

**The Rules of Discipline**

**D-1.0000 CHAPTER I. PRINCIPLES OF CHURCH DISCIPLINE**

**Preamble**

**D-1.0101 Church Discipline**

Church discipline is the church's exercise of authority given by Christ, both in the direction of guidance, control, and nurture of its members and in the direction of constructive criticism of offenders. The church's disciplinary process exists not as a substitute for the secular judicial system, but to do what the secular judicial system cannot do. Thus, the purpose of discipline is to honor God by making clear the significance of membership in the body of Christ; to preserve the purity of the church by nourishing the individual within the life of the believing community; to achieve justice and compassion for all participants involved; to correct or restrain wrongdoing in order to bring members to repentance and restoration; to uphold the dignity of those who have been harmed by disciplinary offenses; to restore the unity of the church by removing the causes of discord and division; and to secure the just, speedy, and economical determination of proceedings. In all respects, all participants are to be accorded procedural safeguards and due process, and it is the intention of these rules so to provide.

**CHURCH DISCIPLINE**

**CHAPTER I**

**PRINCIPLES OF CHURCH DISCIPLINE**

**PREAMBLE**

**D-1.02 Church Discipline Defined**

*D-1.201 Church Discipline Defined*

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

*D-1.0202 Limits of Church Discipline*

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

**D-1.03 Purpose of Church Discipline**

*D-1.0301 Purpose of Church Discipline*

Thus, the purpose of church discipline is:

- To honor God by making clear the significance of membership in the body of Christ;
- To preserve the purity of the church by nourishing the individual within the life of the believing community;

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|  | <ul style="list-style-type: none"> <li>• To pursue and reveal the truth;</li> <li>• To achieve justice and compassion for all participants involved;</li> <li>• To correct or restrain wrongdoing in order to bring members to repentance and restoration;</li> <li>• To uphold the dignity of those who have been harmed by offenses;</li> <li>• To restore the unity of the church by removing the causes of discord and division; and</li> <li>• To secure the just, speedy, and economical determination of proceedings.</li> </ul> <p><i>D-1.0302 Due Process</i></p> <p>In all respects, participants are to be accorded procedural safeguards and due process consistent with these Principles of Church Discipline.</p> |
| <p><b>D-1.0102 Power Vested in Christ's Church</b></p> <p>The power that Jesus Christ has vested in his Church, a power manifested in the exercise of church discipline, is one for building up the body of Christ, not for destroying it, for redeeming, not for punishing. It should be exercised as a dispensation of mercy and not of wrath so that the great ends of the Church may be achieved, that all children of God may be presented faultless in the day of Christ.</p>  | <p><b>D-1.01 Power Vested in Christ's Church</b></p> <p>The power that Jesus Christ has vested in his Church, a power manifested in the exercise of church discipline, is one for building up the body of Christ, not for destroying it, for redeeming, not for punishing. It should be exercised as a dispensation of mercy and not of wrath, so that the great ends of the Church may be achieved, that all children of God may be presented faultless in the day of Christ.</p>  |
| <p><b>D-1.0103 Conciliate and Mediate</b></p> <p>The traditional biblical obligation to conciliate, mediate, and adjust differences without strife is not diminished by these Rules of Discipline. Although the Rules of Discipline describe the way in which judicial process within the church, when necessary, shall be conducted, it is not their intent or purpose to encourage judicial process of any kind or to make it more expensive or difficult. The biblical duty of church people to "come to terms quickly with your accuser while you are on the way to court..." (Matthew 5:25) is not abated or diminished. It remains the duty of every church member to try (prayerfully and seriously) to bring</p> | <p><b>D-1.04 Conciliate and Mediate</b></p> <p>The traditional biblical obligation to conciliate, mediate, and adjust differences without strife is not diminished by church discipline. Although these rules describe the way in which judicial process within the church shall be conducted, it is not their intent or purpose to encourage judicial process or to make it more expensive or difficult. Those contemplating the use of judicial process shall recall the biblical duty to "come to terms quickly with your accuser while you are on the way to court . . ." (Matthew 5:25). They shall attempt prayerfully and seriously to bring about an adjustment or settlement of the issue asserted and avoid</p>       |

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| <p>about an adjustment or settlement of the quarrel, complaint, delinquency, or irregularity asserted, and to avoid formal proceedings under the Rules of Discipline unless, after prayerful deliberation, they are determined to be necessary to preserve the purity and purposes of the church.</p>  | <p>formal proceedings under judicial process unless after prayerful deliberation, it is determined to be necessary to preserve the peace, unity, and purity, or accomplish the purposes of the church. Nor shall this duty to consider other forms of resolution end upon the commencement of judicial process.</p>   |
| <p><b>D-2.0000</b>            <b>CHAPTER II. JUDICIAL PROCESS DEFINED</b></p>  | <p style="text-align: center;"><b>CHAPTER II</b><br/><b>JUDICIAL PROCESS DEFINED</b></p>  |
| <p><b>D-2.0100</b>    <b>1. Judicial Process</b></p> <p style="padding-left: 40px;"><b>D-2.0101</b>    <b>Church Discipline</b></p> <p>Judicial process is the means by which church discipline is implemented within the context of pastoral care and oversight. It is the exercise of authority by the councils of the church for</p> <p><b>D-2.0101a.</b>    the prevention and correction of irregularities and delinquencies by councils or an entity of the General Assembly (Remedial Cases, D-6.0000);</p> <p><b>D-2.0101b.</b>    the prevention and correction of offenses by persons (Disciplinary Cases, D-10.0000).</p> | <p><b>D-2.01</b>            <b>Judicial Process</b></p> <p style="padding-left: 40px;"><i>D-2.0101 Processes of Accountability</i></p> <p>Church discipline in the Presbyterian Church (U.S.A.) is accomplished through judicial processes of accountability. Accountability of councils is accomplished through remedial process. Accountability of individuals is accomplished through disciplinary process.</p>    |
| <p style="text-align: center;"><b>D-2.0102</b>    <b>Councils of the Church</b></p> <p>The councils of the church for judicial process are the session, the presbytery, the synod, and the General Assembly. The session itself conducts trials. The presbytery, the synod, and the General Assembly conduct trials and hearings through permanent judicial commissions.</p>   | <p style="padding-left: 40px;"><i>D-2.0102 Councils of the Church</i></p> <p>The councils of the church are sessions, presbyteries, synods, and the General Assembly. Sessions conduct trials themselves. Presbyteries, synods, and the General Assembly conduct trials and appeals of both remedial and disciplinary processes through permanent judicial commissions.</p>   |
| <p style="text-align: center;"><b>D-2.0103</b>    <b>Alternative Forms of Resolution</b></p> <p>To meet the goals of D-1.0103, the investigating committee may initiate if it deems appropriate, and with the written consent of the accused, alternative forms of resolution conducted by professionally trained and certified mediators and arbitrators. The purpose of the process is to achieve justice and</p>  | <p style="padding-left: 40px;"><i>D-7.1601 Initiation of Alternative Resolution</i></p> <p>If it deems appropriate, the investigating committee may initiate alternative resolution after the investigation has been completed and the charges have been drafted, but before the charges have been filed.</p> <p>The investigating committee shall report any agreement for alternative resolution to the session</p> |

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| <p>compassion for all persons involved through mediation and settlement.</p> <p>No statements, written or oral, made at or in connection with this process, shall be themselves admissible in evidence at a subsequent investigation or trial.</p> | <p>or permanent judicial commission for its approval together with the charges to be filed. The outcome of any alternative resolution shall be a signed agreement between the accused and the investigating committee, to be filed together with the charges with the session or the permanent judicial commission. Terms of an alternative resolution shall be agreed upon and submitted within the one-year time limit for filing charges, except as provided in D-7.1603 for Restorative Justice. By mutual agreement the investigating committee and the accused may petition the permanent judicial commission for an extension of the deadline to file charges of up to 60 days while efforts at alternative resolution are being pursued.</p> <p>Should efforts at alternative resolution fail, or the agreement is not accepted by the session or permanent judicial commission, no statements, written or oral, made at or in connection with this process, shall be admissible in evidence at a subsequent investigation or trial.</p> <p>Any fees for mediation or for facilitating restorative justice processes shall be negotiated in advance and paid for by the council of jurisdiction.</p> |
|  | <p><i>D-7.1602 Forms of Alternative Resolution</i></p> <p>Alternative resolution may take one of three forms: restorative justice, mediation, or other negotiated agreements.</p>  |
|  | <p><i>D-7.1603 Restorative Justice</i></p> <p>At the discretion of the investigating committee, in those instances where the accused will plead guilty and take responsibility for harm done, and those alleged to have been harmed are willing to find outcomes that repair damage and address the reasons for the offense, the investigating committee may initiate a process of restorative justice to bring closure to the persons involved and restoration to the community of faith.</p> <p>When a process of restorative justice is initiated, an investigating committee may request of its session or permanent judicial</p>  |

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|  | <p>commission one or more extensions of time to file charges to determine if justice for all can be achieved within a reasonable period.</p>   |
|  | <p><i>D-7.1603a. The Purpose of Restorative Justice</i></p> <p><i>D-7.1603a.(1)</i> Restorative justice is a process by which both those alleged to have committed an offense and those alleged to have been harmed seek to restore the wholeness of the Body of Christ. Restorative justice may be employed prior to trial, or as part of a process of healing after an accused has been found guilty, when the guilty party has had time to accept responsibility and those harmed have had time for personal healing. Should restorative justice not be employed as an alternative resolution prior to trial, the council shall be open to the process at any time if those harmed request and are willing to engage the process.</p> <p><i>D-7.1603a.(2)</i> Restorative justice is not primarily about forgiveness or reconciliation. There should be no pressure on those harmed to forgive or be reconciled. The decision to forgive or be reconciled must be made by the participants at their own initiative.</p> |
|  | <p><i>D-7.1603b. The Practice of Restorative Justice</i></p> <p>Restorative justice is guided by four basic questions:</p> <ul style="list-style-type: none"> <li>• Who has been harmed?</li> <li>• What needs do they have?</li> <li>• Who shares the responsibility to address the needs, to repair the harm, and to restore relationships?</li> <li>• What is needed to restore wholeness to the community?</li> </ul> <p>The process should be facilitated by a person trained in restorative justice, and shall respect the needs and roles of each participant, including:</p>   |

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|  | <p>D-7.1603b.(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.</p> <p>D-7.1603b.(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.</p> <p>D-7.1603b.(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.</p> |
| <p><b>D-2.0200</b>      <b>2. Types of Cases</b></p>   |   |
| <p><b>D-2.0201</b>      <b>Remedial or Disciplinary</b></p> <p>Judicial process consists of two types of cases: remedial and disciplinary.</p> |   |
| <p><b>D-2.0202</b>      <b>Remedial</b></p>  | <p><b>D-2.02</b>                      <b>Remedial Process</b></p> <p><i>D-2.0201</i>    <i>Accountability of Councils</i></p> <p>Remediation is the process by which councils are held accountable to God, to their members, and to</p>   |

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| <p>A remedial case is one in which an irregularity or a delinquency of a lower council or an entity of the General Assembly may be corrected by a higher council.</p>   | <p>each other. Through remediation, actions or omissions contrary to the Constitution by a lower council or an entity of the General Assembly may be corrected by a higher council.</p> <p><i>D-2.0202 Irregularities and Delinquencies</i></p> <p>As defined in D-4.0201, actions contrary to the Constitution of the Presbyterian Church (U.S.A.) are known as “irregularities,” while omissions contrary to the Constitution of the Presbyterian Church (U.S.A.) are known as “delinquencies.”</p>  |
| <p><b>D-2.0202a. Irregularity</b></p> <p>An irregularity is an erroneous decision or action.</p>  | <p><i>D-4.0201a.</i> A decision or action contrary to the Constitution of the Presbyterian Church (U.S.A.) is known as an irregularity.</p>  |
| <p><b>D-2.0202b. Delinquency</b></p> <p>A delinquency is an omission or failure to act.</p>   | <p><i>D-4.0201b.</i> The omission or failure to act on a constitutional requirement is known as a delinquency.</p>   |
| <p><b>D-2.0203 Disciplinary</b></p> <p>A disciplinary case is one in which a church member or a person in an ordered ministry may be censured for an offense.</p> <p><b>D-2.0203a. Church Persons in Ordered Ministry</b></p> <p>Persons in ordered ministries are ministers of the Word and Sacrament, ruling elders, and deacons.</p> | <p><b>D-2.03 Disciplinary Process</b></p> <p><i>D-2.0301 Accountability of Individuals</i></p> <p>Disciplinary process is the process by which active members of congregations and ministers of the Word and Sacrament are held accountable to God and to each other, and may be censured for an offense for the purpose of restoring the wholeness of the body of Christ.</p>   |
| <p><b>D-2.0203b. Offense</b></p> <p>An offense is any act or omission by a member or a person in an ordered ministry of the church that is contrary to the Scriptures or the <i>Constitution of the Presbyterian Church (U.S.A.)</i>.</p>   | <p><i>D-2.0302 Definition of an Offense</i></p> <p>An offense as defined in D-7.0103 is any act or omission by a member of a congregation or a minister of the Word and Sacrament that is contrary to the Scriptures or <i>the Constitution of the Presbyterian Church (U.S.A.)</i></p> <p><i>D-7.0103 Definition of an Offense</i></p> <p>An offense is any act or omission by a member of a congregation or a minister of the Word and Sacrament that is contrary to the Scriptures or the Constitution of the Presbyterian Church (U.S.A.).</p> |

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|  | <p>The mere act of participating in decisions ultimately made by a committee, a commission, or by a council is not an offense.</p> <p><i>D-7.0104 Deadlines and Filings</i></p> <p>The method of determining filing deadlines and methods of filing are as follows:</p> <p>D-7.0104a. Deadlines</p> <p>In determining whether or not a document is timely filed, the day following the event giving rise to the time limit begins the count as day one (for example, the day following the date of the first meeting of an investigating committee, or on which a party receives a decision). All seven days of every week are included in the count, including holidays, and the document shall be deemed timely filed if it is received by the person or persons to whom it is required to be sent on or before the final day of the count. When the final date of the count falls on a weekend or holiday, the document shall be deemed timely filed if it is received on the next business day after the final day of the count.</p> <p>D-7.0104b. Methods of Filing</p> <p>Any document required to be filed may be sent or delivered by United States Postal Service certified mail, return receipt requested; commercial courier, with delivery receipt requested; personal delivery; or electronically when so permitted in these rules.</p> |
|  | <p><b>D-2.04 Standards and Process</b></p> <p>Standards and procedures used in judicial processes are those contained in the <i>Constitution of the Presbyterian Church (U.S.A.)</i>.</p>  |
| <p><b>D-3.0000 CHAPTER III.<br/>JURISDICTION IN JUDICIAL PROCESS</b></p> | <p><b>D-7.03 Jurisdiction</b></p>  |
| <p><b>D-3.0101 Jurisdiction</b></p>                                      | <p><i>D-7.0301 Primary Jurisdiction</i></p>  |



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| <p>In judicial process, each of the councils has jurisdiction as follows:</p> <p><b>D-3.0101a. Session</b></p> <p>The session of a church has original jurisdiction in disciplinary cases involving members of that church.</p>   | <p>Each council is responsible for the discipline of its members and has primary jurisdiction over any allegation against one of its members including any trial, except as provided in D-7.0201d.(2).</p>  |
|   | <p><i>D-7.0302 Exceptions to Primary Jurisdiction</i></p>   |
| <p><b>D-3.0101b. Presbytery</b></p> <p><b>D-3.0101b.(1)</b> The presbytery has original jurisdiction in disciplinary cases involving minister of the Word and Sacrament members of that presbytery and commissioned pastors (also known as commissioned ruling elders) in congregations in the presbytery. (G-3.0307)</p>   | <p><i>D-7.0302a.</i> Ruling elders commissioned to service by presbyteries are accountable as provided in D-7.0201.</p>   |
| <p><b>D-3.0101b.(2)</b> A minister of the Word and Sacrament engaged in work within the geographic bounds of a presbytery other than the presbytery of membership, whether that work is under the jurisdiction of the presbytery or not, does, by engaging in that work, submit to the jurisdiction of that presbytery for the purposes of discipline. Should disciplinary process be initiated against a minister of the Word and Sacrament under this provision, the presbytery of membership shall be notified. The presbytery within whose bounds the minister of the Word and Sacrament is engaged in work may, alternatively, chose to cede jurisdiction to the presbytery of membership, or choose to cooperate with the presbytery of membership in any disciplinary inquiry, alternative form of resolution, or trial. This paragraph shall not apply if the minister of the Word and Sacrament is working in a validated ministry in other service of this church such as a staff member of a council beyond the session, or of an organization related to one of these councils; or in an organization sponsored by two or more denominations, one of which is this church, such as a joint congregational witness church, a specialized ministry, an administrative office, an interdenominational agency; or as a partner in mission in connection with a church outside the United States of America.</p> | <p><i>D-7.0302b.</i> When ministers of the Word and Sacrament are engaged in work or reside within the geographic bounds of a presbytery other than the presbytery of membership, the presbytery of membership may request the presbytery within whose bounds the member works to investigate any allegation and file a report of the investigation with the stated clerk of the presbytery of membership and cooperate with the presbytery of membership in any disciplinary inquiry, alternative resolution, or trial. If the councils involved appoint a joint investigating committee, the expenses of that committee shall be shared. Jurisdiction for trial remains with the council of membership.</p> |

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| <p><b>D-3.0101c. Presbytery, Synod, General Assembly</b></p> <p>The presbytery, the synod, and the General Assembly have jurisdiction in remedial cases (D-6.0000) and in appeals (D-8.0000 and D-13.0000).</p>  |   |
| <p><b>D-3.0101d. Church Is Dissolved</b></p> <p>When a church is dissolved, the presbytery shall determine any case of discipline begun by the session and not concluded.</p>  | <p><i>D-7.0302g.</i> When a congregation is dissolved, the presbytery shall determine any case of discipline begun by the session and not concluded.</p>  |
| <p><b>D-3.0102 No Further Judicial Action</b></p> <p>When a case, either remedial or disciplinary, has been transmitted to a permanent judicial commission, the electing council shall take no further judicial action on the case.</p>  | <p><i>D-4.0207 Effects of Jurisdiction</i></p> <p>Jurisdiction in remedial process has the following particular effects:</p> <p><i>D-4.0207a.</i> Each council shall enforce and recognize the judgments, decisions, and orders of higher councils which have jurisdiction over them under the provisions of the Constitution of the Presbyterian Church (U.S.A.).</p> <p><i>D-4.0207b.</i> Decisions of the permanent judicial commissions of synods and presbyteries are binding on the parties to the particular cases in which the decisions are rendered unless overturned on appeal. No synod or presbytery permanent judicial commission is able to make its decisions binding beyond the parties to the particular case by simply declaring it to be so.</p> <p><i>D-4.0207c.</i> Only the General Assembly Permanent Judicial Commission has the power to render decisions that are authoritative interpretations binding on the entire church (G-13.0103r).</p> |
| <p><b>D-3.0103 Lower Council Fails to Act</b></p> <p>When a lower council fails to act in a particular remedial or disciplinary case for a period of ninety days after the filing of a complaint in a remedial case or charges in a disciplinary case, the higher council, on the request of any party, may assume jurisdiction in the case. It may either issue specific instructions to the lower council as to its disposition or conclude the matter itself.</p> |   |

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| <p><b>D-3.0104 Jurisdiction over Transferred Teaching Elders</b></p> <p>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 a presbytery to another denomination shall be subject to the jurisdiction of the presbytery until received by that denomination.</p> | <p><i>D-7.0302f.</i> 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.</p>   |
| <p><b>D-3.0105 Enforce and Recognize Judicial Decisions</b></p> <p>Each council shall enforce and recognize the judgments, decisions, and orders of every other council acting under the provisions of the Rules of Discipline.</p>   | <p><i>D-4.0207 Effects of Jurisdiction</i></p> <p>Jurisdiction in remedial process has the following particular effects:</p> <p><i>D-4.0207a.</i> Each council shall enforce and recognize the judgments, decisions, and orders of higher councils which have jurisdiction over them under the provisions of the Constitution of the Presbyterian Church (U.S.A.).</p> <p><i>D-4.0207b.</i> Decisions of the permanent judicial commissions of synods and presbyteries are binding on the parties to the particular cases in which the decisions are rendered unless overturned on appeal. No synod or presbytery permanent judicial commission is able to make its decisions binding beyond the parties to the particular case by simply declaring it to be so.</p> <p><i>D-4.0207c.</i> Only the General Assembly Permanent Judicial Commission has the power to render decisions that are authoritative interpretations binding on the entire church (G-13.0103r).</p> |
| <p><b>D-3.0106 When Jurisdiction Ends</b></p> <p>Jurisdiction in judicial process ends when a person in an ordered ministry or a member renounces the jurisdiction of the church. Should the accused in a disciplinary case renounce the jurisdiction of the church as provided in G-2.0407 or G-2.0509, the clerk or stated clerk shall report to the council both the renunciation and the status of the matter at that</p>               | <p><i>D-7.0302e.</i> Jurisdiction in a disciplinary process ends when a church member or a minister of the Word and Sacrament against whom an allegation has been filed renounces the jurisdiction of the Presbyterian Church (U.S.A.) in accordance with G-2.0407 or G-2.0509. In this case, the clerk of session or stated clerk of the presbytery shall report to the council both the renunciation and the status of the matter at that</p>   |

