

1 **CHURCH DISCIPLINE**

2
3 **CHAPTER I**

4
5 **PRINCIPLES OF CHURCH DISCIPLINE**

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7 **PREAMBLE**

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10 **D-1.01 Power Vested in Christ's Church**

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

16
17 **D-1.02 Church Discipline Defined**

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19 *D-1.0201 Church Discipline Defined*

20
21 Church discipline is the church's exercise of authority given by Christ, both to guide, control, and
22 nurture its members, and for the constructive criticism of offenders. The church's judicial process does
23 not exist as a substitute for the secular judicial system, but to do what the secular judicial system cannot
24 do. The Constitution of the Presbyterian Church (U.S.A.) is infused with principles and standards to
25 which all active members of congregations and ministers of the Word and Sacrament voluntarily submit.

26
27 *D-1.0202 Limits of Church Discipline*

28
29 Church discipline alone is not adequate to mediate intrinsic differences of theology, polity, policy,
30 power, or trust. Broader issues of conflict are also addressed by constitutional amendment, mediation,
31 administrative review, and administrative commissions. Church discipline through the judicial process
32 shall be used when individuals or councils of the church are unable to bring about settlement of issues or
33 when such settlement would be unwise, unjust, or ineffective, and have determined after prayerful
34 deliberation that judicial process is necessary to ensure that individuals or councils are held accountable
35 for their actions or inactions.

36
37 **D-1.03 Purpose of Church Discipline**

38
39 *D-1.0301 Purpose of Church Discipline*

40
41 Thus, the purpose of church discipline is:

- 42
- 43 • to honor God by making clear the significance of membership in the body of Christ;
 - 44 • to preserve the purity of the church by nourishing the individual within the life of the believing
45 community;
 - 46 • to achieve justice and compassion for all participants involved;
 - 47 • to correct or restrain wrongdoing in order to bring members to repentance and restoration;
 - 48 • to uphold the dignity of those who have been harmed by offenses;
 - 49 • to restore the unity of the church by removing the causes of discord and division; and

50 • to secure the just, speedy, and economical determination of proceedings.

51

52 *D-1.0302 Due Process*

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

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58 **D-1.04 Conciliate and Mediate**

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

70 **CHAPTER II**

71 **JUDICIAL PROCESS DEFINED**

72
73
74 **D-2.01 Judicial Process**

75
76 *D-2.0101 Processes of Accountability*

77
78 Church discipline in the Presbyterian Church (U.S.A.) is accomplished through judicial processes of
79 accountability. Accountability of councils is accomplished through remedial process. Accountability of
80 individuals is accomplished through disciplinary process.

81
82 *D-2.0102 Councils of the Church*

83
84 The councils of the church are sessions, presbyteries, synods, and the General Assembly. Sessions
85 conduct trials of church members in disciplinary processes. Presbyteries, synods, and the General
86 Assembly conduct trials and appeals of both remedial and disciplinary processes through permanent
87 judicial commissions.

88
89 **D-2.02 Remedial Process**

90
91 *D-2.0201 Accountability of Councils*

92
93 Remediation is the process by which councils are held accountable to the church, to their members,
94 and to each other. Through remediation, actions or omissions contrary to the Constitution by a lower
95 council or an entity of the General Assembly may be corrected by a higher council.

96
97 *D-2.0202 Irregularities and Delinquencies*

98
99 As defined in D-4.0201, actions contrary to the Constitution of the Presbyterian Church (U.S.A.) are
100 known as “irregularities,” while omissions contrary to the Constitution of the Presbyterian Church
101 (U.S.A.) are known as “delinquencies.”

102
103 **D-2.03 Disciplinary Process**

104
105 *D-2.0301 Accountability of Individuals*

106
107 Disciplinary process is the process by which active members of congregations and ministers of the
108 Word and Sacrament are held accountable to the church and to each other, and may be censured for an
109 offense for the purpose of restoring the wholeness of the body of Christ.

110
111 *D-2.0302 Definition of an Offense*

112
113 An offense as defined in D-7.0103 is any act or omission by a member of a congregation or a
114 minister of the Word and Sacrament that is contrary to the Scriptures or the Constitution of the
115 Presbyterian Church (U.S.A.).

116
117 **D-2.04 Standards and Process**

118

119 Standards and procedures used in judicial processes are those contained in the Constitution of the
120 Presbyterian Church (U.S.A.) and its parliamentary authority, in accordance with G-3.0105.
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123 **CHAPTER III**

124 **PERMANENT JUDICIAL COMMISSIONS**

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127 **D-3.01 Election**

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129 *D-3.0101 Composition*

130
131 The General Assembly, each synod or set of cooperating synods, and each presbytery shall elect a
132 permanent judicial commission from the ministers of the Word and Sacrament and ruling elders subject
133 to its jurisdiction. Each permanent judicial commission shall be composed of ministers of the Word and
134 Sacrament and ruling elders in numbers as nearly equal as possible, nominated in accordance with the
135 principles for the election of a nominating entity required by G-3.0111 and in conformity to the church's
136 commitment to unity in diversity (F-1.0403). When the permanent judicial commission consists of an
137 odd number of members, the additional member may be either a minister of the Word and Sacrament or
138 a ruling elder.

139
140 a. The General Assembly commission shall be composed of one member from each of its
141 constituent synods.

142
143 b. Synod commissions shall be composed of no fewer than eleven members distributed
144 equally, insofar as possible, among the constituent presbyteries. In those synods with fewer than eleven
145 presbyteries, each presbytery shall have at least one member. When a set of two or more synods form a
146 shared permanent judicial commission, the commission shall be composed of no fewer than twelve
147 members, with each synod in the set electing members proportional to the number of the presbyteries in
148 each synod, insofar as possible. The cooperating synods shall designate between them one stated clerk to
149 process the cases filed with the shared permanent judicial commission.

150
151 c. Presbytery commissions shall be composed of no fewer than seven members, with no
152 more than one of its ruling elder members from any one of its constituent congregations.

153
154 *D-3.0102 Reviewers and Effect on Quorum*

155
156 The stated clerk shall designate a special committee of three persons to review any petition for
157 review of the procedures of the investigating committee while the investigation in a disciplinary case is
158 in process (D-7.11), to review any petition for review of the decision not to file charges (D-7.1402), and
159 to determine the need for administrative leave (D-7.0902). The special committee shall be composed of
160 at least one current member of the permanent judicial commission, and may include up to two former
161 members of the permanent judicial commission from the list of former commissioners required by D-
162 3.0602b. The members of the special committee shall not take part in any subsequent trial. When a case
163 proceeds to trial after a review, the quorum of the permanent judicial commission shall be a majority of
164 its members who did not participate in the review, but in no case shall a quorum be fewer than five
165 members (D-3.0602). A session shall refer any petition for review to the presbytery stated clerk, who
166 shall follow this process for the creation of a special committee.

167
168 **D-3.02 Service**

169
170 *D-3.0201 Classes and Terms*

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

174
175 *D-3.0202 Vacancies*

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177 Vacancies on permanent judicial commissions shall be addressed as follows:

178
179 a. A vacancy on any permanent judicial commission due to resignation, death, or any other
180 cause may be filled by the electing council, which may elect a person to fill the unexpired term at any
181 future meeting.

182
183 b. In each even-numbered year, the General Assembly shall elect members for the next class
184 of the General Assembly Permanent Judicial Commission and fill any vacancies then occurring. Such
185 members' terms of office will begin with the dissolution of the General Assembly at which they are
186 elected.

187
188 *D-3.0203 Eligibility*

189
190 Eligibility for service on a permanent judicial commission is subject to the following additional
191 conditions:

192
193 a. In filling vacancies for unexpired terms, a member who has served more than half a term
194 is considered to have served a full term, and is ineligible for immediate re-election.

195
196 b. No person who has served on a permanent judicial commission for a full term shall be
197 eligible for reelection until two years have elapsed after the expired six-year term. No person shall serve
198 on more than one permanent judicial commission at the same time. No person who is a member of any
199 other entity elected by the General Assembly shall serve on the permanent judicial commission of the
200 General Assembly until that person shall have resigned such membership. The moderator, stated clerk,
201 or any member of the staff of a council or the staff of any of its entities shall not serve on its permanent
202 judicial commission.

203
204 c. Continuing membership on a presbytery permanent judicial commission is dependent on
205 membership in a congregation of the presbytery or in the presbytery.

206
207 d. Continuing membership on a synod permanent judicial commission is contingent on the
208 synod's rules of representation, but may not include any person not a member of a congregation or
209 presbytery of the synod.

210
211 e. Continuing membership on the General Assembly permanent judicial commission shall
212 end when that member transfers membership to a church or presbytery outside the synod from which
213 nominated.

214
215 **D-3.03 Commission Expenses**

216
217 All necessary expenses of a permanent judicial commission shall be paid by the electing council or
218 councils. A set of cooperating synods shall pay the necessary expenses of its shared permanent judicial
219 commission equally; however, each synod in such a set shall pay the necessary expenses for processing
220 a particular judicial case arising within its bounds.

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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

270 provide by rule for the method of rotation to incorporate the principles of participation and
271 representation in accordance with G-3.0111 and F-1.0403.

272

273 d. Inability to Reach a Quorum

274

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

278

279 e. Participant Expenses

280

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

284

285 **CHAPTER IV**

286 **REMEDIATION**

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289 **D-4.01 Remedial Process**

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291 *D-4.0101 Purpose*

292
293 The purpose of remediation is to further the peace, unity, and purity of the church by ensuring that
294 the Constitution of the Presbyterian Church (U.S.A.) is upheld, and that disputes regarding its
295 requirements are addressed in a manner that is both fair and just to all concerned.

296
297 *D-4.0102 Limitations of Judicial Process*

298
299 While a remedial complaint may be filed *by* individuals, it can never be filed *against* individuals.
300 Nor may a remedial complaint be filed against a congregation or a committee or commission of a
301 council below the General Assembly. A session is responsible for correcting constitutional errors or
302 omissions by its congregation in accordance with G-3.0201. As explained below, complaints may only
303 be filed against sessions, presbyteries, synods, and entities of the General Assembly, and only by one or
304 more individuals or councils of the church who have standing to complain.

305
306 *D-4.0103 Deadlines and Filings*

307
308 a. Deadlines

309
310 In determining whether or not a document is timely filed, the day following the event giving rise
311 to the time limit begins the count as day one (for example, the day following the date on which a council
312 action is taken, or on which a party receives a decision). All seven days of every week are included in
313 the count, including holidays, and the document shall be deemed timely filed if it is received by the
314 person or persons to whom it is required to be sent on or before the final day of the count. When the
315 final date of the count falls on a weekend or holiday, the document shall be deemed timely filed if it
316 is received on the next business day after the final day of the count.

317
318 b. Methods of Filing

319
320 Any document required to be filed may be sent or delivered by United States Postal Service
321 certified mail, return receipt requested; commercial courier, with delivery receipt requested; personal
322 delivery; or electronically when so permitted in these rules.

323
324 **D-4.02 Filing a Complaint**

325
326 *D-4.0201 Initiation*

327
328 Remedial process is initiated by the filing of a complaint with the stated clerk of the council having
329 jurisdiction. A complaint shall allege one or more specific irregularities or delinquencies of a council.

330

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

333

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

335

336 *D-4.0202 Stated Clerk Responsibility*

337

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

342

343 *D-4.0203 Parties*

344

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

347

348 *D-4.0204 Committees of Counsel*

349

350 a. Composition

351

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

357

358 b. Provide by Rule

359

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

364

365 c. Who Shall Not Serve

366

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

370

371 *D-4.0205 Time Limits*

372

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

374

375 a. In the case of an alleged irregularity, if a stay of enforcement is also sought, (as described
376 below in section 4.04), then a complaint of an alleged irregularity shall be filed no later than thirty (30)

377 days after the council's action being complained against (or in the case of an appeal, from the date on
378 which the appealing party was notified of the decision of the permanent judicial commission). If no stay
379 of enforcement is being requested, then a complaint of an alleged irregularity shall be filed no later than
380 ninety (90) days after the council's action.

381

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

385

386 *D-4.0206 Standing and Jurisdiction in Remedial Cases*

387

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

389

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

393

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

395

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

399

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

404

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

406

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

410

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

414

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

416

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

419

420 j. When the council of jurisdiction as defined in this section fails to act in a particular
421 remedial case for a period of sixty days after the filing of a complaint or thirty days after the filing of a
422 complaint with a request for a stay of enforcement, the next higher council, at the written request of any

423 party, may assume jurisdiction in the case. It may then either return jurisdiction to the lower council
424 with specific instructions on how to proceed, or it may retain jurisdiction and conclude the matter itself.

425 *D-4.0207 Effects of Jurisdiction*

426
427
428 Jurisdiction in remedial process has the following particular effects:

429
430 a. Each council shall recognize and enforce the judgments, decisions, and orders of higher
431 councils which have jurisdiction over them under the provisions of the Constitution of the Presbyterian
432 Church (U.S.A.).

433
434 b. Decisions of the permanent judicial commissions of synods and presbyteries are binding
435 on the parties to the particular cases in which the decisions are rendered unless overturned on appeal. No
436 synod or presbytery permanent judicial commission is able to make its decisions binding beyond the
437 parties to the particular case by simply declaring it to be so.

438
439 c. Only the General Assembly Permanent Judicial Commission has the power to render
440 decisions that are authoritative interpretations binding on the entire church (G-13.0103r).

441 **D-4.03 Contents of a Complaint**

442 *D-4.0301 Items to be Included*

443
444
445
446 Items to be included in a complaint are as follows:

447
448 a. The name of the complainant(s) and the name of the respondent.

449
450 b. The particular irregularity including the date, place, and circumstances thereof; or the
451 particular delinquency including the dates of the written request to cure the delinquency and of the next
452 meeting at which the respondent failed to do so.

453
454 c. The reasons for complaint of the irregularity or delinquency.

455
456 d. A statement of facts demonstrating that the complainant(s) may file the complaint in
457 accordance with D-4.0206 above.

458
459 e. The remedy or correction requested (called “relief”), which must be within the authority
460 of the council receiving the complaint to grant.

