

Office of the General Assembly Constitutional Musing

Administrative Leave of Teaching Elders

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Teaching Elders are members of a particular presbytery. Ordinarily a Teaching Elder will be in a Called and Installed position as pastor, co-pastor or associate pastor with a congregation, a Temporary Pastoral relationship with a congregation, a Validated Ministry either within or beyond the jurisdiction of the church, or a member-at-large. Each of these ministry configurations involves different entities that are in covenant or contract with each other. For example a teaching elder who is in a called and installed pastoral relationship enters into a covenant that includes the teaching elder, the calling congregation and the presbytery.

On occasion, one of the entities involved in the relationship receives notification that the teaching elder may have engaged in behavior that is harmful to one or more persons. When an entity receives this information, there may be the need to place the individual teaching elder on Administrative Leave. How does this happen?

I. Called and Installed Teaching Elders

1. Allegations of Sexual Abuse (*D-10.0401*) that involves any person over the age of eighteen and includes the threat of force, coercion, intimidation or misuse of ordered ministry or position.

Teaching Elders who have been called and installed in a pastoral position have terms of call that must be approved by the congregation (*G-1.0501, G-1.0503 b and c, G-2.0804, and G-2.0805*). In addition, the call must be approved by the presbytery and the teaching elder (*G-2.0805 and G-3.0301a*). It is the presbytery that installs the teaching elder into the position after the call is approved by the congregation, the presbytery and the teaching elder. *G-2.0805*.

If the Session, the Presbytery or the Teaching Elder seeks to modify the terms of the call, any amendment must be approved by the congregation. *G-1.0503c*. Administrative leave, paid or unpaid, is a modification to the terms of call therefore it must be approved by the congregation.

The exceptions to the fact that Administrative Leave must be approved by the congregation are as follows:

- a. In 2003, the General Assembly of the PCUSA issued an Authoritative Interpretation that allowed a Presbytery, Congregation and Teaching Elder to agree upon language within a teaching elder's written term of call that empowers a presbytery to place a teaching elder upon administrative leave when an allegation of sexual abuse under *D-10.0401* (not under the age of eighteen or who it is alleged lacked the mental capacity to consent) that

involves any person over the age of eighteen and includes the threat of force, coercion, intimidation or misuse of ordered ministry or position has been received. The language must include a preliminary investigation, with an opportunity for the accused to be heard, into whether it is probable that the charges have merit and that there is a risk of further abuse.

Recommended language is as follows:

“If an allegation of sexual abuse (*D-10.0401*) against _____ is received, the presbytery of _____, through its committee on ministry, shall:

- (a) arrange immediately for the supervision of the pastor to ensure that the pastor is not placed in any unsupervised settings of the type the allegations claim led to the purported abuse;
- (b) conduct an immediate investigation to determine whether the best interests of the congregation and of potential victims of abuse, considered in light of the nature and probable truth of the allegations, warrant a leave of absence or other restrictions upon the pastor's service, and
- (c) after determining that a leave of absence, continued supervision, or other restriction upon the pastor's service is required, and, after the pastor is given the opportunity to be heard, and after consultation with the session, direct that the pastor be placed on such a leave of absence or other restriction of service. The pastor has the right to appeal to the presbytery any limitations on ministry.”

2003 GA (Item 04-03, Request 03-10, p. 63)

- b. In 2012, the General Assembly removed several requirements for a presbytery imposing administrative leave and adopted the following Authoritative Interpretation:

“Every presbytery needs to adopt an adequate comprehensive administrative leave policy with a list of types of allegations that trigger an immediate leave as an explicit agreement between the teaching elder, congregation, and presbytery.”

2012 GA (Item 06-09).

- 2. When an Allegation of Sexual Abuse toward any person under the age of eighteen or whom lacked the mental capacity to consent is received by the presbytery.

When the presbytery has received an allegation of sexual abuse by a teaching elder toward any person under the age of eighteen or whom lacked the mental capacity to consent, *D-10.0106* allows a Presbytery to unilaterally determine that a Teaching Elder must be placed on Administrative Leave. *D-10.0106* provides a complicated process involving two members of the Presbytery Permanent Judicial Commission

and a hearing that the Presbytery must follow to determine whether the risk in light of probable truth requires that the Teaching Elder be placed on Administrative Leave.