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| <p>time, including the name of the accused, the date and fact of renunciation during an investigation or trial, and the charges filed.</p> | <p>time, including the name of the accused, the date and fact of renunciation during an investigation or trial, and the charges, if filed. If no charges have been filed, the report shall include the nature of the alleged offense.</p>  |
|  | <p><i>D-7.0302e.(1).</i> A person alleged to have been harmed may make the request for a pastoral inquiry in accordance with G-3.0109b(6) at any time to the clerk of session or stated clerk, and it shall be brought to the council for consideration. In the interest of continuity, the council by its rules may appoint members of a former investigating committee to the membership of any subsequent committee or commission appointed to make inquiry into the matter.</p>  |
|  | <p><i>D-7.0302e.(2)</i> If an accused has died or is no longer under the jurisdiction of the Presbyterian Church (U.S.A.), the investigating or prosecuting committee shall ask the accuser, and if reasonably possible, those alleged to have been harmed, if they request the council to continue a pastoral inquiry under the provision in G- 3.0109b(6) or to undertake a separate pastoral inquiry for other offense(s). If they choose to make that request, or if the investigating or prosecuting committee deems it necessary, the investigating or prosecuting committee shall communicate it to the clerk of session or stated clerk, who shall bring the matter before the council for consideration. Any information collected in the course of such a pastoral inquiry shall be retained by the council and shall be made available as evidence if at some point the circumstances related to D-7.1501c apply.</p> |
| <p><b>D-4.0000</b>      <b>CHAPTER IV. REFERENCE</b></p> <p><b>4.0100</b>              <b>1. Reference</b></p>                             | <p><b>D-7.04</b>              <b>Reference</b></p>   |
| <p><b>D-4.0101</b>      <b>Definition</b></p>  | <p><i>D-7.0401</i>    <i>Definition of Reference</i></p>   |

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| <p>A reference 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, for trial and decision or a hearing on appeal in a remedial or disciplinary case not yet decided.</p>   | <p>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:</p> <ul style="list-style-type: none"> <li>a. investigation of an alleged offense and all subsequent proceedings (D-7.05 and following),</li> <li>b. proceedings subsequent to the filing of charges (D-7.15 and following), or</li> <li>c. a hearing on the appeal of a disciplinary case from a lower council.</li> </ul> |
| <p><b>D-4.0102 Proper Subject</b></p> <p>A proper subject of reference involves matters or questions for which it is desirable or necessary that a higher council decide the case.</p>  | <p><i>D-7.1104 Request for Reference</i></p> <p>If within sixty (60) days of its first meeting the investigating committee determines that it is unable for any reason to conduct a thorough and fair investigation, it may ask the council to request a reference in accordance with D-7.04.</p>   |
| <p><b>D-4.0103 Duty of Lower Council</b></p> <p>With its written request for reference to a higher council, the lower council shall specify its reasons for the request and transmit the whole 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.</p> | <p><i>D-7.0402 Duty of Lower Council</i></p> <p>With its written request for reference to a higher council, the lower council shall specify its reasons for the request and transmit the entire record of proceedings in the case and shall take no further action thereon, unless the higher council's permanent judicial commission returns the matter as provided in D-7.0404b. If the reference is accepted, all proceedings, including the trial or hearing on appeal, shall thereafter be held in the higher council.</p>   |
| <p><b>D-4.0200 2. Action on Reference</b></p>   |   |
| <p><b>D-4.0201 Duty of Higher Council</b></p> <p>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.</p>  | <p><i>D-7.0403 Duty of Higher Council</i></p> <p>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.</p>  |
|   | <p><i>D-7.0404 Action on Request</i></p>  |

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|   | In taking action on a request for reference, a permanent judicial commission may take either of the following actions:   |
| <p><b>D-4.0202 Acceptance</b></p> <p>If the permanent judicial commission decides to accept the reference, it shall proceed to trial and decision or to a hearing on appeal.</p>  | <p><i>D-7.0404a.</i> If the permanent judicial commission decides to accept the reference, it shall instruct the stated clerk to proceed with the appointment of an investigating committee, if needed. The permanent judicial commission shall conduct the trial or hearing on appeal.</p>  |
| <p><b>D-4.0203 Refusal</b></p> <p>The permanent judicial commission may refuse to accept the case for reference and return it to the lower council, stating its reasons for refusal. The lower council shall then conduct the trial or hearing on appeal and proceed to a decision.</p>   | <p><i>D-7.0404b.</i> The higher council's permanent judicial commission may decline to accept the case for reference and return it to the lower council, stating its reasons. The session or permanent judicial commission of the lower council shall conduct the investigation, trial, or hearing on appeal and proceed to a decision.</p>  |
|   | <p><i>D-7.0404c.</i> While a request for reference is pending, and until the higher council acts to accept or decline to accept the reference for the case, any pending deadlines or periods of time for action by a council, a party, or an investigating committee shall be suspended.</p>   |
| <p><b>D-5.0000 CHAPTER V. PERMANENT JUDICIAL COMMISSIONS</b></p>  | <p><b>CHAPTER III</b></p> <p><b>PERMANENT JUDICIAL COMMISSIONS</b></p>   |
| <p><b>D-5.0100 1. Service on Permanent Judicial Commissions</b></p>   |  |
| <p><b>D-5.0101 Election</b></p> <p>The General Assembly, each synod or cooperating synods, and each presbytery shall elect a permanent judicial commission from the ministers of the Word and Sacrament and ruling elders subject to its jurisdiction. Each commission shall be composed of ministers of the Word and Sacrament and ruling elders in numbers as nearly equal as possible. When the commission consists of an odd number of members, the additional member may be either a</p> | <p><b>D-3.01 Election</b></p> <p><i>D-3.0101 Composition</i></p> <p>The General Assembly, each synod or set of cooperating synods, and each presbytery shall elect a permanent judicial commission from the ministers of the Word and Sacrament and ruling elders subject to its jurisdiction. Each permanent judicial commission shall be composed of ministers of the Word and Sacrament and ruling elders in numbers as nearly equal as possible, nominated in accordance with the principles for the election of a nominating entity required by G-3.0111 and in</p> |

minister of the Word and Sacrament or a ruling elder. The General Assembly commission shall be composed of one member from each of its constituent synods. The synod commission shall be composed of no fewer than eleven members distributed equally, insofar as possible, among the constituent presbyteries. In those synods with fewer than eleven presbyteries, each presbytery shall have at least one member. When two or more synods form a shared permanent judicial commission, the commission shall be composed of no fewer than twelve members, with each synod electing members proportional to the number of the presbyteries in each synod, insofar as possible. The cooperating synods shall designate between them one stated clerk to process the cases filed with the shared permanent judicial commission. The presbytery commission shall be composed of no fewer than seven members, with no more than one of its ruling elder members from any one of its constituent churches. Two of the members of the presbytery commission shall be designated to review any petition for review of the procedures of the investigating committee while the investigation in a disciplinary case is in process (D-10.0204) and to review any petition for review of the decision not to file charges (D-10.0303). These two members shall not take part in any subsequent trial. A session shall refer either form of petition to the presbytery commission.

conformity to the church's commitment to unity in diversity (F-1.0403). When the permanent judicial commission consists of an odd number of members, the additional member may be either a minister of the Word and Sacrament or a ruling elder.

D-3.0101a. The General Assembly commission shall be composed of one member from each of its constituent synods.

D-3.0101b. Synod commissions shall be composed of no fewer than eleven members distributed equally, insofar as possible, among the constituent presbyteries. In those synods with fewer than eleven presbyteries, each presbytery shall have at least one member. When a set of two or more synods form a shared permanent judicial commission, the commission shall be composed of no fewer than twelve members, with each synod in the set electing members proportional to the number of the presbyteries in each synod, insofar as possible. The cooperating synods shall designate between them one stated clerk to process the cases filed with the shared permanent judicial commission.

D-3.0101c. Presbytery commissions shall be composed of no fewer than seven members, with no more than one of its ruling elder members from any one of its constituent congregations.

*D-3.0102 Reviewers and Effect on Quorum*

The moderator of the permanent judicial commission shall designate a special committee of three persons to review any petition for review of the procedures of the investigating committee while the investigation in a disciplinary case is in process (D-7.11), to review any petition for review of the decision not to file charges (D-7.1402), and to determine the need for administrative leave (D-7.0902). The special committee shall be composed of at least one current member of the permanent judicial commission, and may include up to two former members of the permanent judicial commission from the list of former commissioners required by D-3.0602b. The members of the special committee shall not take part in any subsequent

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|  | <p>trial. When a case proceeds to trial after a review, the quorum of the permanent judicial commission shall be a majority of its members who did not participate in the review, but in no case shall a quorum be fewer than five members (D-3.0602). A session shall refer any petition for review to the presbytery stated clerk, who shall follow this process for the creation of a special committee.</p>   |
|  | <p><b>D-3.02 Service</b></p>  |
| <p><b>D-5.0102 Term</b></p> <p>The term of each member of a permanent judicial commission shall be six years, with the exception that membership on the Permanent Judicial Commission of the General Assembly shall end when that member transfers membership to a church or presbytery outside the synod from which nominated. In each even-numbered year, the General Assembly shall elect members for a term of six years to fill the vacancies then occurring. Their terms of office will begin with the dissolution of the General Assembly at which they are elected.</p> <p><b>D-5.0103 Classes</b></p> <p>In synods and presbyteries, commissioners shall be elected in three classes, with no more than one half of the members to be in one class. When established for the first time, one class shall serve for two years, the second class for four years, and the third class for six years.</p> | <p><i>D-3.0201 Classes and Terms</i></p> <p>Permanent judicial commissions shall be arranged in three classes of six years each, with each class as equal as possible in size and with one class completing its term every two years.</p>   |
| <p><b>D-5.0104 Vacancy</b></p> <p>Any vacancy due to resignation, death, or any other cause may be filled by the electing council, which may elect a person to fill the unexpired term at any meeting thereof.</p>   | <p><i>D-3.0202 Vacancies</i></p> <p>Vacancies on permanent judicial commissions shall be addressed as follows:</p> <p><i>D-3.0202a.</i> A vacancy on any permanent judicial commission due to resignation, death, or any other cause may be filled by the electing council, which may elect a person to fill the unexpired term at any future meeting.</p> <p><i>D-3.0202b,</i> In each even-numbered year, the General Assembly shall elect members for the next</p> |



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|  | <p>class of the General Assembly Permanent Judicial Commission and fill any vacancies then occurring. Such members' terms of office will begin with the dissolution of the General Assembly at which they are elected.</p>  |
| <p><b>D-5.0105 Eligibility</b></p> <p>No person who has served on a permanent judicial commission for a full term of six years shall be eligible for reelection until four years have elapsed after the expired six-year term. No person shall serve on more than one permanent judicial commission at the same time. No person shall serve on the Permanent Judicial Commission of the General Assembly who is a member of any other entity elected by the General Assembly until that person shall have resigned such membership. The moderator, stated clerk, or any member of the staff of a council or the staff of any of its entities shall not serve on its permanent judicial commission.</p> | <p><i>D-3.0203 Eligibility</i></p> <p>Eligibility for service on a permanent judicial commission is subject to the following additional conditions:</p> <p><i>D-3.0203a.</i> In filling vacancies for unexpired terms, a member who has served more than half a term is considered to have served a full term, and is ineligible for immediate re-election.</p> <p><i>D-3.0203b.</i> No person who has served on a permanent judicial commission for a full term shall be eligible for reelection until two years have elapsed after the expired six-year term. No person shall serve on more than one permanent judicial commission at the same time. No person who is a member of any other entity elected by the General Assembly shall serve on the permanent judicial commission of the General Assembly until that person shall have resigned such membership. The moderator, stated clerk, or any member of the staff of a council or the staff of any of its entities shall not serve on its permanent judicial commission.</p> <p><i>D-3.0203c.</i> Continuing membership on a presbytery permanent judicial commission is dependent on membership in a congregation of the presbytery or in the presbytery.</p> <p><i>D-3.0203d.</i> Continuing membership on a synod permanent judicial commission is contingent on membership in a congregation or presbytery of the synod and in the case of synods with a shared permanent judicial commission (G-3.0404), in accordance with the rules of representation agreed upon by the cooperating synods.</p> <p><i>D-3.0203e.</i> Continuing membership on the General Assembly permanent judicial commission shall end when that member transfers membership</p> |

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|   | to a church or presbytery outside the synod from which nominated.  |
| <p><b>D-5.0106 Commission Expenses</b></p> <p>All necessary expenses of a permanent judicial commission shall be paid by the electing council or councils. Cooperating synods shall pay the necessary expenses of a shared permanent judicial commission equally; however, each synod shall pay the necessary expenses for processing a particular judicial case arising within its bounds.</p> | <p><b>D-3.03 Commission Expenses</b></p> <p>All necessary expenses of a permanent judicial commission shall be paid by the electing council or councils. A set of cooperating synods shall pay the necessary expenses of its shared permanent judicial commission equally; however, each synod in such a set shall pay the necessary expenses for processing a particular judicial case arising within its bounds.</p> |
| <p><b>D-5.0200 2. Meetings</b></p>  |  |
| <p><b>D-5.0201 Officers</b></p> <p>Each permanent judicial commission shall meet and elect from its members a moderator and a clerk.</p>  | <p><b>D-3.04 Officers</b></p> <p>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.</p>  |
| <p><b>D-5.0202 Bases of Power</b></p> <p>In the cases transmitted to it, the permanent judicial commission shall have only the powers prescribed by and conduct its proceedings according to the <i>Constitution of the Presbyterian Church (U.S.A.)</i>.</p>   | <p><b>D-3.05 Powers</b></p> <p>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.</p>   |
| <p><b>D-5.0203 Meetings</b></p> <p>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.</p>   | <p><b>D-3.06 Meetings</b></p> <p><i>D-3.0601 Times and Places</i></p> <p>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.</p>  |
| <p><b>D-5.0204 Quorum</b></p> <p>The quorum of a permanent judicial commission shall be a majority of the members, except that the quorum of a presbytery commission for a disciplinary case shall be a majority of the membership other than the two members assigned</p>  | <p><i>D-3.0602 Quorum</i></p> <p>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</p>  |

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| <p>responsibilities under D-10.0204 or D-10.0303. The quorum of a session for judicial process shall be the moderator of the session and a majority of the ruling elder members.</p>   | <p>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.</p>  |
| <p><b>D-5.0205            Who Shall Not Participate</b></p> <p>When a church or lower council is a party to a case, members of a permanent judicial commission who are members of that church, or of that lower council, or of churches within that lower council shall not participate in the trial or appeal of that case.</p> | <p><i>D-3.0602a.</i>    Who Shall Not Participate</p> <p>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.</p> |
| <p><b>D-5.0206            Lack of Quorum</b></p> <p>If, through absence, disqualification, or disability, a sufficient number of the members of a permanent judicial commission are not present to constitute a quorum, the permanent judicial commission shall recess until a quorum can be obtained.</p>                       | <p><i>D-3.0602c.</i>    Ensuring a Quorum</p> <p>Whenever a permanent judicial commission is required to meet for a hearing or trial, the stated clerk shall recruit a sufficient number of additional members by rotation from the roster of former members to ensure that a quorum will not be lost during the course of the proceeding. Councils may provide by rule for the method of rotation to incorporate the principles of participation and representation in accordance with G-3.0111 and F-1.0403.</p>                 |
| <p><b>D-5.0206a.        Inability to Reach a Quorum</b></p> <p>The permanent judicial commission shall report its inability to reach a quorum to the stated clerk designated for processing the cases.</p>   | <p><i>D-3.0602d.</i>        Inability to Reach a Quorum</p> <p>If, through absence, disqualification, or recusal, a sufficient number of members of a permanent judicial commission is not present to constitute a quorum, the permanent judicial commission shall recess until such time as a quorum can be ensured as stated above.</p>  |
| <p><b>D-5.0206b.        Roster of Former Members</b></p> <p>The designated 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</p>                   | <p><i>D-3.0602b.</i>        Roster of Former Members</p> <p>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</p>   |

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| <p>most recent class. Whenever the permanent judicial commission reports its inability to obtain a quorum, the stated clerk shall immediately select, by rotation from that roster, a sufficient number of former members of the permanent judicial commission to constitute a quorum. The stated clerk shall report the roster annually to the council or councils.</p> | <p>stated clerk shall report the roster annually to the council or councils.</p>   |
| <p><b>D-5.0206c. Participant Expenses</b></p> <p>If a permanent judicial commission is unable to try a case for lack of a quorum, the council in whose geographic boundary the case arose shall reimburse the expenses reasonably incurred by those persons required to be present.</p>  | <p><i>D-3.0602e. Participant Expenses</i></p> <p>If a permanent judicial commission is unable to try a case for lack of a quorum, the council in whose geographic boundary the case arose shall reimburse the expenses reasonably incurred by those persons required to be present.</p>  |
| <p><b>D-6.0000                    CHAPTER VI. REMEDIAL CASES</b></p>   | <p><b>CHAPTER IV<br/>REMEDATION</b></p>  |
| <p><b>D-6.0100            1. Initiating a Remedial Case and Obtaining a Stay of Enforcement</b></p>  | <p><b>D-4.01            Remedial Process</b></p> <p><i>D-4.0101            Purpose</i></p> <p>The purpose of remediation is to further the peace, unity, and purity of the church by ensuring that the Constitution of the Presbyterian Church (U.S.A.) is upheld, and that disputes regarding its requirements are addressed in a manner that is both fair and just to all concerned.</p>   |
|  | <p><i>D-4.0102    Limitations of Judicial Process</i></p> <p>While a remedial complaint may be filed <i>by</i> individuals, it can never be filed <i>against</i> individuals. Nor may a remedial complaint be filed against a congregation or a committee or commission of a council below the General Assembly. A session is responsible for correcting constitutional errors or omissions by its congregation in accordance with G-3.0201. As explained below, complaints may only be filed against sessions, presbyteries, synods, and entities of the General Assembly, and only by one or more individuals or councils of the church who have standing to complain.</p> |

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|  | <p><i>D-4.0103 Deadlines and Filings</i></p> <p><b>D-4.0103a. Deadlines</b></p> <p>In determining whether or not a document is timely filed, the day following the event giving rise to the time limit begins the count as day one (for example, the day following the date on which a council action is taken, or on which a party receives a decision). All seven days of every week are included in the count, including holidays, and the document shall be deemed timely filed if it is received by the person or persons to whom it is required to be sent on or before the final day of the count. When the final date of the count falls on a weekend or holiday, the document shall be deemed timely filed if it is received on the next business day after the final day of the count.</p> |
|  | <p><b>D-4.0103b. Methods of Filing</b></p> <p>Any document required to be filed may be sent or delivered by United States Postal Service certified mail, return receipt requested; commercial courier, with delivery receipt requested; personal delivery; or electronically when so permitted in these rules.</p>   |
| <p><b>D-6.0101 Method of Initiation</b></p> <p>A remedial case is initiated by the filing of a complaint with the stated clerk of the council having jurisdiction. If a different clerk has been designated to process judicial cases for a shared judicial commission, the stated clerk having jurisdiction shall immediately transmit the complaint to that clerk.</p> | <p><b>D-4.02 Filing a Complaint</b></p> <p><i>D-4.0201 Initiation</i></p> <p>Remedial process is initiated by the filing of a complaint with the stated clerk of the council having jurisdiction. A complaint shall allege one or more specific irregularities or delinquencies of a council.</p>  |
| <p><b>D-6.0102 Definition of Complaint</b></p> <p>A complaint is a written statement alleging an irregularity in a particular decision or action, or alleging a delinquency. (D-2.0202) The filing of a</p>  |  |

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| <p>complaint does not, by itself, stay enforcement of the decision or action.</p>  |   |
|  | <p><b>D-4.04 Request for a Stay of Enforcement</b></p>  |
| <p><b>D-6.0103 Stay of Enforcement</b></p> <p>A stay of enforcement is a written instruction from the permanent judicial commission having jurisdiction that orders the suspension of a decision or an action until a complaint or appeal is finally determined.</p>   | <p><i>D-4.0401 Requesting a Stay of Enforcement</i></p> <p>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:</p>  |
| <p><b>D-6.0103a. Time Limit to File a Request for a Stay</b></p> <p>No later than thirty (30) days after the alleged irregular action of the council or the remedial decision of a permanent judicial commission being appealed, a person having standing to file a complaint or appeal may simultaneously file either a complaint or an appeal, and a request for a stay of enforcement with the stated clerk of the council having jurisdiction to hear the case. The request may be made in the following manner:</p> | <p><i>D-4.0205 Time Limits</i></p> <p>In regard to filing a complaint in a remedial case, the following time limits apply:</p> <p><i>D-4.0205a.</i> In the case of an alleged irregularity, if a stay of enforcement is also sought, (as described below in section 4.04), then a complaint of an alleged irregularity shall be filed no later than thirty (30) days after the council’s action being complained against (or in the case of an appeal, from the date on which the appealing party was notified of the decision of the permanent judicial commission). If no stay of enforcement is being requested, then a complaint of an alleged irregularity shall be filed no later than ninety (90) days after the council’s action.</p> |
| <p><b>D-6.0103a. (1)</b> A request signed by one third of the members recorded as present when the decision or action was made by the council;</p>   | <p><i>D-4.0401a.</i> A request signed by one-third of the members recorded as present when the decision or action was taken by the council,</p>   |
| <p><b>D-6.0103a. (2)</b> A request signed by one third of the members of the permanent judicial commission that decided the remedial case; or</p>  | <p><i>D-4.0401b.</i> A request signed by one-third of the members of the permanent judicial commission that decided a remedial case that is being appealed, or</p>  |
| <p><b>D-6.0103a. (3)</b> A request signed by the complainant or appellant requesting that at least three members of the permanent judicial</p>   | <p><i>D-4.0401c.</i> A request signed by a complainant or appellant requesting that at least three members of the permanent judicial commission having</p>  |