461 *D-4.0302 Method of Filing*

462
463
464 The complaint shall be sent or delivered by United States Postal Service certified mail, return receipt
465 requested; commercial courier, with delivery receipt requested; or personal delivery in accordance with
466 D-4.0103b. The complainant(s) shall then file with the stated clerk a receipt signed by the addressee or
467 an affidavit of personal service. At the written agreement of both parties, all further communication may
468 be handled electronically.

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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,

- 515 ii. monetary awards other than those that require councils to honor existing
- 516 contracts,
- 517 iii. relief that has been rendered moot,
- 518 iv. relief that is contrary to the Constitution of the Presbyterian Church (U.S.A.).

519
520 b. For the request for a stay of enforcement if made under D-4.0401a or b, whether the
521 request is complete and timely filed.

522
523 *D-4.0502 Preliminary Ruling*

524
525 A preliminary ruling is a decision by the moderator and clerk of a permanent judicial commission
526 either to accept a case for trial or to dismiss the case because one or more of the five questions in D-
527 4.0501a is answered in the negative.

528
529 a. If a request for a stay of enforcement is made under D-4.0401a or b, a stay of
530 enforcement may be entered immediately by the moderator and clerk if they determine that the request is
531 complete and timely and the preliminary issues are met for the complaint or appeal.

532
533 b. In their consideration of the preliminary questions in D-4.0501a, the officers shall assume
534 the truth of the facts alleged.

535
536 c. Within ten (10) days after their receipt of the complaint, the officers shall report their
537 determinations to the stated clerk of the council in a preliminary ruling. The stated clerk shall
538 immediately distribute the preliminary ruling to the parties, and to the members of the permanent
539 judicial commission along with the complaint (or appeal, for purposes of processing a request for a stay
540 of enforcement on appeal) and the request for a stay of enforcement, if one has been received.

541
542 **D-4.06 Processing a Request for a Stay of Enforcement If Made Under D-4.0401c.**

543
544 *D-4.0601 Consideration of Request*

545
546 If a request for a stay of enforcement is made under D-4.0401c, a stay of enforcement may be
547 entered by three members of the permanent judicial commission that will hear the case within ten (10)
548 days of receiving the request, the complaint (or in an appeal, of the notice of appeal), and the
549 preliminary ruling. Each permanent judicial commission member affirming the request shall include a
550 summary of the specific council action(s) or decision(s) being stayed, and a statement that in their
551 judgment:

- 552
553 a. substantial harm will occur if the action or decision is not stayed, and
- 554
555 b. probable grounds exist for finding the decision or action erroneous.

556
557 *D-4.0602 Determination and Filings*

558
559 In determining whether to grant a stay of enforcement, the following applies:

560

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

563

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

567

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

570

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

573

574 **D-4.07 Response and Next Actions**

575

576 *D-4.0701 If the Preliminary Ruling Accepts the Case*

577

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

584

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

588

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

591

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

593

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

595

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

601

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

604

605 *D-4.0703 Answer to Complaint*

606

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

613
614 a. The answer may also raise any issues related to the determinations contained in D-
615 4.0501a and may include a motion to dismiss the complaint.

616
617 b. If a stay of enforcement has been entered, the respondent's answer may also challenge
618 the stay of enforcement, in which case the matter shall proceed as described in D-4.0704.

619
620 c. The stated clerk shall distribute the answer to the complainant(s) and to the permanent
621 judicial commission.

622
623 *D-4.0704 Challenge to Preliminary Ruling and Stay of Enforcement*

624
625 If a preliminary ruling or a stay of enforcement is challenged under the provisions of this chapter,
626 opportunity shall be provided to present evidence and argument on the determination(s) in question, or
627 on the stay of enforcement. The parties shall be invited to submit briefs, and may agree to allow the
628 permanent judicial commission to decide the matter on the basis of those briefs in place of a hearing.
629 The permanent judicial commission shall then enter a final ruling on the matter either dismissing the
630 case or accepting it for trial, and either affirming or lifting the stay of enforcement, if one has been
631 entered.
632

633 CHAPTER V

634 TRIAL IN A REMEDIAL CASE

635
636
637 **D-5.01 Pretrial Procedures**

638
639 *D-5.0101 Duties of Respondent Stated Clerk*

640
641 In pretrial procedures, the duties of the respondent stated clerk are as follows:

642
643 a. Within forty-five (45) days after the receipt of a complaint, the clerk of session or stated
644 clerk of the respondent council shall list in writing to the parties all of the papers and other materials
645 pertaining to the case.

646
647 b. Within thirty (30) days thereafter, the complainant may request in writing that the
648 respondent clerk file additional minutes or papers pertaining to the case. Questions as to the relevance or
649 reasonableness of requests shall be decided by the officers of the permanent judicial commission or their
650 designees.

651
652 c. Upon notification by the stated clerk of the higher council of jurisdiction that the case has
653 been accepted, the clerk of session or stated clerk of the respondent council shall transmit to the stated
654 clerk of the higher council without delay the minutes and papers pertaining to the case, along with the
655 list of the record.

656
657 *D-5.0102 Record of the Case*

658
659 When the minutes and papers have been filed with the stated clerk of the higher council, the stated
660 clerk shall organize and transmit them to the parties and to the permanent judicial commission and give
661 notice to the parties of an estimated date for trial.

662
663 *D-5.0103 Additional Filings*

664
665 The permanent judicial commission may require the parties to file statements, also known as briefs,
666 outlining the evidence to be offered at trial and the theories of the parties' respective claims and
667 defenses.

668
669 *D-5.0104 Pretrial Conference*

670
671 At any time after a case is received by a permanent judicial commission, the commission may
672 provide for the parties or their counsel, if any, to explore settlement possibilities; or, in a pretrial
673 conference, to seek agreement on a statement of facts and disputed issues, to exchange documents and
674 other evidence, and to take other action which might reasonably and impartially narrow the dispute and
675 expedite its resolution. The moderator and clerk of the permanent judicial commission, or their
676 designees, shall set a date, time and place for the pretrial conference, and conduct it on the commission's
677 behalf.

678 **D-5.02 Conduct of Trial**

679

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

686

687 **D-5.03 Citations and Testimony**

688

689 *D-5.0301 Citation of Parties and Witnesses*

690

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

695

696 *D-5.0302 Who May Be Cited*

697

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

701

702 *D-5.0303 Witnesses from Another Council*

703

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

708

709 *D-5.0304 Expenses*

710

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

713

714 *D-5.0305 Service of Citation*

715

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

723

724 **D-5.04 Electronically Received Testimony**

725

726 Witnesses may be granted permission by the permanent judicial commission to appear electronically
727 if unable to attend a trial that is held in person, in accordance with the provisions of G-3.0105 and D-
728 5.02.

729

730 **D-5.05 Procedures in Trial**

731

732 *D-5.0501 Counsel*

733

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

738

739 *D-5.0502 Circulation of Materials and Communication*

740

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

743

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

750

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

754

755 *D-5.0503 Control of Conduct of Trial*

756

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

762

763 *D-5.0504 Procedural Questions*

764

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

769

770 *D-5.0505 Absences*

771

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

775

776 *D-5.0506 Loss of Quorum*

777

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

780

781 **D-5.06 Trial**

782

783 *D-5.0601 Announcement by the Moderator*

784

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

789

790 *D-5.0602 Objections of Parties*

791

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

794

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

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

801

802 *D-5.0603 Preliminary Determinations and Objections*

803

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

812

813 *D-5.0604 Amendment of Complaint*

814

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

817
818 *D-5.0605 Opening Statements*

819
820 The parties shall be given an opportunity to make opening statements.

821
822 **D-5.07 Evidence**

823
824 *D-5.0701 Definition*

825
826 The complainant and respondent shall be accorded the opportunity to present evidence on their
827 behalf. Evidence, in addition to oral testimony of witnesses, may include records, writings, material
828 objects, or other items presented to prove the existence or nonexistence of a fact. Evidence must be
829 relevant to be received. No distinction should be made between direct and circumstantial evidence as to
830 the degree of proof required.

831
832 *D-5.0702 Records as Evidence*

833
834 Written records of a council or permanent judicial commission and authenticated records of
835 testimony are admissible as evidence.

836
837 a. The authenticated written records of a council or permanent judicial commission shall be
838 admissible in evidence in any proceeding.

839
840 b. An authenticated record or transcript of testimony taken by a council or permanent
841 judicial commission shall be admissible in any proceeding in another council.

842
843 *D-5.0703 Witnesses*

844
845 With regard to witnesses, the following applies:

846
847 a. Any party may challenge whether a witness may testify, and the moderator of the
848 permanent judicial commission shall determine the competence of the witness. The ruling of the
849 moderator may be appealed by any party or a member of the permanent judicial commission and
850 decided by majority vote of the permanent judicial commission.

851
852 b. Each witness called to testify must be competent to testify. To be received by the
853 permanent judicial commission, any testimony from any witness must be relevant and must have a
854 proper foundation. An expert opinion or other testimony may be offered by any witness upon adequate
855 proof of the qualifications of the witness as an expert in the field of such testimony and that such
856 opinion or other testimony will assist the resolution of the case.

857
858 c. No counsel for a party involved may be compelled to testify about any confidential
859 matter, nor may any such counsel testify concerning any matter without the express permission of the
860 party they represent.

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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:

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

909

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

916

917 *D-5.0902 Decision*

918

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

920

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

923

924 b. The questions presented for decision shall be fully debated and voted upon while all
925 participating permanent judicial commission members are present. A written outline of a decision shall
926 be prepared and adopted while in session. A written decision shall be reviewed by all participating
927 members of the panel, which may take place either while the participating permanent judicial
928 commission members are present or by meeting within ten (10) days either in person, or electronically in
929 accordance with G-3.0105.

930

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

935

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

938

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

941

942 *D-5.0903 Effect of Decision*

943

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

948

949 *D-5.0904 New Evidence*

950

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

952

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

961
962 b. If, subsequent to the filing by any party of a notice of appeal, new evidence is discovered
963 which in the exercise of reasonable diligence could not have been discovered prior to the filing of the
964 notice of appeal, the permanent judicial commission receiving the appeal may remand the case for a new
965 trial, in which case the appeal shall be stayed until the permanent judicial commission that conducted the
966 trial reports its decision in the new trial. The application for admission of newly discovered evidence
967 shall be made to the permanent judicial commission at least thirty (30) days prior to the hearing with
968 copies to the other party. That application shall be accompanied by a summary of the evidence.

969
970 *D-5.0905 Appeal*

971
972 Rules of appeal are found in D-6. The following applies to time limits and standing to file an appeal:

973
974 a. For each party, the time for filing an appeal shall run from the date the decision is
975 delivered to, or refused by, that party.

976
977 ~~b.~~ An appeal may be initiated only by one or more of the original parties.

978
979 **D-5.10 Record of Proceedings**

980
981 *D-5.1001 Duties of the Clerk of the Permanent Judicial Commission*

982
983 The clerk of the permanent judicial commission shall do the following:

984
985 a. arrange in advance for the accurate verbatim recording of all testimony and oral
986 proceedings (which may be accomplished through a digital voice recording);

987
988 b. identify and maintain all exhibits offered in evidence (noting whether or not they were
989 accepted as evidence) and keep a list of all exhibits;

990
991 c. record minutes of the proceedings, which shall include any actions or orders of the
992 permanent judicial commission relating to the case with the vote on each;

993
994 d. prepare the record of the case, which shall consist of:

995
996 (1) the complaint and the answer;

997
998 (2) all minutes and papers filed in the case;

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- (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.

1036 **CHAPTER VI**

1037 **REMEDIAL APPEALS**

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1039
1040 **D-6.01 Filing an Appeal**

1041
1042 *D-6.0101 Definition*

1043
1044 An appeal of a remedial case is the transfer to the next higher council of a case in which a decision
1045 has been rendered in a lower council, for the purpose of obtaining a review of the proceedings and a
1046 decision to correct, modify, set aside, or reverse the decision.

1047
1048 *D-6.0102 Initiation of Appeal*

1049
1050 Only the parties to an original complaint (one or more of the complainants or the respondent) may
1051 appeal a ruling of a permanent judicial commission.

1052
1053 a. The ruling must be the permanent judicial commission’s final order disposing of the
1054 complaint, whether that order is a dismissal in accordance with D-4.0702b, or a written decision in
1055 accordance with D-5.09.

1056
1057 b. The parties in a remedial appeal are the appellant or appellants, and the appellee or
1058 appellees.

1059
1060 **D-6.02 Notice of Appeal**

1061
1062 *D-6.0201 Notice Filed*

1063
1064 A written notice of appeal shall be filed with the stated clerk of the next higher council within forty-
1065 five (45) days after a copy of the final order was received by the appealing party. The written notice may
1066 be delivered by means of electronic communication, provided that the stated clerk certifies receipt of the
1067 notice, which may also be communicated electronically. If filing the notice electronically, care should be
1068 taken to deliver the notice in a manner that can clearly demonstrate timely filing. By written agreement
1069 of the parties, all additional filings may be electronic. The appealing party shall provide a copy of the
1070 written notice of appeal to the stated clerk of the council whose permanent judicial commission issued
1071 the ruling, as well as to the stated clerk of the council that would hear the appeal, who shall distribute the
1072 notice to the other party or parties.

1073
1074 *D-6.0202 Items to be Included*

1075
1076 The items to be included in an appeal are as follows:

1077
1078 a. the name of the party filing the appeal (the appellant or appellants) and their counsel, if
1079 any;

1080
1081 b. the name of the other party (the appellee or appellees) and their counsel, if any;

- 1082
- 1083 c. the council from whose decision the appeal is taken;
- 1084
- 1085 d. a copy of the ruling;
- 1086
- 1087 e. a statement and description of the errors alleged to have been made in the ruling that are
- 1088 the grounds for the appeal. The grounds for which an appeal may be filed are:
- 1089
- 1090 (1) irregularity in the proceedings;
- 1091
- 1092 (2) refusing a party reasonable opportunity to be heard or to obtain or present
- 1093 evidence;
- 1094
- 1095 (3) receiving improper, or declining to receive proper, evidence or testimony;
- 1096
- 1097 (4) hastening to a decision before the evidence or testimony is fully received;
- 1098
- 1099 (5) manifestation of prejudice in the conduct of the case;
- 1100
- 1101 (6) injustice in the process or decision; and
- 1102
- 1103 (7) error in constitutional interpretation.
- 1104
- 1105 f. a certification that a copy of the notice of appeal is being sent as required by D-6.0201 to
- 1106 the stated clerk of the council from whose decision the appeal is taken, which may be in the form of an
- 1107 electronic communication if agreed upon in advance by the parties.
- 1108

1109 **D-6.03 Duty of Stated Clerk**

1110

1111 Upon receipt of the written notice of appeal, the stated clerk of the council that will hear the appeal

1112 shall transmit it to the officers of that council's permanent judicial commission and the other party.

