than one of its ruling elder members from any one of its constituent congregations.

D-3.0102 Reviewers and Effect on Quorum

The moderator of the permanent judicial commission shall designate a special committee of three persons to review any petition for review of the procedures of the investigating committee while the investigation in a disciplinary case is in process (D-7.11), to review any petition for review of the decision not to file charges (D-7.1402), and to determine the need for administrative leave (D-7.0902). The special committee shall be composed of at least one current member of the permanent judicial commission, and may include up to two former members of the permanent judicial commission from the list of former commissioners required by D-3.0602b. The members of the special committee shall not take part in any subsequent trial. When a case proceeds to trial after a review, the quorum of the permanent judicial commission shall be a majority of its members who did not participate in the review, but in no case shall a quorum be fewer than five members (D-3.0602). A session shall refer any petition for review to the presbytery stated clerk, who shall follow this process for the creation of a special committee.

D-3.02 Service

D-3.0201 Classes and Terms

Permanent judicial commissions shall be arranged in three classes of six years each, with each class as equal as possible in size and with one class completing its term every two years.

D-3.0202 Vacancies

Vacancies on permanent judicial commissions shall be addressed as follows:

a. A vacancy on any permanent judicial commission due to resignation, death, or any other cause may be filled by the electing council, which may elect a person to fill the unexpired term at any future meeting.

b. In each even-numbered year, the General Assembly shall elect members for the next class of the General Assembly Permanent Judicial Commission and fill any vacancies then occurring. Such members' terms of office will begin with the dissolution of the General Assembly at which they are elected.

D-3.0203 Eligibility

Eligibility for service on a permanent judicial commission is subject to the following additional conditions:

a. In filling vacancies for unexpired terms, a member who has served more than half a term is considered to have served a full term, and is ineligible for immediate re-election.

b. No person who has served on a permanent judicial commission for a full term shall be eligible for reelection until two years have elapsed after the expired six-year term. No person shall serve on more than one permanent judicial commission at the same time. No person who is a member of any other entity elected by the General Assembly shall serve on the permanent judicial commission of the General Assembly until that person shall have resigned such membership. The moderator, stated clerk, or any member of the staff of a council or the staff of any of its entities shall not serve on its permanent judicial commission.

c. Continuing membership on a presbytery permanent judicial commission is dependent on membership in a congregation of the presbytery or in the presbytery.

d. Continuing membership on a synod permanent judicial commission is contingent on membership in a congregation or presbytery of the synod and in the case of synods with a shared permanent judicial commission (G-3.0404), in accordance with the rules of representation agreed upon by the cooperating synods.

e. Continuing membership on the General Assembly permanent judicial commission shall end when that member transfers membership to a church or presbytery outside the synod from which nominated.

D-3.03 Commission Expenses

All necessary expenses of a permanent judicial commission shall be paid by the electing council or councils. A set of cooperating synods shall pay the necessary expenses of its shared permanent judicial commission equally; however, each synod in such a set shall pay the necessary expenses for processing a particular judicial case arising within its bounds.

D-3.04 Officers

Each permanent judicial commission shall meet and elect from its members a moderator and a clerk, according to its rules or the rules of the council or councils electing its members. A permanent judicial commission may also provide by rule for additional officers.

D-3.05 Powers

In the cases transmitted to it, the permanent judicial commission shall have only the powers prescribed by the Constitution of the Presbyterian Church (U.S.A.), and shall conduct its proceedings accordingly.

D-3.06 Meetings

D-3.0601 Times and Places

The meetings of the permanent judicial commission shall be held at such times and places as the electing council or councils shall direct, or, if no directions are given, at such times and places as the commission shall determine.

D-3.0602 Quorum

The quorum of a permanent judicial commission shall be a majority of its members, except that the quorum of a presbytery commission for a disciplinary case shall be a majority of the membership other than those currently serving members assigned responsibilities under D-3.0102. In no instance shall the quorum be fewer than five members. The quorum of a session for judicial process shall be the moderator of the session and a majority of the ruling elder members.

a. Who Shall Not Participate

When a church is a party to a case, members of a permanent judicial commission who are members of that church or persons in permanent or temporary pastoral relationships with that church shall not participate in the case in any way. When a council is a party to a case, members of that council or of churches within that council shall not participate in the case in any way. Members designated under D-3.0102 shall not otherwise participate in the case.

b. Roster of Former Members

The stated clerk shall keep a current roster of those members of the permanent judicial commission whose terms have expired within the past six years. The names shall be arranged alphabetically within classes beginning with the most recent class. The stated clerk shall report the roster annually to the council or councils.

c. Ensuring a Quorum

Whenever a permanent judicial commission is required to meet for a hearing or trial, the stated clerk shall recruit a sufficient number of additional members by rotation from the roster of former members to ensure that a quorum will not be lost during the course of the proceeding. Councils may provide by rule for the method of rotation to incorporate the principles of participation and representation in accordance with G-3.0111 and F-1.0403.

d. Inability to Reach a Quorum

If, through absence, disqualification, or recusal, a sufficient number of members of a permanent judicial commission is not present to constitute a quorum, the permanent judicial commission shall recess until such time as a quorum can be ensured as stated above.

e. Participant Expenses

If a permanent judicial commission is unable to try a case for lack of a quorum, the council in whose geographic boundary the case arose shall reimburse the expenses reasonably incurred by those persons required to be present.

CHAPTER IV

REMEDIATION

D-4.01 Remedial Process

D-4.0101 Purpose

The purpose of remediation is to further the peace, unity, and purity of the church by ensuring that the Constitution of the Presbyterian Church (U.S.A.) is upheld, and that disputes regarding its requirements are addressed in a manner that is both fair and just to all concerned.

D-4.0102 Limitations of Judicial Process

While a remedial complaint may be filed *by* individuals, it can never be filed *against* individuals. Nor may a remedial complaint be filed against a congregation or a committee or commission of a council below the General Assembly. A session is responsible for correcting constitutional errors or omissions by its congregation in accordance with G-3.0201. As explained below, complaints may only be filed against sessions, presbyteries, synods, and entities of the General Assembly, and only by one or more individuals or councils of the church who have standing to complain.

D-4.0103 Deadlines and Filings

a. Deadlines

In determining whether or not a document is timely filed, the day following the event giving rise to the time limit begins the count as day one (for example, the day following the date on which a council action is taken, or on which a party receives a decision). All seven days of every week are included in the count, including holidays, and the document shall be deemed timely filed if it is received by the person or persons to whom it is required to be sent on or before the final day of the count. When the final date of the count falls on a weekend or holiday, the document shall be deemed timely filed if it is received on the next business day after the final day of the count.

b. Methods of Filing

Any document required to be filed may be sent or delivered by United States Postal Service certified mail, return receipt requested; commercial courier, with delivery receipt requested; personal delivery; or electronically when so permitted in these rules.

D-4.02 Filing a Complaint

D-4.0201 Initiation

Remedial process is initiated by the filing of a complaint with the stated clerk of the council having jurisdiction. A complaint shall allege one or more specific irregularities or delinquencies of a council.

a. A decision or action contrary to the Constitution of the Presbyterian Church (U.S.A.) is known as an irregularity.

b. The omission or failure to act on a constitutional requirement is known as a delinquency.

D-4.0202 Stated Clerk Responsibility

The stated clerk shall immediately transmit copies of the complaint to the party against whom the complaint is filed and to the officers of the council's permanent judicial commission. If a different clerk has been designated to process judicial cases for a shared judicial commission, the stated clerk having jurisdiction shall immediately transmit the complaint to that clerk.

D-4.0203 Parties

The parties in a case of remedial process are known as the complainant or complainants (the person or persons who file the complaint) and the respondent(s) (the council(s) complained against).

D-4.0204 Committees of Counsel

a. Composition

When a council or an entity of the General Assembly becomes either a complainant or a respondent, it shall designate no more than three persons to be a committee of counsel. This committee shall represent that complainant or respondent in the case until final decision is reached in the highest council to which the case is appealed. All members of a committee of counsel shall be members of the Presbyterian Church (U.S.A.).

b. Provide by Rule

A council or an entity of the General Assembly may provide by rule for the appointment of a committee of counsel. The membership of the committee of counsel, as well as any changes to its composition that may occur, shall be promptly reported to the stated clerk of the council having jurisdiction, who will notify the other party and the permanent judicial commission.

c. Who Shall Not Serve

Clerks of session or stated clerks shall not serve on a committee of counsel for the council they serve. Employees of the council hearing a case or of a higher council that would have jurisdiction in any appellate proceeding shall also not serve on a committee of counsel.

D-4.0205 Time Limits

In regard to filing a complaint in a remedial case, the following time limits apply:

a. In the case of an alleged irregularity, if a stay of enforcement is also sought, (as described below in section 4.04), then a complaint of an alleged irregularity shall be filed no later than thirty (30) days after the council's action being complained against (or in the case of an appeal, from the date on which the appealing party was notified of the decision of the permanent judicial commission). If no stay of enforcement is being requested, then a complaint of an alleged irregularity shall be filed no later than ninety (90) days after the council's action.

b. In the case of an alleged delinquency, a complaint shall be filed no later than ninety (90) days after the failure or refusal of the council to cure the alleged delinquency at its next meeting, provided that a written request to do so has been made prior to said meeting.

D-4.0206 Standing and Jurisdiction in Remedial Cases

Standing to file a complaint and jurisdiction to deal with a complaint are as follows:

a. Councils may file complaints against any other council of the same level, to the council immediately higher than the council complained against and to whose jurisdiction the latter council is subject.

b. Members of a congregation may file complaints against their session, to the presbytery.

c. Ruling elder commissioners to a presbytery may file complaints to the synod alleging irregularities or delinquencies that occurred during presbytery meetings at which they were present and enrolled.

d. Minister members of a presbytery and ruling elders elected by and enrolled with the presbytery for terms of service in accordance with G-3.0301 may file complaints against the presbytery to the synod regardless of whether or not they were in attendance when the alleged irregularity or delinquency occurred.

e. Sessions may file complaints against their presbytery, to their synod.

f. Commissioners to a synod may file complaints to the General Assembly alleging irregularities or delinquencies that occurred during synod meetings at which they were present and enrolled.

g. Ministers and ruling elders elected by and enrolled with the synod for terms of service in accordance with G-3.0401 may file complaints against the synod to the General Assembly regardless of whether or not they were in attendance when the alleged irregularity or delinquency occurred.

h. Presbyteries may file complaints against their synod, to the General Assembly.

i. Sessions, presbyteries, and synods may file complaints against entities of the General Assembly, to the General Assembly.

j. When the council of jurisdiction as defined in this section fails to act in a particular remedial case for a period of sixty days after the filing of a complaint or thirty days after the filing of a complaint with a request for a stay of enforcement, the next higher council, at the written request of any party, may assume jurisdiction in the case. It may then either return jurisdiction to the lower council with specific instructions on how to proceed, or it may retain jurisdiction and conclude the matter itself.

D-4.0207 Effects of Jurisdiction

Jurisdiction in remedial process has the following particular effects:

a. Each council shall recognize and enforce the judgments, decisions, and orders of higher councils which have jurisdiction over them under the provisions of the Constitution of the Presbyterian Church (U.S.A.).

b. Decisions of the permanent judicial commissions of synods and presbyteries are binding on the parties to the particular cases in which the decisions are rendered unless overturned

on appeal. No synod or presbytery permanent judicial commission is able to make its decisions binding beyond the parties to the particular case by simply declaring it to be so.

c. Only the General Assembly Permanent Judicial Commission has the power to render decisions that are authoritative interpretations binding on the entire church (G-13.0103r).

D-4.03 Contents of a Complaint

D-4.0301 Items to be Included

Items to be included in a complaint are as follows:

a. The name of the complainant(s) and the name of the respondent(s).

b. The particular irregularity including the date, place, and circumstances thereof; or the particular delinquency including the dates of the written request to cure the delinquency and of the next meeting at which the respondent(s) failed to do so.

c. The reasons for complaint of the irregularity or delinquency.

d. A statement of facts demonstrating that the complainant(s) may file the complaint in accordance with D-4.0206 above.

e. The remedy or correction requested (called "relief"), which must be within the authority of the council receiving the complaint to grant.

D-4.0302 Method of Filing

The complaint shall be sent or delivered by United States Postal Service certified mail, return receipt requested; commercial courier, with delivery receipt requested; or personal delivery in accordance with D-4.0103b. The complainant(s) shall then file with the stated clerk a receipt signed by the addressee or an affidavit of personal service. At the written agreement of both parties, all further communication may be handled electronically.

D-4.04 Request for a Stay of Enforcement

D-4.0401 Requesting a Stay of Enforcement

A stay of enforcement is a written instruction from the permanent judicial commission having jurisdiction that orders suspension of a decision or an action until a complaint (or appeal) is finally determined. Any such request for a stay of enforcement shall be filed along with the complaint (or notice of appeal) as described above. The request must be made in one of the following forms:

a. A request signed by one-third of the members recorded as present when the decision or action was taken by the council,

b. A request signed by one-third of the members of the permanent judicial commission that decided a remedial case that is being appealed, or

c. A request signed by a complainant or appellant requesting that at least three members of the permanent judicial commission having jurisdiction to hear the complaint or appeal sign the stay of enforcement.

D-4.05 Preliminary Ruling

D-4.0501 Examination of Papers

The complaint (or appeal for purposes of processing a request for a stay of enforcement on appeal) shall be promptly transmitted by the stated clerk along with the request for a stay of enforcement, if one has been received, to the permanent judicial commission moderator and clerk for their preliminary determination as to the following questions:

a. For the complaint, whether:

(1) The council has jurisdiction,

(2) One or more of the complainants has standing to file the case,

(3) The complaint was timely filed,

(4) The complaint alleges facts that if proved true would constitute an irregularity or delinquency, and

(5) The complaint states a claim upon which relief can be granted. Permanent judicial commissions may, but shall not be required, to proceed to trial when they determine that the relief requested cannot be granted but that there is potential relief, declaratory or otherwise, that could potentially be granted. Relief that a council may not grant includes but is not limited to:

i. Relief that is not within the authority of the council to grant,

ii. Monetary awards other than those that require councils to honor existing contracts,

iii. Relief that has been rendered moot,

iv. Relief that is contrary to the Constitution of the Presbyterian Church (U.S.A.).

b. For the request for a stay of enforcement if made under D-4.0401a or b, whether the request is complete and timely filed.

D-4.0502 Preliminary Ruling

A preliminary ruling is a decision by the moderator and clerk of a permanent judicial commission either to accept a case for trial or to dismiss the case because one or more of the five questions in D-4.0501a is answered in the negative.

a. If a request for a stay of enforcement is made under D-4.0401a or b, a stay of enforcement may be entered immediately by the moderator and clerk if they determine that the request is complete and timely and the preliminary issues are met for the complaint or appeal.

b. In their consideration of the preliminary questions in D-4.0501a, the officers shall assume the truth of the facts alleged.

c. Within ten (10) days after their receipt of the complaint, the officers shall report their determinations to the stated clerk of the council in a preliminary ruling. The stated clerk shall immediately distribute the preliminary ruling to the parties, and to the members of the permanent judicial commission along with the complaint (or appeal, for purposes of processing a request for a stay of enforcement on appeal) and the request for a stay of enforcement, if one has been received.

D-4.06 Processing a Request for a Stay of Enforcement If Made Under D-4.0401c.

D-4.0601 Consideration of Request

If a request for a stay of enforcement is made under D-4.0401c, a stay of enforcement may be entered by three members of the permanent judicial commission that will hear the case within ten (10) days of receiving the request, the complaint (or in an appeal, of the notice of appeal), and the preliminary ruling. Each permanent judicial commission member affirming the request shall include a summary of the specific council action(s) or decision(s) being stayed, and a statement that in their judgment:

a. Substantial harm will occur if the action or decision is not stayed, and

b. Probable grounds exist for finding the decision or action erroneous.

D-4.0602 Determination and Filings

In determining whether to grant a stay of enforcement, the following applies:

a. The statements of members of the permanent judicial commission shall be filed with the stated clerk of the council that has jurisdiction to hear the case.

b. If the stated clerk receives three or more statements from members of the permanent judicial commission, the stay shall be granted, and the stated clerk shall send a copy of the stay of enforcement to the parties and to the permanent judicial commission members.

c. The stay of enforcement shall be effective until the permanent judicial commission having jurisdiction has decided the case, except as hereafter provided.

d. If a stay of enforcement is not granted, the stated clerk shall so notify the parties and the permanent judicial commission members.

