

**ADVISORY OPINION:
MARRIAGE AND SAME-GENDER CEREMONIES**

WHAT IS THE DEFINITION OF “MARRIAGE” IN THE *BOOK OF ORDER*?

W-4.9001 in the *Book of Order* states:

Marriage is a gift God has given to all humankind for the wellbeing of the entire human family. Marriage is a civil contract between a woman and a man. For Christians marriage is a covenant through which a man and a woman¹ are called to live out together before God their lives of discipleship. In a service of Christian marriage a lifelong commitment is made by a woman and a man to each other, publicly witnessed and acknowledged by the community of faith.²

In 2008, the General Assembly Permanent Judicial Commission (GAPJC) in [*Spahr v. Presbytery of Redwoods*](#) noted, “W-4.9001 provides four definitional statements of marriage” and “‘by definition, marriage is...between a man and a woman’ (W-4.9001).”³ The Commission further stated, “W-4.9001 defines marriage as only between a man and woman, and that the Constitution does not address any other form of marriage.”⁴ Eight years prior, in 2000, the GAPJC noted in [*Benton v. Presbytery of Hudson River*](#), “a Christian marriage performed in accordance with the Directory of Worship can only involve a covenant between a man and a woman.”⁵

CAN A PC(USA) TEACHING ELDER PERFORM A SAME-GENDER “MARRIAGE”?

No. The PC(USA) Constitution and authoritative interpretations currently prohibit PC(USA) teaching elders from performing and officiating a same-gender “marriage” since W-4.9001 defines “marriage” as “between a man and a woman.” Further, “officers of the PC(USA) authorized to perform marriages shall not state, imply, or represent that a same sex⁶ ceremony is a ‘marriage.’”⁷

CAN A PC(USA) TEACHING ELDER PERFORM OR BLESS A SAME-GENDER UNION?

Yes. In 2008, the GAPJC noted, “that there is no prohibition in W-4.9001 against performing a same sex ceremony.”⁸ However, it is important that the PC(USA) teaching elder make a clear distinction that a same-gender union ceremony is not a “marriage” ceremony.⁹

WHAT DISTINCTIONS MUST BE MADE BETWEEN A SAME-GENDER UNION AND MARRIAGE?

While there is no specific prohibition against same-gender union ceremonies, [*the 203rd General Assembly in 1991*](#) stated, “it is not proper for ministers to conduct ceremonies represented as marriages between persons of the same sex.”¹⁰ Accordingly, in preparing a same-gender ceremony, a teaching elder should “instruct same-sex couples that the service to be conducted does not constitute a marriage ceremony and should not be held out as such.”¹¹ Services where a same-gender union is blessed or performed should have a liturgical distinction from marriage services. The GAPJC has noted that the “liturgy should be kept distinct for the two types of services”¹² and that “ministers should not appropriate specific liturgical forms from services of Christian marriage or services recognizing civil marriage in conduct of such ceremonies.”¹³ Accordingly, for a same-gender union ceremony it would be improper to use the Christian Marriage liturgies in the *Book of Common Worship*. Regarding the “Form and Order” of the service, it is also important to clarify declarations of intent and pronouncements of marriage from declarations and pronouncements made in a same-gender union ceremony.¹⁴ Additionally,

how the service is titled and publicized in the bulletin is also an important distinguishing factor.¹⁵

CAN CHURCH FACILITIES BE USED FOR A SAME-GENDER “MARRIAGE” CEREMONY?

Under G-3.0201(c) in the *Book of Order*, the session has the responsibility of “managing the physical property of the congregation for the furtherance of its mission.”¹⁶ The [General Assembly](#) and GAPJC both have noted, “inasmuch as the session is responsible and accountable for determination of the appropriate use of the church building and facilities it should not allow use of church facilities for a same-sex union ceremony that the session determines to be the same as a marriage ceremony.”¹⁷

WHAT CIVIL JURISDICTIONS CURRENTLY ALLOW FOR SAME-GENDER “MARRIAGE”?¹⁸

Currently, same-gender marriage is legal in nine states: Massachusetts,¹⁹ Connecticut,²⁰ Iowa,²¹ Vermont,²² New York,²³ New Hampshire,²⁴ Maryland,²⁵ Maine,²⁶ and Washington.²⁷ Same-gender marriage is also legal in Washington D.C.²⁸ Further, laws governing same-gender marriage are currently under judicial review in other states.²⁹

IF A CIVIL JURISDICTION ALLOWS SAME-GENDER “MARRIAGE,” DOES THIS AFFECT THE PC(USA)’S DEFINITION OF “MARRIAGE”?

In [Southard v. Presbytery of Boston](#), the GAPJC stated, “a change in state law does not amend the *Book of Order*.”³⁰ The GAPJC further noted, “in light of the change in the laws of some states, this Commission reiterates that officers of the PC(USA) who are authorized to perform marriages, when performing a ceremony for a same gender couple, shall not state, imply, or represent that the same gender ceremony is an ecclesiastical marriage ceremony as defined by PCUSA polity, whether or not the civil jurisdiction allows same-gender civil marriages.”³¹

WHAT RULES GOVERN A COMMISSIONED RULING ELDER OFFICIATING AT MARRIAGES?