1113

1114 **D-6.04 Effect of Appeal**

1115

1116 *D-6.0401 If No Stay of Enforcement*

1117

1118 The filing of a notice of appeal shall not suspend any action of a council taken to implement the

1119 ruling being appealed unless a stay of enforcement was obtained with the original complaint, or one is

1120 obtained as described in the next paragraph, in which case the implementation of the ruling being

1121 appealed is stayed until the appeal is finally disposed of.

1122

1123 *D-6.0402 Seeking Stay of Enforcement*

1124

1125 If no stay of enforcement was in place when the ruling being appealed was rendered, one may be

1126 requested by means of a request filed along with the notice of appeal in any of the methods described in

1127 D-4.04, and processed as described in D-4.05 or D-4.06.

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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 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.

1174
1175 *D-6.0604 When No Challenge is Received*
1176

1177 When there are no challenges to the determination in the preliminary ruling, the following shall
1178 apply:

1179
1180 a. If no challenge is made to the determinations of the officers that one or more of the
1181 requirements in D-6.0701 are answered in the negative, the case shall be dismissed without further
1182 action or order of the permanent judicial commission.

1183
1184 b. If no challenge is made to the determinations of the officers that all of the points in D-
1185 6.0601 are answered in the affirmative, the stated clerk of the council shall schedule a hearing at a time
1186 acceptable to the parties and at which a quorum of the permanent judicial commission can be present.
1187

1188 **D-6.07 Record of the Case**
1189

1190 *D-6.0701 List of Papers*
1191

1192 Within forty-five (45) days after receipt of a notice of appeal, the stated clerk of the lower council
1193 shall list in writing to the parties all of the papers and other materials that would constitute the record of
1194 the case (see D-5.1001d & e). Within fifteen (15) days thereafter, either party may challenge the
1195 completeness or accuracy of the record as listed by the stated clerk. The stated clerk may, but is not
1196 required, to amend the list at the request of a party; however, any such challenge shall be added to the
1197 record when it is filed.
1198

1199 *D-6.0702 Filing of Record on Appeal*
1200

1201 Upon notice by the stated clerk of the council whose permanent judicial commission will hear the
1202 appeal that the case has been accepted, the stated clerk of the council from which the appeal is taken
1203 shall compile and file the record of the case with the stated clerk of the higher council, who shall
1204 distribute it to the members of the permanent judicial commission.
1205

1206 *D-6.0703 Correction of the Record*
1207

1208 If anything material to either party is omitted from the record by error or accident, or is misstated
1209 therein, the omission or misstatement may be corrected. The parties may stipulate to the correction, or
1210 the stated clerk of the lower council may certify and transmit a supplemental record, or the permanent
1211 judicial commission of the higher council may direct that the omission or misstatement be corrected.
1212 All other questions as to the form and content of the record shall be presented to the permanent judicial
1213 commission of the higher council, which shall be decided by majority vote at a duly constituted meeting
1214 at least forty-five (45) days prior to the hearing on the appeal, which may be held electronically in
1215 accordance with G-3.0105.
1216

1217 **D-6.08 Briefs**
1218

1219 *D-6.0801 Filing of Appellant Brief*

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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.

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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.

D-6.12 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 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.

1312 b. If none of the specifications of error is sustained, and no other error is found, the decision
1313 of the lower council shall be affirmed.

1314
1315 c. If one or more errors are found, the permanent judicial commission may conclude that
1316 despite the errors found, the decision of the lower council is affirmed. Alternatively, it may reverse the
1317 decision of the lower council either completely or in part, and if reversed in part, it may determine
1318 whether the decision of the lower council shall be modified or set aside, or the case remanded for a new
1319 trial.

1320
1321 d. The questions presented for decision shall be fully debated and voted upon while all
1322 participating permanent judicial commission members are present. A written outline of a decision shall
1323 be prepared while in session. A written decision shall be reviewed by all participating members of the
1324 panel, which may take place either while the participating commission members are present or by
1325 meeting within ten (10) days either in person, or electronically in accordance with G-3.0105.

1326
1327 e. The decision shall become the final decision when a copy of the written decision is
1328 signed by the moderator and clerk of the permanent judicial commission. A copy of the decision shall
1329 immediately be delivered to the parties to the case in accordance with D-4.0103b, or electronic
1330 communication if agreed upon in advance by the parties.

1331

1332 **CHAPTER VII**

1333 **DISCIPLINARY PROCESS**

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1335
1336 **D-7.01 Disciplinary Process**

1337
1338 *D-7.0101 Purpose*

1339
1340 The disciplinary process provides for the accountability of individuals to the church. When it is
1341 alleged that trust is broken by an individual, it is important to restore that trust within the community of
1342 faith. Church discipline is not punishment; rather, it is the exercise of authority given by Christ, both to
1343 guide, control, and nurture the church's members and for the constructive criticism of offenders. The
1344 purpose of the discipline is to honor God by making clear the significance of membership in the body of
1345 Christ, to achieve justice and compassion for all participants involved, to correct or restrain wrongdoing
1346 in order to bring members to repentance and restoration where possible, to restore peace and unity in the
1347 body of Christ, and to secure the just, speedy, and economical determination of proceedings.

1348
1349 *D-7.0102 Initiation*

1350
1351 The disciplinary process begins when a written statement alleging that a member of the Presbyterian
1352 Church (U.S.A.) has committed an offense is submitted to the clerk of session or stated clerk of the
1353 presbytery having jurisdiction over the member. If, after investigation by an investigating committee
1354 and trial by a session or permanent judicial commission, the offense is proved true, the person found
1355 guilty is subject to censure by the Presbyterian Church (U.S.A.).

1356
1357 *D-7.0103 Definition of an Offense*

1358
1359 An offense is any act or omission by a member of a congregation or a minister of the Word and
1360 Sacrament that is contrary to the Scriptures or the Constitution of the Presbyterian Church (U.S.A.). The
1361 mere act of participating in decisions ultimately made by a committee, a commission, or by a council is
1362 not an offense.

1363
1364 *D-7.0104 Deadlines and Filings*

1365
1366 The method of determining filing deadlines and methods of filing are as follows:

1367
1368 a. Deadlines

1369
1370 In determining whether or not a document is timely filed, the day following the event giving rise
1371 to the time limit begins the count as day one (for example, the day following the date of the first
1372 meeting of an investigating committee, or on which a party receives a decision). All seven days of every
1373 week are included in the count, including holidays, and the document shall be deemed timely filed if it is
1374 received by the person or persons to whom it is required to be sent on or before the final day of the
1375 count. When the final date of the count falls on a weekend or holiday, the document shall be deemed
1376 timely filed if it is received on the next business day after the final day of the count.

1377
1378 b. Methods of Filing

1379
1380 Any document required to be filed may be sent or delivered by United States Postal Service
1381 certified mail, return receipt requested; commercial courier, with delivery receipt requested; personal
1382 delivery; or electronically when so permitted in these rules.

1383
1384 **D-7.02 Filing an Allegation**

1385
1386 *D-7.0201 Allegation*

1387 For filing an allegation in a disciplinary matter, the following applies:

1388
1389 a. Time Limit

1390
1391 No written allegation shall be filed later than five years from the time the alleged offense was
1392 committed except in cases of sexual abuse of another person as defined in D-7.0901, in which case the
1393 five-year time limit shall not apply. There is also no time limit to file an allegation that a person who
1394 knew or reasonably should have known of the reasonable risk of sexual abuse of another as defined in
1395 D-7.0901 failed to take reasonable steps to minimize the risk.

1396
1397
1398 b. Who May File

1399
1400 Any member of the Presbyterian Church (U.S.A.) may file a written allegation against a member of
1401 a congregation of the Presbyterian Church (U.S.A) or a minister of the Word and Sacrament. Anyone
1402 who is not a member of the Presbyterian Church (U.S.A.) may request that a member file a written
1403 allegation on their behalf.

1404
1405 c. Contents of Allegation

1406
1407 The allegation shall include:

- 1408
1409 (1) a written statement of the alleged offense or offenses; and
1410
1411 (2) facts which, if proved true, would likely result in censure.

1412
1413 d. Submitting an Allegation

1414
1415 An allegation shall be submitted in writing to the clerk of session or stated clerk of the council
1416 with jurisdiction over the individual who is accused.

1417
1418 (1) If the allegation is against a member of a congregation not serving as a
1419 commissioned pastor at the time of the alleged offense, the allegation shall be sent to the clerk of
1420 session with jurisdiction over the accused member.

1421
1422 (2) If the allegation is against a minister member of a presbytery or a commissioned
1423 pastor in a validated ministry at the time of the alleged offense, the allegation shall be sent to the

1424 stated clerk of the presbytery with jurisdiction over the accused member of the presbytery or
1425 commissioned pastor.

1426
1427 e. Members Receiving Allegations from Any Source
1428

1429 Members of the Presbyterian Church (U.S.A.) who receive an allegation from any source against
1430 a member of the Presbyterian Church (U.S.A.) should file a written allegation with the clerk of session
1431 or stated clerk of the council with jurisdiction over the individual who is accused. Clerks of session and
1432 stated clerks who receive a written statement of offense from a non-member of the Presbyterian Church
1433 (U.S.A.) that contains sufficient information to allow an investigation and to suggest that an offense has
1434 been committed, should file a written allegation on behalf of the non-member. In this case they shall not
1435 be considered to be disqualified from continuing to serve in their role as the clerk of session or stated
1436 clerk. Councils may provide by rule for who shall fulfill the role of the “accuser” in such cases.
1437

1438 f. Self-Accusation
1439

1440 A member of the Presbyterian Church (U.S.A.) may self-accuse by filing an allegation with the
1441 clerk of session or stated clerk of the council with jurisdiction over the individual member.
1442

1443 *D-7.0202 Initiating a Request for Vindication*
1444

1445 A member of the Presbyterian Church (U.S.A.) who feels injured by a rumor or gossip which is from
1446 an unidentified source or is from a source not accountable to the Presbyterian Church (U.S.A.) may
1447 request an investigation for the purpose of vindication. Requests for vindication should not be used for
1448 matters that can be resolved by filing an allegation.
1449

1450 a. A member requesting vindication shall submit a written statement of the rumor or gossip
1451 to the clerk or stated clerk of the council with jurisdiction over the member.
1452

1453 b. The council shall appoint an investigating committee in accordance with its rule as
1454 defined in D-7.0501a.
1455

1456 c. The investigating committee shall conduct an inquiry to ascertain the facts and
1457 circumstances and shall:
1458

1459 (1) report its determinations in writing to the council within one year of its first
1460 meeting. The council will include the written report in its minutes and that will conclude the
1461 matter,
1462

1463 (2) file charges as described in D-7.15 with the session or permanent judicial
1464 commission against the individual who initiated the investigation if the investigating committee
1465 finds that a comparison and consideration of all the evidence compels an abiding conviction that
1466 the material facts necessary to prove the charge are true that the individual has committed an
1467 offense contrary to Scripture or the Constitution of the Presbyterian Church (U.S.A.), or
1468

1469 (3) determine that one or more other individuals who are members of the Presbyterian
1470 Church (U.S.A.) may have committed an offense, and file one or more written allegations against
1471 those individuals with appropriate clerks of session or stated clerks.

1472
1473 **D-7.03 Jurisdiction**

1474
1475 *D-7.0301 Primary Jurisdiction*

1476
1477 Each council is responsible for the discipline of its members and has primary jurisdiction over any
1478 allegation against one of its members including any trial, except as provided in D-7.0201d(2).

1479
1480 *D-7.0302 Exceptions to Primary Jurisdiction*

1481
1482 Exceptions to Primary Jurisdiction as described in D-7.0301 are as follows:

1483
1484 a. Ruling elders commissioned to service by presbyteries are accountable as provided in D-
1485 7.0201.

1486
1487 b. When ministers of the Word and Sacrament are engaged in work or reside within the
1488 geographic bounds of a presbytery other than the presbytery of membership, the presbytery of
1489 membership may request the presbytery within whose bounds the member works to investigate any
1490 allegation and file a report of the investigation with the stated clerk of the presbytery of membership and
1491 cooperate with the presbytery of membership in any disciplinary inquiry, alternative resolution, or trial.
1492 If the councils involved appoint a joint investigating committee, the expenses of that committee shall be
1493 shared. Jurisdiction for trial remains with the council of membership.

1494
1495 c. If an allegation involves events that originated within a council other than the council
1496 with jurisdiction over the individual who is accused, the clerk of session or stated clerk of the council of
1497 jurisdiction shall report to the clerk of session or stated clerk of the other council or councils if charges
1498 are filed, and of the outcome of any trial.

1499
1500 d. If the council of jurisdiction fails to act in a particular case for a period of sixty (60) days
1501 after the filing of charges in a disciplinary case, the next higher council, on the request of any party, may
1502 assume jurisdiction in the case. It may either issue specific instructions to the lower council as to its
1503 disposition or conclude the matter itself.

1504
1505 e. Jurisdiction in a disciplinary process ends when a church member or a minister of the
1506 Word and Sacrament against whom an allegation has been filed renounces the jurisdiction of the
1507 Presbyterian Church (U.S.A.) in accordance with G-2.0407 or G-2.0509. In this case, the clerk of
1508 session or stated clerk of the presbytery shall report to the council both the renunciation and the status of
1509 the matter at that time, including the name of the accused, the date and fact of renunciation during an
1510 investigation or trial, and the charges, if filed. If no charges have been filed, the report shall include the
1511 nature of the alleged offense.