D-4.07 Response and Next Actions

D-4.0701 If the Preliminary Ruling Accepts the Case

If the officers initially accept the case, the respondent council(s) shall prepare and file its answer as described in D-4.0703 below. When the answer has been received, the officers shall review the answer and may either affirm their preliminary ruling as filed or modify it in light of the new information received. The affirmed or modified preliminary ruling shall then be filed with the stated clerk who shall distribute it to the parties and the permanent judicial commission members, and the answer shall also be distributed to the permanent judicial commission.

a. If the preliminary ruling to accept the case is affirmed, the respondent(s) or a member of the permanent judicial commission may challenge the determination within fifteen (15) days of receiving the notification, in which case the matter proceeds as described in D-4.0704 below.

b. If the modified preliminary ruling dismisses the case, then the case proceeds as described in D-4.0702 below.

D-4.0702 If the Initial or Modified Preliminary Ruling Dismisses the Case

In dealing with a preliminary ruling that dismisses the case, the following applies:

a. Within fifteen (15) days of notification that the officers have dismissed the case, one or more of the complainants or a member of the permanent judicial commission may file a challenge to the dismissal, in which case the respondent(s), if it has not already done so, shall prepare and file its answer as described in D-4.0703 below, which shall be distributed to the permanent judicial commission, and the challenge shall be processed in accordance with D-4.0704 below.

b. If no challenge is received within fifteen (15) days, the case is dismissed and any stay of enforcement is lifted.

D-4.0703 Answer to Complaint

The committee of counsel of the respondent(s) shall file with the stated clerk of the higher council a concise answer within thirty (30) days of its notification of either acceptance of the case by the officers of the permanent judicial commission or receipt of a challenge to the officers' dismissal of the case. The answer shall admit those facts alleged in the complaint that are true, deny those that are not true or are mistakenly stated, and present other facts that may explain the situation identified as an irregularity or delinquency.

a. The answer may also raise any issues related to the determinations contained in D-4.0501a and may include a motion to dismiss the complaint.

b. If a stay of enforcement has been entered, the respondent(s)'s answer may also challenge the stay of enforcement, in which case the matter shall proceed as described in D-4.0704.

c. The stated clerk shall distribute the answer to the complainant(s) and to the permanent judicial commission.

D-4.0704 Challenge to Preliminary Ruling and Stay of Enforcement

If a preliminary ruling or a stay of enforcement is challenged under the provisions of this chapter, opportunity shall be provided to present evidence and argument on the determination(s) in question, or on the stay of enforcement. The parties shall be invited to submit briefs, and may agree to allow the permanent judicial commission to decide the matter on the basis of those briefs in place

of a hearing. The permanent judicial commission shall then enter a final ruling on the matter either dismissing the case or accepting it for trial, and either affirming or lifting the stay of enforcement, if one has been entered.

CHAPTER V

TRIAL IN A REMEDIAL CASE

D-5.01 Pretrial Procedures

D-5.0101 Duties of Respondent Stated Clerk

In pretrial procedures, the duties of the respondent stated clerk are as follows:

a. Within forty-five (45) days after the receipt of a complaint, the clerk of session or stated clerk of the respondent council(s) shall submit in writing to the parties a list of all of the papers and other materials pertaining to the case.

b. Within thirty (30) days thereafter, the complainant may request in writing that the respondent clerk file additional minutes or papers pertaining to the case. Questions as to the relevance or reasonableness of requests shall be decided by the officers of the permanent judicial commission or their designees.

c. Upon notification by the stated clerk of the higher council of jurisdiction that the case has been accepted, the clerk of session or stated clerk of the respondent council(s) shall transmit to the stated clerk of the higher council without delay the minutes and papers pertaining to the case, along with the list of the record.

D-5.0102 Record of the Case

When the minutes and papers have been filed with the stated clerk of the higher council, the stated clerk shall organize and transmit them to the parties and to the permanent judicial commission and give notice to the parties of an estimated date for trial.

D-5.0103 Additional Filings

The permanent judicial commission may require the parties to file statements, also known as briefs, outlining the evidence to be offered at trial and the theories of the parties' respective claims and defenses.

D-5.0104 Pretrial Conference

At any time after a case is received by a permanent judicial commission, the commission may provide for the parties or their counsel, if any, to explore settlement possibilities; or, in a pretrial conference, to seek agreement on a statement of facts and disputed issues, to exchange documents and other evidence, and to take other action which might reasonably and impartially narrow the dispute and expedite its resolution. The moderator and clerk of the permanent judicial commission, or their designees, shall set a date, time and place for the pretrial conference, and conduct it on the commission's behalf.

D-5.02 Conduct of Trial

The trial of a remedial case shall be conducted by a permanent judicial commission. The trial shall be conducted formally with full decorum in a neutral place suitable to the occasion. Except for the provision of electronically received testimony contained in D-5.04 trials should be held in person. When necessary, and at the sole discretion of the permanent judicial commission, trials may be held electronically in accordance with G-3.0105 and provided that the technology employed allows witnesses and parties as well as members of the permanent judicial commission to be seen and heard clearly.

D-5.03 Citations and Testimony

D-5.0301 Citation of Parties and Witnesses

Citations to appear at trial for parties or such witnesses as either party may request shall be signed by the moderator or clerk of the permanent judicial commission and served by the stated clerk of the council. Witnesses may be either fact witnesses or expert witnesses (see D-5.0703b). Fact witnesses in remedial process should have firsthand knowledge.

D-5.0302 Who May Be Cited

Only members of the Presbyterian Church (U.S.A.) may be cited to appear. Persons who are not members of the Presbyterian Church (U.S.A.) and expert witnesses (regardless of their denominational membership) may only be requested to appear.

D-5.0303 Witnesses from Another Council

When it is necessary to summon witnesses who are under the jurisdiction of another council of the church, the clerk or stated clerk of the other council shall, on the application of the permanent judicial commission trying the case, through the stated clerk of its council, issue a citation to the witnesses to appear at the place of trial and give evidence as may be required.

D-5.0304 Expenses

Any witness shall be entitled to receive from the party calling the witness reimbursement of actual expenses incurred in attendance at the trial.

D-5.0305 Service of Citation

A citation shall be delivered in accordance with D-4.0103b, or by electronic delivery acknowledged by the recipient within seven (7) days. The moderator or clerk of the permanent judicial commission trying the case shall keep a record of the date of service or delivery. If a party or a witness who is a member of the Presbyterian Church (U.S.A.) fails to obey a citation to appear or having appeared, refuses without good cause to testify, and after warning continues to refuse, the party or witness shall be considered guilty of disobedience and contempt, and for such offense may be subject to disciplinary action by the person's council of jurisdiction.

D-5.04 Electronically Received Testimony

Witnesses may be granted permission by the permanent judicial commission to appear electronically if unable to attend a trial that is held in person, in accordance with the provisions of G-3.0105 and D-5.02.

D-5.05 Procedures in Trial

D-5.0501 Counsel

Each of the parties in a remedial case shall be entitled to appear and may be represented by counsel. Counsel need not be a paid representative or an attorney. Counsel shall be a member of the Presbyterian Church (U.S.A.). No member of a permanent judicial commission shall appear as counsel before that commission while a member.

D-5.0502 Circulation of Materials and Communication

With regard to materials pertaining to the case and communication regarding the case, the following rules apply:

a. Any materials pertaining to the case shall be filed with the stated clerk of the council hearing the case. Parties to a remedial case, their counsel, or any other person shall not circulate or cause to be circulated directly to the members of the permanent judicial commission any written, printed, electronic, or visual materials of any kind upon any matter pertaining to the case before its final disposition. Notwithstanding this prohibition, the permanent judicial commission may request, or grant leave to file, additional materials.

b. Parties or their counsel shall not communicate with members of the permanent judicial commission regarding any matter related to the case unless the other party and their counsel, if any, are included.

D-5.0503 Control of Conduct of Trial

The moderator of the permanent judicial commission shall have full authority and power to control the conduct of the trial and of all parties, witnesses, counsel, and the public, including removal of them, to the end that proper dignity and decorum shall be maintained. Rulings of the moderator related to control of the trial are subject to appeal to the full commission by any member of the commission, which shall decide the question by majority vote.

D-5.0504 Procedural Questions

Questions as to procedure or the admissibility of evidence arising in the course of a trial shall be decided by the moderator after the parties have had an opportunity to be heard. A party or a member of the permanent judicial commission may appeal from the decision of the moderator to the commission, which shall decide the question by majority vote.

D-5.0505 Absences

Members of a permanent judicial commission must be present in person at trials. The absence of any member of the permanent judicial commission after a trial has commenced shall be recorded. That member shall not thereafter participate in that case.

D-5.0506 Loss of Quorum

Loss of a quorum shall result in a mistrial and the case shall be tried again from the beginning at a time and place to be determined by the permanent judicial commission.

D-5.06 Trial

D-5.0601 Announcement by the Moderator

The trial of a remedial case shall be opened with prayer, after which the moderator shall read aloud the preamble to Church Discipline (D-1), shall announce that the council is about to proceed to trial, and shall enjoin the members to recollect and regard their high character as judges of a council of the Church of Jesus Christ and the solemn duties they are about to undertake.

D-5.0602 Objections of Parties

The parties or their counsel may object and be heard on the organization and jurisdiction of the permanent judicial commission.

a. A member of a permanent judicial commission is disqualified if the member has a material interest in the outcome of the case, is related by family relationship to any party, has been active for or against any party, or is a member of a church or council which is a party.

b. Any member of a permanent judicial commission may be challenged by any party for conflict of interest, and the validity of the challenge shall be determined by a majority vote of the remaining members of the permanent judicial commission.

D-5.0603 Preliminary Determinations and Objections

The permanent judicial commission shall place all preliminary determinations and any objections on the record and shall decide all such matters by majority vote. Any objections to the preliminary determinations and any other objections affecting the order or regularity of the proceedings shall also be made part of the record and shall be decided by majority vote. A final decision on the merits of the complaint is not permissible until the permanent judicial commission has heard the evidence and arguments of the parties, unless the parties have agreed in writing or at a pretrial conference on certain stipulated facts or about issues on which there is no dispute, and waive their right to present additional evidence at a trial, and are willing to have the dispute settled on the basis of their briefs and written submissions.

D-5.0604 Amendment of Complaint

The complainant shall be permitted to amend the complaint at the time of the trial, provided that the amendment does not change the substance of the complaint or prejudice the respondent(s).

D-5.0605 Opening Statements

The parties shall be given an opportunity to make opening statements.

D-5.07 Evidence

D-5.0701 Definition

The complainant and respondent(s) shall be accorded the opportunity to present evidence on their behalf. Evidence, in addition to oral testimony of witnesses, may include records, writings,

material objects, or other items presented to prove the existence or nonexistence of a fact. Evidence must be relevant to be received. No distinction should be made between direct and circumstantial evidence as to the degree of proof required.

D-5.0702 Records as Evidence

Written records of a council or permanent judicial commission and authenticated records of testimony are admissible as evidence.

a. The authenticated written records of a council or permanent judicial commission shall be admissible in evidence in any proceeding.

b. An authenticated record or transcript of testimony taken by a council or permanent judicial commission shall be admissible in any proceeding in another council.

D-5.0703 Witnesses

With regard to witnesses, the following applies:

a. Any party may challenge whether a witness may testify, and the moderator of the permanent judicial commission shall determine the competence of the witness. The ruling of the moderator may be appealed by any party or a member of the permanent judicial commission and decided by majority vote of the permanent judicial commission.

b. Each witness called to testify must be competent to testify. To be received by the permanent judicial commission, any testimony from any witness must be relevant and must have a proper foundation. An expert opinion or other testimony may be offered by any witness upon adequate proof of the qualifications of the witness as an expert in the field of such testimony and that such opinion or other testimony will assist the resolution of the case.

c. No counsel for a party involved may be compelled to testify about any confidential matter, nor may any such counsel testify concerning any matter without the express permission of the party they represent.

d. Credibility means the degree of belief that may be given to the testimony of a witness. In determining the credibility of a witness, the permanent judicial commission may consider any matter that bears upon the accuracy of the testimony or the truthfulness of the witness.

D-5.0704 Testimony

Receiving the testimony of witnesses shall proceed as follows:

a. At the direction of the moderator or on the request of either party, no fact witness shall be present during the examination of another witness. This shall not limit the right of any party, counsel, or witness previously designated to offer only expert testimony, to be present.

b. Witnesses shall be examined first by the party producing them, and then they may be cross-examined by the opposing party. The moderator may permit additional questions from the parties (including both re-examination, followed by re-cross-examination) if so requested. Thereafter, any member of the permanent judicial commission may ask additional questions.

c. Prior to giving testimony, a witness shall make an oath by answering the following question in the affirmative: "Do you solemnly swear that the evidence you will give in this matter shall be the truth, the whole truth, and nothing but the truth, so help you God?"

d. If a witness objects to making an oath, the witness shall answer the following question in the affirmative: "Do you solemnly affirm that you will declare the truth, the whole truth, and nothing but the truth in the matter in which you are called to testify?"

e. The testimony of each witness shall be accurately and fully recorded by a qualified reporter or other means that can be accurately transcribed, including digital voice recording.

f. Witnesses may appear electronically if unable to attend the trial in person, in accordance with the provisions of D-5.04.

g. A member of the permanent judicial commission before which the case is pending may testify, but thereafter shall not otherwise participate in the case.

D-5.08 Final Statements

The parties shall be given an opportunity to make final statements, the complainant having the right of opening and closing the argument, after which the trial shall be closed with prayer.

D-5.09 Decision

D-5.0901 Deliberation

The following considerations apply in deliberations:

a. At the close of the trial, the permanent judicial commission shall then meet privately to deliberate. All persons not members of the commission shall be excluded.

b. No complaint in a remedial case shall be sustained unless it has been proved by a preponderance of the evidence. Preponderance means such evidence as, when weighed with that opposed to it, has more convincing force and the greater probability of truth. After careful deliberation the permanent judicial commission shall vote by counted vote on each alleged irregularity or delinquency accepted for trial and record the vote in its minutes. A majority vote is required to sustain each irregularity or delinquency.

D-5.0902 Decision

Decisions of permanent judicial commissions are reached and communicated as follows:

a. The permanent judicial commission shall then decide the case. If the complaint is sustained either in whole or in part, the commission shall order such action as is appropriate.

b. The questions presented for decision shall be fully debated and voted upon while all participating permanent judicial commission members are present. A written outline of a decision shall be prepared and adopted while in session. A written decision shall be reviewed by all participating members of the permanent judicial commission, which may take place either while

the participating permanent judicial commission members are present or by meeting within ten (10) days of the close of the trial, either in person, or electronically in accordance with G-3.0105.

c. The decision shall become the final decision of the permanent judicial commission when a copy of the written decision is signed by the moderator and clerk of the permanent judicial commission. A copy of the written decision shall immediately be delivered to the parties in accordance with D-4.0103b, or electronically, if agreed upon in advance by the parties.

d. Within thirty (30) days of the conclusion of the trial, the decision shall be filed with the stated clerk of the council that appointed the permanent judicial commission.

e. The moderator or clerk of the permanent judicial commission shall disseminate the decision as the permanent judicial commission may direct.

D-5.0903 Effect of Decision

Decisions of the permanent judicial commissions of presbyteries and synods are binding on the parties to the particular cases in which the decisions are rendered unless overturned on appeal. No decision of a permanent judicial commission of a presbytery or synod is binding beyond the parties to the particular case.

D-5.0904 New Evidence

New evidence can be considered either prior to an appeal or following the filing of an appeal.

a. Prior to filing a notice of appeal, but without extending the time for appeal, any party against whom an order or decision has been entered may apply for a new trial on the basis of newly discovered evidence. The permanent judicial commission – when it is satisfied that such evidence could reasonably have resulted in a different decision and that in the exercise of reasonable diligence it could not have been produced at the time of trial – may grant such application. An appeal filed while such an application is pending shall be held in abeyance until such time as the permanent judicial commission that conducted the trial has made its determination. The higher council shall be notified of the determination by the stated clerk of the lower council.

b. If, subsequent to the filing by any party of a notice of appeal, new evidence is discovered which in the exercise of reasonable diligence could not have been discovered prior to the filing of the notice of appeal, the permanent judicial commission receiving the appeal may remand the case for a new trial, in which case the appeal shall be stayed until the permanent judicial commission that conducted the trial reports its decision in the new trial.

c. The application for admission of newly discovered evidence shall be made to the permanent judicial commission with copies to the other party. That application shall be accompanied by a summary of the evidence. The permanent judicial commission shall conduct a hearing on the application for admission of newly discovered evidence not less than thirty (30) days after the application.

D-5.0905 Appeal

Rules of appeal are found in D-6. The following applies to time limits and standing to file an appeal:

a. For each party, the time for filing an appeal shall run from the date the decision is delivered to, or refused by, that party.

b. An appeal may be initiated only by one or more of the original parties.