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| <p>commission having jurisdiction to hear the complaint or appeal sign the stay of enforcement.</p>  | <p>jurisdiction to hear the complaint or appeal sign the stay of enforcement.</p>  |
| <p><b>D-6.0103b. Request Given to Moderator and Clerk</b></p> <p>The complaint or appeal shall be promptly transmitted by the most expeditious means available by the stated clerk along with the request for a stay of enforcement to the permanent judicial commission moderator and clerk for their determination as to:</p> <p><b>D-6.0103b. (1)</b> whether the complaint or appeal meets the preliminary issues in D-6.0305 or D-8.0301, and</p> <p><b>D-6.0103b. (2)</b> if the request is made under D-6.0103a(1) or D-6.0103a(2), either:</p> <p style="padding-left: 40px;"><b>D-6.0103b. (2) (a)</b> whether the request made under D-6.0103a.(1) is complete and timely, including validation of the signatures and intent of those who signed; or</p> <p style="padding-left: 40px;"><b>D-6.0103b. (2) (b)</b> whether the request made under D-6.0103a.(2) is complete and timely.</p> | <p><i>D-4.0202 Stated Clerk Responsibility</i></p> <p>The stated clerk shall immediately transmit copies of the complaint to the party against whom the complaint is filed and to the officers of the council’s permanent judicial commission. If a different clerk has been designated to process judicial cases for a shared judicial commission, the stated clerk having jurisdiction shall immediately transmit the complaint to that clerk.</p>   |
| <p><b>D-6.0103c. Time Line for Preliminary Questions</b></p> <p>The moderator and clerk of the permanent judicial commission within seven (7) days after their receipt of the request shall report their findings to the permanent judicial commission and the parties.</p> <p><b>D-6.0103d. Time Line for Entering a Stay of Enforcement</b></p> <p>The permanent judicial commission may enter a stay of enforcement within ten (10) days of the moderator and clerk's findings in the following manner:</p>   | <p><i>D-4.0502a.</i> If a request for a stay of enforcement is made under D-4.0401a or b, a stay of enforcement may be entered immediately by the moderator and clerk if they determine that the request is complete and timely and the preliminary issues are met for the complaint or appeal.</p> <p><i>D-4.0502b.</i> In their consideration of the preliminary questions in D-4.0501a, the officers shall assume the truth of the facts alleged.</p> <p><i>D-4.0502c.</i> Within ten (10) days after their receipt of the complaint, the officers shall report their determinations to the stated clerk of the council in a preliminary ruling. The stated clerk shall immediately distribute the preliminary ruling to the parties, and to the members of the permanent judicial commission along with the complaint (or appeal, for purposes of processing a request for a</p> |

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| <p><b>D-6.0103d. (1)</b> By the moderator and the clerk in determining that the request made under D-6.0103a(1) or D-6.0103a(2) is complete and timely and the preliminary issues are met for the complaint or appeal.</p>  | <p>stay of enforcement on appeal) and the request for a stay of enforcement, if one has been received.</p>   |
|   | <p><b>D-4.06 Processing a Request for a Stay of Enforcement If Made Under D-4.0401c.</b></p>   |
| <p><b>D-6.0103d. (2)</b> If the request is made under D-6.0103(a)(3), by three members of the permanent judicial commission filing with the stated clerk of the council that has jurisdiction to hear the case a statement that in his or her judgment substantial harm will occur if the action or decision is not stayed and that in her or his judgment probable grounds exist for finding the decision or action erroneous. Each permanent judicial commission member must include a summary of the specific council action or decision being stayed.</p> | <p><i>D-4.0601 Consideration of Request</i></p> <p>If a request for a stay of enforcement is made under D-4.0401c, a stay of enforcement may be entered by three members of the permanent judicial commission that will hear the case within ten (10) days of receiving the request, the complaint (or in an appeal, of the notice of appeal), and the preliminary ruling. Each permanent judicial commission member affirming the request shall include a summary of the specific council action(s) or decision(s) being stayed, and a statement that in their judgment:</p> <p><i>D-4.0601a.</i> substantial harm will occur if the action or decision is not stayed, and</p> <p><i>D-4.0601b.</i> probable grounds exist for finding the decision or action erroneous.</p> <p><i>D-4.0602 Determination and Filings</i></p> <p><i>D-4.0602a.</i> The statements of members of the permanent judicial commission shall be filed with the stated clerk of the council that has jurisdiction to hear the case. The statements shall include a summary of the specific council action(s) or decision(s) being stayed.</p> |
| <p><b>D-6.0103e. Distribution of Stay</b></p> <p>The stated clerk shall send a copy of the stay of enforcement to the parties and to the permanent judicial commission members.</p>   | <p><i>D-4.0602b.</i> If the stated clerk receives three or more statements from members of the permanent judicial commission, the stay shall be granted, and the stated clerk shall send a copy of the stay of enforcement to the parties and to the permanent judicial commission members.</p>  |
| <p><b>D-6.0103f. Effective Time</b></p>   | <p><i>D-4.0602c.</i> The stay of enforcement shall be effective until the permanent judicial commission</p>  |



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| <p>The stay of enforcement shall be effective until the time for filing a complaint or notice of appeal shall have expired or, if timely filed, until the decision of the permanent judicial commission having jurisdiction over the case, except as hereafter provided.</p>  | <p>having jurisdiction has decided the case, except as hereafter provided.</p>  |
|   | <p><i>D-4.0602d.</i> If a stay of enforcement is not granted, the stated clerk shall so notify the parties and the permanent judicial commission members.</p>   |
| <p><b>D-6.0103g. Objection to Stay of Enforcement</b></p> <p>The respondent may, within forty-five days of the filing of a stay of enforcement, file with the permanent judicial commission having jurisdiction over the case an objection to the stay of enforcement, whereupon no fewer than three members of such permanent judicial commission shall conduct a hearing on all of the issues relating to the stay of enforcement. The parties may be present or represented at such hearing. At such hearing, the stay of enforcement may be modified, terminated, or continued until the decision on the merits of the case by the permanent judicial commission.</p> | <p><i>D-4.0703b.</i> If a stay of enforcement has been entered, the respondent(s)'s answer may also challenge the stay of enforcement, in which case the matter shall proceed as described in D-4.0704.</p> <p><i>D-4.0703c.</i> The stated clerk shall distribute the answer to the complainant(s) and to the permanent judicial commission.</p> |
| <p><b>D-6.0200 2. Filing a Complaint in a Remedial Case</b></p>   |   |
| <p><b>D-6.0201 Parties</b></p> <p>In a remedial case the party or parties filing the complaint shall be known as the complainant or complainants and the party or parties against whom the complaint is made shall be known as the respondent or respondents.</p>   | <p><i>D-4.0203 Parties</i></p> <p>The parties in a case of remedial process are known as the complainant or complainants (the person or persons who file the complaint) and the respondent(s) (the council(s) complained against).</p>  |
| <p><b>D-6.0202 Who May File Complaint</b></p> <p>A complaint of an irregularity or a complaint of a delinquency may be filed by one or more persons or councils subject to and submitting to the jurisdiction of a council.</p>   | <p><i>D-4.0206 Standing and Jurisdiction in Remedial Cases</i></p> <p>Standing to file a complaint and jurisdiction to deal with a complaint are as follows:</p>  |

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| <p><b>D-6.0202a. Against Presbytery, Synod, or Council at Same Level (Time Limit)</b></p> <p>In the instance of a complaint against a presbytery, a synod, or by a council against another council at the same level, a complaint of an irregularity shall be filed within ninety days after the alleged irregularity has occurred; and a complaint of a delinquency shall be filed within ninety days after failure or refusal of respondent to cure the alleged delinquency at its next meeting, provided that a written request to do so has been made prior to said meeting. Those eligible to file such a complaint are</p> | <p><i>D-4.0205b.</i> In the case of an alleged delinquency, a complaint shall be filed no later than ninety (90) days after the failure or refusal of the council to cure the alleged delinquency at its next meeting, provided that a written request to do so has been made prior to said meeting.</p>   |
| <p><b>D-6.0202a.(1)</b></p> <p>a minister of the Word and Sacrament or a ruling elder enrolled as a member of a presbytery concerning an irregularity or a delinquency during that period of enrollment, against the presbytery, with the synod;</p>   | <p><i>D-4.0206c.</i> Ruling elder commissioners to a presbytery may file complaints to the synod alleging irregularities or delinquencies that occurred during presbytery meetings at which they were present and enrolled.</p> <p><i>D-4.0206d.</i> Minister members of a presbytery and ruling elders elected by and enrolled with the presbytery for terms of service in accordance with G-3.0301 may file complaints against the presbytery to the synod regardless of whether or not they were in attendance when the alleged irregularity or delinquency occurred.</p> |
| <p><b>D-6.0202a.(2)</b></p> <p>a commissioner to a synod, concerning an irregularity or a delinquency during that commissioner's period of enrollment, against the synod, with the General Assembly;</p>   | <p><i>D-4.0206f.</i> Commissioners to a synod may file complaints to the General Assembly alleging irregularities or delinquencies that occurred during synod meetings at which they were present and enrolled.</p> <p><i>D-4.0206g.</i> Ministers and ruling elders elected by and enrolled with the synod for terms of service in accordance with G-3.0401 may file complaints against the synod to the General Assembly regardless of whether or not they were in attendance when the alleged irregularity or delinquency occurred.</p>                                   |
| <p><b>D-6.0202a.(3)</b> a session against the presbytery, with the synod;</p>  | <p><i>D-4.0206e.</i> Sessions may file complaints against their presbytery, to their synod.</p>  |
| <p><b>D-6.0202a.(4)</b> a presbytery against the synod, with the General Assembly;</p>   | <p><i>D-4.0206h.</i> Presbyteries may file complaints against their synod, to the General Assembly.</p>  |

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| <p><b>D-6.0202a.(5)</b><br/>any council against any other council of the same level, with the council immediately higher than the council complained against and to which the latter council is subject;</p>   | <p><i>D-4.0206a.</i> Councils may file complaints against any other council of the same level, to the council immediately higher than the council complained against and to whose jurisdiction the latter council is subject.</p> |
| <p><b>D-6.0202a.(6)</b><br/>a person who is an employee of a presbytery, a synod or cooperating synod, or an entity of a presbytery or synod, claiming to have sustained injury or damage to person or property by the council or entity, against the presbytery, with the synod, or against the synod or cooperating synod, with the General Assembly.</p>  |   |
| <p><b>D-6.0202b. Against Session or General Assembly Mission Agency or Entity (Time Limit)</b><br/><br/>In the instance of a complaint against a session, the General Assembly Mission Council, or an entity of the General Assembly, a complaint of an irregularity shall be filed within ninety days after the alleged irregularity has occurred; and a complaint of a delinquency shall be filed within ninety days after failure or refusal of respondent to cure the alleged delinquency at its next meeting, provided that a written request to do so has been made prior to said meeting. Those eligible to file such a complaint are</p> | <p><i>D-4.0206i.</i> Sessions, presbyteries, and synods may file complaints against entities of the General Assembly, to the General Assembly.</p>  |
| <p><b>D-6.0202b.(1)</b><br/>a member of a particular church against the session of that church, with the presbytery;</p>   | <p><i>D-4.0206b.</i> Members of a congregation may file complaints against their session, to the presbytery.</p>  |
| <p><b>D-6.0202b.(2)</b><br/>a session, a presbytery, or a synod against the General Assembly Mission Council or an entity of the General Assembly, with the General Assembly;</p>  | <p><i>D-4.0206i.</i> Sessions, presbyteries, and synods may file complaints against entities of the General Assembly, to the General Assembly.</p>  |
| <p><b>D-6.0202b.(3)</b><br/>a person who is an employee of the General Assembly Mission Council or an entity of the General Assembly, claiming to have sustained</p>   |   |

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| injury or damage to person or property by the General Assembly Mission Council or an entity of the General Assembly, with the General Assembly.   |   |
| <b>D-6.0202b.(4)</b> a person who is an employee of a particular church claiming to have sustained injury or damage to person or property by the session or an entity of the session against the session of the church, with the presbytery.                          |   |
|   | <i>D-4.0206j.</i> When the council of jurisdiction as defined in this section fails to act in a particular remedial case for a period of sixty days after the filing of a complaint or thirty days after the filing of a complaint with a request for a stay of enforcement, the next higher council, at the written request of any party, may assume jurisdiction in the case. It may then either return jurisdiction to the lower council with specific instructions on how to proceed, or it may retain jurisdiction and conclude the matter itself. |
| <b>D-6.0300 3. Pretrial Procedures</b>  | <b>D-4.03 Contents of a Complaint</b>   |
| <b>D-6.0301 Statements in Complaint</b><br>A complaint shall state the following:   | <i>D-4.0301 Items to be Included</i><br>Items to be included in a complaint are as follows:   |
| <b>D-6.0301a.</b> The name of the complainant and the name of the respondent.   | <i>D-4.0301a.</i> The name of the complainant(s) and the name of the respondent(s).   |
| <b>D-6.0301b.</b> The particular irregularity including the date, place, and circumstances thereof; or the particular delinquency including the dates of the written request to cure the delinquency and of the next meeting at which the respondent failed to do so. | <i>D-4.0301b.</i> The particular irregularity including the date, place, and circumstances thereof; or the particular delinquency including the dates of the written request to cure the delinquency and of the next meeting at which the respondent(s) failed to do so.  |
| <b>D-6.0301c.</b> The reasons for complaint of the irregularity or delinquency.   | <i>D-4.0301c.</i> The reasons for complaint of the irregularity or delinquency.   |
| <b>D-6.0301d.</b> The interest or relationship of the complainant, showing why that party has a right to file the complaint.  | <i>D-4.0301d.</i> A statement of facts demonstrating that the complainant(s) may file the complaint in accordance with D-4.0206 above.  |
| <b>D-6.0301e.</b> The relief requested.   | <i>D-4.0301e.</i> The remedy or correction requested (called “relief”), which must be within the power of the council receiving the complaint to grant.   |

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| <p><b>D-6.0301f.</b> That a copy of the complaint has been delivered to the respondent by certified delivery or personal service. The complainant shall file with the stated clerk of the higher council a receipt signed by the addressee or an affidavit of personal service.</p>   | <p><i>D-4.0302 Method of Filing</i></p> <p>The complaint shall be sent or delivered by United States Postal Service certified mail, return receipt requested; commercial courier, with delivery receipt requested; or personal delivery in accordance with D-4.0103b. The complainant(s) shall then file with the stated clerk a receipt signed by the addressee or an affidavit of personal service. At the written agreement of both parties, all further communication may be handled electronically.</p>                       |
| <p><b>D-6.0302 Committee of Counsel</b></p> <p>When a council, the General Assembly Mission Council, or an entity of the General Assembly becomes either a complainant or a respondent, it shall designate no more than three persons to be a committee of counsel. This committee shall represent that complainant or respondent in the case until final decision is reached in the highest council to which the case is appealed.</p> | <p><i>D-4.0204 Committees of Counsel</i></p> <p><i>D-4.0204a. Composition</i></p> <p>When a council or an entity of the General Assembly becomes either a complainant or a respondent, it shall designate no more than three persons to be a committee of counsel. This committee shall represent that complainant or respondent in the case until final decision is reached in the highest council to which the case is appealed. All members of a committee of counsel shall be members of the Presbyterian Church (U.S.A.).</p> |
| <p><b>D-6.0302a. Provide by Rule</b></p> <p>A council, the General Assembly Mission Council, or an entity of the General Assembly may provide by rule for the appointment of a committee of counsel.</p>  | <p><i>D-4.0204b. Provide by Rule</i></p> <p>A council or an entity of the General Assembly may provide by rule for the appointment of a committee of counsel. The membership of the committee of counsel, as well as any changes to its composition that may occur, shall be promptly reported to the stated clerk of the council having jurisdiction, who will notify the other party and the permanent judicial commission.</p>  |
| <p><b>D-6.0302b. Shall Not Serve</b></p> <p>The clerk of session, the stated clerk, or executive of presbytery or synod shall not serve on a committee of counsel of the council served.</p>  | <p><i>D-4.0204c. Who Shall Not Serve</i></p> <p>Clerks of session or stated clerks shall not serve on a committee of counsel for the council they serve. Employees of the council hearing a case or of a higher council that would have jurisdiction in any appellate proceeding shall also not serve on a committee of counsel.</p>   |
| <p><b>D-6.0303 Answer to Complaint</b></p>  | <p><i>D-4.0703 Answer to Complaint</i></p>   |

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| <p>The committee of counsel of the respondent shall file with the stated clerk of the higher council a concise answer within forty-five days after receipt of the complaint, and shall furnish a copy of the answer to the complainant. The answer shall admit those facts alleged in the complaint that are true, deny those allegations that are not true or are mistakenly stated, and present other facts that may explain the situation identified as an irregularity or delinquency. The answer may also raise any issues mentioned in D-6.0305 and may include a motion to dismiss the complaint.</p> | <p>The committee of counsel of the respondent(s) shall file with the stated clerk of the higher council a concise answer within thirty (30) days of its notification of either acceptance of the case by the officers of the permanent judicial commission or receipt of a challenge to the officers' dismissal of the case. The answer shall admit those facts alleged in the complaint that are true, deny those that are not true or are mistakenly stated, and present other facts that may explain the situation identified as an irregularity or delinquency. The answer may also raise any issues related to the determinations contained in D-4.0501a and may include a motion to dismiss the complaint.</p> <p><i>D-4.0703b.</i> If a stay of enforcement has been entered, the respondent(s)'s answer may also challenge the stay of enforcement, in which case the matter shall proceed as described in D-4.0704.</p> <p><i>D-4.0703c.</i> The stated clerk shall distribute the answer to the complainant(s) and to the permanent judicial commission.</p> |
| <p><b>D-6.0304 Procedure Prior to Trial</b></p> <p>When the complaint and answer have been filed with the stated clerk of the higher council, the stated clerk shall transmit them at once to the officers of the permanent judicial commission of the council and shall give notice to the parties that the case has been received.</p>   |  |
|  | <p><b>D-4.05 Preliminary Ruling</b></p>  |
| <p><b>D-6.0305 Examination of Papers</b></p> <p>Upon receiving the papers specified in D-6.0304, the moderator and the clerk of the permanent judicial commission of the body that will try the case shall promptly examine the papers to determine whether</p>  | <p><i>D-4.0501 Examination of Papers</i></p> <p>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:</p>   |
|  | <p><i>D-4.0501a.</i> For the complaint, whether:</p>   |

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| <p><b>D-6.0305a. Jurisdiction</b><br/>the council has jurisdiction;</p>   | <p><i>D-4.0501a.(1)</i> the council has jurisdiction,</p>  |
| <p><b>D-6.0305b. Standing</b><br/>the complainant has standing to file the case;</p>                              | <p><i>D-4.0501a.(2)</i> one or more of the complainants has standing to file the case,</p>   |
| <p><b>D-6.0305c. Timely Filed</b><br/>the complaint was timely filed; and</p>                                     | <p><i>D-4.0501a.(3)</i> the complaint was timely filed,</p>  |
|   | <p><i>D-4.0501a.(4)</i> the complaint alleges facts that if proved true would constitute an irregularity or delinquency, and</p>   |
| <p><b>D-6.0305d. Relief Can Be Granted</b><br/>the complaint states a claim upon which relief can be granted.</p> | <p><i>D-4.0501a.(5)</i> 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:</p> |
|   | <p><i>D-4.0501a.(5)i.</i> relief that is not within the authority of the council to grant,</p>   |
|   | <p><i>D-4.0501a.(5)ii.</i> monetary awards other than those that require councils to honor existing contracts,</p>   |
|   | <p><i>D-4.0501a.(5)iii.</i> relief that has been rendered moot,</p>  |
|   | <p><i>D-4.0501a.(5)iv.</i> relief that is contrary to the Constitution of the Presbyterian Church (U.S.A.).</p>  |
|   | <p><i>D-4.0501b.</i> For the request for a stay of enforcement if made under D-4.0401a or b, whether the request is complete and timely filed.</p>   |
|   | <p><i>D-4.0502 Preliminary Ruling</i><br/>A preliminary ruling is a decision by the moderator and clerk of a permanent judicial commission either to accept a case for trial or to dismiss the case because one or more of the five questions in D-4.0501a is answered in the negative.</p>  |

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| <p><b>D-6.0306 Preliminary Questions Determined</b></p> <p>The moderator and clerk shall report their findings to the parties and to the permanent judicial commission.</p> | <p><b>D-4.07 Response and Next Actions</b></p>  |
|   | <p><i>D-4.0701 If the Preliminary Ruling Accepts the Case</i></p> <p>If the officers initially accept the case, the respondent council(s) shall prepare and file its answer as described in D-4.0703 below. When the answer has been received, the officers shall review the answer and may either affirm their preliminary ruling as filed or modify it in light of the new information received. The affirmed or modified preliminary ruling shall then be filed with the stated clerk who shall distribute it to the parties and the permanent judicial commission members, and the answer shall also be distributed to the permanent judicial commission.</p> |
|   | <p><i>D-4.0701a.</i> If the preliminary ruling to accept the case is affirmed, the respondent or a member of the permanent judicial commission may challenge the determination within fifteen (15) days of receiving the notification, in which case the matter proceeds as described in D-4.0704 below.</p>  |
|   | <p><i>D-4.0701b.</i> If the modified preliminary ruling dismisses the case, then the case proceeds as described in D-4.0702 below.</p>  |
|   | <p><i>D-4.0702 If the Initial or Modified Preliminary Ruling Dismisses the Case</i></p>   |
|   | <p><i>D-4.0702a.</i> Within fifteen (15) days of notification that the officers have dismissed the case, one or more of the complainants or a member of the permanent judicial commission may file a challenge to the dismissal, in which case the respondent(s), if it has not already done so, shall prepare and file its answer as described in D-4.0703 below, which shall be distributed to the permanent</p>  |