1512
1513 (1) A person alleged to have been harmed may make the request for a pastoral inquiry
1514 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) For instances of alleged sexual abuse of another person, 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). If they choose to make that request, 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.

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. 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.

1562 *D-7.0404 Action on Request*

1563
1564 In taking action on a request for reference, a permanent judicial commission may take either of the
1565 following actions:

1566
1567 a. If the permanent judicial commission decides to accept the reference, it shall instruct the
1568 stated clerk to proceed with the appointment of an investigating committee, if needed. The permanent
1569 judicial commission shall conduct the trial or hearing on appeal.

1570
1571 b. The higher council's permanent judicial commission may decline to accept the case for
1572 reference and return it to the lower council, stating its reasons. The session or permanent judicial
1573 commission of the lower council shall conduct the investigation, trial, or hearing on appeal and proceed
1574 to a decision.

1575
1576 c. While a request for reference is pending, and until the higher council acts to accept or
1577 decline to accept the reference for the case, any pending deadlines or periods of time for action by a
1578 council, a party, or an investigating committee shall be suspended.

1579
1580 **D-7.05 Investigation**

1581
1582
1583 *D-7.0501 Referral to Investigating Committee*

1584
1585 When a clerk of session or the stated clerk of a presbytery receives an allegation, without
1586 undertaking further inquiry, that clerk shall then report to the council only that an offense has been
1587 alleged without naming the accused or the nature of the alleged offense and refer the statement of
1588 allegation promptly to an investigating committee, which shall conduct an inquiry as defined below. The
1589 clerk of session or stated clerk shall also inform the accuser of the disciplinary process and their rights
1590 and responsibilities in the process.

1591
1592 a. Sessions may and councils above the session shall provide by rule for the appointment of
1593 an investigating committee.

1594
1595 b. If a session is notified of the receipt of an allegation, it shall determine whether to
1596 proceed with an investigation or request a reference to the presbytery (D-7.04).

1597
1598 c. When an allegation is received by a clerk of session or a stated clerk other than the one of
1599 the council having jurisdiction over the member, it shall be the duty of the clerk of that session or the
1600 stated clerk of that presbytery to submit the written statement of allegation to the clerk of session or the
1601 stated clerk of the presbytery having jurisdiction over the member. The involved councils shall proceed
1602 in accordance with D-7.0301c.

1603
1604 *D-7.0502 Transfer of Membership*

1605
1606 A session shall not grant a transfer of membership to a member, nor shall a presbytery grant transfer
1607 of membership to a minister of the Word and Sacrament, while an inquiry or charges are pending. The
1608 reasons for not granting transfer of membership may be communicated by the clerk of session or the
1609 stated clerk of the presbytery to the appropriate persons.

1610

1611 **D-7.06 Membership of the Investigating Committee**

1612
1613 An investigating committee shall have no more than five but no fewer than three members, and may
1614 include members from another council. Sessions shall not appoint elders currently on the session to an
1615 investigating committee. All members of an investigating committee shall be members of the
1616 Presbyterian Church (U.S.A.).

1617
1618 **D-7.07 Expenses of the Investigating Committee**

1619
1620 The expenses of an investigating committee shall be paid by the council which designates it. In cases
1621 where the investigation is shared in accordance with D-7.0301c, expenses shall be shared.

1622
1623
1624 **D-7.08 Assisting Roles**

1625
1626 The following persons may assist in the disciplinary process as described in this section.

1627
1628 *D-7.0801 Counsel*

1629
1630 Where counsel is referred to in this section, counsel need not be a paid representative or an attorney.
1631 Counsel shall be a member of the Presbyterian Church (U.S.A.). No member of a permanent judicial
1632 commission shall appear as counsel before that commission while a member of that commission.

1633
1634 *D-7.0802 Advocate*

1635
1636 The role of advocate is to provide support, consultation, and pastoral care for the accuser, those
1637 alleged to be harmed, or those accused. Advocates need not be members of the Presbyterian Church
1638 (U.S.A.).

1639
1640 *D-7.0803 Mediator*

1641
1642 Mediators, if utilized, should be persons known for calm, wise counsel, and need not be attorneys or
1643 certified mediators. Mediators need not be members of the Presbyterian Church (U.S.A.); however, they
1644 should be familiar with Church Discipline. Presbyteries may identify in advance potential mediators.
1645 Any fees for mediation shall be negotiated in advance and paid for by the council of jurisdiction.

1646
1647 **D-7.09 Allegations of Sexual Abuse**

1648
1649 *D-7.0901 Definition*

1650
1651 Sexual abuse is any offense involving sexual conduct in relation to any person under the age of
1652 eighteen years or anyone without the capacity to consent, or any person when the conduct includes
1653 force, threat, coercion, intimidation, or misuse of ordered ministry or position. Sexual abuse is contrary
1654 to the Scriptures and the Constitution of the Presbyterian Church (U.S.A.), and is therefore always an
1655 offense for the purpose of discipline.

1656
1657 *D-7.0902 Administrative Leave*

1658

1659 In dealing with an allegation against a minister of the Word and Sacrament, the following
1660 considerations regarding administrative leave or other restrictions apply:

1661
1662 a. When an allegation of sexual abuse as defined in D-7.0901 has been received against a
1663 minister of the Word and Sacrament, the stated clerk receiving the allegation shall immediately
1664 communicate the allegation to the three members designated in accordance with D-3.0102.

1665
1666 b. Regardless of the employment status of the minister of the Word and Sacrament, the
1667 members designated in accordance with D-3.0102, shall determine as quickly as possible, after
1668 reviewing the written allegations and providing the accused the opportunity to be heard, whether the risk
1669 to a congregation and/or to other potential victims of abuse requires administrative leave or other
1670 restrictions upon the minister's service, when considered in light of the nature and probable truth of the
1671 allegations. Such administrative leave or restrictions will continue until either the matter is resolved in
1672 one of the ways prescribed in the disciplinary process or until the leave or restrictions are altered or
1673 removed by the members of the commission.

1674
1675 *D-7.0903 Effect of Administrative Leave*

1676
1677 While administrative leave is in effect, the minister of the Word and Sacrament shall not perform
1678 any pastoral, administrative, educational, or supervisory duties, and shall not officiate at any functions
1679 such as the administration of Sacraments, funerals, or weddings. The effect of administrative leave for a
1680 minister of the Word and Sacrament in a validated ministry beyond the jurisdiction of the Presbyterian
1681 Church (U.S.A.) is the suspension of the validation of the ministry until the matter is resolved, which
1682 shall be communicated to the employer by the stated clerk of the presbytery.

1683
1684 *D-7.0904 If Leave is Not Required*

1685
1686 If the members of the permanent judicial commission designated in accordance with D-3.0102
1687 determine that no administrative leave or restriction is required, the investigating committee appointed
1688 to investigate the allegations shall be free at any point in its investigation to present additional evidence
1689 to the designated members supporting the imposition of administrative leave or other restrictions.

1690
1691 *D-7.0905 Presbytery Policies on Administrative Leave*

1692
1693 Nothing in this section shall preclude a presbytery from establishing its own rules for administrative
1694 leave or other restrictions on a minister's service.

1695
1696 **D-7.10 Rights and Responsibilities of the Persons in a Disciplinary Process**

1697
1698 *D-7.1001 Rights of the Accuser*

1699
1700 The investigating committee shall inform the person submitting the allegation of the following
1701 rights:

- 1702
1703 a. the right to be treated with fairness and respect.
1704
1705 b. the right to be accompanied by an advocate whenever asked to meet with the
1706 investigating committee, the prosecuting committee, and the session or permanent judicial commission.

1707 The role of the advocate is to provide support and pastoral care. The advocate shall not be permitted to
1708 address the committees, session or permanent judicial commission on behalf of the accuser.
1709

1710 c. if charges are filed, the right to reasonable and timely notice of, and to be present at, all
1711 public proceedings related to the charges, unless the prosecuting committee determines that testimony
1712 by the accuser would be materially affected if they heard other testimony at trial.
1713

1714 *D-7.1002 Rights of Those Alleged to Have Been Harmed* 1715

1716 When it is possible to do so while also maintaining appropriate confidentiality, the investigating
1717 committee shall notify individuals named in the allegation who are alleged to have been harmed by the
1718 offense of the following rights:
1719

1720 a. the right to be treated with fairness and respect.
1721

1722 b. the right to be accompanied by an advocate whenever asked to meet with the
1723 investigating committee, the prosecuting committee, and the session or permanent judicial commission.
1724 The role of the advocate is to provide support and pastoral care. The advocate shall not be permitted to
1725 address the committees, session or permanent judicial commission on behalf of those alleged to have
1726 been harmed.
1727

1728 c. if charges are filed, the right to reasonable and timely notice of, and to be present at, all
1729 public proceedings related to the charges, unless the prosecuting committee determines that testimony
1730 by those alleged to have been harmed would be materially affected if they heard other testimony at trial.
1731

1732 *D-7.1003 Rights of the Accused* 1733

1734 At the beginning of each and every conference with an investigating committee, the prosecuting
1735 committee, and the session or permanent judicial commission, the person against whom an allegation
1736 has been made shall be informed by the investigating committee of the following rights:
1737

1738 a. the right to remain silent throughout the entire disciplinary process,
1739

1740 b. the right to be treated with fairness and respect.
1741

1742 c. during the investigation, the right to be represented by counsel at their own expense and
1743 to be accompanied by an advocate. The role of the advocate is to provide support and pastoral care. The
1744 advocate, if not also counsel, shall not be permitted to address the committee, session, or permanent
1745 judicial commission.
1746

1747 d. if charges are later filed, the right to reasonable and timely notice of, and to be present at,
1748 all public proceedings related to the charges, to be represented by counsel (D-7.0104), and to have
1749 counsel appointed if unable to afford counsel.
1750

1751 *D-7.1004 Responsibilities of All Participants* 1752

1753 All participants in an investigation have the responsibility to work cooperatively in the investigation.
1754 This includes, but is not limited to, the preservation of records which may be pertinent, and maintaining
1755 appropriate confidentiality throughout the process (see D-7.1003).

1756
1757 **D-7.11 Investigating Process**
1758

1759 *D-7.1101 Preliminary Review*
1760

1761 The investigating committee shall hold its first meeting within sixty days of its appointment to
1762 review the allegation and determine whether it alleges any facts that, if true, constitute an offense, as
1763 defined in D-7.0103.

1764
1765 a. If no offense is alleged, the investigating committee shall report this fact to the clerk of
1766 session or stated clerk of the council and shall end its inquiry.

1767
1768 b. If the investigating committee determines that the allegation repeats allegations
1769 previously made against the accused, it shall report to the clerk of the council that it will not file charges
1770 unless the allegation contains new information warranting investigation or is the subject of an
1771 investigation that has not been concluded, and shall end its inquiry.

1772
1773 c. The clerk shall communicate the decision not to move to an investigation to the person
1774 who filed the allegation and to the person against whom the allegation was filed.

1775
1776 d. Within thirty (30) days of receipt of the report, the person who submitted the allegation
1777 may petition the session or permanent judicial commission for a review of the decision of the
1778 investigating committee not to file charges (D-7.1402).

1779
1780 *D-7.1102 Notification to Participants*
1781

1782 If the investigating committee determines that an offense as defined in D-7.0103 is alleged, the
1783 investigating committee shall, as quickly as it is practical,

1784 a. notify the accused in writing of:

1785
1786 (1) the date of the investigating committee's first meeting, which begins the one-year
1787 timeline for filing charges (D-7.1501);

1788
1789 (2) the reason for the investigation, including a copy of the statement of alleged
1790 offense, excluding the name of the accuser at the discretion of the investigating committee;

1791
1792 (3) the confidentiality of the investigating process; and

1793
1794 (4) the rights and responsibilities of the accused defined in D-7.1003 and D-7.1004.

1795
1796 b. notify the person making the allegation in writing of:

1797
1798 (1) the date of the investigating committee's first meeting which begins the one-year
1799 timeline for filing charges (D-7.1501);

1800
1801 (2) the confidentiality of the investigating process;
1802
1803

1804 (3) the rights and responsibilities of the accuser and of those alleged to have been
1805 harmed, if known, as defined in D-7.1001, D-7.1002, and D-7.1004; and

1806
1807 (4) the investigating committee's commitment to keep the person making the
1808 allegation informed as the investigation proceeds including, whenever possible, if charges will be
1809 filed.

1810
1811
1812 *D-7.1103 Conduct of Investigation*

1813
1814 The investigating committee shall make a thorough inquiry into the facts and circumstances of the
1815 alleged offense. The investigation is presumed to be confidential. Information is shared only on a need
1816 to know basis as determined by the investigating committee in consultation with the clerk or stated clerk
1817 of the council. In the event that information is shared, it shall be stated that the accused is presumed
1818 innocent. The investigating committee shall keep the clerk or stated clerk of the council informed of its
1819 progress in the process.

1820
1821 The investigating committee shall:

- 1822
- 1823 a. examine all relevant papers, documents, and records available to it;
 - 1824
 - 1825 b. ascertain all available witnesses who have knowledge of the alleged offense and inquire
1826 of them;
 - 1827
 - 1828 c. determine, in accordance with G-3.0102 and D-7.0103, whether there are reasonable
1829 grounds to believe that an offense was committed by the accused;
 - 1830
 - 1831 d. decide whether the offense alleged can be proved so that the comparison and
1832 consideration of all the evidence compels an abiding conviction that the material facts necessary to
1833 prove the charge are true.
 - 1834
 - 1835 e. report to the council having jurisdiction over the accused, or in the case of a joint
1836 investigation, report to both councils, only whether or not the investigating committee will file charges;
 - 1837
 - 1838 f. if charges are to be filed, prepare them in accordance with the procedures described in D-
1839 7.1503 and designate one or more of its members to prosecute the case; and
 - 1840
 - 1841 g. determine if alternate resolution to a trial on the charges should be pursued (see D-7.16).
- 1842

1843 *D-7.1104 Request for Reference*

1844
1845 If within sixty (60) days of its first meeting the investigating committee determines that it is unable
1846 for any reason to conduct a thorough and fair investigation, it may ask the council to request a reference
1847 in accordance with D-7.04.

