

Advisory Opinions: Note 15

Alternative Form of Resolution Agreements

The Rules of Discipline provide the opportunity for an Investigating Committee to begin an alternative form of resolution of the alleged offense, “ordinarily” only after completion of an inquiry and determination that probable cause or grounds exist to believe that an individual committed an offense. Any resulting agreement must be given to the session or permanent judicial commission for its approval. D-10.0202g(2).

The [216th General Assembly](#) issued the following interpretation regarding this agreement:

“When an investigating committee begins alternative forms of resolution under D-10.0202g, the investigating committee must file charges at least concurrently with an agreement being filed with the permanent judicial commission in order to seek the permanent judicial commission’s approval of the agreement. Absent such charges, the permanent judicial commission has no basis to evaluate the proposed agreement. Moreover, if the agreement is not approved, the investigation should be prepared to move forward to prosecute such charges.

An agreement approved by the permanent judicial commission under D-10.0202g(2) is a decision of the permanent judicial commission.”

This is a change from the practice of some presbyteries in implementing alternative forms of resolution. All Investigating Committees should be aware that an alternative form of resolution agreement must be filed concurrently with charges and may not be used to offer secret agreements. The alternative form of resolution agreement may be used to avoid trial and censure hearing and to craft censures agreeable to all parties, but may not be used to avoid public accountability.

If the session or PJC approves the Alternative Form of Resolution Agreement and the Agreement becomes the decision of the governing body, it must be reported to the governing body according to D-11.0701. After placement in the minutes of the presbytery, the agreement may also be placed in the minister’s file.