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|  | judicial commission, and the challenge shall be processed in accordance with D-4.0704 below.   |
|  | <i>D-4.0702b.</i> If no challenge is received within fifteen (15) days, the case is dismissed and any stay of enforcement is lifted.   |
| <p><b>D-6.0306a. If Challenge Made</b></p> <p>If a challenge is made to the findings of the moderator and clerk within thirty days of receipt of those findings, either by a party to the case or by a member of the permanent judicial commission, opportunity shall be provided to present evidence and argument on the finding in question. Parties shall be invited to submit briefs prior to the hearing of the jurisdictional questions.</p> <p><b>D-6.0306b. If Hearing Necessary</b></p> <p>If a hearing is necessary to decide the finding in question, that hearing shall be scheduled at least thirty days prior to the trial on the complaint, unless the circumstances, including monetary considerations, render advisable the disposition of the preliminary questions immediately before the trial on the complaint.</p> <p><b>D-6.0306c.If Preliminary Question is Negative</b></p> <p>If the permanent judicial commission determines that any point listed in D-6.0305 has been answered in the negative, the permanent judicial commission shall dismiss the case.</p> <p><b>D-6.0306d. Preliminary Questions Determined</b></p> <p>If no challenge is made to a finding of the moderator and clerk that one or more points listed in D-6.0305 (or D-8.0301, or D-13.0106, as applicable) has been answered in the negative, the case shall be dismissed without further action or order of the permanent judicial commission.</p> | <p><i>D-4.0704 Challenge to Preliminary Ruling and Stay of Enforcement</i></p> <p>If a preliminary ruling or a stay of enforcement is challenged under the provisions of this chapter, opportunity shall be provided to present evidence and argument on the determination(s) in question, or on the stay of enforcement. The parties shall be invited to submit briefs, and may agree to allow the permanent judicial commission to decide the matter on the basis of those briefs in place of a hearing. The permanent judicial commission shall then enter a final ruling on the matter either dismissing the case or accepting it for trial, and either affirming or lifting the stay of enforcement, if one has been entered.</p> |
|  | <p><b>CHAPTER V</b></p> <p><b>TRIAL IN A REMEDIAL CASE</b></p>   |

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| <p><b>D-6.0307 Duty of Respondent Clerk of Session or Stated Clerk</b></p> <p><b>D-6.0307a. List to Parties</b></p> <p>Within forty-five days after the receipt of a complaint, the clerk of session or stated clerk of the respondent council or the respondent entity or council shall list in writing to the parties all of the papers and other materials pertaining to the case.</p>  | <p><b>D-5.01 Pretrial Procedures</b></p> <p><i>D-5.0101 Duties of Respondent Stated Clerk</i></p> <p>In pretrial procedures, the duties of the respondent stated clerk are as follows:</p> <p><i>D-5.0101a.</i> Within forty-five (45) days after the receipt of a complaint, the clerk of session or stated clerk of the respondent council(s) shall submit in writing to the parties all of the papers and other materials pertaining to the case.</p> |
| <p><b>D-6.0307b. Minutes and Papers</b></p> <p>Within fifteen days thereafter, the complainant may request in writing that the respondent file additional minutes or papers pertaining to the case.</p>  | <p><i>D-5.0101b.</i> Within thirty (30) days thereafter, the complainant may request in writing that the respondent clerk file additional minutes or papers pertaining to the case. Questions as to the relevance or reasonableness of requests shall be decided by the officers of the permanent judicial commission or their designees.</p>  |
| <p><b>D-6.0307c. If Case Is Accepted</b></p> <p>Upon notification by the stated clerk of the higher council of jurisdiction that the case has been accepted, the clerk of session or stated clerk of the respondent shall transmit to the stated clerk of the higher council without delay the minutes and papers pertaining to the case, along with the list of the record and any requests for additional papers which, if available, shall be included.</p> | <p><i>D-5.0101c.</i> Upon notification by the stated clerk of the higher council of jurisdiction that the case has been accepted, the clerk of session or stated clerk of the respondent council(s) shall transmit to the stated clerk of the higher council without delay the minutes and papers pertaining to the case, along with the list of the record.</p>   |
| <p><b>D-6.0308 Procedure for Record</b></p> <p>When the minutes and papers have been filed with the stated clerk of the higher council, the stated clerk shall transmit them to the permanent judicial commission and give notice to the parties of an estimated date for trial.</p>   | <p><i>D-5.0102 Record of the Case</i></p> <p>When the minutes and papers have been filed with the stated clerk of the higher council, the stated clerk shall organize and transmit them to the parties and to the permanent judicial commission and give notice to the parties of an estimated date for trial.</p>   |
| <p><b>D-6.0309 Trial Briefs</b></p> <p>The permanent judicial commission may require either party in an original proceeding to file a trial brief outlining the evidence to be produced and the theory upon which the evidence is considered to be relevant.</p>   | <p><i>D-5.0103 Additional Filings</i></p> <p>The permanent judicial commission may require the parties to file statements, also known as briefs, outlining the evidence to be offered at trial and the theories of the parties' respective claims and defenses.</p>  |

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| <p><b>D-6.0310 Pretrial Conference</b></p> <p>At any time after a case is received by a permanent judicial commission, the commission may provide by rule for the parties or their counsel, if any, to explore settlement possibilities; or, in a pretrial conference, to seek agreement on a statement of facts and disputed issues, to exchange documents and other evidence, and to take other action which might reasonably and impartially narrow the dispute and expedite its resolution.</p> | <p><i>D-5.0104 Pretrial Conference</i></p> <p>At any time after a case is received by a permanent judicial commission, the commission may provide for the parties or their counsel, if any, to explore settlement possibilities; or, in a pretrial conference, to seek agreement on a statement of facts and disputed issues, to exchange documents and other evidence, and to take other action which might reasonably and impartially narrow the dispute and expedite its resolution. The moderator and clerk of the permanent judicial commission, or their designees, shall set a date, time and place for the pretrial conference, and conduct it on the commission's behalf.</p> |
| <p><b>D-7.0000 CHAPTER VII. TRIAL IN A REMEDIAL CASE</b></p>  |  |
| <p><b>D-7.0100 1. Conduct of Trial</b></p>  |  |
| <p><b>D-7.0101 Trial--Remedial</b></p> <p>The trial of a remedial case shall be conducted by a permanent judicial commission.</p> <p><b>D-7.0102 Conducted Formally</b></p> <p>The trial shall be conducted formally with full decorum in a neutral place suitable to the occasion.</p>   | <p><b>D-5.02 Conduct of Trial</b></p> <p>The trial of a remedial case shall be conducted by a permanent judicial commission. The trial shall be conducted formally with full decorum in a neutral place suitable to the occasion. Except for the provision of electronically received testimony contained in D-5.04 trials should be held in person. When necessary, and at the sole discretion of the permanent judicial commission, trials may be held electronically in accordance with G-3.0105 and provided that the technology employed allows witnesses and parties as well as members of the permanent judicial commission to be seen and heard clearly.</p>                   |
| <p><b>D-7.0200 2. Citations and Testimony</b></p>   |  |
| <p><b>D-7.0201 Citation of Parties and Witnesses</b></p> <p>Citations to appear at trial for parties or such witnesses as either party may request shall be signed by the moderator or clerk of the permanent judicial commission, who shall cause them to be served.</p>   | <p><b>D-5.03 Citations and Testimony</b></p> <p><i>D-5.0301 Citation of Parties and Witnesses</i></p> <p>Citations to appear at trial for parties or such witnesses as either party may request shall be signed by the moderator or clerk of the permanent judicial commission and served by the stated clerk of the council. Witnesses may be either fact witnesses or expert witnesses (see D-5.0703b). Fact witnesses in remedial process should have firsthand knowledge.</p>  |

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| <p><b>D-7.0201a. Members Cited</b></p> <p>Only members of the Presbyterian Church (U.S.A.) may be cited to appear.</p> <p><b>D-7.0201b. Others Requested</b></p> <p>Other persons can only be requested to attend.</p>   | <p><i>D-5.0302 Who May Be Cited</i></p> <p>Only members of the Presbyterian Church (U.S.A.) may be cited to appear. Persons who are not members of the Presbyterian Church (U.S.A.) and expert witnesses (regardless of their denominational membership) may only be requested to appear.</p>   |
| <p><b>D-7.0201c. Witnesses from Another Council</b></p> <p>When it is necessary in the trial to summon witnesses who are under the jurisdiction of another council of the church, the clerk or stated clerk of the other council shall, on the application of the permanent judicial commission trying the case, issue a citation to the witnesses to appear at the place of trial and give evidence as may be required.</p>   | <p><i>D-5.0303 Witnesses from Another Council</i></p> <p>When it is necessary in the trial to summon witnesses who are under the jurisdiction of another council of the church, the clerk or stated clerk of the other council shall, on the application of the permanent judicial commission trying the case, through the stated clerk of its council, issue a citation to the witnesses to appear at the place of trial and give evidence as may be required.</p>   |
| <p><b>D-7.0201d. Expenses</b></p> <p>Any witness shall be entitled to receive from the party calling the witness reimbursement for expenses incurred in attendance at the trial.</p>   | <p><i>D-5.0304 Expenses</i></p> <p>Any witness shall be entitled to receive from the party calling the witness reimbursement of actual expenses incurred in attendance at the trial.</p>  |
| <p><b>D-7.0202 Service of Citation</b></p> <p>A citation shall be delivered by personal service or by certified delivery. The moderator or clerk of the permanent judicial commission trying the case shall certify the fact and date of service or delivery.</p> <p><b>D-7.0203 Second Citation</b></p> <p>If a party or a witness who is a member of the Presbyterian Church (U.S.A.) fails to obey a citation, a second citation shall be issued accompanied by a notice that if the party or witness does not appear at the time appointed, unless excused for good cause, the party or witness shall be considered guilty of disobedience and contempt, and for such offense may be subject to disciplinary action.</p> <p><b>D-7.0204 Refusal of Witness to Testify</b></p> <p>A member of the Presbyterian Church (U.S.A.) who, having been summoned as a witness and</p> | <p><i>D-5.0305 Service of Citation</i></p> <p>A citation shall be delivered in accordance with D-4.0103b, or by electronic delivery acknowledged by the recipient within seven (7) days. The moderator or clerk of the permanent judicial commission trying the case shall keep a record of the date of service or delivery. If a party or a witness who is a member of the Presbyterian Church (U.S.A.) fails to obey a citation to appear or having appeared, refuses without good cause to testify, and after warning continues to refuse, the party or witness shall be considered guilty of disobedience and contempt, and for such offense may be subject to disciplinary action by the person's council of jurisdiction.</p> |

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| <p>having appeared, refuses without good cause to testify, and, after warning, continues to refuse may be subject to disciplinary action.</p>   |  |
| <p><b>D-7.0205 Deposition</b></p> <p>Testimony by deposition may be taken and received in accordance with the provisions of D-14.0304.</p>  | <p><b>D-5.04 Electronically Received Testimony</b></p> <p>Witnesses may be granted permission by the permanent judicial commission to appear electronically if unable to attend a trial that is held in person, in accordance with the provisions of G-3.0105 and D-5.02.</p>  |
| <p><b>D-7.0300 3. Procedures in Trial</b></p>   | <p><b>D-5.05 Procedures in Trial</b></p>   |
| <p><b>D-7.0301 Counsel</b></p> <p>Each of the parties in a remedial case shall be entitled to appear and may be represented by counsel, provided, however, that no person shall act as counsel who is not a member of the Presbyterian Church (U.S.A.). No member of a permanent judicial commission shall appear as counsel before that commission while a member.</p>   | <p><i>D-5.0501 Counsel</i></p> <p>Each of the parties in a remedial case shall be entitled to appear and may be represented by counsel. Counsel need not be a paid representative or an attorney. Counsel shall be a member of the Presbyterian Church (U.S.A.). No member of a permanent judicial commission shall appear as counsel before that commission while a member.</p>   |
| <p><b>D-7.0302 Circulation of Materials</b></p> <p>No party to a remedial case or any other person shall circulate or cause to be circulated among the members of the permanent judicial commission any written, printed, or visual materials of any kind upon any matter pertaining to the case before the final disposition thereof. Notwithstanding this prohibition, the permanent judicial commission may request, or grant leave to file, additional materials.</p> | <p><i>D-5.0502 Circulation of Materials and Communication</i></p> <p>With regard to materials pertaining to the case and communication regarding the case, the following rules apply:</p> <p><i>D-5.0502a.</i> Any materials pertaining to the case shall be filed with the stated clerk of the council hearing the case. Parties to a remedial case, their counsel, or any other person shall not circulate or cause to be circulated directly to the members of the permanent judicial commission any written, printed, electronic, or visual materials of any kind upon any matter pertaining to the case before its final disposition. Notwithstanding this prohibition, the permanent judicial commission may request, or grant leave to file, additional materials.</p> <p><i>D-5.0502b.</i> Parties or their counsel shall not communicate with members of the permanent judicial commission regarding any matter related to the case unless the other party and their counsel, if any, are included.</p> |

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| <p><b>D-7.0303 Control Conduct of Trial</b></p> <p>The permanent judicial commission shall have full authority and power to control the conduct of the trial and of all parties, witnesses, counsel, and the public, including removal of them, to the end that proper dignity and decorum shall be maintained.</p>  | <p><i>D-5.0503 Control of Conduct of Trial</i></p> <p>The moderator of the permanent judicial commission shall have full authority and power to control the conduct of the trial and of all parties, witnesses, counsel, and the public, including removal of them, to the end that proper dignity and decorum shall be maintained. Rulings of the moderator related to control of the trial are subject to appeal to the full commission by any member of the commission, which shall decide the question by majority vote.</p> |
| <p><b>D-7.0303a. Questions as to Procedure</b></p> <p>Questions as to procedure or the admissibility of evidence arising in the course of a trial shall be decided by the moderator after the parties have had an opportunity to be heard. A party or a member of the permanent judicial commission may appeal from the decision of the moderator to the commission, which shall decide the question by majority vote.</p> | <p><i>D-5.0504 Procedural Questions</i></p> <p>Questions as to procedure or the admissibility of evidence arising in the course of a trial shall be decided by the moderator after the parties have had an opportunity to be heard. A party or a member of the permanent judicial commission may appeal from the decision of the moderator to the commission, which shall decide the question by majority vote.</p>  |
| <p><b>D-7.0303b. Absences</b></p> <p>The absence of any member of the permanent judicial commission after a trial has commenced shall be recorded. That person shall not thereafter participate in that case.</p>  | <p><i>D-5.0505 Absences</i></p> <p>Members of a permanent judicial commission must be present in person at trials. The absence of any member of the permanent judicial commission after a trial has commenced shall be recorded. That member shall not thereafter participate in that case.</p>  |
| <p><b>D-7.0304 Loss of Quorum</b></p> <p>Loss of a quorum shall result in a mistrial and the case shall be tried again from the beginning.</p>   | <p><i>D-5.0506 Loss of Quorum</i></p> <p>Loss of a quorum shall result in a mistrial and the case shall be tried again from the beginning at a time and place to be determined by the permanent judicial commission.</p>   |
| <p><b>D-7.0400 4. Trial</b></p>  | <p><b>D-5.06 Trial</b></p>   |
| <p><b>D-7.0401 Procedure in a Remedial Case</b></p> <p>The trial of a remedial case shall proceed as follows:</p>  |  |
| <p><b>D-7.0401a. Announcement by the Moderator</b></p>   | <p><i>D-5.0601 Announcement by the Moderator</i></p>   |

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| <p>The moderator shall read aloud sections D-1.0101 and D-1.0102, shall announce that the council is about to proceed to trial, and shall enjoin the members to recollect and regard their high character as judges of a council of the Church of Jesus Christ and the solemn duties they are about to undertake.</p> | <p>The trial of a remedial case shall be opened with prayer, after which the moderator shall read aloud the preamble to Church Discipline (D-1), shall announce that the council is about to proceed to trial, and shall enjoin the members to recollect and regard their high character as judges of a council of the Church of Jesus Christ and the solemn duties they are about to undertake.</p>   |
| <p><b>D-7.0401b. Eligibility of Commission Members</b></p> <p>The parties or their counsel may object and be heard on the organization and jurisdiction of the permanent judicial commission.</p>   | <p><i>D-5.0602 Objections of Parties</i></p> <p>The parties or their counsel may object and be heard on the organization and jurisdiction of the permanent judicial commission.</p>  |
| <p><b>D-7.0401b. (1) Disqualification</b></p> <p>A member of a permanent judicial commission is disqualified if the member is personally interested in the case, is related by blood or marriage to any party, has been active for or against any party, or is ineligible under the provisions of D-5.0205.</p>       | <p><i>D-5.0602a.</i> A member of a permanent judicial commission is disqualified if the member has a material interest in the outcome of the case, is related by family relationship to any party, has been active for or against any party, or is a member of a church or council which is a party.</p>   |
| <p><b>D-7.0401b. (2) Challenges</b></p> <p>Any member of a permanent judicial commission may be challenged by any party, and the validity of the challenge shall be determined by the remaining members of the permanent judicial commission.</p>   | <p><i>D-5.0602b.</i> Any member of a permanent judicial commission may be challenged by any party for conflict of interest, and the validity of the challenge shall be determined by a majority vote of the remaining members of the permanent judicial commission.</p>  |
| <p><b>D-7.0401c. Procedural Objections</b></p> <p>The permanent judicial commission shall determine all preliminary objections, and any other objections affecting the order or regularity of the proceedings.</p>  | <p><i>D-5.0603 Preliminary Determinations and Objections</i></p> <p>The permanent judicial commission shall place all preliminary determinations and any objections on the record and shall decide all such matters by majority vote. Any objections to the preliminary determinations and any other objections affecting the order or regularity of the proceedings shall also be made part of the record and shall be decided by majority vote. A final decision on the merits of the complaint is not permissible until the permanent judicial commission has heard the evidence and arguments of the parties, unless the parties have agreed in writing or at a pretrial conference on certain stipulated facts or about</p> |

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|   | <p>issues on which there is no dispute, and waive their right to present additional evidence at a trial, and are willing to have the dispute settled on the basis of their briefs and written submissions.</p>   |
| <p><b>D-7.0401d. Amend Complaint</b></p> <p>The complainant shall be permitted to amend the complaint at the time of the trial, provided that the amendment does not change the substance of the complaint or prejudice the respondent.</p> | <p><i>D-5.0604 Amendment of Complaint</i></p> <p>The complainant shall be permitted to amend the complaint at the time of the trial, provided that the amendment does not change the substance of the complaint or prejudice the respondent(s).</p>  |
| <p><b>D-7.0401e. Opening Statements</b></p> <p>The parties shall be given an opportunity to make opening statements.</p>  | <p><i>D-5.0605 Opening Statements</i></p> <p>The parties shall be given an opportunity to make opening statements.</p>   |
| <p><b>D-7.0401f. Rules of Evidence</b></p> <p>The rules of evidence in D-14.0000 shall be followed.</p>   | <p><b>D-5.07 Evidence</b></p>  |
| <p><b>D-7.0401g. Evidence</b></p> <p>Evidence as is deemed necessary or proper, if any, shall be presented on behalf of the complainant and the respondent.</p>   | <p><i>D-5.0701 Definition</i></p> <p>The complainant and respondent(s) shall be accorded the opportunity to present evidence on their behalf. Evidence, in addition to oral testimony of witnesses, may include records, writings, material objects, or other items presented to prove the existence or nonexistence of a fact. Evidence must be relevant to be received. No distinction should be made between direct and circumstantial evidence as to the degree of proof required.</p> |
| <p><b>D-7.0401h. Final Statements</b></p> <p>The parties shall be given an opportunity to make final statements, the complainant having the right of opening and closing the argument.</p>  | <p><b>D-5.08 Final Statements</b></p> <p>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.</p>  |
| <p><b>D-7.0402 Decision</b></p>   | <p><b>D-5.09 Decision</b></p> <p><i>D-5.0901 Deliberation</i></p> <p>The following considerations apply in deliberations:</p>  |



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| <p>The permanent judicial commission shall then meet privately. All persons not members of the commission shall be excluded.</p>   | <p><i>D-5.0901a.</i> At the close of the trial, the permanent judicial commission shall then meet privately to deliberate. All persons not members of the commission shall be excluded.</p>  |
| <p><b>D-7.0402a. Deliberation</b></p> <p>No complaint in a remedial case shall be sustained unless it has been proved by a preponderance of the evidence. Preponderance means such evidence as, when weighed with that opposed to it, has more convincing force and the greater probability of truth. After careful deliberation the commission shall vote on each irregularity or delinquency assigned in the complaint and record the vote in its minutes.</p> | <p><i>D-5.0901b.</i> No complaint in a remedial case shall be sustained unless it has been proved by a preponderance of the evidence. Preponderance means such evidence as, when weighed with that opposed to it, has more convincing force and the greater probability of truth. After careful deliberation the permanent judicial commission shall vote by counted vote on each alleged irregularity or delinquency accepted for trial and record the vote in its minutes. A majority vote is required to sustain each irregularity or delinquency.</p>            |
| <p><b>D-7.0402b. Decision</b></p> <p>The permanent judicial commission shall then decide the case. If the complaint is sustained either in whole or in part, the commission shall either order such action as is appropriate or direct the lower council to conduct further proceedings in the matter.</p>   | <p><i>D-5.0902 Decision</i></p> <p>Decisions of permanent judicial commissions are reached and communicated as follows:</p> <p><i>D-5.0902a.</i> The permanent judicial commission shall then decide the case. If the complaint is sustained either in whole or in part, the commission shall order such action as is appropriate.</p>   |
| <p><b>D-7.0402c. Written Decision</b></p> <p>A written decision shall be prepared while in session, and shall become the final decision when a copy of the written decision is signed by the moderator and clerk of the permanent judicial commission. A copy of the written decision shall immediately be delivered to the parties to the case by personal service or by certified delivery.</p>  | <p><i>D-5.0902b.</i> The questions presented for decision shall be fully debated and voted upon while all participating permanent judicial commission members are present. A written outline of a decision shall be prepared while in session. A written decision shall be reviewed by all participating members of the permanent judicial commission, which may take place either while the participating permanent judicial commission members are present or by meeting within ten (10) days either in person, or electronically in accordance with G-3.0105.</p> |
|  | <p><i>D-5.0902c.</i> The decision shall become the final decision of the permanent judicial commission when a copy of the written decision is signed by the moderator and clerk of the permanent judicial commission. A copy of the written decision shall immediately be delivered to the parties in accordance with D-4.0103b, or electronically, if agreed upon in advance by the parties.</p>  |