D-5.10 Record of Proceedings

D-5.1001 Duties of the Clerk of the Permanent Judicial Commission

The clerk of the permanent judicial commission shall do the following:

a. Arrange in advance for the accurate verbatim recording of all testimony and oral proceedings (which may be accomplished through a digital voice recording);

b. Identify and maintain all exhibits offered in evidence (noting whether or not they were accepted as evidence) and keep a list of all exhibits;

c. Record minutes of the proceedings, which shall include any actions or orders of the permanent judicial commission relating to the case with the vote on each;

d. Prepare the record of the case, which shall consist of:

(1) The complaint and the answer;

(2) All minutes and papers filed in the case;

(3) A certified transcript, if requested;

(4) All properly marked exhibits, records, documents, and other papers;

(5) The written decision; and

(6) Any actions or orders of the permanent judicial commission relating to the case with the vote on each.

e. Within thirty (30) days after the decision becomes final, certify and transmit the record of the case to the stated clerk of the electing council, who shall preserve it for at least five years, and in accordance with the policy of the council for the preservation of records;

f. Upon the request, and at the expense of any requesting party, the clerk shall cause to be prepared, as promptly as circumstances permit, a true and complete transcript of all the testimony and oral proceedings during the course of the trial. When the person making the transcript has certified it to be true and complete, a copy shall be delivered to each party requesting one upon satisfactory arrangement for payment, and one additional copy shall be made for inclusion in the record to be sent forward upon any appeal pursuant to D-6.0802.

D-5.1002 Additions to the Record

No person may supplement or add to the record in a case except for good cause as determined by the moderator and clerk of the permanent judicial commission responsible for

conducting the trial. No request to supplement the record shall be considered until received in writing by the stated clerk of the council conducting the trial, who shall transmit it to the moderator and clerk of the permanent judicial commission. A copy of the request shall be delivered to all parties and every party shall have ten (10) days to respond in writing.

D-5.1003 Duty of the Stated Clerk

If the council is meeting when the decision is received from the clerk of the permanent judicial commission, the stated clerk shall report the decision immediately and enter the full decision upon the minutes of the council. If the council is not meeting, the stated clerk shall report the decision to the council at its first stated or adjourned meeting or at a meeting called to hear the decision, whichever comes first, and enter the full decision upon the minutes of the council.

CHAPTER VI

REMEDIAL APPEALS

D-6.01 Filing an Appeal

D-6.0101 Definition

An appeal of a remedial case is the transfer to the next higher council of a case in which a decision has been rendered in a lower council, for the purpose of obtaining a review of the proceedings and a decision to correct, modify, set aside, or reverse the decision.

D-6.0102 Initiation of Appeal

Only the parties to an original complaint (one or more of the complainants or the respondent(s)) may appeal a ruling of a permanent judicial commission.

a. The ruling must be the permanent judicial commission's final order disposing of the complaint, whether that order is a dismissal in accordance with D-4.0702b, or a written decision in accordance with D-5.09.

b. The parties in a remedial appeal are the appellant or appellants, and the appellee or appellees.

D-6.02 Notice of Appeal

D-6.0201 Notice Filed

A written notice of appeal shall be filed with the stated clerk of the next higher council within forty-five (45) days after a copy of the final order was received by the appealing party. The written notice may be delivered by means of electronic communication, provided that the stated clerk certifies receipt of the notice, which may also be communicated electronically. If filing the notice electronically, care should be taken to deliver the notice in a manner that can clearly demonstrate timely filing. By written agreement of the parties, all additional filings may be electronic. The appealing party shall provide a copy of the written notice of appeal to the stated clerk of the council whose permanent judicial commission issued the ruling, as well as to the stated clerk of the council that would hear the appeal, who shall distribute the notice to the other party or parties.

D-6.0202 Items to be Included

The items to be included in a notice of appeal are as follows:

a. The name of the party filing the appeal (the appellant or appellants) and their counsel, if any;

b. The name of the other party (the appellee or appellees) and their counsel, if any;

c. The council from whose decision the appeal is taken;

d. A copy of the ruling;

e. A statement and description of the errors alleged to have been made in the ruling that are the grounds for the appeal. The grounds for which an appeal may be filed are:

(1) Irregularity in the proceedings;

(2) Refusing a party reasonable opportunity to be heard or to obtain or present evidence;

(3) Receiving improper, or declining to receive proper, evidence or testimony;

(4) Hastening to a decision before the evidence or testimony is fully received;

(5) Manifestation of prejudice in the conduct of the case;

(6) Injustice in the process or decision; and

(7) Error in constitutional interpretation.

f. A certification that a copy of the notice of appeal is being sent as required by D-6.0201 to the stated clerk of the council from whose decision the appeal is taken, which may be in the form of an electronic communication if agreed upon in advance by the parties.

D-6.03 Duty of Stated Clerk

Upon receipt of the written notice of appeal, the stated clerk of the council that will hear the appeal shall transmit it to the officers of that council's permanent judicial commission and the other party.

D-6.04 Effect of Appeal

D-6.0401 If No Stay of Enforcement

The filing of a notice of appeal shall not suspend any action of a council taken to implement the ruling being appealed unless a stay of enforcement was obtained with the original complaint, or one is obtained as described in the next paragraph, in which case the implementation of the ruling being appealed is stayed until the appeal is finally disposed of.

D-6.0402 Seeking Stay of Enforcement

If no stay of enforcement was in place when the ruling being appealed was rendered, one may be requested by means of a request filed along with the notice of appeal in any of the methods described in D-4.04, and processed as described in D-4.05 or D-4.06.

D-6.05 Withdrawal of Appeal

The parties in a remedial appeal are encouraged to seek resolution of their differences in a manner acceptable to all parties and consistent with the Constitution of the Presbyterian Church (U.S.A.). If at any time in the appeal process the parties to a remedial appeal jointly file with the stated clerk of the council hearing the appeal a petition for the withdrawal of the appeal, the stated clerk shall inform the members of the permanent judicial commission that the appeal has been withdrawn, which shall end the judicial process unless within seven (7) days any member of the permanent judicial commission challenges the withdrawal. If the withdrawal is so challenged, a majority of the commission at a duly constituted meeting may conclude that the withdrawal would defeat the ends of justice or conflict with the Constitution of the Presbyterian Church (U.S.A.) and deny the request.

D-6.06 Preliminary Process

D-6.0601 Examination of Notice of Appeal

Upon receiving the notice of appeal, the moderator and clerk of the permanent judicial commission of the council that will hear the appeal shall promptly examine the notice of appeal to determine whether:

a. The council has jurisdiction;

b. The appellant has standing to file the appeal;

c. The appeal was timely and properly filed; and

d. The appeal states and describes one or more of the grounds for appeal listed in D-6.0201d.

D-6.0602 Preliminary Ruling

The officers of the permanent judicial commission shall report their determinations to the parties and to the members of the commission in a preliminary ruling.

D-6.0603 Challenge to Preliminary Ruling

Within thirty (30) days after their receipt of the preliminary ruling, the parties and members of the permanent judicial commission may challenge the determination, in which case opportunity shall be provided for the parties to present evidence and argument on the determination(s) in question. A hearing may be requested either by a party or by a member of the permanent judicial commission for the purpose of hearing the challenge, or if all parties agree, the matter may be decided by the permanent judicial commission on the basis of documents submitted by the parties. If a hearing is requested, it should be held at least thirty (30) days prior to the hearing on the appeal, unless the officers of the permanent judicial commission determine that the

circumstances, including expenditures of time and resources, warrant disposition of the challenge immediately prior to the hearing on the appeal. If the permanent judicial commission determines the answer to any of the four preliminary questions has been answered in the negative, the commission shall dismiss the appeal.

D-6.0604 When No Challenge is Received

When there are no challenges to the determination in the preliminary ruling, the following shall apply:

a. If no challenge is made to the determinations of the officers that one or more of the requirements in D-6.0701 are answered in the negative, the case shall be dismissed without further action or order of the permanent judicial commission.

b. If no challenge is made to the determinations of the officers that all of the points in D-6.0601 are answered in the affirmative, the stated clerk of the council shall schedule a hearing at a time acceptable to the parties and at which a quorum of the permanent judicial commission can be present.

D-6.0701 List of Papers

Within forty-five (45) days after receipt of a notice of appeal, the stated clerk of the lower council shall list in writing to the parties all of the papers and other materials that would constitute the record of the case (see D-5.1001d & e). Within fifteen (15) days thereafter, either party may challenge the completeness or accuracy of the record as listed by the stated clerk. The stated clerk may, but is not required, to amend the list at the request of a party; however, any such challenge shall be added to the record when it is filed.

D-6.0702 Filing of Record on Appeal

Upon notice by the stated clerk of the council whose permanent judicial commission will hear the appeal that the case has been accepted, the stated clerk of the council from which the appeal is taken shall compile and file the record of the case with the stated clerk of the higher council, who shall distribute it to the members of the permanent judicial commission.

D-6.0703 Correction of the Record

If anything material to either party is omitted from the record by error or accident, or is misstated therein, the omission or misstatement may be corrected. The parties may stipulate to the correction, or the stated clerk of the lower council may certify and transmit a supplemental record, or the permanent judicial commission of the higher council may direct that the omission or misstatement be corrected. All other questions as to the form and content of the record shall be presented to the permanent judicial commission of the higher council, which shall be decided by majority vote at a duly constituted meeting at least forty-five (45) days prior to the hearing on the appeal, which may be held electronically in accordance with G-3.0105.

D-6.08 Briefs

D-6.0801 Filing of Appellant Brief

Within thirty (30) days after the date of receiving the record on appeal, the appellant shall file with the stated clerk of the higher council a written brief containing specifications of the errors alleged in the notice of appeal and arguments, reasons, and citations of authorities in support of the appellant's contentions. Copies of the brief shall be distributed by the stated clerk to the members of the permanent judicial commission and to the other party.

D-6.0802 Failure of Appellant to File Brief

Failure of the appellant to file a brief within the timeline allowed, without good cause, shall be deemed by the permanent judicial commission as an abandonment of the appeal.

D-6.0803 Filing of Appellee Brief

When an appellant files a brief, the appellee can respond as follows:

a. Within thirty (30) days of the receipt of the appellant's brief, the appellee shall file with the stated clerk of the council whose permanent judicial commission will hear the appeal a brief in response to the appellant's brief.

b. In its brief, an appellee may raise additional issues related to the decision being appealed. Copies of the brief shall be distributed by the stated clerk to the members of the permanent judicial commission and to the other party.

D-6.0804 Failure of Appellee to File Brief

Failure of the appellee to file a brief within the time allowed, without good cause, shall constitute waiver of the rights to file a brief, to appear, and to be heard.

D-6.0805 Appellant Supplemental Brief

If additional issues are raised by the appellee, then the appellant may file within thirty (30) days a supplemental brief in response to those issues, in the same manner as its original brief was filed. Copies of the supplemental brief shall be distributed by the stated clerk to the members of the permanent judicial commission and to the other party or parties.

D-6.09 Extensions

For good cause shown, the stated clerk of the higher council may extend any of the time limits contained in D-6.07 or D-6.08 for a reasonable period.

D-6.10 Transmittal of Record and Briefs

Upon receipt of the record and the briefs, or upon the expiration of the time for filing them, the stated clerk of the council hearing the appeal shall transmit the record and briefs to the clerk of the permanent judicial commission.

D-6.11 Prehearing Conference

At any time after an appeal has been received by a permanent judicial commission, the commission may determine or may provide by rule for the parties or their counsel, if any, in a prehearing conference, to seek agreement on any of the disputed issues in the appeal, and to take

other action which might reasonably and impartially narrow the dispute and expedite its resolution. Such conference may also result in a settlement agreement including a request for withdrawal of the appeal, which is then processed in accordance with D-6.05.

The moderator or clerk of the permanent judicial commission shall notify the parties of the date when they may appear in person or by counsel before the permanent judicial commission to present the appeal. Failure of a party to appear in person or by counsel shall constitute a waiver of participation in the hearing of the appeal. At the hearing, the permanent judicial commission shall give opportunity to be heard on the grounds of the appeal to those parties who have not waived that right. The appellant has the right of opening and closing the argument.

D-6.13 Decision of the Permanent Judicial Commission

D-6.1301 Standard of Review

Factual determinations by the permanent judicial commission that tried the case shall be accorded a presumption of correctness in appeals. Factual determinations are not to be disturbed unless they are plainly wrong, without supporting evidence, or manifestly unjust. Determinations related to the correct interpretation and application of provisions of the Constitution of the Presbyterian Church (U.S.A.) are not accorded the same presumption of correctness.

D-6.1302 Voting Procedure

After the hearing and after private deliberation, the permanent judicial commission shall vote separately on each specification of error alleged. The vote, which shall be by counted vote, shall be on the question, "Shall the specification of error be sustained?" The minutes shall record the vote on each specification of error. A majority vote sustains each specification of error.

D-6.1303 Decision

The decision of the permanent judicial commission shall include the determination of errors specified, and state the remedy as provided in D-6.0101. The permanent judicial commission may prepare its decision in a manner that will dispose of all substantive questions without redundancy. It should include an explanation of its determinations.

a. Decisions of permanent judicial commissions other than the General Assembly's Permanent Judicial Commission are binding only on the parties to the case.

b. If none of the specifications of error is sustained, and no other error is found, the decision of the lower council shall be affirmed.

c. If one or more errors are found, the permanent judicial commission may conclude that despite the errors found, the decision of the lower council is affirmed. Alternatively, it may reverse the decision of the lower council either completely or in part, and if reversed in part, it may determine whether the decision of the lower council shall be modified or set aside, or the case remanded for a new trial.

d. The questions presented for decision shall be fully debated and voted upon while all participating permanent judicial commission members are present. A written outline of a decision shall be prepared while in session. A written decision shall be reviewed by all participating members of the panel, which may take place either while the participating commission members

are present or by meeting within ten (10) days either in person, or electronically in accordance with G-3.0105.

e. The decision shall become the final decision when a copy of the written decision is signed by the moderator and clerk of the permanent judicial commission. A copy of the decision shall immediately be delivered to the parties to the case in accordance with D-4.0103b, or electronic communication if agreed upon in advance by the parties.

CHAPTER VII

DISCIPLINARY PROCESS

D-7.01 Disciplinary Process

D-7.0101 Purpose

The disciplinary process provides for the accountability of individuals to the church. When it is alleged that trust is broken by an individual, it is important to restore that trust within the community of faith. Church discipline is not punishment; rather, it is the exercise of authority given by Christ, both to guide, control, and nurture the church's members and for the correction and restraint of wrongdoing. The purpose of the discipline is to honor God by making clear the significance of membership in the body of Christ, to achieve justice and compassion for all participants involved, to correct or restrain wrongdoing in order to bring members to repentance and restoration where possible, to restore peace and unity in the body of Christ, and to secure the just, speedy, and economical determination of proceedings.

D-7.0102 Initiation

The disciplinary process begins when a written statement alleging that an active member of a congregation or a minister of the Word and Sacrament of the Presbyterian Church (U.S.A.) has committed an offense is submitted to the clerk of session or stated clerk of the presbytery having jurisdiction over the member. If, after investigation by an investigating committee and trial by a session or permanent judicial commission, the offense is proved true, the person found guilty is subject to censure by the Presbyterian Church (U.S.A.).

D-7.0103 Definition of an Offense

An offense is any act or omission by a member of a congregation or a minister of the Word and Sacrament that is contrary to the Scriptures or the Constitution of the Presbyterian Church (U.S.A.). The mere act of participating in decisions ultimately made by a committee, a commission, or by a council is not an offense.

D-7.0104 Deadlines and Filings

The method of determining filing deadlines and methods of filing are as follows:

a. Deadlines

In determining whether or not a document is timely filed, the day following the event giving rise to the time limit begins the count as day one (for example, the day following the date of the first meeting of an investigating committee, or on which a party receives a decision). All seven days of

every week are included in the count, including holidays, and the document shall be deemed timely filed if it is received by the person or persons to whom it is required to be sent on or before the final day of the count. When the final date of the count falls on a weekend or holiday, the document shall be deemed timely filed if it is received on the next business day after the final day of the count.

b. Methods of Filing

Any document required to be filed may be sent or delivered by United States Postal Service certified mail, return receipt requested; commercial courier, with delivery receipt requested; personal delivery; or electronically when so permitted in these rules.

D-7.02 Filing an Allegation

D-7.0201 Allegation

For filing an allegation in a disciplinary matter, the following applies:

a. Time Limit

No written allegation shall be filed later than five years from the time the alleged offense was discovered except in cases of sexual abuse of another person as defined in D-7.0901, in which case the five-year time limit shall not apply. There is also no time limit to file an allegation that a person who knew or reasonably should have known of the reasonable risk of sexual abuse of another as defined in D-7.0901 failed to take reasonable steps to minimize the risk.

b. Who May File

Any member of the Presbyterian Church (U.S.A.) may file a written allegation against a member of a congregation of the Presbyterian Church (U.S.A) or a minister of the Word and Sacrament. Anyone who is not a member of the Presbyterian Church (U.S.A.) may request that a member file a written allegation on their behalf.

c. Contents of Allegation

The allegation shall include:

(1) A written statement of the alleged offense or offenses; and

(2) Facts which, if proved true, would likely result in censure.

d. Submitting an Allegation

An allegation shall be submitted in writing to the clerk of session or stated clerk of the council with jurisdiction over the individual who is accused.