In addition, in 2012 the General Assembly proposed an amendment to *D-10.0106* that would apply the complicated procedure mandated under *D-10.0106* when a presbytery has received an alleged offense of sexual abuse against a teaching elder that is not limited to an alleged offense against a person under age 18 or whom is unable to give consent. This amendment may go into effect July, 2013 if passed by a majority of the presbyteries.

3. When a Session wants to place a Teaching Elder in a called and installed position on Administrative Leave

A session is not empowered by itself to place a teaching on administrative leave. The session has two choices...

1. It may bring the proposed administrative leave to the Congregation for a congregational vote. *G-1.0503c.*; or
2. The Session may approach the presbytery to trigger either *D-10.0106*, the term of administrative leave written in the term of call, or the presbytery policy. If none of these methods apply, the presbytery is also not empowered to place a teaching elder on administrative leave.

II. Teaching Elders in Temporary Pastoral Relationships

A Session, with the approval of the presbytery, may enter into terms of service with a teaching elder for a temporary pastoral relationship. The Presbytery determines the terms of services including the specified period not to exceed twelve months. *G-2.0504b.*

The Presbytery may include into the term of service a list of types of allegations that trigger an immediate administrative leave. *2012 GA (Item 06-09)*

For other allegations not included into the term of service, the temporary term of service is not a call between three parties, but an agreement made by the presbytery and the pastor not to exceed a commitment of one year. Thus, the agreement may be dissolved, amended or modified by the presbytery at any time if the individual is unable to perform the agreement or there is an allegation that the individual has abused the trust of the agreement. It would be wise for a temporary agreement to include a paragraph outlining the circumstances in which the presbytery would dissolve, amend or modify the agreement.

For example: "A presbytery may choose to place the teaching elder on administrative leave at any time as an amendment to the temporary term of service. It must do so after giving the session and the teaching elder notice and an opportunity to be heard."

If a Session desires to dissolve, amend or modify a temporary pastoral relationship between the session and the presbytery and the teaching elder, it must request the presbytery to dissolve, amend or modify the agreement.

III. Teaching Elders in Validated Ministry beyond the jurisdiction of the church.

The presbytery may not have the power to determine whether a Teaching Elder in a Validated Ministry beyond the jurisdiction of the church should be placed on Administrative Leave, however the presbytery may always reevaluate the Validation of Ministry and should share any allegation, whether or not substantiated, with the employer.

IV. Additional issues around Administrative Leave

1. Must Salary, Housing and benefits continue during Administrative Leave?
 - a. If the Congregation votes on a change to the terms of call, it may determine the appropriate salary, housing and benefits during Administrative Leave including unpaid leave.
 - b. If the presbytery uses the *D-10.0106* process, “the cost of such [administrative leave] shall be borne by the employing entity whenever possible or be shared by the presbytery as necessary.” There is no AI regarding this, however, if the congregation does not specifically approve a paid administrative leave, it is probable that the presbytery will have to pay the costs of paid administrative leave.
 - c. If the presbytery modifies or dissolves a temporary relationship, then the presbytery may decide salary, housing and benefits in consultation with the Session. It may be that the presbytery will have to share the costs if not agreed to by the Session.
 - d. A presbytery may also approve a policy that is agreed to in each term of call that describes the terms of any paid administrative leave.
2. How long will the leave of absence be?
 - a. It will be determined by the entity empowered to determine administrative leave and may be extended if necessary.
3. Does the Presbytery still have the power to dissolve the relationship?
 - a. Absolutely. *G-2.0904*, *G-3.0301a and c* and *G-3.0307* give the presbytery the power to dissolve the pastoral relationship, if, after consultation with the minister, the session and the congregation, it finds the church’s mission under the Word imperatively demands it.
4. What may the teaching elder do while on administrative leave?
 - a. A teaching elder may not perform any pastoral, administrative, educational, or supervisory duties, and may not officiate at any functions such as Baptism, funerals or weddings.
 - b. The entity or council imposing administrative leave may set additional limitations.