Regarding commissioned ruling elders, G-2.1001 of the *Book of Order* acknowledges that a “presbytery, in its commission, may authorize the ruling elder to... officiate at marriages where permitted by state law.” Inline with the authoritative interpretations governing teaching elders discussed above and recognizing that a presbytery may not empower someone through a commission to act unconstitutionally, a presbytery may commission a ruling elder to perform a marriage as defined in W-4.9001 where permitted by state law, but a presbytery may not commission a ruling elder to perform a marriage not inline with the definition of W-4.9001 even if permitted by state law.

CAN A PCUSA TEACHING ELDER OR COMMISSIONED RULING ELDER BLESS THE “MARRIAGE” OF THOSE PREVIOUSLY MARRIED IN A SAME GENDER CIVIL CEREMONY?

There is no authoritative interpretation directly addressing this question. As noted, “officers of the PC(USA) authorized to perform marriages shall not state, imply, or represent that a same sex ceremony is a ‘marriage.’”³² Accordingly, blessing a previously existing same-gender marriage as permitted by state law may pose certain risk of judicial process to the teaching elder or commissioned ruling elder if the officiant in any way represents the blessing as a marriage. The blessing of a union between two persons of the same-gender previously married in a legally permitted civil ceremony may pose less risk, provided that the officiant at the blessing ceremony does not in any way state, imply or represent the blessing to be a marriage.

WHAT PERSPECTIVES MAY BE HELPFUL FOR THE CHURCH TO ENGAGE IN CONSTRUCTIVE

DIALOGUE ON THESE ISSUES?

We recognize that issues surrounding same-gender marriage continue to generate much discussion and debate within the PC(USA). As the church continues to pray and discern the mind of Christ on these issues, we encourage the church to listen and engage in respectful dialogue, to speak truth in love, and to maintain the unity of the church in the bond of peace.³³ As the church prays, discerns, listens and engages in respectful dialogue on these issues, it is helpful to recognize that both marriage ceremonies and same-gender ceremonies occur within a broader context of communal worship, pastoral care and covenant relationship. As the Directory for Worship reminds us, “the worship of God in the Christian community is the foundation and context for the ministry of pastoral care as well as for the ministry of nurture in faith.”³⁴ Pastoral care remains the responsibility of all church councils.³⁵ As the GAPJC in [Spahr](#) noted, it is “the church's call to participate in a caring and compassionate ministry to persons who have been marginalized, who are faithful Christians, and who wish to be accepted in every way as full members of the body of Christ.”³⁶ Accordingly, we encourage all PC(USA) members, ordered ministers, and councils to continue to make appropriate and responsible decisions concerning the pastoral care of God’s children. Our polity further reminds us that congregations are to exhibit a spirit of welcome and openness and as we work together to foster church unity we are reminded “that our church seeks to include all people and is never content to enjoy the benefits of Christian community for itself alone.”³⁷ Further, we affirm, “the polity of the Presbyterian Church (U.S.A.) presupposes the fellowship of women, men, and children united in covenant relationship with one another and with God through Jesus Christ. The organization rests on the fellowship and is not designed to work without trust and love.”³⁸

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¹ The usage of the language “a man and a woman” also appears in: W-4.9001, W-4.9002a, W-4.9004, and W-4.9006; *see also* D-14.0202.

² The current language found in W-4.9001 was adopted in 1989. Marriage is also discussed in the *Book of Confessions*. *See Westminster Confession of Faith*, (6.131); *The Second Helvetic Confession*, (5.245-51); *The Larger Catechism*, (7.248-9). For a discussion of the role of the Confessions in the life of the church *see* “The Foundations of Presbyterian Polity: Chapter Two: The Church and Its Confessions”; *see also* “The Confessional Nature of the Church Report” added to the beginning of the *Book of Confessions* by action of the 209th General Assembly (1997).

³ *See* [PJC \(2008, 314, 218-12, Spahr v. Pby of Redwoods\)](#)

⁴ *Id.*

⁵ [PJC \(2000, 586, 12.169, Benton, et al. v. Pby of Hudson River\)](#)

⁶ Unless directly quoted as “same sex” as cited here, this Opinion will use the term “same-gender.”

⁷ [PJC \(2008, 314, 218-12, Spahr v. Pby of Redwoods\)](#). The GAPJC in [Spahr](#) noted that “there are differences between same-sex ceremonies and marriage ceremonies and PCUSA officers authorized to perform marriage shall not state, imply, or represent a ceremony is a marriage. Under W-4.9001, a same-sex ceremony is not and cannot be a marriage.” This understanding was built off the [1991 Authoritative Interpretation](#) by the General Assembly declaring that it would not be proper for a minister “to perform a same-sex union ceremony that the minister determines to be the same as a marriage ceremony” [GA \(1991, 395, 21.124, Req. 91-23\)](#). The [1991 Authoritative Interpretation](#) gets cited by the GAPJC in [PJC \(2000, 586, 12.169, Benton, et al. v. Pby of Hudson River\)](#).