(1) If the allegation is against a member of a congregation not serving as a commissioned pastor at the time of the alleged offense, the allegation shall be sent to the clerk of session with jurisdiction over the accused member.

(2) If the allegation is against a minister member of a presbytery or a commissioned pastor in a validated ministry at the time of the alleged offense, the allegation

shall be sent to the stated clerk of the presbytery with jurisdiction over the accused member of the presbytery or commissioned pastor.

e. Members Receiving Allegations from Any Source

Members of the Presbyterian Church (U.S.A.) who receive an allegation from any source against a member of the Presbyterian Church (U.S.A.) should file a written allegation with the clerk of session or stated clerk of the council with jurisdiction over the individual who is accused. Clerks of session and stated clerks who receive a written statement of offense from a non-member of the Presbyterian Church (U.S.A.) that contains sufficient information to allow an investigation and to suggest that an offense has been committed, should file a written allegation on behalf of the non-member. In this case they shall not be considered to be disqualified from continuing to serve in their role as the clerk of session or stated clerk. Councils may provide by rule for who shall fulfill the role of the "accuser" in such cases.

f. Self-Accusation

A member of the Presbyterian Church (U.S.A.) may self-accuse by filing an allegation with the clerk of session or stated clerk of the council with jurisdiction over the individual member.

D-7.0202 Initiating a Request for Vindication

A member of the Presbyterian Church (U.S.A) who feels injured by a rumor or gossip which is from an unidentified source or is from a source not accountable to the Presbyterian Church (U.S.A.) may request an investigation for the purpose of vindication. Requests for vindication should not be used for matters that can be resolved by filing an allegation.

a. A member requesting vindication shall submit a written statement of the rumor or gossip to the clerk or stated clerk of the council with jurisdiction over the member.

b. The council shall appoint an investigating committee in accordance with its rule as defined in D-7.0501a.

c. The investigating committee shall conduct an inquiry to ascertain the facts and circumstances and shall:

(1) Report its determinations in writing to the council within one year of its first meeting. The council will include the written report in its minutes and that will conclude the matter,

(2) File charges as described in D-7.15 with the session or permanent judicial commission against the individual who initiated the investigation if the investigating committee finds that a comparison and consideration of all the evidence compels an abiding conviction that the material facts necessary to prove the charge are true that the individual has committed an offense contrary to Scripture or the Constitution of the Presbyterian Church (U.S.A.), or

(3) Determine that one or more other individuals who are members of the Presbyterian Church (U.S.A.) may have committed an offense, and file one or more written allegations against those individuals with appropriate clerks of session or stated clerks.

D-7.03 Jurisdiction

D-7.0301 Primary Jurisdiction

Each council is responsible for the discipline of its members and has primary jurisdiction over any allegation against one of its members including any trial, except as provided in D-7.0201d(2).

D-7.0302 Exceptions to Primary Jurisdiction

Exceptions to Primary Jurisdiction as described in D-7.0301 are as follows:

a. Ruling elders commissioned to service by presbyteries are accountable as provided in D-7.0201.

b. When ministers of the Word and Sacrament are engaged in work or reside within the geographic bounds of a presbytery other than the presbytery of membership, the presbytery of membership may request the presbytery within whose bounds the member works to investigate any allegation and file a report of the investigation with the stated clerk of the presbytery of membership and cooperate with the presbytery of membership in any disciplinary inquiry, alternative resolution, or trial. If the councils involved appoint a joint investigating committee, the expenses of that committee shall be shared. Jurisdiction for trial remains with the council of membership.

c. If an allegation involves events that originated within a council other than the council with jurisdiction over the individual who is accused, the clerk of session or stated clerk of the council of jurisdiction shall report to the clerk of session or stated clerk of the other council or councils if charges are filed, and of the outcome of any trial.

d. If the council of jurisdiction fails to act in a particular case for a period of sixty (60) days after the filing of charges in a disciplinary case, the next higher council, on the request of any party, may assume jurisdiction in the case. It may either issue specific instructions to the lower council as to its disposition or conclude the matter itself.

e. Jurisdiction in a disciplinary process ends when a church member or a minister of the Word and Sacrament against whom an allegation has been filed renounces the jurisdiction of the Presbyterian Church (U.S.A.) in accordance with G-2.0407 or G-2.0509. In this case, the clerk of session or stated clerk of the presbytery shall report to the council both the renunciation and the status of the matter at that time, including the name of the accused, the date and fact of renunciation during an investigation or trial, and the charges, if filed. If no charges have been filed, the report shall include the nature of the alleged offense.

(1) A person alleged to have been harmed may make the request for a pastoral inquiry in accordance with G-3.0109b(6) at any time to the clerk of session or stated clerk, and it shall be brought to the council for consideration. In the interest of continuity, the council by its rules may appoint members of a former investigating committee to the membership of any subsequent committee or commission appointed to make inquiry into the matter.

(2) If an accused has died or is no longer under the jurisdiction of the Presbyterian Church (U.S.A.), the investigating or prosecuting committee shall ask the

accuser, and if reasonably possible, those alleged to have been harmed, if they request the council to continue a pastoral inquiry under the provision in G-3.0109b(6) or to undertake a separate pastoral inquiry for other offense(s). If they choose to make that request, or if the investigating or prosecuting committee deems it necessary, the investigating or prosecuting committee shall communicate it to the clerk of session or stated clerk, who shall bring the matter before the council for consideration. Any information collected in the course of such a pastoral inquiry shall be retained by the council and shall be made available as evidence if at some point the circumstances related to D-7.1501c apply.

f. A minister of the Word and Sacrament transferred from one presbytery to another presbytery shall be subject to the jurisdiction of the first until received by the second. A minister of the Word and Sacrament transferred by the presbytery to another denomination shall be subject to the jurisdiction of the presbytery until received by the new denomination.

g. When a congregation is dissolved, the presbytery shall determine any case of discipline begun by the session and not concluded.

D-7.04 Reference

D-7.0401 Definition of Reference

A reference in a disciplinary process is a written request, made by a session or a permanent judicial commission of a presbytery or synod to the permanent judicial commission of the next higher council to assume jurisdiction of the case, for:

a. Investigation of an alleged offense and all subsequent proceedings (D-7.05 and following),

b. Proceedings subsequent to the filing of charges (D-7.15 and following), or

c. A hearing on the appeal of a disciplinary case from a lower council.

D-7.0402 Duty of Lower Council

With its written request for reference to a higher council, the lower council shall specify its reasons for the request and transmit the entire record of proceedings in the case and shall take no further action thereon, unless the higher council's permanent judicial commission returns the matter as provided in D-7.0404b. If the reference is accepted, all proceedings, including the trial or hearing on appeal, shall thereafter be held in the higher council.

D-7.0403 Duty of Higher Council

Upon receipt of a request for reference, the stated clerk of the higher council shall transmit the request to the permanent judicial commission for a decision whether or not to accept the case.

D-7.0404 Action on Request

In taking action on a request for reference, a permanent judicial commission may take either of the following actions:

a. If the permanent judicial commission decides to accept the reference, it shall instruct the stated clerk to proceed with the appointment of an investigating committee, if needed. The permanent judicial commission shall conduct the trial or hearing on appeal.

b. The higher council's permanent judicial commission may decline to accept the case for reference and return it to the lower council, stating its reasons. The session or permanent judicial commission of the lower council shall conduct the investigation, trial, or hearing on appeal and proceed to a decision.

c. While a request for reference is pending, and until the higher council acts to accept or decline to accept the reference for the case, any pending deadlines or periods of time for action by a council, a party, or an investigating committee shall be suspended.

D-7.05 Investigation

D-7.0501 Referral to Investigating Committee

When a clerk of session or the stated clerk of a presbytery receives an allegation, without undertaking further inquiry, that clerk shall then report to the council only that an offense has been alleged without naming the accused or the nature of the alleged offense and refer the statement of allegation promptly to an investigating committee, which shall conduct an inquiry as defined below. The clerk of session or stated clerk shall also inform the accuser of the disciplinary process and their rights and responsibilities in the process.

a. Sessions may and councils above the session shall provide by rule for the appointment of an investigating committee.

b. If a session is notified of the receipt of an allegation, it shall determine whether to proceed with an investigation or request a reference to the presbytery (D-7.04).

c. When an allegation is received by a clerk of session or a stated clerk other than the one of the council having jurisdiction over the member, it shall be the duty of the clerk of that session or the stated clerk of that presbytery to submit the written statement of allegation to the clerk of session or the stated clerk of the presbytery having jurisdiction over the member. The involved councils shall proceed in accordance with D-7.0301c.

D-7.0502 Transfer of Membership

A session shall not grant a transfer of membership to a member, nor shall a presbytery grant transfer of membership to a minister of the Word and Sacrament, while an inquiry or charges are pending. The reasons for not granting transfer of membership may be communicated by the clerk of session or the stated clerk of the presbytery to the appropriate persons.

D-7.06 Membership of the Investigating Committee

An investigating committee shall have no more than five but no fewer than three members, and may include members from another council. Sessions shall not appoint elders currently on the session to an investigating committee. All members of an investigating committee shall be members of the Presbyterian Church (U.S.A.).

D-7.07 Expenses of the Investigating Committee

The expenses of an investigating committee shall be paid by the council which designates it. In cases where the investigation is shared in accordance with D-7.0301c, expenses shall be shared.

D-7.08 Assisting Roles

The following persons may assist in the disciplinary process as described in this section.

D-7.0801 Counsel

Where counsel is referred to in this section, counsel need not be a paid representative or an attorney. Counsel shall be a member of the Presbyterian Church (U.S.A.). No member of a permanent judicial commission shall appear as counsel before that commission while a member of that commission.

D-7.0802 Advocate

The role of advocate is to provide support, consultation, and pastoral care for the accuser, those alleged to be harmed, or those accused. Advocates need not be members of the Presbyterian Church (U.S.A.).

D-7.0803 Mediator

Mediators, if utilized, should be persons known for calm, wise counsel, qualification of diverse cultural competence, and need not be attorneys or certified mediators. Mediators need not be members of the Presbyterian Church (U.S.A.); however, they should be familiar with Section D of the *Book of Order*. Presbyteries may identify in advance potential mediators. Any fees for mediation shall be negotiated in advance and paid for by the council of jurisdiction.

D-7.09 Allegations of Sexual Abuse

D-7.0901 Definition

Sexual abuse is any offense involving sexual conduct in relation to any person under the age of eighteen years or anyone without the capacity to consent, or any person when the conduct includes force, threat, coercion, intimidation, or misuse of ordered ministry or position. Sexual abuse is contrary to the Scriptures and the Constitution of the Presbyterian Church (U.S.A.), and is therefore always an offense for the purpose of discipline.

D-7.0902 Administrative Leave

In dealing with an allegation against a minister of the Word and Sacrament, the following considerations regarding administrative leave or other restrictions apply:

a. When an allegation of sexual abuse as defined in D-7.0901 has been received against a minister of the Word and Sacrament, the stated clerk receiving the allegation shall immediately communicate the allegation to the three members designated in accordance with D-3.0102.

b. Regardless of the employment status of the minister of the Word and Sacrament, the members designated in accordance with D-3.0102, shall determine as quickly as possible, after reviewing the written allegations and providing the accused the opportunity to be heard, whether

the risk to a congregation and/or to other potential victims of abuse requires administrative leave or other restrictions upon the minister's service, when considered in light of the nature and probable truth of the allegations. Such administrative leave or restrictions will continue until either the matter is resolved in one of the ways prescribed in the disciplinary process or until the leave or restrictions are altered or removed by the members of the commission.

D-7.0903 Effect of Administrative Leave

While administrative leave is in effect, the minister of the Word and Sacrament shall not perform any pastoral, administrative, educational, or supervisory duties, and shall not officiate at any functions such as the administration of Sacraments, funerals, or weddings. The effect of administrative leave for a minister of the Word and Sacrament in a validated ministry beyond the jurisdiction of the Presbyterian Church (U.S.A.) is the suspension of the validation of the ministry until the matter is resolved, which shall be communicated to the employer by the stated clerk of the presbytery.

D-7.0904 If Leave is Not Required

If the members of the permanent judicial commission designated in accordance with D-3.0102 determine that no administrative leave or restriction is required, the investigating committee appointed to investigate the allegations shall be free at any point in its investigation to present additional evidence to the designated members supporting the imposition of administrative leave or other restrictions.

D-7.0905 Presbytery Policies on Administrative Leave

Nothing in this section shall preclude a presbytery from establishing its own rules for administrative leave or other restrictions on a minister's service.

D-7.10 Rights and Responsibilities of the Persons in a Disciplinary Process

D-7.1001 Rights of the Accuser

The investigating committee shall inform the person submitting the allegation of the following rights:

a. The right to be treated with fairness and respect.

b. The right to be accompanied by an advocate whenever asked to meet with the investigating committee, the prosecuting committee, and the session or permanent judicial commission. The role of the advocate is to provide support and pastoral care. The advocate shall not be permitted to address the committees, session or permanent judicial commission on behalf of the accuser.

c. If charges are filed, the right to reasonable and timely notice of, and to be present at, all public proceedings related to the charges, unless the prosecuting committee determines that testimony by the accuser would be materially affected if they heard other testimony at trial.

D-7.1002 Rights of Those Alleged to Have Been Harmed

When it is possible to do so while also maintaining appropriate confidentiality, the investigating committee shall notify individuals named in the allegation who are alleged to have been harmed by the offense of the following rights:

a. The right to be treated with fairness and respect.

b. The right to be accompanied by an advocate whenever asked to meet with the investigating committee, the prosecuting committee, and the session or permanent judicial commission. The role of the advocate is to provide support and pastoral care. The advocate shall not be permitted to address the committees, session or permanent judicial commission on behalf of those alleged to have been harmed.

c. If charges are filed, the right to reasonable and timely notice of, and to be present at, all public proceedings related to the charges, unless the prosecuting committee determines that testimony by those alleged to have been harmed would be materially affected if they heard other testimony at trial.

D-7.1003 Rights of the Accused

At the beginning of each and every conference with an investigating committee, the prosecuting committee, and the session or permanent judicial commission, the person against whom an allegation has been made shall be informed by the investigating committee of the following rights:

a. The right to remain silent throughout the entire disciplinary process,

b. The right to be treated with fairness and respect.

c. During the investigation, the right to be represented by counsel at their own expense and to be accompanied by an advocate. The role of the advocate is to provide support and pastoral case. The advocate, if not also counsel, shall not be permitted to address the committee, session, or permanent judicial commission.

d. If charges are later filed, the right to reasonable and timely notice of, and to be present at, all public proceedings related to the charges, to be represented by counsel (D-7.0104), and to have counsel appointed if unable to afford counsel.

D-7.1004 Responsibilities of All Participants

All participants in an investigation have the responsibility to work cooperatively in the investigation. This includes, but is not limited to, the preservation of records which may be pertinent, and maintaining appropriate confidentiality throughout the process (see D-7.1003).

D-7.11 Investigating Process

D-7.1101 Preliminary Review

The investigating committee shall hold its first meeting within sixty days of its appointment to review the allegation and determine whether it alleges any facts that, if true, constitute an offense, as defined in D-7.0103.

a. If no offense is alleged, the investigating committee shall report this fact to the clerk of session or stated clerk of the council and shall end its inquiry.

b. If the investigating committee determines that the allegation repeats allegations previously made against the accused, it shall report to the clerk of the council that it will not file charges unless the allegation contains new information warranting investigation or is the subject of an investigation that has not been concluded, and shall end its inquiry.

c. The clerk shall communicate the decision not to move to an investigation to the person who filed the allegation and to the person against whom the allegation was filed.

d. Within thirty (30) days of receipt of the report, the person who submitted the allegation may petition the session or permanent judicial commission for a review of the decision of the investigating committee not to file charges (D-7.1402).

D-7.1102 Notification to Participants

If the investigating committee determines that an offense as defined in D-7.0103 is alleged, the investigating committee shall, as quickly as it is practical,

a. Notify the accused in writing of:

(1) The date of the investigating committee's first meeting, which begins the one-year timeline for filing charges (D-7.1501);

(2) The reason for the investigation, including a copy of the statement of alleged offense, excluding the name of the accuser at the discretion of the investigating committee;

(3) The confidentiality of the investigating process; and

(4) The rights and responsibilities of the accused defined in D-7.1003 and D-7.1004.

b. Notify the person making the allegation in writing of:

(1) The date of the investigating committee's first meeting which begins the one-year timeline for filing charges (D-7.1501);

(2) The confidentiality of the investigating process;

(3) The rights and responsibilities of the accuser and of those alleged to have been harmed, if known, as defined in D-7.1001, D-7.1002, and D-7.1004; and

(4) The investigating committee's commitment to keep the person making the allegation informed as the investigation proceeds including, whenever possible, if charges will be filed.