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| <p><b>D-7.0402d. Filed Promptly</b></p> <p>Within thirty days of the conclusion of the trial, the decision shall be filed with the stated clerk of the council that appointed the permanent judicial commission.</p> | <p><i>D-5.0902d.</i> Within thirty (30) days of the conclusion of the trial, the decision shall be filed with the stated clerk of the council that appointed the permanent judicial commission.</p>   |
| <p><b>D-7.0402e. Further Publicity</b></p> <p>The moderator or clerk of the permanent judicial commission shall disseminate the decision as the permanent judicial commission may direct.</p>                        | <p><i>D-5.0902e.</i> The moderator or clerk of the permanent judicial commission shall disseminate the decision as the permanent judicial commission may direct.</p>  |
|  | <p><i>D-5.0903 Effect of Decision</i></p> <p>Decisions of the permanent judicial commissions of synods and presbyteries are binding on the parties to the particular cases in which the decisions are rendered unless overturned on appeal. No decision of a permanent judicial commission of a presbytery or synod is binding beyond the parties to the particular case.</p> |
| <p><b>D-7.0500 5. Provisions for Appeal</b></p>  | <p><i>D-5.0905 Appeal</i></p> <p>Rules of appeal are found in D-6. The following applies to time limits and standing to file an appeal:</p>   |
| <p><b>D-7.0501 Appeal Time</b></p> <p>For each party, the time for filing an appeal shall run from the date the decision is delivered to, or refused by, that party.</p>   | <p><i>D-5.0905a.</i> For each party, the time for filing an appeal shall run from the date the decision is delivered to, or refused by, that party.</p>   |
| <p><b>D-7.0502 Appeals</b></p> <p>An appeal may be initiated only by one or more of the original parties. Rules of appeal are found in D-8.0000.</p>   | <p><i>D-5.0905b.</i> An appeal may be initiated only by one or more of the original parties.</p>  |
| <p><b>D-7.0600 6. Record of Proceedings</b></p>  | <p><b>D-5.10 Record of Proceedings</b></p>  |
| <p><b>D-7.0601 Record of Proceedings</b></p> <p>The clerk of the permanent judicial commission shall do the following:</p>   | <p><i>D-5.1001 Duties of the Clerk of the Permanent Judicial Commission</i></p> <p>The clerk of the permanent judicial commission shall do the following:</p>   |

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| <p><b>D-7.0601a. Verbatim Recording</b></p> <p>Arrange in advance for the accurate verbatim recording of all testimony and oral proceedings.</p>   | <p><i>D-5.1001a.</i> arrange in advance for the accurate verbatim recording of all testimony and oral proceedings (which may be accomplished through a digital voice recording);</p>   |
| <p><b>D-7.0601b. Exhibits</b></p> <p>Identify and maintain all exhibits offered in evidence (noting whether or not they were accepted as evidence) and keep a list of all exhibits;</p>  | <p><i>D-5.1001b.</i> identify and maintain all exhibits offered in evidence (noting whether or not they were accepted as evidence) and keep a list of all exhibits;</p>  |
| <p><b>D-7.0601c.Minutes</b></p> <p>Record minutes of the proceedings, which shall include any actions or orders of the permanent judicial commission relating to the case with the vote thereon.</p>                                       | <p><i>D-5.1001c.</i> record minutes of the proceedings, which shall include any actions or orders of the permanent judicial commission relating to the case with the vote on each;</p>   |
| <p><b>D-7.0601d. Record</b></p> <p>Prepare the record of the case, which shall consist of</p>  | <p><i>D-5.1001d.</i> prepare the record of the case, which shall consist of:</p>   |
| <p><b>D-7.0601d. (1)</b> the complaint and the answer thereto;</p>   | <p><i>D-5.1001d.(1)</i> the complaint and the answer;</p>  |
| <p><b>D-7.0601d. (2)</b> all minutes and papers filed in the case;</p>   | <p><i>D-5.1001d.(2)</i> all minutes and papers filed in the case;</p>  |
| <p><b>D-7.0601d. (3)</b> a certified transcript, if requested;</p>   | <p><i>D-5.1001d.(3)</i> a certified transcript, if requested;</p>  |
| <p><b>D-7.0601d. (4)</b> all properly marked exhibits, records, documents, and other papers;</p>   | <p><i>D-5.1001d.(4)</i> all properly marked exhibits, records, documents, and other papers;</p>  |
| <p><b>D-7.0601d. (5)</b> the written decision; and</p>   | <p><i>D-5.1001d.(5)</i> the written decision; and</p>  |
| <p><b>D-7.0601d. (6)</b> any actions or orders of the permanent judicial commission relating to the case with the vote thereon.</p>  | <p><i>D-5.1001d.(6)</i> any actions or orders of the permanent judicial commission relating to the case with the vote on each.</p>   |
| <p><b>D-7.0601e. Preservation</b></p> <p>Within fourteen 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 two years.</p> | <p><i>D-5.1001e.</i> 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;</p> |
| <p><b>D-7.0601f. Transcript</b></p>  | <p><i>D-5.1001 f.</i> upon the request, and at the expense of any requesting party, the clerk shall cause to be</p>  |

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| <p>Upon the request, and at the expense of any requesting party, 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. A copy of this transcript, when certified by the person making the same to be true and complete, shall be delivered to each party requesting the same 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-8.0000.</p>                          | <p>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.</p>   |
| <p><b>D-7.0602 Additions to the Record</b></p> <p>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 lower council, 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 days to respond in writing.</p> | <p><i>D-5.1002 Additions to the Record</i></p> <p>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.</p> |
| <p><b>D-7.0700 7. Duty of Stated Clerk</b></p> <p><b>D-7.0701 Reporting the Decision</b></p> <p>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 thereafter, or at a meeting called for that purpose, and enter the full decision upon the minutes of the council.</p>      | <p><i>D-5.1003 Duty of the Stated Clerk</i></p> <p>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.</p>  |
| <p><b>D-8.0000 CHAPTER VIII. APPEAL IN A REMEDIAL CASE</b></p>  | <p><b>CHAPTER VI<br/>REMEDIAL APPEALS</b></p>   |
| <p><b>D-8.0100 1. Initiation of an Appeal</b></p>   | <p><b>D-6.01 Filing an Appeal</b></p>   |

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| <p><b>D-8.0101 Definition</b></p> <p>An appeal of a remedial case is the transfer to the next higher council of a case in which a decision has been rendered in a lower council, for the purpose of obtaining a review of the proceedings and decision to correct, modify, set aside, or reverse the decision.</p> | <p><i>D-6.0101 Definition</i></p> <p>An appeal of a remedial case is the transfer to the next higher council of a case in which a decision has been rendered in a lower council, for the purpose of obtaining a review of the proceedings and a decision to correct, modify, set aside, or reverse the decision.</p>   |
| <p><b>D-8.0102 Initiation of Appeal</b></p> <p>An appeal may be initiated only by one or more of the original parties in the case, and is accomplished by the filing of a written notice of appeal.</p>  | <p><i>D-6.0102 Initiation of Appeal</i></p> <p>Only the parties to an original complaint (one or more of the complainants or the respondent(s)) may appeal a ruling of a permanent judicial commission.</p> <p><i>D-6.0102a.</i> The ruling must be the permanent judicial commission’s final order disposing of the complaint, whether that order is a dismissal in accordance with D-4.0702b, or a written decision in accordance with D-5.09.</p> <p><i>D-6.0102b.</i> The parties in a remedial appeal are the appellant or appellants, and the appellee or appellees.</p> |
| <p><b>D-8.0103 Effect of Appeal</b></p> <p>The notice of appeal shall not suspend any further action implementing the decision being appealed unless a stay of enforcement has been obtained in accordance with the provisions of D-6.0103.</p>  | <p><b>D-6.04 Effect of Appeal</b></p> <p><i>D-6.0401 If No Stay of Enforcement</i></p> <p>The filing of a notice of appeal shall not suspend any action of a council taken to implement the ruling being appealed unless a stay of enforcement was obtained with the original complaint, or one is obtained as described in the next paragraph, in which case the implementation of the ruling being appealed is stayed until the appeal is finally disposed of.</p>   |
|  | <p><i>D-6.0402 Seeking Stay of Enforcement</i></p> <p>If no stay of enforcement was in place when the ruling being appealed was rendered, one may be requested by means of a request filed along with the notice of appeal in any of the methods described in D-4.04, and processed as described in D-4.05 or D-4.06.</p>  |
| <p><b>D-8.0104 Withdrawal of Appeal</b></p>  | <p><b>D-6.05 Withdrawal of Appeal</b></p>  |

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| <p>On application, the permanent judicial commission of the higher council may grant a petition for withdrawal of an appeal. The permanent judicial commission shall deny a petition if its approval would defeat the ends of justice.</p> | <p>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.</p> |
| <p><b>D-8.0105      Grounds for Appeal</b><br/>The grounds for appeal are</p>  | <p><i>D-6.0202e.</i> a statement and description of the errors alleged to have been made in the ruling that are the grounds for the appeal. The grounds for which an appeal may be filed are:</p>   |
| <p><b>D-8.0105a.</b> irregularity in the proceedings;</p>  | <p><i>D-6.0202e.(1)</i> irregularity in the proceedings;</p>  |
| <p><b>D-8.0105b.</b> refusing a party reasonable opportunity to be heard or to obtain or present evidence;</p>   | <p><i>D-6.0202e.(2)</i> refusing a party reasonable opportunity to be heard or to obtain or present evidence;</p>   |
| <p><b>D-8.0105c.</b> receiving improper, or declining to receive proper, evidence or testimony;</p>  | <p><i>D-6.0202e.(3)</i> receiving improper, or declining to receive proper, evidence or testimony;</p>  |
| <p><b>D-8.0105d.</b> hastening to a decision before the evidence or testimony is fully received;</p>   | <p><i>D-6.0202e.(4)</i> hastening to a decision before the evidence or testimony is fully received;</p>   |
| <p><b>D-8.0105e.</b> manifestation of prejudice in the conduct of the case;</p>  | <p><i>D-6.0202e.(5)</i> manifestation of prejudice in the conduct of the case;</p>  |
| <p><b>D-8.0105f.</b> injustice in the process or decision; and</p>   | <p><i>D-6.0202e.(6)</i> injustice in the process or decision; and</p>   |
| <p><b>D-8.0105g.</b> error in constitutional interpretation.</p>   | <p><i>D-6.0202e.(7)</i> error in constitutional interpretation.</p>   |
| <p><b>D-8.0200      2. Filings in Appeal Process</b></p>   | <p><b>D-6.02      Notice of Appeal</b></p>  |

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| <p><b>D-8.0201 Time for Filing Written Notice of Appeal</b></p> <p>A written notice of appeal shall be filed within forty-five days after a copy of the judgment has been delivered by certified delivery or personal service to the party appealing.</p> <p><b>D-8.0201a.</b> The written notice of appeal shall be filed with the stated clerk of the lower council which elected the permanent judicial commission from whose judgment the appeal is taken.</p> <p><b>D-8.0201b.</b> The party appealing shall provide a copy of the notice of appeal to each of the other parties and to the stated clerk of the council which will hear the appeal.</p>  | <p><i>D-6.0201 Notice Filed</i></p> <p>A written notice of appeal shall be filed with the stated clerk of the next higher council within forty-five (45) days after a copy of the final order was received by the appealing party. The written notice may be delivered by means of electronic communication, provided that the stated clerk certifies receipt of the notice, which may also be communicated electronically. If filing the notice electronically, care should be taken to deliver the notice in a manner that can clearly demonstrate timely filing. By written agreement of the parties, all additional filings may be electronic. The appealing party shall provide a copy of the written notice of appeal to the stated clerk of the council whose permanent judicial commission issued the ruling, as well as to the stated clerk of the council that would hear the appeal, who shall distribute the notice to the other party or parties.</p> |
| <p><b>D-8.0202 Content of Written Notice of Appeal</b></p> <p>The written notice of appeal shall state and include</p> <p><b>D-8.0202a.</b> the name of the party or parties filing the appeal, called the appellant or appellants, and their counsel if any;</p> <p><b>D-8.0202b.</b> the name of the other party or parties, called the appellee or appellees, and their counsel if any;</p> <p><b>D-8.0202c.</b> the council from whose judgment the appeal is taken.</p> <p><b>D-8.0202d.</b> the judgment or decision, and date and place thereof, from which the appeal is taken (enclose a copy of the judgment or decision with the notice of appeal);</p> <p><b>D-8.0202e.</b> a statement of the errors of the permanent judicial commission which conducted the trial or hearing on appeal that are the grounds for the appeal (D-8.0105); and</p> | <p><i>D-6.0202 Items to be Included</i></p> <p>The items to be included in a notice of appeal are as follows:</p> <p><i>D-6.0202a.</i> the name of the party filing the appeal (the appellant or appellants) and their counsel, if any;</p> <p><i>D-6.0202b.</i> the name of the other party (the appellee or appellees) and their counsel, if any;</p> <p><i>D-6.0202c.</i> the council from whose decision the appeal is taken;</p> <p><i>D-6.0202d.</i> a copy of the ruling; and</p> <p><i>D-6.0202e.</i> a statement and description of the errors alleged to have been made in the ruling that are the grounds for the appeal. The grounds for which an appeal may be filed are:</p> <p><i>D-6.0202e.(1)</i> irregularity in the proceedings;</p>  |

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|   | <p><i>D-6.0202e.(2)</i> refusing a party reasonable opportunity to be heard or to obtain or present evidence;</p> <p><i>D-6.0202e.(3)</i> receiving improper, or declining to receive proper, evidence or testimony;</p> <p><i>D-6.0202e.(4)</i> hastening to a decision before the evidence or testimony is fully received;</p> <p><i>D-6.0202e.(5)</i> manifestation of prejudice in the conduct of the case;</p> <p><i>D-6.0202e.(6)</i> injustice in the process or decision; and</p> <p><i>D-6.0202e.(7)</i> error in constitutional interpretation.</p> |
| <p><b>D-8.0202f.</b> a certification that a copy of the notice of appeal was provided by certified delivery or by personal service to each of the other parties and to the stated clerk of the council that will hear the appeal.</p>                               | <p><i>D-6.0202f.</i> a certification that a copy of the notice of appeal is being sent as required by D-6.0201 to the stated clerk of the council from whose decision the appeal is taken, which may be in the form of an electronic communication if agreed upon in advance by the parties.</p>  |
| <p><b>D-8.0203 Transmittal of Notice of Appeal to Officers</b></p> <p>Upon receipt of the notice of appeal and the decision being appealed, the stated clerk of the higher council shall transmit them to the officers of the permanent judicial commission.</p>    | <p><b>D-6.03 Duty of Stated Clerk</b></p> <p>Upon receipt of the written notice of appeal, the stated clerk of the council that will hear the appeal shall transmit it to the officers of that council's permanent judicial commission and the other party.</p>   |
| <p><b>D-8.0300 3. Prehearing Proceedings</b></p>  | <p><b>D-6.06 Preliminary Process</b></p>  |
| <p><b>D-8.0301 Examination of Papers</b></p> <p>Upon receiving the papers specified in D-8.0203, the moderator and the clerk of the permanent judicial commission of the council that will hear the case shall promptly examine the papers to determine whether</p> | <p><i>D-6.0601 Examination of Notice of Appeal</i></p> <p>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:</p>  |
| <p><b>D-8.0301a.</b> the council has jurisdiction;</p>  | <p><i>D-6.0601a.</i> the council has jurisdiction;</p>  |
| <p><b>D-8.0301b.</b> the appellant has standing to file the appeal;</p>   | <p><i>D-6.0601b.</i> the appellant has standing to file the appeal;</p>   |



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| <p><b>D-8.0301c.</b> the appeal papers were properly and timely filed; and</p>   | <p><i>D-6.0601c.</i> the appeal was timely and properly filed; and</p>  |
| <p><b>D-8.0301d.</b> the appeal states one or more of the grounds for appeal set forth in D-8.0105.</p>  | <p><i>D-6.0601d.</i> the appeal states and describes one or more of the grounds for appeal listed in D-6.0201d.</p>   |
| <p><b>D-8.0302 Preliminary Questions Determined</b></p> <p>The moderator and clerk shall report their findings to the parties and to the permanent judicial commission.</p>  | <p><i>D-6.0602 Preliminary Ruling</i></p> <p>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.</p>   |
| <p><b>D-8.0302a.</b> If a challenge is made to the findings of the moderator and clerk within thirty days after the receipt of those findings, either by a party to the case or by a member of the permanent judicial commission, opportunity shall be provided to present evidence and argument on the finding in question.</p> <p><b>D-8.0302b.</b> If a hearing is necessary to decide the item in question, that hearing shall be scheduled at least thirty days prior to the hearing on the appeal unless the circumstances, including monetary considerations, render advisable the disposition of the preliminary questions immediately before the hearing on the appeal.</p> | <p><i>D-6.0603 Challenge to Preliminary Ruling</i></p> <p>Within thirty (30) days after their receipt of the determination, the parties and members of the permanent judicial commission may challenge the determination, in which case opportunity shall be provided for the parties to present evidence and argument on the determination(s) in question. A hearing may be requested either by a party or by a member of the permanent judicial commission for the purpose of hearing the challenge, or if all parties agree, the matter may be decided by the permanent judicial commission on the basis of documents submitted by the parties. If a hearing is requested, it should be held at least thirty (30) days prior to the hearing on the appeal, unless the officers of the permanent judicial commission determine that the circumstances, including expenditures of time and resources, warrant disposition of the challenge immediately prior to the hearing on the appeal. If the permanent judicial commission determines the answer to any of the four preliminary questions has been answered in the negative, the commission shall dismiss the appeal.</p> |
|  | <p><i>D-6.0604 When No Challenge is Received</i></p> <p>When there are no challenges to the determination in the preliminary ruling, the following shall apply:</p>   |
| <p><b>D-8.0302c.</b> If the permanent judicial commission determines that any point listed in D-8.0301 has been answered in the negative, the</p>  | <p><i>D-6.0604a.</i> If no challenge is made to the determinations of the officers that one or more of the requirements in D-6.0701 are answered in the negative, the case shall be dismissed without</p>   |

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| <p>permanent judicial commission shall dismiss the appeal.</p>   | <p>further action or order of the permanent judicial commission.</p>   |
| <p><b>D-8.0302d.</b> If no challenge is made to a finding of the moderator and clerk that one or more points listed in D-6.0305 (or D-8.0301, or D-13.0106, as applicable) has been answered in the negative, the case shall be dismissed without further action or order of the permanent judicial commission.</p>  | <p><i>D-6.0604b.</i> If no challenge is made to the determinations of the officers that all of the points in D-6.0601 are answered in the affirmative, the stated clerk of the council shall schedule a hearing at a time acceptable to the parties and at which a quorum of the permanent judicial commission can be present.</p>   |
| <p><b>D-8.0303 Record on Appeal</b><br/>The record on appeal shall be formed as follows:</p>   | <p><b>D-6.07 Record of the Case</b></p>  |
| <p><b>D-8.0303a. List of Record</b><br/>Within forty-five days after the receipt of a written notice of appeal, the stated clerk of the lower council shall list in writing to the parties all of the papers and other materials that constitute the record of the case. (D-7.0601d)</p> <p><b>D-8.0303b. Additional Records</b><br/>Within fifteen days thereafter, any party may file with the stated clerk of the lower council a written statement challenging the accuracy or completeness of the record of the case as listed by the stated clerk. The written challenge shall state specifically the item or items listed in D-7.0601d which are claimed to be omitted from the record of the case.</p> | <p><i>D-6.0701 List of Papers</i><br/>Within forty-five (45) days after receipt of a notice of appeal, the stated clerk of the lower council shall list in writing to the parties all of the papers and other materials that would constitute the record of the case (see D-5.1001d &amp; e). Within fifteen (15) days thereafter, either party may challenge the completeness or accuracy of the record as listed by the stated clerk. The stated clerk may, but is not required, to amend the list at the request of a party; however, any such challenge shall be added to the record when it is filed.</p> |
| <p><b>D-8.0303c. Filing of Record on Appeal</b><br/>Upon notification by the stated clerk of the higher council of jurisdiction that the case has been accepted, the stated clerk of the lower council shall certify and file the record of the case, which may include authenticated copies of parts of the record, and shall include any written challenges disputing the completeness or accuracy of the record, with the stated clerk of the higher council.</p>   | <p><i>D-6.0702 Filing of Record on Appeal</i><br/>Upon notice by the stated clerk of the council whose permanent judicial commission will hear the appeal that the case has been accepted, the stated clerk of the council from which the appeal is taken shall compile and file the record of the case with the stated clerk of the higher council, who shall distribute it to the members of the permanent judicial commission.</p>  |
| <p><b>D-8.0303d. Correction of the Record</b><br/>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</p>   | <p><i>D-6.0703 Correction of the Record</i><br/>If anything material to either party is omitted from the record by error or accident, or is misstated therein, the omission or misstatement</p>  |