⁸ [PJC \(2008, 314, 218-12, Spahr v. Pby of Redwoods\)](#)

⁹ See also [PJC \(2008, 314, 218-12, Spahr v. Pby of Redwoods\)](#) and [PJC \(2000, 586, 12.169, Benton, et al. v. Pby of Hudson River\)](#). The Directory for Worship describes marriage in W-4.9001--W-4.9006.

¹⁰ [GA \(1991, 395, 21.124, Req. 91-23\)](#)

¹¹ [PJC \(2000, 586, 12.169, Benton, et al. v. Pby of Hudson River\)](#)

¹² [PJC \(2008, 314, 218-12, Spahr v. Pby of Redwoods\)](#)

¹³ [PJC \(2000, 586, 12.169, Benton, et al. v. Pby of Hudson River\)](#).

¹⁴ W-4.9004; see [PJC \(2000, 586, 12.169, Benton, et al. v. Pby of Hudson River\)](#); see also *Southard v. Presbytery of Boston* (2011, 220-02).

¹⁵ See *Southard v. Presbytery of Boston* (2011, 220-02). In *Southard v. Presbytery of Boston*, the GAPJC noted, “the program for the wedding service was entitled ‘A Service of Christian Worship and Marriage.’”

¹⁶ See G-3.0201c. Also, W-4.9003 states, “Christian marriage should be celebrated in the place where the community gathers for worship.”

¹⁷ [PJC \(2000, 586, 12.169, Benton, et al. v. Pby of Hudson River\)](#)

¹⁸ For more information on marriage laws by civil jurisdiction see: <http://www.ncsl.org/issues-research/human-services/same-sex-marriage-overview.aspx>

¹⁹ *Goodridge v. Dept. of Public Health*, 798 N.E.2d 941 (Mass. 2003).

²⁰ *Kerrigan v. Commissioner of Public Health*, 957 A. 2d. 407 (Conn. 2008).

²¹ *Varmen v. Brien*, 763 N.W. 2d 862 (Iowa 2009).

²² Effective April 7, 2009.

²³ Effective July 24, 2011.

²⁴ Effective June 7, 2012.

²⁵ In Maryland, legislation passed in February 2012 allowing same-gender marriage. Enough signatures were gathered to put the issue on the November 2012 ballot. Voters on November 7th, 2012, voted to uphold the law, which Maryland’s governor had signed into effect in March 2012.

²⁶ In Maine, voters on November 7th, 2012 upheld a law allowing same-gender marriage.

²⁷ Legislation allowing same-gender marriage passed in Washington in February 2012. Voters on November 7th, 2012, voted to uphold the law.

²⁸ Effective March 4, 2010.

²⁹ In California, the State formerly granted marriage licenses to same-gender couples, but discontinued this practice a result of the passage of Proposition 8, an amendment to the California Constitution that limited marriages to those between one man and one woman. On February 7, 2012, a federal appeals court found in *Perry v. Brown*, 671 F.3d 1052 (9th Cir., 2012) that California’s constitutional restriction on same-gender marriage was invalid, but has postponed enforcement pending appeal to the United States Supreme Court. *Perry v. Brown*, was appealed to the U.S. Supreme Court on July 31, 2012.

³⁰ [Southard v. Presbytery of Boston](#) (2011, 220-02).

³¹ *Id.*

³² [PJC \(2008, 314, 218-12, Spahr v. Pby of Redwoods\)](#). The GAPJC in *Spahr* noted that “there are differences between same-sex ceremonies and marriage ceremonies and PCUSA officers authorized to perform marriage shall not state, imply, or represent a ceremony is a marriage. Under W-4.9001, a same-sex ceremony is not and cannot be a marriage.” This understanding was built off the [1991 Authoritative Interpretation](#) by the General Assembly declaring that it would not be proper for a minister “to perform a same-sex union ceremony that the minister determines to be the same as a marriage ceremony” [GA \(1991, 395, 21.124, Req. 91-23\)](#). The [1991 Authoritative Interpretation](#) gets cited by the GAPJC in [PJC \(2000, 586, 12.169, Benton, et al. v. Pby of Hudson River\)](#).

³³ See “To Strengthen Christ’s Body: Tools for Talking about Tough Issues”, published by the Presbyterian Peacemaking Program available at: <http://store.pcusa.org/2435808001>

³⁴ W-6.4000

³⁵ See G-3.0102b; G-3.0301b; G-3.0401b; G-3.0501b.

³⁶ [PJC \(2008, 314, 218-12, Spahr v. Pby of Redwoods\)](#)

³⁷ See G-1.0302; F-1.0302a. Along these lines, F-1.0404 reminds us that the Presbyterian Church (U.S.A.) is to seek a “new openness in its own membership, becoming in fact as well as in faith a community of women and men of all ages, races, ethnicities and worldly conditions, made one in Christ by the power of the Spirit, as a visible sign of the new humanity.”

³⁸ G-1.0102