D-7.1103 Conduct of Investigation

The investigating committee shall make a thorough inquiry into the facts and circumstances of the alleged offense. The investigation is presumed to be confidential. Information is shared only

on a need to know basis as determined by the investigating committee in consultation with the clerk or stated clerk of the council. In the event that information is shared, it shall be stated that the accused is presumed innocent. The investigating committee shall keep the clerk or stated clerk of the council informed of its progress in the process.

The investigating committee shall:

a. Examine all relevant papers, documents, and records available to it;

b. Ascertain all available witnesses who have knowledge of the alleged offense and inquire of them;

c. Determine, in accordance with G-3.0102 and D-7.0103, whether there are reasonable grounds to believe that an offense was committed by the accused;

d. Decide whether the offense alleged can be proved so that the comparison and consideration of all the evidence compels an abiding conviction that the material facts necessary to prove the charge are true.

e. Report to the council having jurisdiction over the accused, or in the case of a joint investigation, report to both councils, only whether or not the investigating committee will file charges;

f. If charges are to be filed, prepare them in accordance with the procedures described in D-7.1503 and designate one or more of its members to prosecute the case; and

g. Determine if alternate resolution to a trial on the charges should be pursued (see D-7.16).

D- 7.1104 Request for Reference

If within sixty (60) days of its first meeting the investigating committee determines that it is unable for any reason to conduct a thorough and fair investigation, it may ask the council to request a reference in accordance with D-7.04.

D-7.12 Review of Investigating Procedures

At any time during the course of the investigation, the person against whom an allegation has been made may petition the session or permanent judicial commission to review procedures of the investigating committee.

D-7.1201 Subject of Review

The subject of such a petition for review shall be limited to whether the committee has followed the procedures required by D-7.1003, whether the committee has followed a proper trail of evidence, whether the evidence being considered is properly in the hands of the investigating committee, and whether the committee has examined relevant evidence proposed by the accused.

D-7.1202 Conduct of Review

The review shall be conducted by the three members designated in accordance with D-3.0102.The review may include a hearing at the discretion of the three designated members at which the investigating committee and the accused may appear. The review shall be completed within forty-five (45) days of the filing of the petition, and the decisions shall be communicated to the investigating committee, the accused, the moderator and the clerk of the permanent judicial commission, and the clerk of the council.

D-7.13 Investigating Committee Conclusion

The investigating committee may determine:

- **Not to file charges (D-7.14),**
- **To file charges and proceed to trial (D-7.15), or**
- **To file charges together with an alternative resolution (D-7.16).**

D-7.14 If Charges Are Not Filed

D-7.1401 Written Report

If no charges are filed, the investigating committee shall file a written report of that fact alone with the clerk of session or stated clerk of the presbytery. The clerk of session or stated clerk of the presbytery shall notify the person who submitted the allegation and the accused that charges will not be filed.

D-7.1402 Review of Decision

Review of a decision not to file charges shall proceed as follows:

a. Within thirty (30) days of receipt of the report, the person who submitted the allegation may petition the session or permanent judicial commission to review the decision of the investigating committee not to file charges.

b. The petition shall allege those instances in which the investigating committee has not fulfilled the duties specified in D-7.10.

c. The investigating committee shall submit a written response to the facts alleged in the petition within thirty (30) days.

d. The members of the permanent judicial commission designated in accordance with D-3.0102 shall consider the petition and the response, giving attention to the duties specified in D-7.10 and to the question of whether the purposes of the disciplinary process will be preserved by the decision of the investigating committee not to file charges. The decision of the designated members of the permanent judicial commission upon the petition and response shall be rendered within ninety (90) days.

e. If the designated members sustain the petition, a new investigating committee shall be appointed by the session or presbytery. The new investigating committee shall have until the original deadline or until six (6) months from its first meeting, whichever is later, to determine whether to file charges.

f. If the designated members do not sustain the petition, or if a second investigating committee determines not to file charges, the disciplinary process is concluded. The investigating committee's records shall be preserved in accordance with session or presbytery policy for a minimum of ten years.

D-7.15 If Charges Are Filed

D-7.1501 Time Limits for Filing Charges

Once a written allegation has been submitted, no charges shall be filed later than one year from the date of the investigating committee's first meeting, except as noted below.

a. In those instances where secular proceedings against the accused pertinent to the subject of the investigation have commenced, the investigating committee may request of its session or permanent judicial commission and may receive an extension of its time for filing charges of up to six months from the conclusion of any investigation or resulting trial undertaken by the civil authorities. The clerk of session or stated clerk of the council shall maintain contact with civil authorities to determine when such secular proceedings have concluded.

b. For instances of sexual abuse of another person as defined in D-7.0901 the five-year time limit for filing an allegation shall not apply. There is also no time limit for alleging that a person who knew or reasonably should have known of the reasonable risk of sexual abuse of another as defined in D-7.0901 failed to take reasonable steps to minimize the risk. Charges in these instances may be brought regardless of the date on which an offense is alleged to have occurred.

c. When a former minister of the Word and Sacrament or a former active member of a congregation again becomes an active member of a congregation (G-1.0402) or a member of a presbytery (G-2.0502, G-2.0503) after having renounced jurisdiction while in the disciplinary process, allegations shall be brought forward again. The process would then begin anew with the one-year time limit in effect. The time limit begins on the date when the stated clerk or clerk of session becomes aware that the renounced member has rejoined the Presbyterian Church (U.S.A.). If charges had been filed at the time of renunciation, the prosecuting committee shall have at least six months to proceed forward before trial. If a new prosecuting committee must be formed, it shall have at least nine months to proceed forward before trial. The accused shall not serve in an ordered ministry of the church while an investigation or trial is pending.

D-7.1502 Duties of the Investigating Committee

If the investigating committee decides to file charges, it shall:

a. Inform the accused in writing that charges will be filed, and list each charge separately;

b. Include a summary of the facts it expects to prove at trial to support the charges; and

c. Designate one or more of its members to serve as the prosecuting committee. The prosecuting committee shall prosecute the case and represent the church during any appeals. The prosecuting committee may include additional members at the council's discretion.

D-7.1503 Charges

Each charge shall state only one offense.

a. An offense is any act or omission by a member of a congregation or a minister of the Word and Sacrament that is contrary to the Scriptures or the Constitution of the Presbyterian Church (U.S.A.) as defined in D-7.0103.

b. Each charge shall state the specific provision or provisions of Scripture and/or the Constitution that have been violated.

c. Each charge shall be numbered, and state (as far as possible) the time, place and circumstances of the commission of the offense. Multiple occurrences of the same offense may be consolidated in one charge.

d. Each charge shall be accompanied by a summary of the facts expected to be proved at trial.

e. The investigating committee shall file the charges with the clerk of session or the stated clerk of the presbytery.

(1) If the charges are filed with the clerk of session, upon its receipt, the clerk shall present the charges to the session at its next meeting and determine whether it will try the case or request a reference to the presbytery (D-7.04).

(2) If the charges are filed with the stated clerk of the presbytery, the stated clerk shall immediately forward the charges to the permanent judicial commission.

D-7.16 Alternative Resolution

D-7.1601 Initiation of Alternative Resolution

If it deems appropriate, the investigating committee may initiate alternative resolution after the investigation has been completed and the charges have been drafted, but before the charges have been filed.

The investigating committee shall report any agreement for alternative resolution to the session or permanent judicial commission for its approval together with the charges to be filed. The outcome of any alternative resolution shall be a signed agreement between the accused and the investigating committee, to be filed together with the charges with the session or the permanent judicial commission. Terms of an alternative resolution shall be agreed upon and submitted within the one-year time limit for filing charges, except as provided in D-7.1603 for Restorative Justice. By mutual agreement the investigating committee and the accused may petition the permanent judicial commission for an extension of the deadline to file charges of up to 60 days while efforts at alternative resolution are being pursued.

Should efforts at alternative resolution fail, or the agreement is not accepted by the session or permanent judicial commission, no statements, written or oral, made at or in connection with this process, shall be admissible in evidence at a subsequent investigation or trial.

Any fees for mediation or for facilitating restorative justice processes shall be negotiated in advance and paid for by the council of jurisdiction.

D-7.1602 Forms of Alternative Resolution

Alternative resolution may take one of three forms: restorative justice, mediation, or other negotiated agreements.

D-7.1603 Restorative Justice

At the discretion of the investigating committee, in those instances where the accused will plead guilty and take responsibility for harm done, and those alleged to have been harmed are willing to find outcomes that repair damage and address the reasons for the offense, the investigating committee may initiate a process of restorative justice to bring closure to the persons involved and restoration to the community of faith.

When a process of restorative justice is initiated, an investigating committee may request of its session or permanent judicial commission one or more extensions of time to file charges to determine if justice for all can be achieved within a reasonable period.

a. The Purpose of Restorative Justice

(1) Restorative justice is a process by which both those alleged to have committed an offense and those alleged to have been harmed seek to restore the wholeness of the Body of Christ. Restorative justice may be employed prior to trial, or as part of a process of healing after an accused has been found guilty, when the guilty party has had time to accept responsibility and those harmed have had time for personal healing. Should restorative justice not be employed as an alternative resolution prior to trial, the council shall be open to the process at any time if those harmed request and are willing to engage the process.

(2) Restorative justice is not primarily about forgiveness or reconciliation. There should be no pressure on those harmed to forgive or be reconciled. The decision to forgive or be reconciled must be made by the participants at their own initiative.

b. The Practice of Restorative Justice

Restorative justice is guided by four basic questions:

- **Who has been harmed?**
- **What needs do they have?**
- **Who shares the responsibility to address the needs, to repair the harm, and to restore relationships?**
- **What is needed to restore wholeness to the community?**

The process should be facilitated by a person trained in restorative justice, and shall respect the needs and roles of each participant, including:

(1) Those who have been harmed, who have a need for real information through facilitated direct or indirect contact with offenders; the opportunity for truth-telling by sharing their stories; empowerment by having a voice in the process of justice; support for personal healing from trauma; and vindication through acts of symbolic restitution, which may include a public statement of apology by the offender and/or from the community.

(2) Offenders, who have a need for accountability that focuses on the harm done, encourages compassion, and transforms shame; support for personal healing from trauma, addictions, or other issues that may have contributed to the harmful actions; the development of personal capabilities and boundaries; encouragement and support for restoration to the community; and when necessary, temporary or permanent restrictions or removal to prevent future offenses.

(3) Communities, who have a need to attend to the harm and trauma experienced; to employ resources and opportunities to rebuild communal accountability and trust; to honor their obligation to care for their members including those harmed and offenders; to have reasonable assurance that offenders will not offend again; and to take preventative measures to protect others in the future.

D-7.1604 Mediation

In those instances where the accused will plead guilty and takes responsibility for harm done, but a process of restorative justice is not possible or appropriate, the investigating committee may initiate an alternative resolution process of mediation in the hope of achieving justice and compassion for all involved and repentance and restoration to the accused. It shall also take into consideration the broken trust in the larger community of faith, and the time and energy that will be necessary for its trust to be restored. Mediators and facilitators utilized in this process should be persons known for calm, wise counsel, and need not be attorneys or certified mediators. Anyone serving as a mediator or facilitator must be familiar with Section D of the *Book of Order*. Where harm has been done to another person, presbyteries should utilize persons who have specialized training and skills. Any mediated agreement shall include a specification of charges to which the accused will plead guilty, together with a recommendation for censure.

D-7.1605 Other Negotiated Agreements

When the interests of justice demand it, an investigating committee may submit a negotiated agreement as part of an alternative resolution. All such agreements shall include a specification of charges to which the accused will plead guilty, together with a recommendation for censure. Prior to entering into any negotiation with the accused or counsel for the accused, the investigating committee shall consult with the accuser and those alleged to have been harmed, if known, regarding reasons for a negotiated agreement. Ordinarily, negotiated agreements should not be used to resolve allegations of sexual abuse.

D-7.1606 Session or Permanent Judicial Commission Action

Upon receipt of a signed alternative resolution, the session or permanent judicial commission shall convene to:

a. Receive the agreement and the charges together with a statement of the investigating committee's rationale for adoption of the agreement;

b. Vote to approve it by at least two-thirds of the members eligible to vote (D-3.0602);

c. Make a record of its proceedings according to the provisions of D-8.1201d, including the name of the accused, the substance of the charge(s), and censure if any; and

d. Transmit its decision to the clerk of session or the stated clerk, who shall report it according to the provisions of D-9.0102.

e. If the session or permanent judicial commission does not approve the alternative resolution agreement by a two-thirds vote, the investigating committee may seek another alternative resolution to present to the session or the permanent judicial commission within the one-year deadline, or

f. If an alternative resolution agreement is not reached, the investigating committee shall designate a prosecuting committee and the matter shall proceed on the charges filed.

CHAPTER VIII

TRIAL IN A DISCIPLINARY CASE

D-8.01 Pretrial Procedures

D-8.0101 Parties

All disciplinary cases shall be filed and prosecuted by a council through a prosecuting committee in the name of the Presbyterian Church (U.S.A.). The prosecuting committee is the representative of the church and, as such, has all of the rights of the appropriate council in the case. The only parties in a disciplinary case are the prosecuting committee and the accused.

D-8.0102 Circulation of Materials and Communication

With regard to materials pertaining to the case and communication regarding the case, the following rules apply:

a. Any materials pertaining to the case shall be filed with the clerk of session or stated clerk of the presbytery hearing the case. Parties to a disciplinary case or their counsel or any other person shall not circulate or cause to be circulated directly to the members of the session or permanent judicial commission any written, printed, electronic, or visual materials of any kind upon any matter pertaining to the case before its final disposition. Notwithstanding this prohibition, the session or permanent judicial commission may request, or grant leave to file, additional materials.

b. Parties or their counsel shall not communicate with members of the session or permanent judicial commission regarding any matter related to the case unless the other party and their counsel, if any, are included.

D-8.0103 Pretrial Conference

A pretrial conference shall be scheduled, which may be held electronically in accordance with G-3.0105.

a. The session or permanent judicial commission which is to try the case shall hold a pretrial conference no later than forty-five (45) days after confirmation of the receipt of the charge(s). The moderator and clerk of the session, or their designees, or the moderator and clerk of the permanent judicial commission, or their designees, shall set a date, time and place for the pretrial conference, and conduct it on the session's or commission's behalf.

b. The clerk of session or the stated clerk shall notify the accused, the counsel for the accused, if any, and the prosecuting committee of the date, time and place of the pretrial conference and request their presence.

c. The accused is expected to attend the pretrial conference. If the accused is unable or unwilling to attend, the pretrial conference shall proceed regardless of the accused's absence.

d. At the pretrial conference, the moderator or the moderator's designee shall:

(1) Read aloud the Preamble to Church Discipline (D1);

(2) Inform the accused of the right to counsel and the right to remain silent throughout the process;

(3) If the accused is unable to afford counsel, the session or permanent judicial commission shall review the financial records of the accused, and if it determines that financial need exists, shall appoint counsel for the accused. Fees, if any, for this representation at the expense of the council shall be agreed upon in writing.

(4) Read the charges to the accused, and;

i. Determine with the accused and the prosecuting committee those charges that are not in dispute and discuss alternatives to a full trial;

ii. Hear any challenges to the appropriateness of charges, make recommendations to dismiss some of the charges, consolidate the charges, or permit amendments to the charges. The moderator and clerk of the session, or their designees, or the moderator and clerk of the permanent judicial commission, or their designees, shall refer all disputes of fact to the trial.

iii. Ask the accused to plead guilty or not guilty to each charge for the record.

(5) Furnish the accused with a description of the records and documents that may be offered to support each charge, and a list of witnesses then known and their relevance to the matter at trial; and

(6) Review any reports of petitions for review conducted in accordance with D-7.10.

(7) The session or permanent judicial commission may consult with the parties and their counsel on any other pending or anticipated pretrial motion or matter that will need to be addressed before the commencement of the trial. The session or permanent judicial commission should establish deadlines and a trial date accordingly.

All actions taken at the pretrial conference are preliminary and shall be referred to the session or permanent judicial commission for approval at trial.