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| <p>corrected. The parties may stipulate to the correction, or the session or permanent judicial commission 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.</p>                           | <p>may be corrected. The parties may stipulate to the correction, or the stated clerk of the lower council may certify and transmit a supplemental record, or the permanent judicial commission of the higher council may direct that the omission or misstatement be corrected. All other questions as to the form and content of the record shall be presented to the permanent judicial commission of the higher council, which shall be decided by majority vote at a duly constituted meeting at least forty-five (45) days prior to the hearing on the appeal, which may be held electronically in accordance with G-3.0105.</p> |
| <p><b>D-8.0303e . Notice of Date of Reception</b></p> <p>The stated clerk of the higher council shall notify the parties of the date the record on appeal was received.</p>   |  |
| <p><b>D-8.0303f. Copy Furnished at Cost</b></p> <p>Upon written request, the stated clerk of the higher council shall furnish any party to the appeal, at cost to that party, a copy of the record on appeal.</p>   |  |
| <p><b>D-8.0303g. Extension</b></p> <p>For good cause shown, the stated clerk of the higher council may extend the time limits in D-8.0303 for a reasonable period.</p>  | <p><b>D-6.09 Extensions</b></p> <p>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.</p>   |
|   | <p><b>D-6.08 Briefs</b></p>  |
| <p><b>D-8.0304 Filing of Appellant's Brief</b></p> <p>Within thirty days after the date of the filing of 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 as to the alleged errors specified.</p> <p><b>D-8.0304a. Copy to Other Party</b></p> | <p><i>D-6.0801 Filing of Appellant Brief</i></p> <p>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 commission and to the parties.</p>   |

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| <p>The brief shall be accompanied by a certification that a copy has been furnished to the other party or parties.</p>   |   |
| <p><b>D-8.0304b. Extension</b></p> <p>For good cause shown, the stated clerk of the higher council may extend this time limit for a reasonable period.</p>   |   |
| <p><b>D-8.0304c. Failure to File Brief</b></p> <p>Failure of appellant to file a brief within the time allowed, without good cause, shall be deemed by the permanent judicial commission an abandonment of the appeal.</p> | <p><i>D-6.0802 Failure of Appellant to File Brief</i></p> <p>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.</p>                |
|  | <p><i>D-6.0803 Filing of Appellee Brief</i></p> <p>When an appellant files a brief, the appellee can respond as follows:</p>  |
| <p><b>D-8.0305 Filing of Appellee's Brief</b></p> <p>Within thirty days after the filing of appellant's brief, the appellee shall file with the stated clerk of the higher council a written brief responding thereto.</p> | <p><i>D-6.0803a.</i> 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.</p>   |
| <p><b>D-8.0305a. Copy to Other Party</b></p> <p>The brief shall be accompanied by a certification that a copy has been furnished to the other party or parties.</p>  | <p><i>D-6.0803b.</i> 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.</p> |
| <p><b>D-8.0305b. Extension</b></p> <p>For good cause shown, the stated clerk of the higher council may extend this time limit for a reasonable period.</p>   | <p><b>D-6.09 Extensions</b></p> <p>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.</p>  |
| <p><b>D-8.0305c. Failure to File Brief</b></p> <p>Failure of 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.</p>  | <p><i>D-6.0804 Failure of Appellee to File Brief</i></p> <p>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.</p>                         |

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|   | <p><i>D-6.0805 Appellant Supplemental Brief</i></p> <p>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.</p>  |
| <p><b>D-8.0306 Transmittal of Record and Briefs</b></p> <p>Upon receipt of the record and the briefs, or upon the expiration of the time for filing them, the stated clerk of the higher council shall transmit the record and briefs to the clerk of the permanent judicial commission.</p>  | <p><b>D-6.10 Transmittal of Record and Briefs</b></p> <p>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.</p>  |
| <p><b>D-8.0307 Prehearing Conference</b></p> <p>At any time after an appeal is received by a permanent judicial commission, the commission 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.</p> | <p><b>D-6.11 Prehearing Conference</b></p> <p>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.</p> |
| <p><b>D-8.0400 4. Hearing of Appeal</b></p>   | <p><b>D-6.12 Hearing of Appeal</b></p>  |
| <p><b>D-8.0401 Notice of Hearing</b></p> <p>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.</p> <p><b>D-8.0402 Failure to Appear</b></p>  | <p><i>D-6.1201 Hearing Process</i></p> <p>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</p>  |

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| <p>Failure of a party to appear in person or by counsel shall constitute a waiver of participation in the hearing on appeal.</p> <p><b>D-8.0403 Hearing:</b></p> <p>At the hearing the permanent judicial commission shall</p> <p><b>D-8.0403a. New Evidence</b></p> <p>determine whether to receive newly discovered evidence, under the provisions of D-14.0502, providing for the verbatim recording of such new evidence; and</p> <p><b>D-8.0403b. Hearing</b></p> <p>give opportunity to be heard on the grounds of the appeal to those parties who have not waived that right, the appellant having the right of opening and closing the argument.</p> | <p>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.</p>  |
| <p><b>D-8.0404 Decision of Permanent Judicial Commission</b></p>   | <p><b>D-6.13 Decision of the Permanent Judicial Commission</b></p>   |
|  | <p><i>D-6.1301 Standard of Review</i></p> <p>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.</p> |
| <p>After the hearing and after deliberation, the permanent judicial commission shall vote separately on each specification of error alleged. The vote shall be on the question, "Shall the specification of error be sustained?" The minutes shall record the numerical vote on each specification of error.</p>   | <p><i>D-6.1302 Voting Procedure</i></p> <p>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.</p>  |

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|  | <p><i>D-6.1303 Decision</i></p> <p>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.</p>  |
|  | <p><i>D-6.1303a.</i> Decisions of permanent judicial commissions other than the General Assembly’s Permanent Judicial Commission are binding only on the parties to the case.</p>  |
| <p><b>D-8.0404a. If No Errors Are Found</b></p> <p>If not one of the specifications of error is sustained, and no other error is found, the decision of the lower council shall be affirmed.</p>   | <p><i>D-6.1303b.</i> If none of the specifications of error is sustained, and no other error is found, the decision of the lower council shall be affirmed.</p>  |
| <p><b>D-8.0404b. If Errors Are Found</b></p> <p>If one or more errors are found, the permanent judicial commission shall determine whether the decision of the lower council shall be affirmed, modified, set aside, reversed, or the case remanded for a new trial.</p>   | <p><i>D-6.1303c.</i> If one or more errors are found, the permanent judicial commission may conclude that despite the errors found, the decision of the lower council is affirmed. Alternatively, it may reverse the decision of the lower council either completely or in part, and if reversed in part, it may determine whether the decision of the lower council shall be modified or set aside, or the case remanded for a new trial.</p>   |
| <p><b>D-8.0404c. Written Decision</b></p> <p>A written decision shall be prepared while in session, and shall become the final decision when a copy of the written decision is signed by the moderator and clerk of the permanent judicial commission. A copy of the decision shall immediately be delivered to the parties to the case by personal service or by certified delivery.</p> <p><b>D-8.0404d. Determination of Each Error</b></p> <p>The decision shall include the determination of errors specified, and state the remedy as provided in D-8.0101. The permanent judicial commission may prepare its decision in a manner that will</p> | <p><i>D-6.1303d.</i> The questions presented for decision shall be fully debated and voted upon while all participating commission members are present. A written outline of a decision shall be prepared while in session. A written decision shall be reviewed by all participating members of the panel, which may take place either while the participating commission members are present or by meeting within ten (10) days either in person, or electronically in accordance with G-3.0105.</p> |

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| <p>dispose of all substantive questions without redundancy. It may include an explanation of its determination.</p>  |   |
| <p><b>D-8.0404e. Filed Promptly</b></p> <p>Within thirty days of the conclusion of the hearing, the decision shall be filed with the stated clerk of the council that appointed the permanent judicial commission.</p> <p><b>D-8.0404f. Further Publicity</b></p> <p>The moderator or clerk of the permanent judicial commission shall disseminate the decision as the permanent judicial commission may direct.</p> | <p><i>D-6.1303e.</i> The decision shall become the final decision when a copy of the written decision is signed by the moderator and clerk of the permanent judicial commission. A copy of the decision shall immediately be delivered to the parties to the case in accordance with D-4.0103b, or electronic communication if agreed upon in advance by the parties.</p>   |
| <p><b>D-9.0000 CHAPTER IX. REQUEST FOR VINDICATION</b></p> <p><b>D-9.0101 Request for Vindication</b></p> <p>A member of the Presbyterian Church (U.S.A.) who feels injured by rumor or gossip may request an inquiry for vindication by submitting to the clerk of session or stated clerk of the presbytery a clear narrative and statement of alleged facts.</p>  | <p><i>D-7.0202 Initiating a Request for Vindication</i></p> <p>A member of the Presbyterian Church (U.S.A) who feels injured by a rumor or gossip which is from an unidentified source or is from a source not accountable to the Presbyterian Church (U.S.A.) may request an investigation for the purpose of vindication. Requests for vindication should not be used for matters that can be resolved by filing an allegation.</p> <p><i>D-7.0202a.</i> A member requesting vindication shall submit a written statement of the rumor or gossip to the clerk or stated clerk of the council with jurisdiction over the member.</p> |
| <p><b>D-9.0101a. Review by Council</b></p> <p>If a council, through its appropriate committee, finds it proper to grant the request, it shall proceed with an investigating committee as provided in D-10.0201.</p>  | <p><i>D-7.0202b.</i> The council shall appoint an investigating committee in accordance with its rule as defined in D-7.0501a.</p>  |
| <p><b>D-9.0101b. Investigating Committee</b></p> <p>The investigating committee shall conduct an inquiry to ascertain the facts and circumstances and report in writing to the council.</p>  | <p><i>D-7.0202c.</i> The investigating committee shall conduct an inquiry to ascertain the facts and circumstances and shall:</p>   |
| <p><b>D-9.0102 Concludes Matter Unless Charges Filed</b></p>   | <p><i>D-7.0202c.(1)</i> report its determinations in writing to the council within one year of its first meeting. The</p>   |



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| <p>The report shall conclude the matter, unless the investigating committee reports that charges are being filed against the person requesting vindication. If charges are to be filed, the matter shall proceed with appropriate judicial process beginning with D-10.0402.</p> | <p>council will include the written report in its minutes and that will conclude the matter,</p> <p><i>D-7.0202c.(2)</i> file charges as described in D-7.15 with the session or permanent judicial commission against the individual who initiated the investigation if the investigating committee finds that a comparison and consideration of all the evidence compels an abiding conviction that the material facts necessary to prove the charge are true that the individual has committed an offense contrary to Scripture or the Constitution of the Presbyterian Church (U.S.A.), or</p> <p><i>D-7.0202c.(3)</i> determine that one or more other individuals who are members of the Presbyterian Church (U.S.A.) may have committed an offense, and file one or more written allegations against those individuals with appropriate clerks of session or stated clerks.</p>                      |
| <p><b>D-10.0000            CHAPTER X.<br/>DISCIPLINARY CASES</b></p>   | <p><b>CHAPTER VII<br/>DISCIPLINARY PROCESS</b></p>  |
| <p><b>D-10.0100    1. Procedure Preliminary to a<br/>Disciplinary Case</b></p>   | <p><b>D-7.01            Disciplinary Process</b></p>  |
|  | <p><i>D-7.0101        Purpose</i></p> <p>The disciplinary process provides for the accountability of individuals to the church. When it is alleged that trust is broken by an individual, it is important to restore that trust within the community of faith. Church discipline is not punishment; rather, it is the exercise of authority given by Christ, both to guide, control, and nurture the church’s members and for the correction and restraint of wrongdoing. The purpose of the discipline is to honor God by making clear the significance of membership in the body of Christ, to achieve justice and compassion for all participants involved, to correct or restrain wrongdoing in order to bring members to repentance and restoration where possible, to restore peace and unity in the body of Christ, and to secure the just, speedy, and economical determination of proceedings.</p> |

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| <p><b>D-10.0101            Initiation of Preliminary Procedures</b></p> <p>Procedure preliminary to a disciplinary case is initiated by submitting to the clerk of session or the stated clerk of the presbytery having jurisdiction over the member (D-3.0101) a written statement of an alleged offense, together with any supporting information. The statement shall give a clear narrative and allege facts that, if proven true, would likely result in disciplinary action. Such allegations shall be referred to an investigating committee. (D-10.0201)</p> | <p><i>D-7.0102            Initiation</i></p> <p>The disciplinary process begins when a written statement alleging that an active member of a congregation or a minister of the Word and Sacrament of the Presbyterian Church (U.S.A.) has committed an offense is submitted to the clerk of session or stated clerk of the presbytery having jurisdiction over the member. If, after investigation by an investigating committee and trial by a session or permanent judicial commission, the offense is proved true, the person found guilty is subject to censure by the Presbyterian Church (U.S.A.).</p>  |
| <p><b>D-10.0102            Statement of Offense</b></p> <p>The written statement may be submitted by</p> <p><b>D-10.0102a.    Accusation</b></p> <p>a person under jurisdiction of a council of the Presbyterian Church (U.S.A.) making an accusation against another;</p> <p><b>D-10.0102b.    Council</b></p> <p>a member of a council receiving information from any source that an offense may have occurred which should be investigated for the purpose of discipline; or</p>  | <p><i>D-7.0201e.    Members Receiving Allegations from Any Source</i></p> <p>Members of the Presbyterian Church (U.S.A.) who receive an allegation from any source against a member of the Presbyterian Church (U.S.A.) should file a written allegation with the clerk of session or stated clerk of the council with jurisdiction over the individual who is accused. Clerks of session and stated clerks who receive a written statement of offense from a non-member of the Presbyterian Church (U.S.A.) that contains sufficient information to allow an investigation and to suggest that an offense has been committed, should file a written allegation on behalf of the non-member. In this case they shall not be considered to be disqualified from continuing to serve in their role as the clerk of session or stated clerk. Councils may provide by rule for who shall fulfill the role of the “accuser” in such cases.</p> |
| <p><b>D-10.0102c.    Self-Accusation</b></p> <p>a person under jurisdiction of a council of the Presbyterian Church (U.S.A.) coming forward in self-accusation.</p>  | <p><i>D-7.0201f.    Self-Accusation</i></p> <p>An individual member of the Presbyterian Church (U.S.A.) may self-accuse by filing an allegation with the clerk of session or stated clerk of the council with jurisdiction over the individual member.</p>  |
|  | <p><i>D-7.0201c.    Contents of Allegation</i></p> <p>The allegation shall include:</p>   |

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|   | <p><i>D-7.0201c.(1)</i> a written statement of the alleged offense or offenses; and</p> <p><i>D-7.0201c.(2)</i> facts which, if proved true, would likely result in censure.</p> <p><i>D-7.0201d.</i> Submitting an Allegation</p> <p>An allegation shall be submitted in writing to the clerk or stated clerk of the council with jurisdiction over the individual who is accused.</p> <p><i>D-7.0201d.(1)</i> If the allegation is against a member of a congregation not serving as a commissioned pastor at the time of the alleged offense, the allegation shall be sent to the clerk of session with jurisdiction over the accused member.</p> <p><i>D-7.0201d.(2)</i> If the allegation is against a minister member of a presbytery or a commissioned pastor in validated ministry at the time of the alleged offense, the allegation shall be sent to the stated clerk of the presbytery with jurisdiction over the accused member of the presbytery or commissioned pastor.</p> |
| <p><b>D-10.0103 Referral to Investigating Committee</b></p> <p>Upon receipt of a written statement of an alleged offense, the clerk of session or the stated clerk of presbytery, without undertaking further inquiry, shall then report to the council only that an offense has been alleged without naming the accused or the nature of the alleged offense, and refer the statement immediately to an investigating committee.</p> | <p><b>D-7.05 Investigation</b></p> <p><i>D-7.0501 Referral to Investigating Committee</i></p> <p>When a clerk of session or the stated clerk of a presbytery receives an allegation, without undertaking further inquiry, that clerk shall then report to the council only that an offense has been alleged without naming the accused or the nature of the alleged offense and refer the statement of allegation promptly to an investigating committee, which shall conduct an inquiry as defined below. The clerk of session or stated clerk shall also inform the accuser of the disciplinary process and their rights and responsibilities in the process.</p> <p><i>D-7.0501a.</i> Sessions may and councils above the session shall provide by rule for the appointment of an investigating committee.</p> <p><i>D-7.0501b.</i> If a session is notified of the receipt of an allegation, it shall determine whether to</p>  |

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|  | <p>proceed with an investigation or request a reference to the presbytery (D-7.04).</p> <p><i>D-7.0501c.</i> When an allegation is received by a clerk of session or a stated clerk other than the one of the council having jurisdiction over the member, it shall be the duty of the clerk of that session or the stated clerk of that presbytery to submit the written statement of allegation to the clerk of session or the stated clerk of the presbytery having jurisdiction over the member. The involved councils shall proceed in accordance with (D-7.0301c).</p>  |
| <p><b>D-10.0104 Accusation from Other Council</b></p> <p>When a member is accused of an offense by a written statement presented to a council other than the one having jurisdiction over the member, it shall be the duty of the clerk of that session or the stated clerk of that presbytery to submit the written statement to the clerk of session or the stated clerk of the presbytery having jurisdiction over the member. The involved councils shall proceed cooperatively with judicial process.</p> | <p><i>D-7.0302c.</i> If an allegation involves events that originated within a council other than the council with jurisdiction over the individual who is accused, the clerk of session or stated clerk of the council of jurisdiction shall report to the clerk of session or stated clerk of the other council or councils if charges are filed, and of the outcome of any trial.</p> <p><i>D-7.0302d.</i> If the council of jurisdiction fails to act in a particular case for a period of sixty (60) days after the filing of charges in a disciplinary case, the next higher council, on the request of any party, may assume jurisdiction in the case. It may either issue specific instructions to the lower council as to its disposition or conclude the matter itself.</p> |
| <p><b>D-10.0105 Transfer Prohibited</b></p> <p>A session shall not grant a certificate of transfer to a member, nor shall a presbytery grant a certificate of transfer to a minister of the Word and Sacrament, while an inquiry or charges are pending. The reasons for not granting transfer may be communicated by the clerk of session or the stated clerk of the presbytery to the appropriate persons.</p>   | <p><i>D-7.0501d.</i> A session shall not grant a transfer of membership to a member, nor shall a presbytery grant transfer of membership to a minister of the Word and Sacrament, while an inquiry or charges are pending. The reasons for not granting transfer of membership may be communicated by the clerk of session or the stated clerk of the presbytery to the appropriate persons.</p>  |
| <p><b>D-10.0106 Administrative Leave</b></p> <p>When a written statement of an alleged offense of sexual abuse toward any person has been received against a minister of the Word and Sacrament, the stated clerk receiving the allegation shall immediately communicate the allegation to the</p>   | <p><i>D-7.0902 Administrative Leave</i></p> <p>In dealing with an allegation against a minister of the Word and Sacrament, the following considerations regarding administrative leave or other restrictions apply:</p>   |

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| <p>permanent judicial commission. The moderator of the permanent judicial commission shall within three days designate two members, who may be from the roster of former members of the permanent judicial commission, to determine whether the accused shall be placed on a paid administrative leave during the resolution of the matter. The cost of such shall be borne by the employing entity whenever possible or be shared by the presbytery as necessary. While administrative leave is in effect, the minister of the Word and Sacrament may not perform any pastoral, administrative, educational, or supervisory duties, and may not officiate at any functions such as Baptism, funerals, or weddings.</p> | <p><i>D-7.0902a.</i> When an allegation of sexual abuse as defined in D-7.0901 has been received against a minister of the Word and Sacrament, the stated clerk receiving the allegation shall immediately communicate the allegation to the three members designated in accordance with D-3.0102.</p>  |
| <p><b>D-10.0106a. Determine if Leave is Required</b></p> <p>The designated members of the permanent judicial commission, after giving the accused the opportunity to be heard, shall determine whether the risk to the congregation and to potential victims of abuse, when considered in light of the nature and probable truth of the allegations, requires administrative leave or other restrictions upon the minister of the Word and Sacrament's service. Such administrative leave or restrictions will continue until resolution of the matter in one of the ways prescribed in the Rules of Discipline or the leave or restrictions are altered or removed by the designated members of the commission.</p>    | <p><i>D-7.0902b.</i> Regardless of the employment status of the minister of the Word and Sacrament, the members designated in accordance with D-3.0102, shall determine as quickly as possible, after reviewing the written allegations and providing the accused the opportunity to be heard, whether the risk to a congregation and/or to other potential victims of abuse requires administrative leave or other restrictions upon the minister's service, when considered in light of the nature and probable truth of the allegations. Such administrative leave or restrictions will continue until either the matter is resolved in one of the ways prescribed in the disciplinary process or until the leave or restrictions are altered or removed by the members of the commission.</p> |
|   | <p><i>D-7.0903 Effect of Administrative Leave</i></p> <p>While administrative leave is in effect, the minister of the Word and Sacrament shall not perform any pastoral, administrative, educational, or supervisory duties, and shall not officiate at any functions such as the administration of Sacraments, funerals, or weddings. The effect of administrative leave for a minister of the Word and Sacrament in a validated ministry beyond the jurisdiction of the Presbyterian Church (U.S.A.) is the suspension of the validation of the ministry until the matter is resolved, which</p>  |