1848
1849 **D-7.12 Review of Investigating Procedures**

1850

1851 At any time during the course of the investigation, the person against whom an allegation has been
1852 made may petition the session or permanent judicial commission to review procedures of the
1853 investigating committee.

1854
1855 *D-7.1201 Subject of Review*

1856
1857 The subject of such a petition for review shall be limited to whether the committee has followed the
1858 procedures required by D-7.1003, whether the committee has followed a proper trail of evidence,
1859 whether the evidence being considered is properly in the hands of the investigating committee, and
1860 whether the committee has examined relevant evidence proposed by the accused.

1861
1862 *D-7.1202 Conduct of Review*

1863
1864 The review shall be conducted by the three members designated in accordance with D-3.0102. The
1865 review may include a hearing at the discretion of the three designated members at which the
1866 investigating committee and the accused may appear. The review shall be completed within forty-five
1867 (45) days of the filing of the petition, and the decisions shall be communicated to the investigating
1868 committee, the accused, the moderator and the clerk of the permanent judicial commission, and the clerk
1869 of the council.

1870
1871 **D-7.13 Investigating Committee Conclusion**

1872
1873 The investigating committee may determine:

- 1874
1875 • not to file charges (D-7.14),
1876
1877 • to file charges and proceed to trial (D-7.15), or
1878
1879 • to file charges together with an alternative resolution (D-7.16).

1880
1881 **D-7.14 If Charges Are Not Filed**

1882
1883 *D-7.1401 Written Report*

1884
1885 If no charges are filed, the investigating committee shall file a written report of that fact alone with
1886 the clerk of session or stated clerk of the presbytery. The clerk of session or stated clerk of the
1887 presbytery shall notify the person who submitted the allegation and the accused that charges will not be
1888 filed.

1889
1890 *D-7.1402 Review of Decision*

1891
1892 Review of a decision not to file charges shall proceed as follows:

1893
1894 a. Within thirty (30) days of receipt of the report, the person who submitted the allegation
1895 may petition the session or permanent judicial commission to review the decision of the investigating
1896 committee not to file charges.

1897
1898 b. The petition shall allege those instances in which the investigating committee has not
1899 fulfilled the duties specified in D-7.10.

1900
1901 c. The investigating committee shall submit a written response to the facts alleged in the
1902 petition within thirty (30) days.

1903
1904 d. The members of the permanent judicial commission designated in accordance with D-
1905 3.0102 shall consider the petition and the response, giving attention to the duties specified in D-7.10 and
1906 to the question of whether the purposes of the disciplinary process will be preserved by the decision of
1907 the investigating committee not to file charges. The decision of the designated members of the
1908 permanent judicial commission upon the petition and response shall be rendered within ninety (90) days.

1909
1910 e. If the designated members sustain the petition, a new investigating committee shall be
1911 appointed by the session or presbytery. The new investigating committee shall have until the original
1912 deadline or until six (6) months from its first meeting, whichever is later, to determine whether to file
1913 charges.

1914
1915 f. If the designated members do not sustain the petition, or if a second investigating
1916 committee determines not to file charges, the disciplinary process is concluded. The investigating
1917 committee's records shall be preserved in accordance with session or presbytery policy for a minimum
1918 of ten years.

1919 1920 **D-7.15 If Charges Are Filed**

1921 1922 *D-7.1501 Time Limits for Filing Charges*

1923
1924 Once a written allegation has been submitted, no charges shall be filed later than one year from the
1925 date of the investigating committee's first meeting, except as noted below.

1926
1927 a. In those instances where secular proceedings have commenced, the investigating
1928 committee may request of its session or permanent judicial commission and may receive an extension of
1929 its time for filing charges of up to six months from the conclusion of any investigation or resulting trial
1930 undertaken by the civil authorities. The clerk of session or stated clerk of the council shall maintain
1931 contact with civil authorities to determine when such secular proceedings have concluded.

1932
1933 b. For instances of sexual abuse of another person as defined in D-7.0901 the five-year time
1934 limit for filing an allegation shall not apply. There is also no time limit for alleging that a person who
1935 knew or reasonably should have known of the reasonable risk of sexual abuse of another as defined in
1936 D-7.0901 failed to take reasonable steps to minimize the risk. Charges in these instances may be
1937 brought regardless of the date on which an offense is alleged to have occurred.

1938
1939 c. When a former minister of the Word and Sacrament or a former active member of a
1940 congregation rejoins the church after having renounced jurisdiction while in the disciplinary process,
1941 allegations shall be brought forward again. The process would then begin anew with the one-year time
1942 limit in effect. The time limit begins on the date when the stated clerk or clerk of session becomes aware
1943 that the renounced member has rejoined the Presbyterian Church (U.S.A.). If charges had been filed at
1944 the time of renunciation, the prosecuting committee shall have at least six months to proceed forward
1945 before trial. If a new prosecuting committee must be formed, it shall have at least nine months to
1946 proceed forward before trial. The accused shall not serve in an ordered ministry of the church while an
1947 investigation or trial is pending.

1948

1949 *D-7.1502 Duties of the Investigating Committee*

1950
1951 If the investigating committee decides to file charges, it shall:

- 1952
- 1953 a. inform the accused in writing that charges will be filed, and list each charge separately;
 - 1954 b. include a summary of the facts it expects to prove at trial to support the charges; and
 - 1955 c. designate one or more of its members to serve as the prosecuting committee. The
 - 1956 prosecuting committee shall prosecute the case and represent the church during any appeals. The
 - 1957 prosecuting committee may include additional members at the council's discretion.
 - 1958

1959
1960 *D-7.1503 Charges*

1961 Each charge shall state only one offense.

- 1962
- 1963 a. An offense is any act or omission by a member of a congregation or a minister of the
 - 1964 Word and Sacrament that is contrary to the Scriptures or the Constitution of the Presbyterian Church
 - 1965 (U.S.A.) as defined in D-7.0103.
 - 1966
 - 1967 b. Each charge shall state the specific provision or provisions of Scripture and/or the
 - 1968 Constitution that have been violated.
 - 1969
 - 1970 c. Each charge shall be numbered, and state (as far as possible) the time, place and
 - 1971 circumstances of the commission of the offense. Multiple occurrences of the same offense may be
 - 1972 consolidated in one charge.
 - 1973
 - 1974 d. Each charge shall be accompanied by a summary of the facts expected to be proved at
 - 1975 trial.
 - 1976
 - 1977 e. The investigating committee shall file the charges with the clerk of session or the stated
 - 1978 clerk of the presbytery.
 - 1979
 - 1980 (1) If the charges are filed with the clerk of session, upon its receipt, the clerk shall
 - 1981 present the charges to the session at its next meeting and determine whether it will try the case or
 - 1982 request a reference to the presbytery (D-7.04).
 - 1983
 - 1984 (2) If the charges are filed with the stated clerk of the presbytery, the stated clerk
 - 1985 shall immediately forward the charges to the permanent judicial commission.
 - 1986
 - 1987
 - 1988

1989 **D-7.16 Alternative Resolution**

1990
1991 *D-7.1601 Initiation of Alternative Resolution*

1992
1993 If it deems appropriate, the investigating committee may initiate alternative resolution after the

1994 investigation has been completed and the charges have been drafted, but before the charges have been

1995 filed.

1996

1997 The investigating committee shall report any agreement for alternative resolution to the session or
1998 permanent judicial commission for its approval together with the charges to be filed. The outcome of
1999 any alternative resolution shall be a signed agreement between the accused and the investigating
2000 committee, to be filed together with the charges with the session or the permanent judicial commission.
2001 Terms of an alternative resolution shall be agreed upon and submitted within the one-year time limit for
2002 filing charges, except as provided below.

2003
2004 Should efforts at alternative resolution fail, or the agreement is not accepted by the session or
2005 permanent judicial commission, no statements, written or oral, made at or in connection with this
2006 process, shall be admissible in evidence at a subsequent investigation or trial.

2007
2008 Any fees for mediation or for facilitating restorative justice processes shall be negotiated in advance
2009 and paid for by the council of jurisdiction.

2010 2011 *D-7.1602 Forms of Alternative Resolution*

2012
2013 Alternative resolution may take one of three forms: restorative justice, mediation, or other negotiated
2014 agreements.

2015 2016 *D-7.1603 Restorative Justice*

2017
2018 At the discretion of the investigating committee, in those instances where the accused will plead
2019 guilty and take responsibility for harm done, and those alleged to have been harmed are willing to find
2020 outcomes that repair damage and address the reasons for the offense, the investigating committee may
2021 initiate a process of restorative justice to bring closure to the persons involved and restoration to the
2022 community of faith.

2023
2024 When a process of restorative justice is initiated, an investigating committee may request of its
2025 session or permanent judicial commission one or more extensions of time to file charges to determine if
2026 justice for all can be achieved within a reasonable period.

2027 2028 a. The Purpose of Restorative Justice

2029
2030 (1) Restorative justice is a process by which both those alleged to have committed an
2031 offense and those alleged to have been harmed seek to restore the wholeness of the Body of
2032 Christ. Restorative justice may be employed prior to trial, or as part of a process of healing after
2033 an accused has been found guilty, when the guilty party has had time to accept responsibility and
2034 those harmed have had time for personal healing. Should restorative justice not be employed as
2035 an alternative resolution prior to trial, the council shall be open to the process at any time if those
2036 harmed request and are willing to engage the process.

2037
2038 (2) Restorative justice is not primarily about forgiveness or reconciliation. There
2039 should be no pressure on those harmed to forgive or be reconciled. The decision to forgive or be
2040 reconciled must be made by the participants at their own initiative.

2041 2042 b. The Practice of Restorative Justice

2043
2044 Restorative justice is guided by four basic questions:
2045

- 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 Church Discipline of the Presbyterian Church (U.S.A.). 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

2095 negotiated agreement. Ordinarily, negotiated agreements should not be used to resolve allegations of
2096 sexual abuse.

2097
2098 *D-7.1606 Session or Permanent Judicial Commission Action*

2099
2100 Upon receipt of a signed alternative resolution, the session or permanent judicial commission shall
2101 convene to:

- 2102
- 2103 a. receive the agreement and the charges together with a statement of the investigating
2104 committee's rationale for adoption of the agreement;
 - 2105
 - 2106 b. vote to approve it by at least two-thirds of the members eligible to vote (D-3.0602);
2107
 - 2108 c. make a record of its proceedings according to the provisions of D-8.1201d, including the
2109 name of the accused, the substance of the charge(s), and censure if any; and
2110
 - 2111 d. transmit its decision to the clerk of session or the stated clerk, who shall report it
2112 according to the provisions of D-9.0102.
2113
 - 2114 e. If the session or permanent judicial commission does not approve the alternative
2115 resolution agreement by a two-thirds vote, the investigating committee may seek another alternative
2116 resolution to present to the session or the permanent judicial commission within the one-year deadline,
2117 or
2118
 - 2119 f. if an alternative resolution agreement is not reached, the investigating committee shall
2120 designate a prosecuting committee and the matter shall proceed on the charges filed.
2121
2122

2123 **CHAPTER VIII**

2124 **TRIAL IN A DISCIPLINARY CASE**

2125 **D-8.01 Pretrial Procedures**

2126 *D-8.0101 Parties*

2127 All disciplinary cases shall be filed and prosecuted by a council through a prosecuting committee in
2128 the name of the Presbyterian Church (U.S.A.). The prosecuting committee is the representative of the
2129 church and, as such, has all of the rights of the appropriate council in the case. The only parties in a
2130 disciplinary case are the prosecuting committee and the accused.

2131 *D-8.0102 Circulation of Materials and Communication*

2132 With regard to materials pertaining to the case and communication regarding the case, the following
2133 rules apply:

2134 a. Any materials pertaining to the case shall be filed with the clerk of session or stated clerk
2135 of the presbytery hearing the case. Parties to a disciplinary case or their counsel or any other person
2136 shall not circulate or cause to be circulated directly to the members of the session or permanent judicial
2137 commission any written, printed, electronic, or visual materials of any kind upon any matter pertaining
2138 to the case before its final disposition. Notwithstanding this prohibition, the session or permanent
2139 judicial commission may request, or grant leave to file, additional materials.

2140 b. Parties or their counsel shall not communicate with members of the session or permanent
2141 judicial commission regarding any matter related to the case unless the other party and their counsel, if
2142 any, are included.

2143 *D-8.0103 Pretrial Conference*

2144 A pretrial conference shall be scheduled, which may be held electronically in accordance with G-
2145 3.0105.

2146 a. The session or permanent judicial commission which is to try the case shall hold a
2147 pretrial conference no later than forty-five (45) days after confirmation of the receipt of the charge(s).
2148 The moderator and clerk of the session, or their designees, or the moderator and clerk of the permanent
2149 judicial commission, or their designees, shall set a date, time and place for the pretrial conference, and
2150 conduct it on the session's or commission's behalf.

2151 b. The clerk of session or the stated clerk shall notify the accused, the counsel for the
2152 accused, if any, and the prosecuting committee of the date, time and place of the pretrial conference and
2153 request their presence.

2154 c. The accused is expected to attend the pretrial conference. If the accused is unable or
2155 unwilling to attend, the pretrial conference shall proceed regardless of the accused's absence.