D-8.0104 Between the Pretrial Conference and the Trial

In regard to actions to be taken between a pretrial conference and a trial, the following applies:

a. The moderator of the session or permanent judicial commission shall schedule a trial, to be held no sooner than sixty (60) days following the pretrial conference. If the accused pleads guilty to all charges, no trial shall be held and a censure hearing shall be held no sooner than thirty (30) days following the pretrial conference.

b. At least forty-five (45) days in advance of the trial, the prosecuting committee shall provide the clerk of session or clerk of the permanent judicial commission and the other party with their list of witnesses and an outline of the evidence to be presented at trial. The accused shall provide the clerk of session or clerk of the permanent judicial commission and the other party with a preliminary list of witnesses. Parties or their representatives shall not contact the other party's witnesses prior to the trial.

c. At any time, the session or permanent judicial commission shall be open to alternative resolution between the parties and at its sole discretion may continue the trial to allow for an alternative resolution process as described in D-7.16.

D-8.02 Conduct of Trial

D-8.0201 Trial of a Disciplinary Case

The trial of a disciplinary case shall be conducted by a session or permanent judicial commission of a presbytery.

a. The trial shall be conducted formally with full decorum in a neutral place suitable to the occasion.

b. Except for the provision of electronically received testimony contained in D-8.04, trials should be held in person. When necessary, and at the sole discretion of the session or permanent judicial commission, trials may be held electronically in accordance with G-3.0105 and provided that the technology employed allows witnesses and parties as well as members of the session or permanent judicial commission to be seen and heard clearly.

c. The accused in a disciplinary case is presumed to be innocent unless a determination of guilt is rendered by two-thirds of the session or permanent judicial commission eligible to vote (see D-3.0602).

D-8.03 Citations and Testimony

D-8.0301 Citations

Citations to appear at trial for parties or such witnesses as either party may request shall be signed by the moderator or clerk of the session or the permanent judicial commission and served by the clerk of the council. Witnesses may be either fact witnesses or expert witnesses (see D-8.0704b).

D-8.0302 Who May Be Cited

Only members of the Presbyterian Church (U.S.A.) may be cited to appear. Persons who are not members of the Presbyterian Church (U.S.A.) and expert witnesses (regardless of their denominational membership) can only be requested to attend.

D-8.0303 Witnesses from Another Council

When it is necessary to summon witnesses who are under the jurisdiction of another council of the church, the clerk or stated clerk of the other council shall, on the application of the session or permanent judicial commission trying the case, through the clerk of the council, issue a citation to the witnesses to appear at the place of trial and give evidence as may be required.

D-8.0304 Expenses

Any witness shall be entitled to receive from the party calling the witness reimbursement of actual expenses incurred in attendance at the trial.

D-8.0305 Service of Citation

A citation shall be delivered in accordance with D-7.0104b, or by electronic delivery acknowledged by the recipient within seven (7) days. The moderator or clerk of the session or permanent judicial commission trying the case shall keep a record of the fact and date of service or delivery. If a party or a witness who is compelled to attend (D-8.0302) fails to obey a citation to appear or having appeared, refuses without good cause to testify, and after warning continues to refuse, the party or witness shall be considered guilty of disobedience and contempt, and for such offense may be subject to disciplinary action by their council of jurisdiction.

D-8.04 Electronically Received Testimony

Witnesses may be granted permission by the session or permanent judicial commission to appear electronically if unable to attend a trial that is held in person, in accordance with the provisions of G-3.0105 and D-8.02.

D-8.05 Procedures in Trial

D-8.0501 Counsel

Each of the parties in a disciplinary case shall be entitled to appear and may be represented by counsel. Counsel need not be a paid representative or an attorney. Counsel shall be a member of the Presbyterian Church (U.S.A.). No member of a permanent judicial commission shall appear as counsel before that commission while a member.

D-8.0502 Control of Conduct of Trial

The moderator of the session or permanent judicial commission shall have full authority and power to control the conduct of the trial and of all parties, witnesses, counsel, and the public, including removal of them, to the end that proper dignity and decorum shall be maintained. Rulings of the moderator related to control of the trial are subject to appeal to the full

session or permanent judicial commission by any member of the session or permanent judicial commission, which shall decide the question by majority vote.

D-8.0503 Procedural Questions

Questions as to procedure or the admissibility of evidence arising in the course of a trial shall be decided by the moderator after the parties have had an opportunity to be heard. A party or a member of the session or permanent judicial commission may appeal from the decision of the moderator to the body, which shall decide the question by majority vote.

D-8.0504 Absences

Members of a session or permanent judicial commission must be present in person at trials. The absence of any member of the session or permanent judicial commission after a trial has commenced shall be recorded. That person shall not thereafter participate in deliberation and decision in the trial.

D-8.0505 Closed Proceedings

The proceedings shall ordinarily be conducted in open session; however, at the request of any party, or on its own initiative, the session or permanent judicial commission may determine at any stage of the proceedings, by a vote of two thirds of the members present, to exclude persons other than the parties and their counsel.

D-8.0506 Loss of Quorum

Loss of a quorum shall result in a mistrial and the case shall be tried again from the beginning at a time and place to be determined by the session or permanent judicial commission.

D-8.06 Trial

D-8.0601 Announcement by the Moderator

The trial of a disciplinary case shall be opened with prayer, after which the moderator shall read aloud the Preamble to Church Discipline (D-1), shall announce that the council is about to proceed to trial, and shall enjoin the members to recollect and regard their high character as judges of a council of the Church of Jesus Christ and the solemn duties they are about to undertake.

D-8.0602 Objections of Parties

The parties or their counsel may object and be heard on the organization and jurisdiction of the session or permanent judicial commission.

a. A member of a session or permanent judicial commission is disqualified if the member is personally interested in the outcome of the case, is related by family relationship to any party, or has served as counsel for or against any party.

b. Any member of a session or permanent judicial commission may be challenged by any party for conflict of interest, and the validity of the challenge shall be determined by majority vote of the remaining members of the session or permanent judicial commission

D-8.0603 Preliminary Determinations and Objections

The session or permanent judicial commission shall place all preliminary determinations and any objections on the record and shall decide all such matters by majority vote. Any objections to the preliminary determinations and any other objections affecting the order or regularity of the proceedings shall also be made part of the record and shall be decided by majority vote. A final decision is not permissible until the session or permanent judicial commission has heard the evidence and closing arguments.

D-8.0604 Plea

The accused shall be called upon to plead "guilty" or "not guilty" to each charge. The plea shall be entered on the record. If the accused declines to answer or pleads "not guilty," a plea of "not guilty" shall be entered on the record and the trial shall proceed. If the accused pleads "guilty" to all charges, the council shall proceed in accordance with D-8.0903 unless the parties request an opportunity to seek an alternative resolution in accordance with D-7.16.

D-8.0605 Opening Statements

The parties shall be given an opportunity to make opening statements, beginning with the prosecuting committee.

D-8.07 Evidence

D-8.0701 Definition

The parties shall be accorded the opportunity to present evidence on their behalf. Evidence, in addition to oral testimony of witnesses, may include records, writings, material objects, or other items. Evidence must be relevant to be received, and may include evidence that lays a foundation for the admissibility of other evidence. Relevant evidence is evidence that tends to prove or disprove a fact necessary to determine the outcome of a case. Laying a foundation means presenting preliminary evidence to show the authenticity and relevance of the evidence proposed. Evidence of authenticity goes to show the item is what the proponent claims it is. No distinction should be made between direct and circumstantial evidence as to the degree of proof required.

D-8.0702 Records as Evidence

Written records of a council or permanent judicial commission and authenticated records of testimony are admissible as evidence.

a. The authenticated written records of a council or permanent judicial commission shall be admissible in evidence in any proceeding.

b. An authenticated record or transcript of testimony taken by a council or permanent judicial commission shall be admissible in any proceeding in another council.

D-8.0703 Hearsay Evidence

Hearsay is a statement made outside the presence of the session or permanent judicial commission hearing the case, whether written or oral, and which is offered to prove the truth of whatever it asserts. Because of the limitations of a council's authority to compel witnesses to testify

in a disciplinary process, as well as the limitations of resources in investigations, hearsay evidence is allowed. The session or permanent judicial commission shall determine the credibility or weight of hearsay evidence.

D-8.0704 Witnesses

With regard to witnesses, the following applies:

a. Any party may challenge whether a witness may testify, and the moderator of the session or permanent judicial commission shall determine the competence of the witness. The ruling of the moderator may be appealed by any party or a member of the session or permanent judicial commission and decided by majority vote of the session or permanent judicial commission.

b. Each witness called to testify must be competent to testify. To be received by the session or permanent judicial commission, any testimony from any witness must be relevant. An expert opinion or other testimony may be offered by any witness upon adequate proof of the qualifications of the witness as an expert in the field of such testimony and that such opinion or other testimony will assist the resolution of the case.

c. No counsel for a party involved may be compelled to testify about any confidential matter, nor may any such counsel testify concerning any matter without the express permission of the party they represent.

d. A person duly appointed by a council to provide counseling services for persons within the jurisdiction of the council shall not testify before a session or permanent judicial commission, except that the restriction may be waived by the person about whom the testimony is sought.

e. Credibility means the degree of belief that may be given to the testimony of a witness. In determining the credibility of a witness, the session or permanent judicial commission may consider any matter that bears upon the accuracy of the testimony or the truthfulness of the witness.

f. A married person, otherwise competent to testify, may be a witness for or against the spouse, but shall not be compelled to testify against the other.

g. The session or permanent judicial commission may recognize other privileges including, but not limited to therapist-patient, doctor-patient, pastor-penitent, and attorney-client privileges as a basis for not compelling the testimony of a witness.

D-8.0705 Testimony

Receiving the testimony of witnesses shall proceed as follows:

a. At the direction of the moderator or on the request of either party, no fact witness shall be present during the examination of another witness. This shall not limit the right of any party, counsel, or witness previously designated to offer only expert testimony to be present.

b. Witnesses shall be examined first by the party producing them, and then they may be cross-examined by the opposing party. The moderator may permit additional questions from the parties (including both re-examination, followed by re-cross-examination) if so requested.

Thereafter, any member of the session or permanent judicial commission may ask additional questions.

c. Prior to giving testimony, a witness shall make an oath by answering the following question in the affirmative: "Do you solemnly swear that the evidence you will give in this matter shall be the truth, the whole truth, and nothing but the truth, so help you God?"

d. If a witness objects to making an oath, the witness shall answer the following question in the affirmative: "Do you solemnly affirm that you will declare the truth, the whole truth, and nothing but the truth in the matter in which you are called to testify?"

e. The testimony of each witness shall be accurately and fully recorded by a qualified reporter or other means that can be accurately transcribed, including digital voice recording.

f. Witnesses may appear electronically if unable to attend the trial in person, in accordance with the provisions of D-8.04.

g. A member of the session or permanent judicial commission before which the case is pending may testify, but thereafter shall not otherwise participate in the case.

D-8.08 Final Statements

The parties shall be given an opportunity to make final statements, the prosecuting committee having the right of opening and closing the argument, after which the trial shall be closed with prayer.

D-8.09 Decision

D-8.0901 Deliberation

The session or permanent judicial commission shall then meet privately to deliberate. All persons not members of the session or permanent judicial commission shall be excluded.

D-8.0902 Decision on Guilt

Decisions in disciplinary cases are reached and communicated as follows:

a. After careful deliberation, the session or permanent judicial commission shall vote on each charge separately and record the vote in its minutes. Members of the session or permanent judicial commission may find that the accused is guilty when a comparison and consideration of all the evidence compels an abiding conviction that the material facts necessary to prove the charge are true. No decision of guilt may be found on a charge unless at least two-thirds of the members of the session or permanent judicial commission eligible to vote agree on the judgment (see D-3.0602).

b. A written decision stating the judgment on each charge shall be prepared while in session. It shall become the final decision when signed by the moderator and clerk of the session or the permanent judicial commission.

c. When a session or permanent judicial commission has arrived at a decision, the moderator shall, in open meeting, announce the verdict for each charge separately.

D-8.0903 Decision on Degree of Censure

If the accused is found guilty or after a guilty plea, the session or permanent judicial commission shall hear evidence within thirty (30) days of the decision as to the extent of the injury suffered, mitigation, rehabilitation, and redemption. This evidence may be offered by either party, or the original accuser or that person's representative. Each person who was directly harmed by the offense may submit a victim impact statement, which shall become part of the record. The statement shall not be subject to cross-examination. The accused may offer a plan to address the harm done and to seek reconciliation with the victim(s) and the church. The session or permanent judicial commission shall then meet privately to determine the degree of censure to be imposed. Following such determination and in an open meeting, the moderator of the session or permanent judicial commission shall then pronounce the censure.

D-8.10 Filing and Notification of Parties

D-8.1001 Filed Promptly

The decision shall be filed promptly with the clerk or stated clerk of the council.

D-8.1002 Notification of Parties

Notification of a decision shall be as follows:

a. The clerk of session or clerk of the permanent judicial commission shall deliver a copy of the decision to the parties in accordance with D-7.0104b, or by electronic communication if agreed upon in advance by the parties.

b. The moderator or clerk of the session or permanent judicial commission shall disseminate the decision as the session or permanent judicial commission may direct.

D-8.11 New Evidence Received

D-8.1101 Prior to the Filing of a Notice of Appeal

Prior to filing a notice of appeal, but without extending the time for appeal, the person found guilty may apply for a new trial on the ground of newly discovered evidence. The permanent judicial commission – when satisfied that such evidence could reasonably have resulted in a different decision and that in the exercise of reasonable diligence it could not have been produced at the time of trial – may grant such application. A notice of appeal filed while such an application is pending shall be held in abeyance until such time as the session or permanent judicial commission that conducted the trial has made its determination. The higher council shall be notified of the determination by the clerk of session or stated clerk of the lower council.

D-8.1102 Subsequent to the Filing of a Notice of Appeal

If, subsequent to the filing by a person found guilty of a notice of appeal, new evidence is discovered by the person found guilty which in the exercise of reasonable diligence could not have been discovered prior to the filing of the notice of appeal, the permanent judicial commission receiving the appeal may, in its discretion, remand the case for a new trial, in which case the appeal shall be stayed until the session or permanent judicial commission that conducted the trial reports its decision in the new trial. The application for admission of newly discovered evidence shall be

made to the permanent judicial commission at least thirty (30) days prior to the hearing with copies to the other party. That application shall be accompanied by a summary of the evidence.

D-8.12 Record of Proceedings

D-8.1201 Duty of Clerk

The clerk of session or the clerk of the permanent judicial commission shall do the following:

a. Arrange in advance for the accurate verbatim recording of all testimony and oral proceedings. This may be accomplished through a digital voice recording.

b. Identify and maintain all exhibits offered in evidence (noting whether or not they were accepted as evidence) and keep a list of all exhibits.

c. Record minutes of the proceedings, which shall include any actions or orders of the session or permanent judicial commission relating to the case with the vote thereon.

d. Prepare the record of the case, which shall consist of:

(1) The charges;

(2) A record of the plea entered by the accused on each charge;

(3) A certified transcript, if requested;

(4) All properly marked exhibits, records, documents, and other papers;

(5) The written decision, including the verdict for each charge and the degree of censure, if any, to be imposed by the council; and

(6) Any actions or orders of the session or permanent judicial commission relating to the case, with the vote on each.

e. The clerk of session shall preserve the record of the case for at least ten (10) years, and in accordance with the policy of the council for the preservation of records. The clerk of the permanent judicial commission shall, within thirty (30) days after the decision becomes final, certify and transmit the record of the case to the stated clerk of the electing presbytery, who shall preserve it for at least ten (10) years, and in accordance with the policy of the council for the preservation of records.

f. Upon the request, and at the expense of any requesting party, the clerk of the session or the clerk of the permanent judicial commission shall cause a true and complete transcript be prepared of all the testimony and oral proceedings during the course of the trial. A copy of this transcript, when certified by the person making the same to be true and complete, shall be delivered to each party. One additional copy shall be made for inclusion in the record to be sent forward upon any appeal pursuant to D-10.0602.

D-8.1202 Additions to the Record

No person may supplement or add to the record in a case except for good cause as determined by the moderator and clerk of the session or of the permanent judicial commission responsible for conducting the trial. No request to supplement the record shall be considered until received in writing by the clerk of session or the stated clerk of council that conducted the trial, who shall transmit it to the moderator of the session or moderator and clerk of the permanent judicial commission. A copy of the request shall be delivered to all parties and every party shall have ten (10) days to respond in writing.

D-8.13 Enforcement

When a session or presbytery has completed the trial and found the accused guilty and the decision has been pronounced in accordance with the censure imposed in the following chapter, the session or presbytery shall proceed to enforce the decision regardless of an appeal, including supervision of any rehabilitation required in the censure, unless there has been a full or partial stay of enforcement.

CHAPTER IX

CENSURE AND RESTORATION IN A DISCIPLINARY CASE

D-9.01 Censure

D-9.0101 Degrees of Censure

The degrees of church censure are rebuke, rebuke with supervised rehabilitation, temporary exclusion from exercise of ordered ministry (for deacons, ruling elders, and ministers of the Word and Sacrament) or membership rights (for non-ordained church members), and removal from ordered ministry or membership. Whatever the censure is, it is never given with malice and vindictiveness but in Christian love to offer correction in error and restoration of the community. A censure is about the accountability of an individual to the church and should not include names of persons who have been harmed.