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|   | shall be communicated to the employer by the stated clerk of the presbytery.  |
| <p><b>D-10.0106b. If Leave is Not Required</b></p> <p>If the designated members of the commission determine that no administrative leave or restriction is required, the investigating committee appointed to investigate the allegations shall be free at any point in its investigation to present additional evidence to the designated members supporting the imposition of administrative leave or other restrictions.</p> | <p><i>D-7.0904 If Leave is Not Required</i></p> <p>If the members of the permanent judicial commission designated in accordance with D-3.0102 determine that no administrative leave or restriction is required, the investigating committee appointed to investigate the allegations shall be free at any point in its investigation to present additional evidence to the designated members supporting the imposition of administrative leave or other restrictions.</p> <p><i>D-7.0905 Presbytery Policies on Administrative Leave</i></p> <p>Nothing in this section shall preclude a presbytery from establishing its own rules for administrative leave or other restrictions on a minister's service.</p> |
| <p><b>D-10.0200 2. Investigation</b></p> <p><b>D-10.0201 Investigating Committee</b></p> <p>An inquiry shall be made by an investigating committee designated by the council having jurisdiction over the member to determine whether charges should be filed.</p>  |   |
| <p><b>D-10.0201a. Membership</b></p> <p>An investigating committee shall have no more than five but no less than three members, and may include members from another council, if appropriate, in accordance with D-10.0104. A session shall not appoint members of the session as members of the investigating committee.</p>   | <p><b>D-7.06 Membership of the Investigating Committee</b></p> <p>An investigating committee shall have no more than five but no fewer than three members, and may include members from another council. Sessions shall not appoint elders currently on the session to an investigating committee. All members of an investigating committee shall be members of the Presbyterian Church (U.S.A.).</p>  |
| <p><b>D-10.0201b. Appointment by Rule</b></p> <p>A presbytery may provide by rule for appointment of an investigating committee.</p>  | <p><i>D-7.0501a.</i> Sessions may and councils above the session shall provide by rule for the appointment of an investigating committee.</p>   |
| <p><b>D-10.0201c. Expenses</b></p>  | <p><b>D-7.07 Expenses of the Investigating Committee</b></p>  |

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| <p>The expenses of an investigating committee shall normally be paid by the council having designated it. If, however, the written statement results from information presented to a council other than the one having jurisdiction over a member, the council within whose bounds the alleged offense occurred shall pay for the expenses of investigating within its bounds.</p> | <p>The expenses of an investigating committee shall be paid by the council which designates it. In cases where the investigation is shared in accordance with D-7.0301c, expenses shall be shared.</p>  |
|  | <p><b>D-7.08     Assisting Roles</b></p> <p>The following persons may assist in the disciplinary process as described in this section.</p>  |
|  | <p><i>D-7.0801     Counsel</i></p> <p>Where counsel is referred to in this section, counsel need not be a paid representative or an attorney. Counsel shall be a member of the Presbyterian Church (U.S.A.). No member of a permanent judicial commission shall appear as counsel before that commission while a member of that commission.</p>   |
|  | <p><i>D-7.0802     Advocate</i></p> <p>The role of advocate is to provide support, consultation, and pastoral care for the accuser, those alleged to be harmed, or those accused. Advocates need not be members of the Presbyterian Church (U.S.A.).</p>  |
|  | <p><i>D-7.0803     Mediator</i></p> <p>Mediators, if utilized, should be persons known for calm, wise counsel, and need not be attorneys or certified mediators. Mediators need not be members of the Presbyterian Church (U.S.A.); however, they should be familiar with Section D of the <i>Book of Order</i>. Presbyteries may identify in advance potential mediators. Any fees for mediation shall be negotiated in advance and paid for by the council of jurisdiction.</p> |

**D-10.0202 Investigating Committee Responsibilities**

The investigating committee shall

**D-10.0202a.** review the statement of alleged offense to determine whether it alleges any facts that, if true, constitute an offense as defined in D-2.0203b. If no offense as defined in D-2.0203b is alleged, the investigating committee shall end its inquiry and report that to the clerk of the body. If an offense as defined in D-2.0203 is alleged, it shall proceed to the steps below.

**D-7.11 Investigating Process**

*D-7.1101 Preliminary Review*

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

*D-7.1101a.* If no offense is alleged, the investigating committee shall report this fact to the clerk of session or stated clerk of the council and shall end its inquiry.

*D-7.1102a.(1)* the date of the investigating committee's first meeting, which begins the one-year timeline for filing charges (D-7.1501);



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| <b>D-10.0202b.</b> provide the accused with a copy of the statement of alleged offense described in D-10.0101;   | <i>D-7.1102a.(2)</i> the reason for the investigation, including a copy of the statement of alleged offense, excluding the name of the accuser at the discretion of the investigating committee;   |
|  | <i>D-7.1102a.(3)</i> the confidentiality of the investigating process; and   |
|  | <i>D-7.1102a.(4)</i> the rights and responsibilities of the accused defined in D-7.1003 and D-7.1004.  |
| <b>D-10.0202c.</b> provide the person making the accusation with a statement of the investigating committee's procedures;  | <i>D-7.1102b.</i> notify the person making the allegation in writing of:   |
|  | <i>D-7.1102b.(1)</i> the date of the investigating committee's first meeting which begins the one-year timeline for filing charges (D-7.1501);   |
|  | <i>D-7.1102b.(2)</i> the confidentiality of the investigating process;   |
|  | <i>D-7.1102b.(3)</i> the rights and responsibilities of the accuser and of those alleged to have been harmed, if known, as defined in D-7.1001, D-7.1002, and D-7.1004; and  |
|  | <i>D-7.1102b.(4)</i> the investigating committee's commitment to keep the person making the allegation informed as the investigation proceeds including, whenever possible, if charges will be filed.  |
| <b>D-10.0202d.</b> determine whether the accusation repeats allegations previously made against the accused, and if so, report to the council having jurisdiction over the accused that it will not file charges (D-10.0202j) unless the accusation contains new information warranting investigation or is the subject of an investigation that has not been concluded. | <i>D-7.1101b.</i> If the investigating committee determines that the allegation repeats allegations previously made against the accused, it shall report to the clerk of the council that it will not file charges unless the allegation contains new information warranting investigation or is the subject of an investigation that has not been concluded, and shall end its inquiry. |
|  | <i>D-7.1101c.</i> The clerk shall communicate the decision not to move to an investigation to the person who filed the allegation and to the person against whom the allegation was filed.   |
|  | <i>D-7.1101d.</i> Within thirty (30) days of receipt of the report, the person who submitted the allegation may petition the session or permanent judicial commission for a review of  |

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|   | the decision of the investigating committee not to file charges (D-7.1402).   |
|   | <i>D-7.1102 Notification to Participants</i><br>If the investigating committee determines that an offense as defined in D-7.0103 is alleged, the investigating committee shall, as quickly as it is practical,  |
|   | <i>D-7.1102a.</i> notify the accused in writing of:   |
|   | <i>D-7.1102a.(1)</i> the date of the investigating committee’s first meeting, which begins the one-year timeline for filing charges (D-7.1501);   |
| <b>D-10.0202e.</b> make a thorough inquiry into the facts and circumstances of the alleged offense;   | <i>D-7.1103 Conduct of Investigation</i><br>The investigating committee shall make a thorough inquiry into the facts and circumstances of the alleged offense. The investigation is presumed to be confidential. Information is shared only on a “need to know” basis as determined by the investigating committee in consultation with the clerk or stated clerk of the council. In the event that information is shared, it shall be stated that the accused is presumed innocent. The investigating committee shall keep the clerk or stated clerk of the council informed of its progress in the process.<br><br>The investigating committee shall: |
| <b>D-10.0202f.</b> examine all relevant papers, documents, and records available to it;   | <i>D-7.1103a.</i> examine all relevant papers, documents, and records available to it;  |
| <b>D-10.0202g.</b> ascertain all available witnesses and inquire of them;   | <i>D-7.1103b.</i> ascertain all available witnesses who have knowledge of the alleged offense-and inquire of them;  |
| <b>D-10.0202h.</b> determine, in accordance with G-3.0102 and D-2.0203b, whether there are probable grounds or cause to believe that an offense was committed by the accused;                       | <i>D-7.1103c.</i> determine, in accordance with G-3.0102 and D-7.0103, whether there are reasonable grounds to believe that an offense was committed by the accused;  |
| <b>D-10.0202i.</b> decide whether the charge(s) filed--on the basis of the papers, documents, records, testimony, or other evidence--can reasonably be proved, having due regard for the character, | <i>D-7.1103d.</i> decide whether the offense alleged can be proved so that the comparison and consideration of all evidence compels an  |

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| <p>availability, and credibility of the witnesses and evidence available;</p>   | <p>abiding conviction that the material facts necessary to prove the charge are true;</p>  |
| <p><b>D-10.0202j.</b> initiate, if it deems appropriate, alternative forms of resolution, ordinarily after the investigation has been completed, probable cause has been determined, but before the charges have been filed. The purpose of alternative forms of resolution will be to determine if agreement can be reached between the investigating committee and the accused concerning any charges which may be filed.</p> | <p><i>D-7.1103g.</i> determine if alternate resolution to a trial on the charges should be pursued (see D-7.16).</p>   |
| <p><b>D-10.0202j. (1)</b> Any mediation shall be completed within 120 days unless a continuance is allowed by the session or permanent judicial commission.</p>   | <p><i>D-7.1604 Mediation</i></p> <p>In those instances where the accused will plead guilty and takes responsibility for harm done, but a process of restorative justice is not possible or appropriate, the investigating committee may initiate an alternative resolution process of mediation in the hope of achieving justice and compassion for all involved and repentance and restoration to the accused. It shall also take into consideration the broken trust in the larger community of faith, and the time and energy that will be necessary for its trust to be restored. Mediators and facilitators utilized in this process should be persons known for calm, wise counsel, and need not be attorneys or certified mediators. Anyone serving as a mediator or facilitator must be familiar with Section D of the <i>Book of Order</i>. 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.</p> <p><i>D-7.1605 Other Negotiated Agreements</i></p> <p>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</p> |

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|   | <p>negotiation with the accused or counsel for the accused, the investigating committee shall consult with the accuser and those alleged to have been harmed, if known, regarding reasons for a negotiated agreement. Ordinarily, negotiated agreements should not be used to resolve allegations of sexual abuse.</p>  |
| <p><b>D-10.0202j. (2)</b> The investigating committee shall report any settlement agreement to the session or permanent judicial commission for its approval.</p> <p><b>D-10.0202j. (3)</b> The session or permanent judicial commission shall convene to receive the settlement agreement; vote to approve it by at least two-thirds of the members eligible to vote; make a record of its proceedings according to the provisions of D-11.0601d, including the name of the accused, the substance of the charge(s), and censure; and transmit its decision to the clerk of session or the stated clerk, who shall report it according to the provisions of D-11.0701.</p> | <p><i>D-7.1606 Session or Permanent Judicial Commission Action</i></p> <p>Upon receipt of a signed alternative resolution, the session or permanent judicial commission shall convene to:</p> <p><i>D-7.1606a.</i> receive the agreement and the charges together with a statement of the investigating committee’s rationale for adoption of the agreement;</p> <p><i>D-7.1606b.</i> vote to approve it by at least two-thirds of the members eligible to vote (D-3.0602);</p> <p><i>D-7.1606c.</i> make a record of its proceedings according to the provisions of D-8.1201d, including the name of the accused, the substance of the charge(s), and censure if any; and</p> <p><i>D-7.1606d.</i> transmit its decision to the clerk of session or the stated clerk, who shall report it according to the provisions of D-9.0102.</p> |
| <p><b>D-10.0202j. (4)</b> The investigating committee shall provide an advocate for the accused throughout settlement negotiations, and may provide an advocate for other interested persons at its own discretion.</p>   | <p><i>D-7.1003c.</i> during the investigation, the right to be represented by counsel at their own expense and to be accompanied by an advocate. The role of the advocate is to provide support and pastoral care. The advocate, if not also counsel, shall not be permitted to address the committee, session, or permanent judicial commission.</p>   |
|   | <p><i>D-7.1606e.</i> If the session or permanent judicial commission does not approve the alternative resolution agreement by a two-thirds vote, the investigating committee may seek another alternative resolution to present to the</p>  |

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| <p><b>D-10.0202j. (5)</b> If a settlement satisfactory to both the investigating committee and the accused in the alternative form of resolution is not reached, the investigating committee shall designate a prosecuting committee per D-10.0202l, and the case shall proceed on the charges filed.</p>   | <p>permanent judicial commission within the one-year deadline, or</p> <p><i>D-7.1606f.</i> if an alternative resolution agreement is not reached, the investigating committee shall designate a prosecuting committee and the matter shall proceed on the charges filed.</p>  |
| <p><b>D-10.0202k.</b> report to the council having jurisdiction over the accused only whether or not it will file charges; and</p>  | <p><i>D-7.1103e.</i> report to the council having jurisdiction over the accused, or in the case of a joint investigation, report to both councils, only whether or not the investigating committee will file charges;</p>   |
| <p><b>D-10.0202l.</b> Designate Prosecuting Committee</p> <p>if charges are to be filed, prepare and file them in accordance with the provisions of D-10.0401-.0404, and designate one or more persons (to be known as the prosecuting committee) from among its membership to prosecute the case.</p>  | <p><i>D-7.1103f.</i> if charges are to be filed, prepare them in accordance with the procedures described in D-7.1503 and designate one or more of its members to prosecute the case; and</p>   |
| <p><b>D-10.0203</b>                    <b>Rights of the Persons Involved</b></p>  | <p><b>D-7.10</b>                    <b>Rights and Responsibilities of the Persons in an Investigation</b></p>   |
| <p><b>D-10.0203a. Rights of the Accuser</b></p> <p>The investigating committee shall inform the person making the accusation of the right to be accompanied by an advocate at each and every conference between the person making the accusation and the investigating committee, the prosecuting committee, and the session or permanent judicial commission. The role of the advocate is to provide support and consultation.</p> | <p><i>D-7.1001</i>                    <i>Rights of the Accuser</i></p> <p>The investigating committee shall inform the person submitting the allegation of the following rights:</p> <p><i>D-7.1001a.</i> the right to be treated with fairness and respect.</p> <p><i>D-7.1001b.</i> the right to be accompanied by an advocate whenever asked to meet with the investigating committee, the prosecuting committee, and the session or permanent judicial commission. The role of the advocate is to provide support and pastoral care. The advocate shall not be permitted to address the committees, session or permanent judicial commission on behalf of the accuser.</p> <p><i>D-7.1001c.</i> if charges are filed, the right to reasonable and timely notice of, and to be present at, all public proceedings related to the charges, unless the prosecuting</p> |

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|   | <p>committee determines that testimony by the accuser would be materially affected if they heard other testimony at trial.</p>   |
| <p><b>D-10.0203b. Rights of the Person Alleging Harm</b></p> <p>If the statement of accusation is submitted on behalf of another person who is alleged to have been harmed by the offense, the investigating committee shall notify that person of the right to be accompanied by an advocate at each and every conference with the investigating committee, the prosecuting committee, and the session or permanent judicial commission.</p> | <p><i>D-7.1002 Rights of Those Alleged to Have Been Harmed</i></p> <p>When it is possible to do so while also maintaining appropriate confidentiality, the investigating committee shall notify individuals named in the allegation who are alleged to have been harmed by the offense of the following rights:</p> <p><i>D-7.1002a.</i> the right to be treated with fairness and respect.</p> <p><i>D-7.1002b.</i> the right to be accompanied by an advocate whenever asked to meet with the investigating committee, the prosecuting committee, and the session or permanent judicial commission. The role of the advocate is to provide support and pastoral care. The advocate shall not be permitted to address the committees, session or permanent judicial commission on behalf of those alleged to have been harmed.</p> <p><i>D-7.1002c.</i> if charges are filed, the right to reasonable and timely notice of, and to be present at, all public proceedings related to the charges, unless the prosecuting committee determines that testimony by those alleged to have been harmed would be materially affected if they heard other testimony at trial.</p> |
| <p><b>D-10.0203c. Rights of the Person Alleged Against</b></p> <p>At the beginning of each and every conference with an investigating committee or any of its members, the person against whom an allegation has been made shall be informed by the investigating committee or its members of the right to remain silent, to be represented by counsel, and, if charges are later filed, to have</p>  | <p><i>D-7.1003 Rights of the Accused</i></p> <p>At the beginning of each and every conference with an investigating committee, the prosecuting committee, and the session or permanent judicial commission, the person against whom an allegation has been made shall be informed by the investigating committee of the following rights:</p>  |

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| <p>counsel appointed if unable to secure counsel. (D-11.0301- .0302)</p>  | <p><i>D-7.1003a.</i> the right to remain silent throughout the entire disciplinary process,</p> <p><i>D-7.1003b.</i> the right to be treated with fairness and respect.</p> <p><i>D-7.1003c.</i> during the investigation, the right to be represented by counsel at their own expense and to be accompanied by an advocate. The role of the advocate is to provide support and pastoral care. The advocate, if not also counsel, shall not be permitted to address the committee, session, or permanent judicial commission.</p> <p><i>D-7.1003d.</i> if charges are later filed, the right to reasonable and timely notice of, and to be present at, all public proceedings related to the charges, to be represented by counsel (D-7.0104), and to have counsel appointed if unable to afford counsel.</p> |
|   | <p><i>D-7.1004 Responsibilities of All Participants</i></p> <p>All participants in an investigation have the responsibility to work cooperatively in the investigation. This includes, but is not limited to, the preservation of records which may be pertinent, and maintaining appropriate confidentiality throughout the process (see D-7.1003).</p>  |
|   | <p><b>D-7.12 Review of Investigating Procedures</b></p> <p>At any time during the course of the investigation, the person against whom an allegation has been made may petition the session or the permanent judicial commission to review procedures of the investigating committee.</p>   |
| <p><b>D-10.0204 Petition for Review of Investigative Procedures</b></p> <p>During the course of the investigation, the person against whom an allegation has been made may petition the commission to review procedures of the investigating committee. Proper subjects for</p> | <p><i>D-7.1201 Subject of Review</i></p> <p>The subject of such a petition for review shall be limited to whether the committee has followed the procedures required by D-7.1003, whether the committee has followed a proper trail of evidence, whether the evidence being</p>   |

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| <p>such a petition shall be limited to whether the committee has followed a proper trail of evidence, whether the evidence being considered is properly in the hands of the investigating committee, and whether the committee has examined relevant evidence proposed by the accused.</p>   | <p>considered is properly in the hands of the investigating committee, and whether the committee has examined relevant evidence proposed by the accused.</p>   |
| <p><b>D-10.0204a. Hearing</b></p> <p>The review of the petition shall be done in a hearing conducted by the two members of the commission designated according to D-5.0101, at which both parties may be present and represented by counsel. The hearing shall be conducted within thirty days of receipt of the petition. Decisions shall be communicated to both parties within fifteen days of the hearing.</p> <p><b>D-10.0204b. Results</b></p> <p>The results of the review shall be communicated to the moderator of the commission and will inform the review of charges in D-10.0405.</p> | <p><i>D-7.1202 Conduct of Review</i></p> <p>The review shall be conducted by the three members designated in accordance with D-3.0102. The review may include a hearing at the discretion of the three designated members at which the investigating committee and the accused may appear. The review shall be completed within forty-five (45) days of the filing of the petition, and the decisions shall be communicated to the investigating committee, the accused, the moderator and the clerk of the permanent judicial commission, and the clerk of the council.</p> |
| <p><b>D-10.0300 3. Communicate Determination</b></p>   | <p><b>D-7.13 Investigating Committee Conclusion</b></p>  |
| <p><b>D-10.0301 Communicate Determination</b></p> <p>If the investigating committee initiates an alternative form of resolution, it shall notify the council through its clerk of session or stated clerk.</p>   | <p>The investigating committee may determine:</p> <ul style="list-style-type: none"> <li>not to file charges (D-7.14),</li> <li>to file charges and proceed to trial (D-15), or</li> <li>to file charges together with an alternative resolution. (D-16).</li> </ul>   |
|  | <p><b>D-7.15 If Charges Are Filed</b></p> <p><i>D-7.1501 Time Limits for Filing Charges</i></p> <p>Once a written allegation has been submitted, no charges shall be filed later than one year from the date of the investigating committee's first meeting, except as noted below.</p> <p><i>D-7.1501a.</i> In those instances where secular proceedings have commenced, the investigating committee may request of its session or permanent judicial commission and may receive an extension of its time for filing</p>  |



charges of up to six months from the conclusion of any investigation or resulting trial undertaken by the civil authorities. The clerk of session or stated clerk of the council shall maintain contact with civil authorities to determine when such secular proceedings have concluded.

*D-7.1501b.* For instances of sexual abuse of another person as defined in D-7.0901 the five-year time limit for filing an allegation shall not apply. There is also no time limit for alleging that a person who knew or reasonably should have known of the reasonable risk of sexual abuse of another as defined in D-7.0901 failed to take reasonable steps to minimize the risk. Charges in these instances may be brought regardless of the date on which an offense is alleged to have occurred.

*D-7.1501c.* When a former minister of the Word and Sacrament or a former active member of a congregation again becomes an active member of a congregation (G-1.0402) or a member of a presbytery (G-2.0502, G-2.0503) after having renounced jurisdiction while in the disciplinary process, allegations shall be brought forward again. The process would then begin anew with the one-year time limit in effect. The time limit begins on the date when the stated clerk or clerk of session becomes aware that the renounced member has rejoined the Presbyterian Church (U.S.A.). If charges had been filed at the time of renunciation, the prosecuting committee shall have at least six months to proceed forward before trial. If a new prosecuting committee must be formed, it shall have at least nine months to proceed forward before trial. The accused shall not serve in an ordered ministry of the church while an investigation or trial is pending.