2156 d. At the pretrial conference, the moderator or the moderator's designee shall:

- 2171
2172 (1) read aloud the Preamble to Church Discipline (D1);
2173
2174 (2) inform the accused of the right to counsel and the right to remain silent
2175 throughout the process;
2176
2177 (3) if the accused is unable to afford counsel, the session or permanent judicial
2178 commission shall review the financial records of the accused, and if it determines that financial
2179 need exists, shall appoint counsel for the accused. Fees, if any, for this representation at the
2180 expense of the council shall be agreed upon in writing.
2181
2182 (4) Read the charges to the accused, and;
2183
2184 i. determine with the accused and the prosecuting committee those charges
2185 that are not in dispute and discuss alternatives to a full trial;
2186
2187 ii. hear any challenges to the appropriateness of charges, make
2188 recommendations to dismiss some of the charges, consolidate the charges, or permit
2189 amendments to the charges. The moderator and clerk of the session, or their designees, or
2190 the moderator and clerk of the permanent judicial commission, or their designees, shall
2191 refer all disputes of fact to the trial.
2192
2193 iii. Ask the accused to plead guilty or not guilty to each charge for the record.
2194
2195 (5) Furnish the accused with a description of the records and documents that may be
2196 offered to support each charge, and a list of witnesses then known and their relevance to the
2197 matter at trial; and
2198
2199 (6) Review any reports of petitions for review conducted in accordance with D-7.10.
2200
2201 (7) The session or permanent judicial commission may consult with the parties and
2202 their counsel on any other pending or anticipated pretrial motion or matter that will need to be
2203 addressed before the commencement of the trial. The session or permanent judicial commission
2204 should establish deadlines and a trial date accordingly.
2205

2206 All actions taken at the pretrial conference are preliminary and shall be referred to the session or
2207 permanent judicial commission for approval at trial.
2208

2209 *D-8.0104 Between the Pretrial Conference and the Trial*
2210

2211 In regard to actions to be taken between a pretrial conference and a trial, the following applies:
2212

- 2213 a. The moderator of the session or permanent judicial commission shall schedule a trial, or a
2214 censure hearing if the accused pleads guilty to all charges, to be held no sooner than thirty (30) days
2215 following the pretrial conference.
2216
2217 b. At least thirty (30) days in advance of the trial, the prosecuting committee shall provide
2218 the clerk of session or clerk of the permanent judicial commission and the other party with their list of
2219 witnesses and an outline of the evidence to be presented at trial. The accused shall provide the clerk of

2220 session or clerk of the permanent judicial commission and the other party with a preliminary list of
2221 witnesses. Parties or their representatives shall not contact the other party's witnesses prior to the trial.
2222

2223 c. At any time, the session or permanent judicial commission shall be open to alternative
2224 resolution between the parties and at its sole discretion may continue the trial to allow for an alternative
2225 resolution process as described in D-7.16.
2226

2227 **D-8.02 Conduct of Trial**

2228 *D-8.0201 Trial of a Disciplinary Case*

2229 The trial of a disciplinary case shall be conducted by a session or permanent judicial commission of a
2230 presbytery.
2231

2232 a. The trial shall be conducted formally with full decorum in a neutral place suitable to the
2233 occasion.
2234

2235 b. Except for the provision of electronically received testimony contained in D-8.04, trials
2236 should be held in person. When necessary, and at the sole discretion of the session or permanent judicial
2237 commission, trials may be held electronically in accordance with G-3.0105 and provided that the
2238 technology employed allows witnesses and parties as well as members of the session or permanent
2239 judicial commission to be seen and heard clearly.
2240

2241 c. The accused in a disciplinary case is presumed to be innocent unless a determination of guilt is
2242 rendered by two-thirds of the session or permanent judicial commission eligible to vote (see D-3.0602).
2243

2244 **D-8.03 Citations and Testimony**

2245 *D-8.0301 Citations*

2246 Citations to appear at trial for parties or such witnesses as either party may request shall be signed by
2247 the moderator or clerk of the session or the permanent judicial commission and served by the clerk of
2248 the council. Witnesses may be either fact witnesses or expert witnesses (see D-8.0704b).
2249

2250 *D-8.0302 Who May Be Cited*

2251 Only members of the Presbyterian Church (U.S.A.) may be cited to appear. Persons who are not
2252 members of the Presbyterian Church (U.S.A.) and expert witnesses (regardless of their denominational
2253 membership) can only be requested to attend.
2254

2255 *D-8.0303 Witnesses from Another Council*

2256 When it is necessary to summon witnesses who are under the jurisdiction of another council of the
2257 church, the clerk or stated clerk of the other council shall, on the application of the session or permanent
2258 judicial commission trying the case, through the clerk of the council, issue a citation to the witnesses to
2259 appear at the place of trial and give evidence as may be required.
2260

2261 *D-8.0304 Expenses*

2269 Any witness shall be entitled to receive from the party calling the witness reimbursement of actual
2270 expenses incurred in attendance at the trial.

2271
2272 *D-8.0305 Service of Citation*

2273
2274 A citation shall be delivered in accordance with D-7.0104b, or by electronic delivery acknowledged
2275 by the recipient within seven (7) days. The moderator or clerk of the session or permanent judicial
2276 commission trying the case shall keep a record of the fact and date of service or delivery. If a party or a
2277 witness who is compelled to attend (D-8.0302) fails to obey a citation to appear or having appeared,
2278 refuses without good cause to testify, and after warning continues to refuse, the party or witness shall be
2279 considered guilty of disobedience and contempt, and for such offense may be subject to disciplinary
2280 action by their council of jurisdiction.

2281
2282 **D-8.04 Electronically Received Testimony**

2283
2284 Witnesses may be granted permission by the session or permanent judicial commission to appear
2285 electronically if unable to attend a trial that is held in person, in accordance with the provisions of G-
2286 3.0105 and D-8.02.

2287
2288 **D-8.05 Procedures in Trial**

2289
2290 *D-8.0501 Counsel*

2291
2292 Each of the parties in a disciplinary case shall be entitled to appear and may be represented by
2293 counsel. Counsel need not be a paid representative or an attorney. Counsel shall be a member of the
2294 Presbyterian Church (U.S.A.). No member of a permanent judicial commission shall appear as counsel
2295 before that commission while a member.

2296
2297 *D-8.0502 Control of Conduct of Trial*

2298
2299 The moderator of the session or permanent judicial commission shall have full authority and power
2300 to control the conduct of the trial and of all parties, witnesses, counsel, and the public, including removal
2301 of them, to the end that proper dignity and decorum shall be maintained. Rulings of the moderator
2302 related to control of the trial are subject to appeal to the full session or permanent judicial commission
2303 by any member of the session or permanent judicial commission, which shall decide the question by
2304 majority vote.

2305
2306 *D-8.0503 Procedural Questions*

2307
2308 Questions as to procedure or the admissibility of evidence arising in the course of a trial shall be
2309 decided by the moderator after the parties have had an opportunity to be heard. A party or a member of
2310 the session or permanent judicial commission may appeal from the decision of the moderator to the
2311 body, which shall decide the question by majority vote.

2312
2313 *D-8.0504 Absences*

2314

2315 Members of a session or permanent judicial commission must be present in person at trials. The
2316 absence of any member of the session or permanent judicial commission after a trial has commenced
2317 shall be recorded. That person shall not thereafter participate in deliberation and decision in the trial.
2318

2319 *D-8.0505 Closed Proceedings*
2320

2321 The proceedings shall ordinarily be conducted in open session; however, at the request of any party,
2322 or on its own initiative, the session or permanent judicial commission may determine at any stage of the
2323 proceedings, by a vote of two thirds of the members present, to exclude persons other than the parties
2324 and their counsel.
2325

2326 *D-8.0506 Loss of Quorum*
2327

2328 Loss of a quorum shall result in a mistrial and the case shall be tried again from the beginning at a
2329 time and place to be determined by the session or permanent judicial commission.
2330

2331 **D-8.06 Trial**
2332

2333 *D-8.0601 Announcement by the Moderator*
2334

2335 The trial of a disciplinary case shall be opened with prayer, after which the moderator shall read
2336 aloud the Preamble to Church Discipline (D-1), shall announce that the council is about to proceed to
2337 trial, and shall enjoin the members to recollect and regard their high character as judges of a council of
2338 the Church of Jesus Christ and the solemn duties they are about to undertake.
2339

2340 *D-8.0602 Objections of Parties*
2341

2342 The parties or their counsel may object and be heard on the organization and jurisdiction of the
2343 session or permanent judicial commission.
2344

2345 a. A member of a session or permanent judicial commission is disqualified if the member is
2346 personally interested in the outcome of the case, is related by family relationship to any party, or has
2347 served as counsel for or against any party.
2348

2349 b. Any member of a session or permanent judicial commission may be challenged by any
2350 party for conflict of interest, and the validity of the challenge shall be determined by majority vote of the
2351 remaining members of the session or permanent judicial commission.
2352

2353 *D-8.0603 Preliminary Determinations and Objections*
2354

2355 The session or permanent judicial commission shall place all preliminary determinations and any
2356 objections on the record and shall decide all such matters by majority vote. Any objections to the
2357 preliminary determinations and any other objections affecting the order or regularity of the proceedings
2358 shall also be made part of the record and shall be decided by majority vote. A final decision is not
2359 permissible until the session or permanent judicial commission has heard the evidence and closing
2360 arguments.
2361

2362 *D-8.0604 Plea*
2363

2364 The accused shall be called upon to plead “guilty” or “not guilty” to each charge. The plea shall be
2365 entered on the record. If the accused declines to answer or pleads “not guilty,” a plea of “not guilty”
2366 shall be entered on the record and the trial shall proceed. If the accused pleads “guilty” to all charges,
2367 the council shall proceed in accordance with D-8.0903 unless the parties request an opportunity to seek
2368 an alternative resolution in accordance with D-7.16.

2369
2370 *D-8.0605 Opening Statements*

2371
2372 The parties shall be given an opportunity to make opening statements, beginning with the
2373 prosecuting committee.

2374
2375 **D-8.07 Evidence**

2376
2377 *D-8.0701 Definition*

2378
2379 The parties shall be accorded the opportunity to present evidence on their behalf. Evidence, in
2380 addition to oral testimony of witnesses, may include records, writings, material objects, or other items.
2381 Evidence must be relevant to be received, and may include evidence that lays a foundation for the
2382 admissibility of other evidence. Relevant evidence is evidence that tends to prove or disprove a fact
2383 necessary to determine the outcome of a case. Laying a foundation means presenting preliminary
2384 evidence to show the authenticity and relevance of the evidence proposed. No distinction should be
2385 made between direct and circumstantial evidence as to the degree of proof required.

2386
2387 *D-8.0702 Records as Evidence*

2388
2389 Written records of a council or permanent judicial commission and authenticated records of
2390 testimony are admissible as evidence.

2391
2392 a. The authenticated written records of a council or permanent judicial commission shall be
2393 admissible in evidence in any proceeding.

2394
2395 b. An authenticated record or transcript of testimony taken by a council or permanent
2396 judicial commission shall be admissible in any proceeding in another council.

2397
2398 *D-8.0703 Hearsay Evidence*

2399
2400 Hearsay is a statement made outside the presence of the session or permanent judicial commission
2401 hearing the case, whether written or oral, and which is offered to prove the truth of whatever it asserts.
2402 Because of the limitations of a council’s authority to compel witnesses to testify in a disciplinary
2403 process, as well as the limitations of resources in investigations, hearsay evidence is allowed. The
2404 session or permanent judicial commission shall determine the credibility or weight of hearsay evidence.

2405
2406 *D-8.0704 Witnesses*

2407
2408 With regard to witnesses, the following applies:

2409

2410 a. Any party may challenge whether a witness may testify, and the moderator of the session
2411 or permanent judicial commission shall determine the competence of the witness. The ruling of the
2412 moderator may be appealed by any party or a member of the session or permanent judicial commission
2413 and decided by majority vote of the session or permanent judicial commission.
2414

2415 b. Each witness called to testify must be competent to testify. To be received by the session
2416 or permanent judicial commission, any testimony from any witness must be relevant. An expert opinion
2417 or other testimony may be offered by any witness upon adequate proof of the qualifications of the
2418 witness as an expert in the field of such testimony and that such opinion or other testimony will assist
2419 the resolution of the case.
2420

2421 c. No counsel for a party involved may be compelled to testify about any confidential
2422 matter, nor may any such counsel testify concerning any matter without the express permission of the
2423 party they represent.
2424

2425 d. A person duly appointed by a council to provide counseling services for persons within
2426 the jurisdiction of the council shall not testify before a session or permanent judicial commission, except
2427 that the restriction may be waived by the person about whom the testimony is sought.
2428

2429 e. Credibility means the degree of belief that may be given to the testimony of a witness. In
2430 determining the credibility of a witness, the session or permanent judicial commission may consider any
2431 matter that bears upon the accuracy of the testimony or the truthfulness of the witness.
2432

2433 f. A married person, otherwise competent to testify, may be a witness for or against the
2434 spouse, but shall not be compelled to testify against the other.
2435

2436 g. The session or permanent judicial commission may recognize other privileges including,
2437 but not limited to therapist-patient, doctor-patient, pastor-penitent, and attorney-client privileges as a
2438 basis for not compelling the testimony of a witness.
2439

2440 *D-8.0705 Testimony*

2441

2442 Receiving the testimony of witnesses shall proceed as follows:
2443

2444 a. At the direction of the moderator or on the request of either party, no fact witness shall be
2445 present during the examination of another witness. This shall not limit the right of any party, counsel, or
2446 witness previously designated to offer only expert testimony to be present.
2447

2448 b. Witnesses shall be examined first by the party producing them, and then they may be
2449 cross-examined by the opposing party. The moderator may permit additional questions from the parties
2450 (including both re-examination, followed by re-cross-examination) if so requested. Thereafter, any
2451 member of the session or permanent judicial commission may ask additional questions.
2452

2453 c. Prior to giving testimony, a witness shall make an oath by answering the following
2454 question in the affirmative: "Do you solemnly swear that the evidence you will give in this matter shall
2455 be the truth, the whole truth, and nothing but the truth, so help you God?"

2456
2457 d. If a witness objects to making an oath, the witness shall answer the following question in
2458 the affirmative: “Do you solemnly affirm that you will declare the truth, the whole truth, and nothing but
2459 the truth in the matter in which you are called to testify?”

2460
2461 e. The testimony of each witness shall be accurately and fully recorded by a qualified
2462 reporter or other means that can be accurately transcribed, including digital voice recording.

2463
2464 f. Witnesses may appear electronically if unable to attend the trial in person, in accordance
2465 with the provisions of D-8.04.

2466
2467 g. A member of the session or permanent judicial commission before which the case is
2468 pending may testify, but thereafter shall not otherwise participate in the case.