D-9.0102 Reporting of Decision and Censure

Public oral reports of decisions and censure in disciplinary cases shall be as follows:

a. When a censure is imposed on a church member, a congregational meeting shall be called by the session in accordance with G-1.0503g for the purpose of receiving the decision and censure. The verbal report to the congregation may contain only a summary of the decision and censure, but shall contain a statement of the nature of the offense, the name of the person being censured, and the censure. The summary shall be recorded in the minutes of the congregational meeting.

b. When a presbytery imposes a censure, if the council is meeting when the decision and censure are received from the clerk of the permanent judicial commission, the stated clerk shall report the decision and censure immediately and enter the full decision upon the minutes of the council. If the council is not meeting, the stated clerk shall report the decision to the council at its first stated or adjourned meeting or at a meeting called to hear the decision, whichever comes first, and enter the full decision upon the minutes of the council. The verbal report to the council may contain only a summary of the decision and censure, but shall contain a statement of the nature of

the offense, the name of the person being censured, and the censure. If the censure is imposed on a church member, the provision of D-9.0102c shall also be followed.

c. If the censure imposed by a presbytery was on a church member, rather than a minister of the Word and Sacrament, either because the member was a commissioned pastor at the time the offense was committed or because a higher council assumed jurisdiction under either D-7.0301d or D-7.0401, once the decision and censure have been reported in accordance with D-9.0102b, the decision and censure shall be distributed to the clerk of session of the church of membership. The clerk of session shall report the decision at the first stated or adjourned meeting of the session or at a meeting called to hear the decision, whichever comes first, and enter the full decision upon the minutes of the session. The verbal report to the session may contain only a summary of the decision and censure, but shall contain a statement of the nature of the offense, the name of the person being censured, and the censure. The session shall call a congregational meeting in accordance with G-1.0503g and report the decision as described in D-9.0102a above.

D-9.0103 Rebuke

Rebuke is the lowest degree of censure for an offense and is completed when pronounced. It consists of setting forth publicly the character of the offense, together with reproof, which shall be pronounced in the following or like form:

"Whereas, you, (Name) _____, have been found guilty of the offense(s) of _____ (here insert a summary of the offense), and by such offense(s) you have acted contrary to the Scriptures and/or the Constitution of the Presbyterian Church (U.S.A.); now, therefore, the Session or the Permanent Judicial Commission of the Presbytery of _____, in the name and authority of the Presbyterian Church (U.S.A.), expresses its condemnation of this offense, and rebukes you. This rebuke is given not with malice or vindictiveness but in Christian love to offer you correction in error and restoration that you may be more watchful and avoid such offense in the future. We urge you to use diligently the means of grace to the end that you may be more obedient to our Lord Jesus Christ."

This formal rebuke shall be followed by intercessory prayer to Almighty God.

D-9.0104 Rebuke with Supervised Rehabilitation

Rebuke with supervised rehabilitation is the next to lowest degree of censure. It consists of setting forth the character of the offense, together with reproof and mandating a period of supervised rehabilitation imposed by the session or permanent judicial commission as described at item b. of this section.

a. Communicate Goals – The session or permanent judicial commission shall formally communicate to the supervising entity and the person censured the goals of the rehabilitation and the specific authority conferred on the supervisor(s).

b. Supervised Rehabilitation – An outline of the rehabilitation program shall include a clear statement of how progress will be evaluated and how it will be determined when and if the supervised rehabilitation has been satisfactorily completed.

c. Voluntary Acts of Repentance – The rehabilitation program may include a voluntary act or acts of repentance by the person censured on their own initiative. Such acts may include, for example, public acknowledgement of guilt, community service, or symbolic or monetary restoration

of what was lost or expended by the person who was harmed. No session or permanent judicial commission may require or recommend any voluntary act of repentance, but may, in extraordinary circumstances, forbid such act.

d. Censure Pronouncement – This censure shall be pronounced in the following or like form:

"Whereas, you, (Name) _____, have been found guilty of the offense(s) of _____ , and by such offense(s) you have acted contrary to the Scriptures and/or the Constitution of the Presbyterian Church (U.S.A.); now, therefore, the Session or the Permanent Judicial Commission of the Presbytery of _____, in the name and authority of the Presbyterian Church (U.S.A.), expresses its condemnation of this offense, rebukes you, and orders you to complete a program of supervised rehabilitation supervised by _____ as described below: _____. This rebuke is given not with malice or vindictiveness but in Christian love to offer you correction in error and the possibility of full community restoration. You are enjoined to be more watchful and avoid such offense in the future. We urge you to use diligently the means of grace to the end that you may be more obedient to our Lord Jesus Christ."

This formal rebuke shall be followed by intercessory prayer to Almighty God.

D-9.0105 Temporary Exclusion

Temporary exclusion is a higher degree of censure for a more aggravated offense and shall be for a period defined by completion of supervised rehabilitation imposed by the session or the permanent judicial commission, which may include a minimum defined period of time. Temporary exclusion is from the exercise of ordered ministry for ordained members, and from membership rights for non-ordained members. During temporary exclusion membership may not be transferred.

a. Communicate Goals – The session or permanent judicial commission shall formally communicate to the supervising entity and the person censured the goals of the rehabilitation and the specific authority conferred on the supervisor(s).

b. Supervised Rehabilitation – An outline of the rehabilitation program shall include a clear statement of how progress will be evaluated and how it will be determined when and if the supervised rehabilitation has been satisfactorily completed.

c. Voluntary Acts of Repentance – The rehabilitation program may include a voluntary act or acts of repentance by the person censured on their own initiative. Such acts may include, for example, public acknowledgment of guilt, community service, or symbolic or monetary restoration of what was lost or expended by the person who was harmed. No session or permanent judicial commission may require or recommend any voluntary act of repentance, but may, in extraordinary circumstances, forbid such act.

d. Effects of Temporary Exclusion from the Exercise of Ordered Ministry – During the period of temporary exclusion from ordered ministry, the person under this exclusion shall refrain from the exercise of any function of ordered ministry. While under this exclusion, the person remains a member of their congregation or presbytery, but may not participate or vote in meetings of any council of the church, hold office, or serve on committees or commissions, except that the member may be present and may speak on matters related to that member. The person under this

exclusion shall not preach, teach, administer Sacraments, preside at other services of worship, or moderate sessions.

e. Effects of Temporary Exclusion from Membership Rights – During the period of temporary exclusion from membership rights of non-ordained church members, the person under this exclusion may continue to participate in the worship and life of the congregation of membership, but shall refrain from participating and voting in meetings of the congregation and from serving on committees, or holding any office or position of leadership in the congregation or in any council of the church.

f. Effect of Temporary Exclusion of a Pastor – If a minister of the Word and Sacrament serving in a pastoral relationship in a congregation (G-2.0504) is temporarily excluded from the exercise of ordered ministry, the presbytery may, if no appeal from the case is pending, declare the pastoral relationship dissolved.

g. Notice of Temporary Exclusion – When the censure of temporary exclusion has been pronounced with respect to a minister of the Word and Sacrament, the stated clerk of the presbytery shall immediately send the information of the action taken to the Stated Clerk of the General Assembly, who shall make a quarterly report of all such information to every presbytery of the church.

h. Termination of Censure of Temporary Exclusion – A person under the censure of temporary exclusion shall apply in writing to the council, through the clerk of session or stated clerk, for restoration upon the completion of the supervised rehabilitation pronounced. The council that imposed the censure may approve the restoration when the council is fully satisfied that the supervised rehabilitation pronounced has been successfully completed. The censure may include a time limit for the completion of all terms, after which, if the terms have not been met, the council may, at its discretion, grant an extension for a specified time or make the temporary exclusion permanent.

i. Early Restoration – A person under the censure of temporary exclusion from the exercise of ordered ministry or from membership may apply in writing to the council that imposed the censure (through its clerk) to be restored prior to any minimum period of time included in the censure. The council may approve such a restoration when it is fully satisfied that the action is justified.

j. Censure Pronouncement – This censure shall be pronounced in the following or like form:

"Whereas, you, (Name) _____, have been found guilty of the offense(s) of _____ (here insert the offense), and by such offense(s) you have acted contrary to the Scriptures and/or the Constitution of the Presbyterian Church (U.S.A.); now, therefore, the Session or the Permanent Judicial Commission of the Presbytery of_____, in the name and by the authority of the Presbyterian Church (U.S.A.), does now declare you temporarily excluded from _____ for a period of at least _____, and until completion of the following rehabilitation program supervised by _____, as described below: _____. This exclusion is given not with malice or vindictiveness but in Christian love to offer you correction in error and the possibility of full community restoration."

This formal declaration shall be followed by intercessory prayer to Almighty God.

D-9.0106 Removal from Ordered Ministry and/or Membership

Removal from ordered ministry and/or membership is the highest degree of censure. Removal from ordered ministry is the censure by which the ordination and election of the person found guilty are set aside, and the person is removed from all ordered ministries without removal from membership. Removal from membership is the censure by which the membership of the person found guilty is terminated, the person is removed from all rolls, and the person's ordination and election to all ordered ministries are set aside.

a. Consequences of Removal from Ordered Ministry – If a minister of the Word and Sacrament is removed from ordered ministry without removal from membership, the presbytery shall transfer the minister's membership to a Christian congregation of the minister's choice with the approval of the session or governing body of that congregation. If the minister is serving in a pastoral relationship in a congregation (G-2.0504), the pastoral relationship is automatically dissolved by the censure.

b. Notice of Removal – When the censure of removal has been pronounced with respect to a minister of the Word and Sacrament, the stated clerk of that presbytery shall immediately send the information of the action taken to the Stated Clerk of the General Assembly, who shall make a quarterly report of all such information to every presbytery of the church.

c. Censure Pronouncement – This censure shall be pronounced in the following or like form:

"Whereas, you, (Name) _____, have been found guilty of the offense(s) of_____(here insert the offense), and by such offense(s) you have acted contrary to the Scriptures and/or the Constitution of the Presbyterian Church (U.S.A.); now, therefore, the Session or the Permanent Judicial Commission of the Presbytery of _____, acting in the name and under the authority of the Presbyterian Church (U.S.A.), does hereby set aside and remove you from _____ (here state whether removal is from all ordered ministries and elected offices or from membership).This removal is given not with malice or vindictiveness but in Christian love to offer you correction in error and to restore the unity of the church by removing from it the discord and division the offense(s) have caused."

This formal declaration shall be followed by intercessory prayer to Almighty God.

D-9.02 Restoration

D-9.0201 Restoration to Membership or Ordered Ministry

A person under the censure of removal from ordered ministry or from membership may be restored by the council imposing the censure when the council is fully satisfied that the action is justified. The person makes a reaffirmation of faith for restoration of membership and/or is again ordained for restoration to ordered ministry.

D-9.0202 Restoration to Membership

The restoration to membership shall be announced by the moderator in a meeting of the council in the following or like form:

"Whereas, you, (Name) _____, have manifested such repentance as satisfies the church, the Presbytery (or Session) of _____ does now restore you to full membership in the church by this act of reaffirmation."

a. Thereafter, the act of reaffirmation shall take place and the name of the person shall be restored to the appropriate roll or a certificate of membership shall be issued to a Christian church of that person's choice.

b. If the member is also to be restored to an ordered ministry, the procedure prescribed in Restoration to Ordered Ministry (D-9.0203) shall be followed.

D-9.0203 Restoration to Ordered Ministry

The restoration to ordered ministry shall be announced by the moderator in the following or like form:

"Whereas, you, (Name) _____, have manifested such repentance as satisfies the church, the Presbytery of _____ (or Session of this church) does now restore you to the ordered ministry of _____ and authorize you to perform the functions of that ministry in accordance with the Constitution of this church by this act of ordination."

Thereafter, a full service of ordination shall take place in accordance with W-4.04 and the individual's name shall be restored to the appropriate roll.

CHAPTER X

DISCIPLINARY APPEALS

D-10.01 Filing an Appeal

D-10.0101 Definition

An appeal of a disciplinary case is the transfer to the next higher council of a case in which a decision has been rendered in a lower council, for the purpose of obtaining a review of the proceedings and decision in order to correct, modify, set aside, or reverse the decision.

D-10.0102 Initiation of Appeal

The time for filing an appeal shall begin from the date the decision is delivered to, or refused by, the person found guilty.

a. Only the person found guilty of an offense may initiate the first level of appeal.

b. Once the first appeal has been decided, either party may initiate the next level of appeal.

D-10.0103 Parties

The parties in a disciplinary appeal are the person found guilty and the Presbyterian Church (U.S.A.) through the prosecuting committee of the council that issued the censure.

D-10.02 Notice of Appeal

D-10.0201 Notice Filed

A written notice of appeal shall be filed with the stated clerk of the next higher council within forty-five (45) days after a copy of the final order was received by the appealing party. The written notice may be delivered by means of electronic communication, provided that the stated clerk certifies receipt of the notice, which may also be communicated electronically. If filing the notice electronically, care should be taken to deliver the notice in a manner that can clearly demonstrate timely filing. By written agreement of the parties, all additional filings may be electronic. The appealing party shall provide a copy of the written notice of appeal to the clerk of session or stated clerk of the council that issued the ruling, as well as to the stated clerk of the council that would hear the appeal, who shall distribute the notice to the other party or parties.

D-10.0202 Items to be Included

Items to be included in a notice of disciplinary appeal are as follows:

a. The name of the party filing the appeal (the appellant) and their counsel, if any;

b. The name of the other party (the appellee) and their counsel, if any;

c. The council from whose decision the appeal is taken;

d. A copy of the ruling; and

e. A statement and description of the errors alleged to have been made in the ruling that are the grounds for appeal. The grounds for which an appeal may be filed are:

(1) Irregularity in the proceedings,

(2) Refusing a party reasonable opportunity to be heard or to obtain or present evidence,

(3) Receiving improper, or declining to receive proper evidence or testimony,

(4) Hastening to a decision before the evidence or testimony is fully received,

(5) Manifestation of prejudice in the conduct of the case,

(6) Injustice in the process or decision,

(7) Error in constitutional interpretation, and

(8) Undue severity of censure.

f. A certification that a copy of the notice of appeal has been sent as required by D-10.0201 to the clerk of session or stated clerk of the council from whose decision the appeal is taken.

This certification may be in the form of an electronic communication if agreed upon in advance by the parties.

D-10.03 Duty of Stated Clerk

Upon receipt of the written notice of appeal, the stated clerk of the council that will hear the appeal shall transmit it to the officers of that council's permanent judicial commission and the other party. The notice of appeal, if properly and timely filed, shall suspend further proceedings by lower councils, until the appeal is finally decided, except that any censure may be enforced.

D-10.04 Withdrawal of Appeal

The parties in a disciplinary appeal are encouraged to seek resolution of their differences in a manner acceptable to all parties and consistent with the Constitution of the Presbyterian Church (U.S.A.). If at any time in the appeal process the parties to a disciplinary appeal jointly file with the stated clerk of the council hearing the appeal a petition for the withdrawal of the appeal, the stated clerk shall inform the members of the permanent judicial commission that the appeal has been withdrawn, which shall end the judicial process unless within seven (7) days any member of the permanent judicial commission challenges the withdrawal. If the withdrawal is so challenged, a majority of the commission at a duly constituted meeting may conclude that the withdrawal would defeat the ends of justice or conflict with the Constitution of the Presbyterian Church (U.S.A) and deny the request.

D-10.05 Preliminary Process

D-10.0501 Examination of Notice of Appeal

Upon receiving the notice of appeal, the moderator and clerk of the permanent judicial commission of the council that will hear the appeal shall promptly examine the notice of appeal to determine whether:

a. The council has jurisdiction,

b. The appellant has standing to file the appeal,

c. The appeal was timely and properly filed, and

d. The appeal states and describes one or more of the grounds for appeal listed in D-10.0202e.

D-10.0502 Preliminary Ruling

The officers of the permanent judicial commission shall report their determination to the parties and to the members of the commission in a preliminary ruling.

D-10.0503 Challenge to Preliminary Ruling

Within thirty (30) days after their receipt of the preliminary ruling, the parties and members of the permanent judicial commission may challenge the determination, in which case opportunity shall be provided for the parties to present evidence and argument on the determination(s) in question. A hearing may be requested by either party for the purpose of

hearing the challenge, or if the parties agree, the matter may be decided by the permanent judicial commission on the basis of documents submitted by the parties. If a hearing is requested, it should be held at least thirty (30) days prior to the hearing on the appeal, unless the officers of the permanent judicial commission determine that the circumstances, including expenditures of time and resources, warrant disposition of the challenge immediately prior to the hearing on the appeal. If the permanent judicial commission determines the answer to any of the four preliminary questions has been answered in the negative, the commission shall dismiss the appeal.