2469
2470 **D-8.08 Final Statements**

2471
2472 The parties shall be given an opportunity to make final statements, the prosecuting committee having
2473 the right of opening and closing the argument, after which the trial shall be closed with prayer.

2474
2475 **D-8.09 Decision**

2476
2477 *D-8.0901 Deliberation*

2478
2479 The session or permanent judicial commission shall then meet privately to deliberate. All persons
2480 not members of the session or permanent judicial commission shall be excluded.

2481
2482 *D-8.0902 Decision on Guilt*

2483
2484 Decisions in disciplinary cases are reached and communicated as follows:

2485
2486 a. After careful deliberation, the session or permanent judicial commission shall vote on
2487 each charge separately and record the vote in its minutes. Members of the session or permanent judicial
2488 commission may find that the accused is guilty when a comparison and consideration of all the evidence
2489 compels an abiding conviction that the material facts necessary to prove the charge are true. No
2490 decision of guilt may be found on a charge unless at least two-thirds of the members of the session or
2491 permanent judicial commission eligible to vote agree on the judgment (see D-3.0602).

2492
2493 b. A written decision stating the judgment on each charge shall be prepared while in
2494 session. It shall become the final decision when signed by the moderator and clerk of the session or the
2495 permanent judicial commission.

2496
2497 c. When a session or permanent judicial commission has arrived at a decision, the
2498 moderator shall, in open meeting, announce the verdict for each charge separately.

2499
2500 *D-8.0903 Decision on Degree of Censure*

2501
2502 If the accused is found guilty or after a guilty plea, the session or permanent judicial commission
2503 shall hear evidence within thirty (30) days of the decision as to the extent of the injury suffered,

2504 mitigation, rehabilitation, and redemption. This evidence may be offered by either party, or the original
2505 accuser or that person's representative. Each person who was directly harmed by the offense may
2506 submit a victim impact statement, which shall become part of the record. The statement shall not be
2507 subject to cross-examination. The accused may offer a plan to address the harm done and to seek
2508 reconciliation with the victim(s) and the church. The session or permanent judicial commission shall
2509 then meet privately to determine the degree of censure to be imposed. Following such determination and
2510 in an open meeting, the moderator of the session or permanent judicial commission shall then pronounce
2511 the censure.

2512 **D-8.10 Filing and Notification of Parties**

2513 *D-8.1001 Filed Promptly*

2514
2515 The decision shall be filed promptly with the clerk or stated clerk of the council.

2516 *D-8.1002 Notification of Parties*

2517
2518 Notification of a decision shall be as follows:

2519
2520 a. The clerk of session or clerk of the permanent judicial commission shall deliver a copy of
2521 the decision to the parties in accordance with D-7.0104b, or by electronic communication if agreed upon
2522 in advance by the parties.

2523
2524 b. The moderator or clerk of the session or permanent judicial commission shall disseminate
2525 the decision as the session or permanent judicial commission may direct.

2526 **D-8.11 New Evidence Received**

2527 *D-8.1101 Prior to the Filing of a Notice of Appeal*

2528
2529 Prior to filing a notice of appeal, but without extending the time for appeal, the person found guilty
2530 may apply for a new trial on the ground of newly discovered evidence. The permanent judicial
2531 commission – when satisfied that such evidence could reasonably have resulted in a different decision
2532 and that in the exercise of reasonable diligence it could not have been produced at the time of trial – may
2533 grant such application. A notice of appeal filed while such an application is pending shall be held in
2534 abeyance until such time as the session or permanent judicial commission that conducted the trial has
2535 made its determination. The higher council shall be notified of the determination by the clerk of session
2536 or stated clerk of the lower council.

2537 *D-8.1102 Subsequent to the Filing of a Notice of Appeal*

2538
2539 If, subsequent to the filing by a person found guilty of a notice of appeal, new evidence is discovered
2540 by the person found guilty which in the exercise of reasonable diligence could not have been discovered
2541 prior to the filing of the notice of appeal, the permanent judicial commission receiving the appeal may,
2542 in its discretion, remand the case for a new trial, in which case the appeal shall be stayed until the
2543 session or permanent judicial commission that conducted the trial reports its decision in the new trial.
2544 The application for admission of newly discovered evidence shall be made to the permanent judicial
2545 commission at least thirty (30) days prior to the hearing with copies to the other party. That application
2546 shall be accompanied by a summary of the evidence.

2552
2553 **D-8.12 Record of Proceedings**
2554

2555 *D-8.1201 Duty of Clerk*
2556

2557 The clerk of session or the clerk of the permanent judicial commission shall do the following:
2558

- 2559 a. Arrange in advance for the accurate verbatim recording of all testimony and oral
2560 proceedings. This may be accomplished through a digital voice recording.
2561
- 2562 b. Identify and maintain all exhibits offered in evidence (noting whether or not they were
2563 accepted as evidence) and keep a list of all exhibits.
2564
- 2565 c. Record minutes of the proceedings, which shall include any actions or orders of the
2566 session or permanent judicial commission relating to the case with the vote thereon.
2567
- 2568 d. Prepare the record of the case, which shall consist of:
2569
- 2570 (1) the charges;
 - 2571
 - 2572 (2) a record of the plea entered by the accused on each charge;
 - 2573
 - 2574 (3) a certified transcript, if requested;
 - 2575
 - 2576 (4) all properly marked exhibits, records, documents, and other papers;
 - 2577
 - 2578 (5) the written decision, including the verdict for each charge and the degree of
2579 censure, if any, to be imposed by the council; and
2580
 - 2581 (6) any actions or orders of the session or permanent judicial commission relating to
2582 the case, with the vote on each.
2583
- 2584 e. The clerk of session shall preserve the record of the case for at least ten (10) years, and in
2585 accordance with the policy of the council for the preservation of records. The clerk of the permanent
2586 judicial commission shall, within thirty (30) days after the decision becomes final, certify and transmit
2587 the record of the case to the stated clerk of the electing presbytery, who shall preserve it for at least ten
2588 (10) years, and in accordance with the policy of the council for the preservation of records.
2589
- 2590 f. Upon the request, and at the expense of any requesting party, the clerk of the session or
2591 the clerk of the permanent judicial commission shall cause a true and complete transcript be prepared of
2592 all the testimony and oral proceedings during the course of the trial. A copy of this transcript, when
2593 certified by the person making the same to be true and complete, shall be delivered to each party. One
2594 additional copy shall be made for inclusion in the record to be sent forward upon any appeal pursuant to
2595 D-10.0602.
2596

2597 *D-8.1202 Additions to the Record*
2598

2599 No person may supplement or add to the record in a case except for good cause as determined by the
2600 moderator and clerk of the session or of the permanent judicial commission responsible for conducting

2601 the trial. No request to supplement the record shall be considered until received in writing by the clerk
2602 of session or the stated clerk of council that conducted the trial, who shall transmit it to the moderator of
2603 the session or moderator and clerk of the permanent judicial commission. A copy of the request shall be
2604 delivered to all parties and every party shall have ten (10) days to respond in writing.

2605

2606 **D-8.13 Enforcement**

2607

2608 When a session or presbytery has completed the trial and found the accused guilty and the decision
2609 has been pronounced in accordance with the censure imposed in the following chapter, the session or
2610 presbytery shall proceed to enforce the decision regardless of an appeal, including supervision of any
2611 rehabilitation required in the censure.

2612 **CHAPTER IX**

2613 **CENSURE AND RESTORATION IN A DISCIPLINARY CASE**

2614
2615
2616 **D-9.01 Censure**

2617
2618 *D-9.0101 Degrees of Censure*

2619
2620 The degrees of church censure are rebuke, rebuke with supervised rehabilitation, temporary
2621 exclusion from exercise of ordered ministry (for deacons, ruling elders, and ministers of the Word and
2622 Sacrament) or membership rights (for non-ordained church members), and removal from ordered
2623 ministry or membership. Whatever the censure is, it is never given with malice and vindictiveness but
2624 in Christian love to offer correction in error and restoration of the community. A censure is about the
2625 accountability of an individual to the church and should not include names of persons who have been
2626 harmed.

2627
2628 *D-9.0102 Reporting of Decision and Censure*

2629
2630 Public oral reports of decisions and censure in disciplinary cases shall be as follows:

2631
2632 a. When a censure is imposed on a church member, a congregational meeting shall be called
2633 by the session in accordance with G-1.0503g for the purpose of receiving the decision and censure. The
2634 verbal report to the congregation may contain only a summary of the decision and censure, but shall
2635 contain a statement of the nature of the offense, the name of the person being censured, and the censure.
2636 The summary shall be recorded in the minutes of the congregational meeting.

2637
2638 b. When a presbytery imposes a censure, if the council is meeting when the decision and
2639 censure are received from the clerk of the permanent judicial commission, the stated clerk shall report
2640 the decision and censure immediately and enter the full decision upon the minutes of the council. If the
2641 council is not meeting, the stated clerk shall report the decision to the council at its first stated or
2642 adjourned meeting or at a meeting called to hear the decision, whichever comes first, and enter the full
2643 decision upon the minutes of the council. The verbal report to the council may contain only a summary
2644 of the decision and censure, but shall contain a statement of the nature of the offense, the name of the
2645 person being censured, and the censure. If the censure is imposed on a church member, the provision of
2646 D-9.0102c shall also be followed.

2647
2648 c. If the censure imposed by a presbytery was on a church member, rather than a minister of
2649 the Word and Sacrament, either because the member was a commissioned pastor at the time the offense
2650 was committed or because a higher council assumed jurisdiction under either D-7.0301d or D-7.0401,
2651 once the decision and censure have been reported in accordance with D-9.0102b, the decision and
2652 censure shall be distributed to the clerk of session of the church of membership. The clerk of session
2653 shall report the decision at the first stated or adjourned meeting of the session or at a meeting called to
2654 hear the decision, whichever comes first, and enter the full decision upon the minutes of the session. The
2655 verbal report to the session may contain only a summary of the decision and censure, but shall contain a
2656 statement of the nature of the offense, the name of the person being censured, and the censure. The
2657 session shall call a congregational meeting in accordance with G-1.0503g and report the decision as
2658 described in D-9.0102a above.

2659
2660 *D-9.0103 Rebuke*
2661

2662 Rebuke is the lowest degree of censure for an offense and is completed when pronounced. It
2663 consists of setting forth publicly the character of the offense, together with reproof, which shall be
2664 pronounced in the following or like form:

2665
2666 “Whereas, you, (Name) _____, have been found guilty of the offense(s) of
2667 _____ (here insert a summary of the offense), and by such offense(s) you have acted
2668 contrary to the Scriptures and/or the Constitution of the Presbyterian Church (U.S.A.); now,
2669 therefore, the Session or the Permanent Judicial Commission of the Presbytery of
2670 _____, in the name and authority of the Presbyterian Church (U.S.A.),
2671 expresses its condemnation of this offense, and rebukes you. This rebuke is given not with malice or
2672 vindictiveness but in Christian love to offer you correction in error and restoration that you may be
2673 more watchful and avoid such offense in the future. We urge you to use diligently the means of
2674 grace to the end that you may be more obedient to our Lord Jesus Christ.”
2675

2676 This formal rebuke shall be followed by intercessory prayer to Almighty God.
2677

2678 *D-9.0104 Rebuke with Supervised Rehabilitation*
2679

2680 Rebuke with supervised rehabilitation is the next to lowest degree of censure. It consists of setting
2681 forth the character of the offense, together with reproof and mandating a period of supervised
2682 rehabilitation imposed by the session or permanent judicial commission as described at item b. of this
2683 section.
2684

2685 a. Communicate Goals – The session or permanent judicial commission shall formally
2686 communicate to the supervising entity and the person censured the goals of the rehabilitation and the
2687 specific authority conferred on the supervisor(s).
2688

2689 b. Supervised Rehabilitation – An outline of the rehabilitation program shall include a clear
2690 statement of how progress will be evaluated and how it will be determined when and if the supervised
2691 rehabilitation has been satisfactorily completed.
2692

2693 c. Voluntary Acts of Repentance – The rehabilitation program may include a voluntary act
2694 or acts of repentance by the person censured on their own initiative. Such acts may include, for
2695 example, public acknowledgement of guilt, community service, or symbolic or monetary restoration of
2696 what was lost or expended by the person who was harmed. No session or permanent judicial
2697 commission may require or recommend any voluntary act of repentance, but may, in extraordinary
2698 circumstances, forbid such act.

2699 d. Censure Pronouncement – This censure shall be pronounced in the following or like
2700 form:

2701
2702 “Whereas, you, (Name) _____, have been found guilty of the offense(s) of
2703 _____, and by such offense(s) you have acted contrary to the Scriptures
2704 and/or the Constitution of the Presbyterian Church (U.S.A.); now, therefore, the Session or the
2705 Permanent Judicial Commission of the Presbytery of _____, in the name and
2706 authority of the Presbyterian Church (U.S.A.), expresses its condemnation of this offense, rebukes

2707 you, and orders you to complete a program of supervised rehabilitation supervised by
2708 _____ as described below: _____. This rebuke is given
2709 not with malice or vindictiveness but in Christian love to offer you correction in error and the
2710 possibility of full community restoration. You are enjoined to be more watchful and avoid such
2711 offense in the future. We urge you to use diligently the means of grace to the end that you may be
2712 more obedient to our Lord Jesus Christ.”

2713
2714 This formal rebuke shall be followed by intercessory prayer to Almighty God.

2715
2716 *D-9.0105 Temporary Exclusion*

2717
2718 Temporary exclusion is a higher degree of censure for a more aggravated offense and shall be for a
2719 period defined by completion of supervised rehabilitation imposed by the session or the permanent
2720 judicial commission, which may include a minimum defined period of time. Temporary exclusion is
2721 from the exercise of ordered ministry for ordained members, and from membership rights for non-
2722 ordained members. During temporary exclusion membership may not be transferred.

2723
2724 a. Communicate Goals – The session or permanent judicial commission shall formally
2725 communicate to the supervising entity and the person censured the goals of the rehabilitation and the
2726 specific authority conferred on the supervisor(s).