D-10.0504 When No Challenge is Received

When there are no challenges to the determination in the preliminary ruling, the following shall apply:

a. If no challenge is made to the preliminary ruling of the officers that one or more points in D-10.0501 are answered in the negative, the case shall be dismissed without further action or order of the permanent judicial commission.

b. If no challenge is made to the preliminary ruling of the officers that all of the points in D-10.0501 are answered in the affirmative, the stated clerk of the council shall schedule a hearing at a time acceptable to the parties and at which a quorum of the permanent judicial commission can be present.

D-10.06 Record of the Case

D-10.0601 List of Papers

Within forty-five (45) days after receipt of a notice of appeal, the clerk of session or stated clerk of the lower council shall list in writing to the parties all of the papers and other materials that would constitute the record of the case (see D-8.1201d & e). Within fifteen (15) days thereafter, either party may challenge the completeness or accuracy of the record as listed by the clerk of session or stated clerk. The clerk of session or stated clerk may, but is not required, to amend the list at the request of a party; however, any such challenge shall be added to the record when it is filed.

D-10.0602 Filing of Record on Appeal

Upon notice by the stated clerk of the council whose permanent judicial commission will hear the appeal that the case has been accepted, the clerk of session or stated clerk of the council from whose ruling the appeal is taken shall compile and file the record of the case with the stated clerk of the higher council, who shall distribute it to the members of the permanent judicial commission.

D-10.0603 Correction of the Record

If anything material to either party is omitted from the record by error or accident, or is misstated therein, the omission or misstatement may be corrected. The parties may stipulate to the correction, or the clerk of session or stated clerk of the lower council may certify and transmit a supplemental record, or the permanent judicial commission of the higher council may direct that the omission or misstatement be corrected. All other questions as to the form and content of the record shall be presented to the permanent judicial commission of the higher council, which shall

be decided by majority vote at a duly constituted meeting at least forty-five (45) days prior to the hearing on the appeal, which may be held electronically in accordance with G-3.0105.

D-10.07 Briefs

D-10.0701 Filing of Appellant Brief

Within thirty (30) days after the date of receiving the record on appeal, the appellant shall file with the stated clerk of the higher council a written brief containing specifications of the errors alleged in the notice of appeal and arguments, reasons, and citations of authorities in support of the appellant's contentions. Copies of the brief shall be distributed by the stated clerk to the members of the permanent judicial commission and to the opposing party.

D-10.0702 Failure of Appellant to File Brief

Failure of the appellant to file a brief within the timeline allowed, without good cause, shall be deemed by the permanent judicial commission as an abandonment of the appeal.

D-10.0703 Filing of Appellee Brief

Within thirty (30) days of the receipt of the appellant's brief, the appellee shall file with the stated clerk of the council whose permanent judicial commission will hear the appeal a brief in response to the appellant's brief. Copies of the brief shall be distributed by the stated clerk to the members of the commission and to the opposing party.

D-10.0704 Failure of Appellee to File Brief

Failure of the appellee to file a brief within the time allowed, without good cause, shall constitute waiver of the rights to file a brief, to appear, and to be heard.

D-10.0705 Filing of Appellant Reply Brief

Within fifteen (15) days of receipt of the appellee's brief, the appellant may file a reply brief limited to the issues raised in the appellee's brief. Copies of the brief shall be distributed by the stated clerk to the members of the permanent judicial commission and to the other party.

D-10.08 Extensions

For good cause shown, the stated clerk of the higher council may extend any of the time limits contained in D-10.06 or D-10.07 for a reasonable period.

D-10.09 Transmittal of Record and Briefs

Upon receipt of the record and the briefs, or upon the expiration of the time for filing them, the stated clerk of the higher council shall transmit the record and briefs to the clerk of the permanent judicial commission.

D-10.10 Prehearing Conference

At any time after an appeal has been received by a permanent judicial commission, the commission may provide for the parties and their counsel, if any, for the opportunity in a

prehearing conference to seek agreement on any of the disputed issues in the appeal and to take other action which might reasonably and impartially narrow the dispute and expedite its resolution.

D-10.11 Hearing of Appeal

The moderator or clerk of the permanent judicial commission shall notify the parties of the date when they may appear in person or by counsel before the permanent judicial commission. Failure of a party to appear in person or by counsel shall constitute a waiver of participation in the hearing of the appeal. At the hearing, the permanent judicial commission shall give opportunity to be heard on the grounds of the appeal to those parties who have not waived that right. The appellant has the right of opening and closing the argument.

D-10.12 Decision of the Permanent Judicial Commission

D-10.1201 Standard of Review

Factual determinations by the session or permanent judicial commission that tried the case shall be accorded a presumption of correctness in appeals. Factual determinations are not to be disturbed unless they are plainly wrong, without supporting evidence, or manifestly unjust. Determinations related to the correct interpretation and application of provisions of the Constitution of the Presbyterian Church (U.S.A.) are not accorded the same presumption of correctness.

D-10.1202 Voting Procedure

After the hearing and after deliberation, the permanent judicial commission shall vote separately on each specification of error alleged. The vote, which shall be by counted vote, shall be on the question, "Shall the specification of error be sustained?" The minutes shall record the vote on each specification of error. A majority vote sustains each specification of error.

D-10.1203 Decision

The decision of the permanent judicial commission shall include the determination of errors specified, and state the remedy as provided in D-10.0101. The permanent judicial commission may prepare its decision in a manner that will dispose of all substantive questions without redundancy. It should include an explanation of its determinations.

a. Decisions of permanent judicial commissions other than the General Assembly's Permanent Judicial Commission are binding only on the parties to the case.

b. If none of the specifications of error is sustained, and no other error is found, the decision of the lower council shall be affirmed.

c. If one or more errors are found, the permanent judicial commission may conclude that despite the errors found, the decision of the lower council is affirmed. Alternatively, it may reverse the decision of the lower council either completely or in part, and if reversed in part, it may determine whether the decision of the lower council shall be modified or set aside, or the case remanded for a new trial.

d. The questions presented for decision shall be fully debated and voted upon while all participating permanent judicial commission members are present. A written outline of a decision shall be prepared while in session. A written decision shall be reviewed by all participating members of the panel, which may take place either while the participating permanent judicial commission members are present or by meeting within ten (10) days either in person, or electronically in accordance with G-3.0105.

e. The decision shall become the final decision when a copy of the written decision is signed by the moderator and clerk of the permanent judicial commission. A copy of the decision shall immediately be delivered to the parties to the case in accordance with D-7.0104b, or electronic communication if agreed upon in advance by the parties.

D-10.1204 Effect of Reversal on Appeal in Disciplinary Case

If the permanent judicial commission reverses all determinations of guilt, it becomes an acquittal and the person is automatically restored to ordered ministry or membership in the church. This declaration shall be made in the lower council and recorded in the minutes of the lower council with jurisdiction over the person found guilty."

Background and Rationale

The Presbytery of Chicago sent an overture to the 223rd General Assembly (2018) to revise the Rules of Discipline to make them more accessible to the church, to preserve and enhance the accountability of councils and individuals to the church, to expand the role of mediation and alternate dispute resolution, and to provide flexibility in crafting censures and remedies, particularly in the light of recent learnings in ethical and social development and experiments by the secular legal system with alternative sentencing. The Rules of Discipline Task Force was appointed by the General Assembly moderators in 2017 to bring the revision to the 224th General Assembly for consideration.

The task force presents a revision which responds to its charge in the following ways:

1. To make this portion of the *Book of Order* more accessible to the church, the revision:

   a. Divides it into three major sections. Section I contains the Preamble, a chapter on judicial process and a chapter on the composition and function of permanent judicial commissions. The second section describes remedial process start to finish. The third section describes disciplinary process start to finish.

   b. Brings into the Constitution of the Presbyterian Church (U.S.A.) authoritative interpretations which are frequently used in deciding judicial cases and are currently available only in the annotated version of the *Book of Order*.

   c. Changes the name of the section to Church Discipline to emphasize that this process is for the internal discipline of the Presbyterian Church (U.S.A.), its members and councils.

   d. Restructures the Preamble to begin with the theological grounding of church discipline, to clarify that it is for the internal discipline of the church. The purposes of church discipline are set apart with bullet points. They are the same purposes listed in the current rules but set apart to make them easier to find and identify.

e. Clearly defines the steps in each process, responsibilities of those involved, and time limits.

f. Allows for the use of electronic communication not available the last time the Rules of Discipline were revised in 1996, thus creating potential savings of cost and time for the church.

2. To preserve and enhance the accountability of councils and individuals this revision:

a. Is ordered to make it easier to understand and follow.

b. Preserves rules that have guided the church for generations.

c. Stresses that Church Discipline is based on Scripture and the Constitution of the Presbyterian Church (U.S.A.), not on secular standards of jurisprudence.

d. Defines rules and process in language accessible to members not well-versed in church discipline, and as far as possible removes language also used in secular judicial process to prevent confusion.

e. Emphasizes repeatedly that those engaged in this process, those who file complaints, those who bring allegations, those who seek vindication, those accused, and those who act as counsel for any of the first groups must be Presbyterian. Mediators and facilitators and those who act as advocates need not be Presbyterian but do need to be familiar with Church Discipline of the Presbyterian Church (U.S.A.). Presbyterians can file allegations on behalf of persons who are not Presbyterian.

f. Moves the rules on vindication into the section on discipline. Those seeking vindication seek to be vindicated from rumor and gossip by persons unknown or outside the jurisdiction of the church. If in the process, members of the Presbyterian Church (U.S.A.) are identified against whom allegations should be filed, the section specifically spells out the provisions for filing those allegations.

g. Calls attention to provisions in the Form of Government for pastoral response when disciplinary cases are ended by death or renunciation of jurisdiction by the accused.

h. Provides for the nomination of permanent judicial commissions broadly representative of the makeup of a council and for the inclusion of former members of permanent judicial commissions with attention to the principles of full participation and inclusion to make up a quorum in trying cases.

3. To expand the role of mediation and alternate dispute resolution, the revision:

a. Adds an alternative resolution based on principles of restorative justice and spells out what is involved in that process.

b. Provides for three forms of alternative resolution: Restorative Justice, Mediation, and Other Negotiated Agreements. The more appropriate of the first two forms is provided for those instances when an accused agrees to plead guilty to charges and seeks to make restitution. The third is only for those instances when it is necessary to negotiate a plea before charges and a guilty plea can be filed. Sessions and presbytery permanent judicial commissions can take the

three into account when determining degree of censure.

c. Defines mediators as persons known for calm, wise counsel who need not be certified. This opens the possibility of mediation in areas where certified mediators are not available.

4. To provide flexibility in crafting censures and remedies, the revision:

a. Adds language to remind the guilty and the session or presbytery that censure in church discipline is given not with malice or vindictiveness but in Christian love to offer correction in error and restoration or in the case of removal from office or membership to restore the unity of the church by removing from it the discord and division the offense(s) have caused.

b. Spells out specific remedies appropriate to each degree of censure.

Advice—From the Advisory Committee on the Constitution (ACC)

The Advisory Committee on the Constitution advises the 225th General Assembly (2022) to approve ROD-03 with amendment.

The Advisory Committee on the Constitution makes the following preliminary observations:

1. As it considers this document, the Assembly is reminded that in this *Book of Order*:

a. SHALL and IS TO BE/ARE TO BE signify practice that is mandated,

b. SHOULD signifies practice that is strongly recommended,

c. IS APPROPRIATE signifies practice that is commended as suitable,

d. MAY signifies practice that is permissible but not required.

e. ADVISORY HANDBOOK signifies a handbook produced by agencies of the General Assembly to guide synods and presbyteries in procedures related to the oversight of ministry. Such handbooks suggest procedures that are commended, but not required.

… The Advisory Committee on the Constitution advises the 225th General Assembly (2022) as follows concerning item ROD-03. Silence regarding any particular provision may be interpreted, in this instance, as the Advisory Committee on the Constitution's advising the assembly to approve the provision without amendment.

D-3.0201 Classes and Terms

The Advisory Committee on the Constitution advises this provision presents issues:

"Permanent judicial commissions shall be arranged in three classes of six years each, with each class as equal as possible in size and with one class completing its term every two years" is substantially different than the current Rules of Discipline requirement that "no more than one half of the members to be in one class."

The Advisory Committee on the Constitution questions whether a provision for transition is necessary.

Chapter 4, Opening Paragraph (and following)

The Advisory Committee on the Constitution advises that the paragraph be approved with amendment as follows:

Strike the word "file" (and its conjugations) throughout Chapter 4 and replace it with the word "submit" (and its conjugations).

"File" raises the question of timeliness, as it may mean either the date on which a document was submitted or the date on which the document was received. "Submit" clarifies that timeliness is defined by the date on which the parties sent a document. It further removes potential unpredictability from the work of delivery services.

D-4.0703

The Advisory Committee on the Constitution advises approving this provision with amendment:

"The committee of counsel of the respondent shall file with [submit to] the stated clerk of the higher council…"

The idea of a committee of counsel has not yet been introduced in the document. In all other places in Chapter 4, the respondent is the one acting. Any actions by a committee of counsel still are understood as the actions of the respondent itself.

Chapter 5

D-5.0101b

The Advisory Committee on the Constitution advises approving this provision with amendment: "… the complainant may request in writing that the respondent clerk file [submit] additional minutes …" See advice at Chapter 4, opening paragraph.

D-5.0101c

The Advisory Committee on the Constitution advises approving this provision with amendment: "… the clerk or session or stated clerk of the respondent council shall transmit [submit] to the stated clerk of the higher council …"

See advice at Chapter 4, opening paragraph.

D-5.0102

The Advisory Committee on the Constitution advises approving this provision with amendment: "When the minutes and papers [included in D-5.0101a and D-5.0101b] have been filed with [submitted to] the stated clerk …"

Adding a reference to the provisions defining the minutes and papers will limit the opportunity for misunderstanding. Regarding the proposed change from "filed with" to "submitted to," see advice under the opening paragraph of Chapter 4.

Chapter 7

D-7.0104a

The Advisory Committee on the Constitution advises approving this provision with amendment: "All seven days of every week are included in the count, including holidays, and the document shall be deemed timely filed if it is received by [submitted to] the person or persons to whom it is required to be sent on or before the final day of the count. When the final date of the count falls on a weekend or holiday, the document shall be deemed timely filed if it is received [submitted] on the next business day after the final day of the count."

See advice under the opening paragraph of Chapter 4.

Chapter 8

D-8.0104b

The Advisory Committee on the Constitution advises approving this provision with amendment: "At least thirty (30) [forty-five (45)] days in advance of the trial, the prosecuting committee shall provide the clerk of session or clerk of the permanent judicial commission and the other party with their list of witnesses and an outline of the evidence to be presented at trial. The accused shall provide the clerk of session or clerk of the permanent judicial commission and the other party with a preliminary list of witnesses. Parties or their representatives shall not contact the other party's witnesses prior to the trial. [A party may petition the session or permanent judicial commission, for good cause shown, to restrict or deny permission to contact a particular witness prior to trial.]"

… The stricture against contacting the other side's witnesses is a fundamental denial of due process to the accused. There is no limitation on who a party may add to a witness list, and any party could list so many names that the other side cannot prepare for trial in any meaningful way.

Chapter 10

D-10.03

The Advisory Committee on the Constitution advises approving this provision with amendment:

"The notice of appeal, if properly and timely filed [submitted], shall suspend further proceedings by lower councils, except any censure shall continue until the appeal is finally decided [until the appeal is finally decided, except that any censure may be enforced]."

Regarding "filed" vs. "submitted," see advice at Chapter 4, opening paragraph.

Advice and Counsel—From the Advocacy Committee for Women's Concerns (ACWC)

The Advocacy Committee for Women's Concerns/Racial Equity Advocacy Committee advises that the General Assembly approve ROD-03.

As the creators of 222nd General Assembly (2016) approved resolution 05-09, to Ensure Adoption and Implementation of Child/Youth Protection Policies and Resources in the PC(USA) and 223rd General Assembly (2018) approved resolution 11-09 on Sexual Misconduct in the PC(USA), the Advocacy Committee for Women's Concerns has long been on the forefront of advocating for policy changes that will prevent sexual abuse within the PC(USA).

ACWC concurs that the current Rules of Discipline section should be deleted and that the recommended Church Discipline section be inserted in its place. ACWC is particularly appreciative that the Rules of Discipline Task Force worked cooperatively with ACWC for input on these important policy changes. It is of utmost importance that the 224th General Assembly (2020) approve these policies that protect the vulnerable.

The Assembly Committee on Rules of Discipline amended and approved Item ROD-03, 24/0. The 225th General Assembly (2022) approved Item ROD-03, 354/9.

For the full report on ROD-03, go to https://www.pc-biz.org/#/committee/3000083/business.