2727
2728 b. Supervised Rehabilitation – An outline of the rehabilitation program shall include a clear
2729 statement of how progress will be evaluated and how it will be determined when and if the supervised
2730 rehabilitation has been satisfactorily completed.

2731
2732 c. Voluntary Acts of Repentance – The rehabilitation program may include a voluntary act
2733 or acts of repentance by the person censured on their own initiative. Such acts may include, for
2734 example, public acknowledgement of guilt, community service, or symbolic or monetary restoration of
2735 what was lost or expended by the person who was harmed. No session or permanent judicial
2736 commission may require or recommend any voluntary act of repentance, but may, in extraordinary
2737 circumstances, forbid such act.

2738
2739 d. Effects of Temporary Exclusion from the Exercise of Ordered Ministry – During the
2740 period of temporary exclusion from ordered ministry, the person under this exclusion shall refrain from
2741 the exercise of any function of ordered ministry. While under this exclusion, the person remains a
2742 member of their congregation or presbytery, but may not participate or vote in meetings of any council
2743 of the church, hold office, or serve on committees or commissions, except that the member may be
2744 present and may speak on matters related to that member. The person under this exclusion shall not
2745 preach, teach, administer Sacraments, preside at other services of worship, or moderate sessions.

2746
2747 e. Effects of Temporary Exclusion from Membership Rights – During the period of
2748 temporary exclusion from membership rights of non-ordained church members, the person under this
2749 exclusion may continue to participate in the worship and life of the congregation of membership, but
2750 shall refrain from participating and voting in meetings of the congregation and from serving on
2751 committees, or holding any office or position of leadership in the congregation or in any council of the
2752 church.

2753
2754 f. Effect of Temporary Exclusion of a Pastor – If a minister of the Word and Sacrament
2755 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.

2854 *D-9.0203 Restoration to Ordered Ministry*

2855
2856 The restoration to ordered ministry shall be announced by the moderator in the following or like
2857 form:

2858
2859 “Whereas, you, (Name) _____, have manifested such repentance as satisfies the
2860 church, the Presbytery of _____ (or Session of this church) does now restore you
2861 to the ordered ministry of _____ and authorize you to perform the functions of
2862 that ministry in accordance with the Constitution of this church by this act of ordination.”

2863
2864 Thereafter, a full service of ordination shall take place in accordance with W-4.04 and the individual’s
2865 name shall be restored to the appropriate roll.
2866
2867

2868 **CHAPTER X**

2869 **DISCIPLINARY APPEALS**

2870
2871
2872 **D-10.01 Filing an Appeal**

2873
2874 *D-10.0101 Definition*

2875
2876 An appeal of a disciplinary case is the transfer to the next higher council of a case in which a
2877 decision has been rendered in a lower council, for the purpose of obtaining a review of the proceedings
2878 and decision in order to correct, modify, set aside, or reverse the decision.

2879
2880 *D-10.0102 Initiation of Appeal*

2881
2882 The time for filing an appeal shall begin from the date the decision is delivered to, or refused by, the
2883 person found guilty.

- 2884
2885 a. Only the person found guilty of an offense may initiate the first level of appeal.
2886
2887 b. Once the first appeal has been decided, either party may initiate the next level of appeal.
2888

2889 *D-10.0103 Parties*

2890
2891 The parties in a disciplinary appeal are the person found guilty and the Presbyterian Church (U.S.A.)
2892 through the prosecuting committee of the council that issued the censure.

2893
2894 **D-10.02 Notice of Appeal**

2895
2896 *D-10.0201 Notice Filed*

2897
2898 A written notice of appeal shall be filed with the stated clerk of the next higher council within forty-
2899 five (45) days after a copy of the final order was received by the appealing party. The written notice may
2900 be delivered by means of electronic communication, provided that the stated clerk certifies receipt of the
2901 notice, which may also be communicated electronically. If filing the notice electronically, care should be
2902 taken to deliver the notice in a manner that can clearly demonstrate timely filing. By written agreement
2903 of the parties, all additional filings may be electronic. The appealing party shall provide a copy of the
2904 written notice of appeal to the clerk of session or stated clerk of the council that issued the ruling, as
2905 well as to the stated clerk of the council that would hear the appeal, who shall distribute the notice to the
2906 other party or parties.

2907
2908 *D-10.0202 Items to be Included:*

2909
2910 Items to be included in a disciplinary appeal are as follows:

- 2911
2912 a. the name of the party filing the appeal (the appellant) and their counsel, if any;
2913
2914 b. the name of the other party (the appellee) and their counsel, if any;
2915

- 2916 c. the council from whose decision the appeal is taken;
2917
2918 d. a copy of the ruling; and
2919
2920 e. a statement and description of the errors alleged to have been made in the ruling that are
2921 the grounds for appeal. The grounds for which an appeal may be filed are:
2922
2923 (1) irregularity in the proceedings,
2924
2925 (2) refusing a party reasonable opportunity to be heard or to obtain or present
2926 evidence,
2927
2928 (3) receiving improper, or declining to receive proper evidence or testimony,
2929
2930 (4) hastening to a decision before the evidence or testimony is fully received,
2931
2932 (5) manifestation of prejudice in the conduct of the case,
2933
2934 (6) injustice in the process or decision,
2935
2936 (7) error in constitutional interpretation, and
2937
2938 (8) undue severity of censure.
2939
2940 f. a certification that a copy of the notice of appeal has been sent as required by D-10.0201
2941 to the clerk of session or stated clerk of the council from whose decision the appeal is taken. This
2942 certification may be in the form of an electronic communication if agreed upon in advance by the
2943 parties.
2944

2945 **D-10.03 Duty of Stated Clerk**
2946

2947 Upon receipt of the written notice of appeal, the stated clerk of the council that will hear the appeal shall
2948 transmit it to the officers of that council's permanent judicial commission and the other party. The notice
2949 of appeal, if properly and timely filed, shall suspend further proceedings by lower councils, except any
2950 censure shall continue until the appeal is finally decided.
2951

2952 **D-10.04 Withdrawal of Appeal**
2953

2954 The parties in a disciplinary appeal are encouraged to seek resolution of their differences in a manner
2955 acceptable to all parties and consistent with the Constitution of the Presbyterian Church (U.S.A.). If at
2956 any time in the appeal process the parties to a disciplinary appeal jointly file with the stated clerk of the
2957 council hearing the appeal a petition for the withdrawal of the appeal, the stated clerk shall inform the
2958 members of the permanent judicial commission that the appeal has been withdrawn, which shall end the
2959 judicial process unless within seven (7) days any member of the permanent judicial commission
2960 challenges the withdrawal. If the withdrawal is so challenged, a majority of the commission at a duly
2961 constituted meeting may conclude that the withdrawal would defeat the ends of justice or conflict with
2962 the Constitution of the Presbyterian Church (U.S.A) and deny the request.

2963
2964 **D-10.05 Preliminary Process**
2965

2966 *D-10.0501 Examination of Notice of Appeal*
2967

2968 Upon receiving the notice of appeal, the moderator and clerk of the permanent judicial commission
2969 of the council that will hear the appeal shall promptly examine the notice of appeal to determine
2970 whether:

- 2971
- 2972 a. the council has jurisdiction,
 - 2973
 - 2974 b. the appellant has standing to file the appeal,
 - 2975
 - 2976 c. the appeal was timely and properly filed, and
 - 2977
 - 2978 d. the appeal states and describes one or more of the grounds for appeal listed in D-
2979 10.0202e.

2980
2981 *D-10.0502 Preliminary Ruling*
2982

2983 The officers of the permanent judicial commission shall report their determination to the parties and
2984 to the members of the commission in a preliminary ruling.

2985
2986 *D-10.0503 Challenge to Preliminary Ruling*
2987

2988 Within thirty (30) days after their receipt of the preliminary ruling, the parties and members of the
2989 permanent judicial commission may challenge the determination, in which case opportunity shall be
2990 provided for the parties to present evidence and argument on the determination(s) in question. A hearing
2991 may be requested by either party for the purpose of hearing the challenge, or if the parties agree, the
2992 matter may be decided by the permanent judicial commission on the basis of documents submitted by
2993 the parties. If a hearing is requested, it should be held at least thirty (30) days prior to the hearing on the
2994 appeal, unless the officers of the permanent judicial commission determine that the circumstances,
2995 including expenditures of time and resources, warrant disposition of the challenge immediately prior to
2996 the hearing on the appeal. If the permanent judicial commission determines the answer to any of the four
2997 preliminary questions has been answered in the negative, the commission shall dismiss the appeal.
2998

2999 *D-10.0504 When No Challenge is Received*
3000

3001 When there are no challenges to the determination in the preliminary ruling, the following shall
3002 apply:

- 3003
- 3004 a. If no challenge is made to the preliminary ruling of the officers that one or more points in
3005 D-10.0501 are answered in the negative, the case shall be dismissed without further action or order of
3006 the permanent judicial commission.
 - 3007
 - 3008 b. If no challenge is made to the preliminary ruling of the officers that all of the points in D-
3009 10.0501 are answered in the affirmative, the stated clerk of the council shall schedule a hearing at a time
3010 acceptable to the parties and at which a quorum of the permanent judicial commission can be present.

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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

3057
3058 Within thirty (30) days of the receipt of the appellant’s brief, the appellee shall file with the stated
3059 clerk of the council whose permanent judicial commission will hear the appeal a brief in response to the
3060 appellant’s brief. Copies of the brief shall be distributed by the stated clerk to the members of the
3061 commission and to the opposing party.

3062
3063 *D-10.0704 Failure of Appellee to File Brief*

3064
3065 Failure of the appellee to file a brief within the time allowed, without good cause, shall constitute
3066 waiver of the rights to file a brief, to appear, and to be heard.

3067
3068 *D-10.0705 Filing of Appellant Reply Brief*

3069
3070 Within fifteen (15) days of receipt of the appellee’s brief, the appellant may file a reply brief limited
3071 to the issues raised in the appellee’s brief. Copies of the brief shall be distributed by the stated clerk to
3072 the members of the permanent judicial commission and to the other party.

3073
3074 **D-10.08 Extensions**

3075
3076 For good cause shown, the stated clerk of the higher council may extend any of the time limits
3077 contained in D-10.06 or D-10.07 for a reasonable period.

3078
3079 **D-10.09 Transmittal of Record and Briefs**

3080
3081 Upon receipt of the record and the briefs, or upon the expiration of the time for filing them, the
3082 stated clerk of the higher council shall transmit the record and briefs to the clerk of the permanent
3083 judicial commission.

3084
3085 **D-10.10 Prehearing Conference**

3086
3087 At any time after an appeal has been received by a permanent judicial commission, the commission
3088 may provide for the parties and their counsel, if any, for the opportunity in a prehearing conference to
3089 seek agreement on any of the disputed issues in the appeal and to take other action which might
3090 reasonably and impartially narrow the dispute and expedite its resolution.

3091
3092 **D-10.11 Hearing of Appeal**

3093
3094 The moderator or clerk of the permanent judicial commission shall notify the parties of the date
3095 when they may appear in person or by counsel before the permanent judicial commission. Failure of a
3096 party to appear in person or by counsel shall constitute a waiver of participation in the hearing of the
3097 appeal. At the hearing, the permanent judicial commission shall give opportunity to be heard on the
3098 grounds of the appeal to those parties who have not waived that right. The appellant has the right of
3099 opening and closing the argument.

3100
3101 **D-10.12 Decision of the Permanent Judicial Commission**

3102
3103 *D-10.1201 Standard of Review*

3104
3105 Factual determinations by the session or permanent judicial commission that tried the case shall be
3106 accorded a presumption of correctness in appeals. Factual determinations are not to be disturbed unless
3107 they are plainly wrong, without supporting evidence, or manifestly unjust. Determinations related to the
3108 correct interpretation and application of provisions of the Constitution of the Presbyterian Church
3109 (U.S.A.) are not accorded the same presumption of correctness.

3110
3111 *D-10.1202 Voting Procedure*

3112
3113 After the hearing and after deliberation, the permanent judicial commission shall vote separately on
3114 each specification of error alleged. The vote, which shall be by counted vote, shall be on the question,
3115 “Shall the specification of error be sustained?” The minutes shall record the vote on each specification
3116 of error. A majority vote sustains each specification of error.

3117
3118 *D-10.1203 Decision*

3119
3120 The decision of the permanent judicial commission shall include the determination of errors
3121 specified, and state the remedy as provided in D-10.0101. The permanent judicial commission may
3122 prepare its decision in a manner that will dispose of all substantive questions without redundancy. It
3123 should include an explanation of its determinations.

3124
3125 a. Decisions of permanent judicial commissions other than the General Assembly’s
3126 Permanent Judicial Commission are binding only on the parties to the case.

3127
3128 b. If none of the specifications of error is sustained, and no other error is found, the decision
3129 of the lower council shall be affirmed.

3130
3131 c. If one or more errors are found, the permanent judicial commission may conclude that
3132 despite the errors found, the decision of the lower council is affirmed. Alternatively, it may reverse the
3133 decision of the lower council either completely or in part, and if reversed in part, it may determine
3134 whether the decision of the lower council shall be modified or set aside, or the case remanded for a new
3135 trial.

3136
3137 d. The questions presented for decision shall be fully debated and voted upon while all
3138 participating permanent judicial commission members are present. A written outline of a decision shall
3139 be prepared while in session. A written decision shall be reviewed by all participating members of the
3140 panel, which may take place either while the participating permanent judicial commission members are
3141 present or by meeting within ten (10) days either in person, or electronically in accordance with G-
3142 3.0105.

3143
3144 e. The decision shall become the final decision when a copy of the written decision is
3145 signed by the moderator and clerk of the permanent judicial commission. A copy of the decision shall
3146 immediately be delivered to the parties to the case in accordance with D-7.0104b, or electronic
3147 communication if agreed upon in advance by the parties.

3148
3149 *D-10.1204 Effect of Reversal on Appeal in Disciplinary Case*

3150

3151 If the permanent judicial commission reverses all determinations of guilt, it becomes an acquittal and
3152 the person is automatically restored to ordered ministry or membership in the church. This declaration
3153 shall be made in the lower council and recorded in the minutes of the lower council with jurisdiction
3154 over the person found guilty.