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| <p><b>D-10.0302 If Charges Are to Be Filed</b></p> <p>If the investigating committee has decided to file charges, it shall promptly inform the accused in writing of the charges it will make, including a summary of the facts it expects to prove at trial to support those charges. It shall ask the accused if that person wishes to plead guilty to the charges to avoid full trial and indicate the censure it will recommend to the session or permanent judicial commission.</p> | <p><i>D-7.1502 Duties of the Investigating Committee</i></p> <p>If the investigating committee decides to file charges, it shall:</p> <p><i>D-7.1502a.</i> inform the accused in writing that charges will be filed, and list each charge separately;</p> <p><i>D-7.1502b.</i> include a summary of the facts it expects to prove at trial to support the charges; and</p> <p><i>D-7.1502c.</i> designate one or more of its members to serve as the prosecuting committee. The prosecuting committee shall prosecute the case and represent the church during any appeals. The prosecuting committee may include additional members at the council's discretion.</p> |
|  | <p><b>D-7.14 If Charges Are Not Filed</b></p>   |
| <p><b>D-10.0303 Petition for Review</b></p> <p>If no charges are filed, the investigating committee shall file a written report of that fact alone with the clerk of session or stated clerk of the presbytery, and notify the person who submitted the written statement.</p>   | <p><i>D-7.1401 Written Report</i></p> <p>If no charges are filed, the investigating committee shall file a written report of that fact alone with the clerk of session or stated clerk of the presbytery. The clerk of session or stated clerk of the presbytery shall notify the person who submitted the allegation that charges will not be filed.</p>   |
| <p><b>D-10.0303a.</b> Within 30 days of receipt of the report, that person may petition the session or the permanent judicial commission to review the decision of the investigating committee not to file charges. The petition shall allege those instances in which the investigating committee has not fulfilled the duties specified in D-10.0202.</p>  | <p><i>D-7.1402 Review of Decision</i></p> <p>Review of a decision not to file charges shall proceed as follows:</p> <p><i>D-7.1402a.</i> Within thirty (30) days of receipt of the report, the person who submitted the allegation may petition the permanent judicial commission to review the decision of the investigating committee not to file charges.</p> <p><i>D-7.1402b.</i> The petition shall allege those instances in which the investigating committee has not fulfilled the duties specified in D-7.10.</p>  |



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| <p>No charges shall be filed later than five years from the time of the commission of the alleged offense, nor later than one year from the date the investigating committee was formed, whichever occurs first, except as noted below.</p> <p><b>D-10.0401a. When Civil Proceedings</b></p> <p>In those situations where civil proceedings have commenced, the investigating committee may request of its permanent judicial commission or session and receive an extension of its time for filing charges of up to six months from the conclusion of any investigation or resulting trial undertaken by civil authorities. The investigating committee shall maintain contact with civil authorities to determine when such civil proceedings have concluded.</p> <p><b>D-10.0401b. When Sexual Abuse</b></p> <p>For instances of sexual abuse of another person, the five-year time limit shall not apply. Charges may be brought regardless of the date on which an offense is alleged to have occurred.</p> | <p>five years from the time the alleged offense was discovered except in cases of sexual abuse of another person as defined in D-7.0901, in which case the five-year time limit shall not apply. There is also no time limit to file an allegation that a person who knew or reasonably should have known of the reasonable risk of sexual abuse of another as defined in D-7.0901 failed to take reasonable steps to minimize the risk.</p> <p><i>D-7.1501a.</i> In those instances where secular proceedings have commenced against the accused pertinent to the subject of the investigation, the investigating committee may request of its session or permanent judicial commission and may receive an extension of its time for filing charges of up to six months from the conclusion of any investigation or resulting trial undertaken by the civil authorities. The clerk of session or stated clerk of the council shall maintain contact with civil authorities to determine when such secular proceedings have concluded.</p> <p><i>D-7.1501b.</i> For instances of sexual abuse of another person as defined in D-7.0901 the five-year time limit for filing an allegation shall not apply. There is also no time limit for alleging that a person who knew or reasonably should have known of the reasonable risk of sexual abuse of another as defined in D-7.0901 failed to take reasonable steps to minimize the risk. Charges in these instances may be brought regardless of the date on which an offense is alleged to have occurred.</p> |
| <p><b>D-10.0401c. Definition of Sexual Abuse</b></p> <p>Sexual abuse of another person is any offense involving sexual conduct in relation to</p>  | <p><b>D-7.09 Allegations of Sexual Abuse</b></p> <p><i>D-7.0901 Definition</i></p> <p>Sexual abuse is any offense involving sexual conduct in relation to any person under the age of eighteen years or anyone without the capacity to consent, or any person when the conduct includes force, threat, coercion,</p>   |

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| <p><b>D-10.0401c. (1)</b> any person under the age of eighteen years or anyone over the age of eighteen years without the mental capacity to consent; or</p> <p><b>D-10.0401c. (2)</b> any person when the conduct includes force, threat, coercion, intimidation, or misuse of ordered ministry or position.</p>   | <p>intimidation, or misuse of ordered ministry or position. Sexual abuse is contrary to the Scriptures and the Constitution of the Presbyterian Church (U.S.A.), and is therefore always an offense for the purpose of discipline.</p>   |
| <p><b>D-10.0401d.</b></p> <p>For instances where a former minister of the Word and Sacrament comes forward in self-accusation to undergo a disciplinary process to regain permission to perform work under the jurisdiction of the Presbyterian Church (U.S.A.) (G-2.0509), no time limit from the time of the commission of the alleged offense to the filing of charges shall apply. Charges based on all accusations that had been made by the time that the former minister of the Word and Sacrament had renounced jurisdiction may be brought regardless of the date on which any such offense is alleged to have occurred.</p> | <p><i>D-7.0201f.</i> Self-Accusation</p> <p>An individual member of the Presbyterian Church (U.S.A.) may self-accuse by filing an allegation with the clerk of session or stated clerk of the council with jurisdiction over the individual member.</p>  |
|   | <p><b>CHAPTER VIII</b></p> <p><b>TRIAL IN A DISCIPLINARY CASE</b></p>  |
|   | <p><b>D-8.01 Pretrial Procedures</b></p>   |
| <p><b>D-10.0402 Prosecution of Case</b></p> <p>If charges are filed, the prosecuting committee shall prosecute the case and represent the church during any appeals. (D-10.0202h)</p>   | <p><i>D-7.1502c.</i> designate one or more of its members to serve as the prosecuting committee. The prosecuting committee shall prosecute the case and represent the church during any appeals. The prosecuting committee may include additional members at the council's discretion.</p>                               |
| <p><b>D-10.0402a. Parties</b></p> <p>All disciplinary cases shall be filed and prosecuted by a council through an investigating committee and a prosecuting committee in the name of the Presbyterian Church (U.S.A.). The prosecuting committee is the representative of the church and,</p>   | <p><i>D-8.0101 Parties</i></p> <p>All disciplinary cases shall be filed and prosecuted by a council through a prosecuting committee in the name of the Presbyterian Church (U.S.A.). The prosecuting committee is the representative of the church and, as such, has all of the rights of the appropriate council in</p> |

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| <p>as such, has all of the rights of the appropriate council in the case.</p> <p><b>D-10.0402b. Only Two Parties</b></p> <p>The only parties in a disciplinary case are the prosecuting council and the accused.</p>  | <p>the case. The only parties in a disciplinary case are the prosecuting committee and the accused.</p>   |
| <p><b>D-10.0403 Form of Charge</b></p> <p>Each charge shall allege only one offense. (D-2.0203b)</p> <p><b>D-10.0403a. Several Together</b></p> <p>Several charges against the same person may be filed with the council at the same time.</p> <p><b>D-10.0403b. Details of the Charge</b></p> <p>Each charge shall be numbered and set forth the conduct that constituted the offense. Each charge shall state (as far as possible) the time, place, and circumstances of the commission of the alleged conduct. Each charge shall also be accompanied by a list of the names and addresses of the witnesses for the prosecution and a description of the records and documents to be cited for its support.</p> <p><b>D-10.0403c. Tried Together</b></p> <p>Several charges against the same person may, in the discretion of the session or permanent judicial commission, be tried together.</p> <p><b>D-10.0404 Filing of Charge</b></p> <p>Every charge shall be prepared in writing and filed with the clerk of session or stated clerk of the presbytery.</p> <p><b>D-10.0404a. Session</b></p> <p>Upon receipt of a charge, the clerk of a session shall present the charge to the session at its next meeting. The session shall determine whether it</p> | <p><i>D-7.1503 Charges</i></p> <p>Each charge shall state only one offense.</p> <p><i>D-7.1503a.</i> An offense is any act or omission by a member of a congregation or a minister of the Word and Sacrament that is contrary to the Scriptures or the Constitution of the Presbyterian Church (U.S.A.) as defined in D-7.0103.</p> <p><i>D-7.1503b.</i> Each charge shall state the specific provision or provisions of Scripture and/or the Constitution that have been violated.</p> <p><i>D-7.1503c.</i> Each charge shall be numbered, and state (as far as possible) the time, place and circumstances of the commission of the offense. Multiple occurrences of the same offense may be consolidated in one charge.</p> <p><i>D-7.1503d.</i> Each charge shall be accompanied by a summary of the facts expected to be proved at trial.</p> <p><i>D-7.1503e.</i> The investigating committee shall file the charges with the clerk of session or the stated clerk of the presbytery.</p> <p><i>D-7.1503e.(1)</i> If the charges are filed with the clerk of session, upon its receipt, the clerk shall present the charges to the session at its next meeting and determine whether it will try the case or request a reference to the</p> |

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| <p>will try the case or refer it to the presbytery. (D-4.0000)</p> <p><b>D-10.0404b. Presbytery</b></p> <p>Upon receipt of a charge, the stated clerk of the presbytery shall immediately forward it to the moderator or clerk of the permanent judicial commission of that presbytery.</p>  | <p>presbytery (D-7.04).</p> <p><i>D-7.1503e.(2)</i> If the charges are filed with the stated clerk of the presbytery, the stated clerk shall immediately forward the charges to the permanent judicial commission.</p> <p><i>D-7.0201b.</i> Who May File</p> <p>Any member of the Presbyterian Church (U.S.A.) may file a written allegation against a member of a congregation of the Presbyterian Church (U.S.A) or a minister of the Word and Sacrament. Anyone who is not a member of the Presbyterian Church (U.S.A.) may request that a member file a written allegation on their behalf.</p>   |
| <p><b>D-10.0405 Pretrial Conference</b></p> <p>The session or permanent judicial commission, which is to try the case, shall hold a pretrial conference not later than thirty days after receipt of the charge(s).</p> <p><b>D-10.0405a. Time and Place</b></p> <p>The moderator and clerk of the session or of the permanent judicial commission shall notify the accused, the counsel for the accused, if any, and the prosecuting committee of the time and place of the pretrial conference, and shall furnish the accused with a copy of the charge(s).</p> <p><b>D-10.0405b. Those Present</b></p> <p>At the time set for the pretrial conference, the moderator and clerk of session or of the permanent judicial commission, the prosecuting committee, the accused, counsel for the accused, if any, and other appropriate persons at the discretion of the</p> | <p><i>D-8.0103 Pretrial Conference</i></p> <p>A pretrial conference shall be scheduled, which may be held electronically in accordance with G-3.0105.</p> <p><i>D-8.0103a.</i> The session or permanent judicial commission which is to try the case shall hold a pretrial conference no later than forty-five (45) days after confirmation of the receipt of the charge(s). The moderator and clerk of the session, or their designees, or the moderator and clerk of the permanent judicial commission, or their designees, shall set a date, time and place for the pretrial conference, and conduct it on the session's or commission's behalf.</p> <p><i>D-8.0103b.</i> The clerk of session or the stated clerk shall notify the accused, the counsel for the accused, if any, and the prosecuting committee of the date, time and place of the pretrial conference and request their presence.</p> |

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| <p>moderator and clerk shall ordinarily be present.<br/>The moderator shall</p>  | <p><i>D-8.0103c.</i> The accused is expected to attend the pretrial conference. If the accused is unable or unwilling to attend, the pretrial conference shall proceed regardless of the accused's absence.</p>  |
| <p><b>D-10.0405b. (1)</b> read the charges to the accused;</p> <p><b>D-10.0405b. (2)</b> inform the accused of the right to counsel (D-11.0301);</p>   | <p><i>D-8.0103d.</i> At the pretrial conference, the moderator or the moderator's designee shall:</p> <p><i>D-8.0103d.(1)</i> read aloud the Preamble to Church Discipline (D1);</p> <p><i>D-8.0103d.(4)</i> Read the charges to the accused, and;</p> <p><i>D-8.0103d.(2)</i> inform the accused of the right to counsel and the right to remain silent throughout the process;</p> <p><i>D-8.0103d.(3)</i> if the accused is unable to afford counsel, the session or permanent judicial commission shall review the financial records of the accused, and if it determines that financial need exists, shall appoint counsel for the accused. Fees, if any, for this representation at the expense of the council shall be agreed upon in writing.</p>  |
| <p><b>D-10.0405b. (3)</b> furnish the accused with the names and addresses of all the witnesses then known, and a description of the records and documents that may be offered to support each charge;</p> | <p><i>D-8.0103d.(5)</i> Furnish the accused with a description of the records and documents that may be offered to support each charge, and a list of witnesses then known and their relevance to the matter at trial; and</p> <p><i>D-8.0103d.(6)</i> Review any reports of petitions for review conducted in accordance with D-7.10.</p> <p><i>D-8.0103d.(7)</i> The session or permanent judicial commission may consult with the parties and their counsel on any other pending or anticipated pretrial motion or matter that will need to be addressed before the commencement of the trial. The session or permanent judicial commission should establish deadlines and a trial date accordingly.</p> <p>All actions taken at the pretrial conference are preliminary and shall be referred to the session</p> |



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|   | or permanent judicial commission for approval at trial.  |
| <b>D-10.0405b. (4)</b> determine with the accused and the prosecuting committee those charges that are not in dispute and discuss alternatives to a full trial;   | <i>D-8.0103d.(4)i.</i> determine with the accused and the prosecuting committee those charges that are not in dispute and discuss alternatives to a full trial;  |
| <b>D-10.0405b. (5)</b> review any reports of petitions for review of the work of the investigating committee, hear any additional challenges to the appropriateness of charges, taking preliminary actions to dismiss some or all of the charges, dismiss the case, or permit amendments to the charges. Such preliminary determinations shall be reviewed by the session or permanent judicial commission in accord with D-11.0402c. | <i>D-8.0103d.(4)ii.</i> hear any challenges to the appropriateness of charges, make recommendations to dismiss some of the charges, consolidate the charges, or permit amendments to the charges. The moderator and clerk of the session, or their designees, or the moderator and clerk of the permanent judicial commission, or their designees, shall refer all disputes of fact to the trial.<br><br><i>D-8.0103d.(4)iii.</i> Ask the accused to plead guilty or not guilty to each charge for the record. |
|   | <i>D-8.0104</i> <i>Between the Pretrial Conference and the Trial</i><br><br>In regard to actions to be taken between a pretrial conference and a trial, the following applies:   |
| <b>D-10.0405b. (6)</b> schedule a trial to be held no sooner than thirty days following the pretrial conference, or, if all parties agree on those facts contained in the charges that are true and on a recommended degree of censure, schedule a censure hearing;   | <i>D-8.0104a.</i> The moderator of the session or permanent judicial commission shall schedule a trial, to be held no sooner than sixty (60) days following the pretrial conference. If the accused pleads guilty to all charges, no trial shall be held and a censure hearing shall be held no sooner than thirty (30) days following the pretrial conference.  |
| <b>D-10.0405b. (7)</b> order all parties to appear.   |  |
| <b>D-10.0405c. Nothing More</b><br><br>Nothing more shall be done at that meeting.  |  |
| <b>D-10.0406 Witnesses Disclosed</b><br><br>The accused shall provide a list of anticipated witnesses, including addresses, to the clerk of session or permanent judicial commission and the prosecuting committee at least twenty days prior   | <i>D-8.0104b.</i> At least forty-five (45) days in advance of the trial, the prosecuting committee shall provide the clerk of session or clerk of the permanent judicial commission and the other party with their list of witnesses and an outline of the evidence to be presented at trial. The  |

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| <p>to the trial date. The prosecuting committee and the accused shall each provide the session or permanent judicial commission and the other party with an updated list of witnesses no less than ten days prior to the trial date.</p>   | <p>accused shall provide the clerk of session or clerk of the permanent judicial commission and the other party with a preliminary list of witnesses. Parties or their representatives shall not contact the other party's witnesses prior to the trial.</p>  |
|  | <p><i>D-8.0104c.</i> At any time, the session or permanent judicial commission shall be open to alternative resolution process as described in D-7.16.</p>  |
| <p><b>D-11.0000 CHAPTER XI. TRIAL IN A DISCIPLINARY CASE</b></p>   | <p><b>CHAPTER VIII<br/>TRIAL IN A DISCIPLINARY CASE</b></p>   |
| <p><b>D-11.0100 1. Conduct of Trial</b></p>  | <p><b>D-8.02 Conduct of Trial</b></p>   |
| <p><b>D-11.0101 Trial—Disciplinary</b></p> <p>The trial of a disciplinary case shall be conducted by a session or by a permanent judicial commission.</p> <p><b>D-11.0102 Conducted Formally</b></p> <p>The trial shall be conducted formally with full decorum in a neutral place suitable to the occasion.</p> | <p>D-8.0201 Trial of a Disciplinary Case</p> <p>The trial of a disciplinary case shall be conducted by a session or permanent judicial commission of a presbytery.</p> <p><i>D-8.0201a.</i> The trial shall be conducted formally with full decorum in a neutral place suitable to the occasion.</p> <p><i>D-8.0201b.</i> Except for the provision of electronically received testimony contained in D-8.04, trials should be held in person. When necessary, and at the sole discretion of the session or permanent judicial commission, trials may be held electronically in accordance with G-3.0105 and provided that the technology employed allows witnesses and parties as well as members of the session or permanent judicial commission to be seen and heard clearly.</p> |
| <p><b>D-11.0200 2. Citations and Testimony</b></p>   | <p><b>D-8.03 Citations and Testimony</b></p>  |
| <p><b>D-11.0201 Citation of Parties and Witnesses</b></p>  | <p><i>D-8.0301 Citations</i></p> <p>Citations to appear at trial for parties or such witnesses as either party may request shall be signed by the moderator or clerk of the session</p>   |

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| <p>Citations to appear at trial for parties or such witnesses as either party may request shall be signed by the moderator or clerk of the session or permanent judicial commission.</p>  | <p>or the permanent judicial commission and served by the clerk of the council. Witnesses may be either fact witnesses or expert witnesses (see D-8.0704b).</p>   |
| <p><b>D-11.0201a. Members Cited</b></p> <p>Only members of the Presbyterian Church (U.S.A.) may be cited to appear.</p> <p><b>D-11.0201b. Others Requested</b></p> <p>Other persons can only be requested to attend.</p>  | <p><i>D-8.0302 Who May Be Cited</i></p> <p>Only members of the Presbyterian Church (U.S.A.) may be cited to appear. Persons who are not members of the Presbyterian Church (U.S.A.) and expert witnesses (regardless of their denominational membership) can only be requested to attend.</p>   |
| <p><b>D-11.0201c. Witnesses from Another Council</b></p> <p>When it is necessary in the trial to summon witnesses who are under the jurisdiction of another council of the church, the clerk or stated clerk of the other council shall, on the application of the session or permanent judicial commission trying the case, issue a citation to the witnesses to appear at the place of trial and give evidence as may be required.</p>  | <p><i>D-8.0303 Witnesses from Another Council</i></p> <p>When it is necessary to summon witnesses who are under the jurisdiction of another council of the church, the clerk or stated clerk of the other council shall, on the application of the session or permanent judicial commission trying the case, through the clerk of the council, issue a citation to the witnesses to appear at the place of trial and give evidence as may be required.</p>  |
| <p><b>D-11.0201d. Expenses</b></p> <p>Any witness shall be entitled to receive from the party calling the witness reimbursement for expenses incurred in attendance at the trial.</p>   | <p><i>D-8.0304 Expenses</i></p> <p>Any witness shall be entitled to receive from the party calling the witness reimbursement of actual expenses incurred in attendance at the trial.</p>  |
| <p><b>D-11.0202 Service of Citation</b></p> <p>A citation shall be delivered by personal service or by certified delivery. The moderator or clerk of the session or permanent judicial commission trying the case shall certify the fact and date of service or delivery.</p> <p><b>D-11.0202a. Second Citation</b></p> <p>If a party or a witness who is a member of the Presbyterian Church (U.S.A.) fails to obey a citation, a second citation shall be issued accompanied by a notice that if the party or witness does not appear at the time appointed, unless excused for good cause shown, the party or witness shall be considered guilty of disobedience</p> | <p><i>D-8.0305 Service of Citation</i></p> <p>A citation shall be delivered in accordance with D-7.0104b, or by electronic delivery acknowledged by the recipient within seven (7) days. The moderator or clerk of the session or permanent judicial commission trying the case shall keep a record of the fact and date of service or delivery. If a party or a witness who is compelled to attend (D-8.0302) fails to obey a citation to appear or having appeared, refuses without good cause to testify, and after warning continues to refuse, the party or witness shall be considered guilty of disobedience and contempt, and for such offense may be subject</p> |

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| <p>and contempt, and for such offense may be subject to disciplinary action.</p> <p><b>D-11.0202b. Accused Does Not Appear</b></p> <p>If an accused in a disciplinary case does not appear after a second citation, the session or permanent judicial commission, after having appointed some person or persons to represent the accused as counsel, may proceed to trial and judgment in the absence of the accused.</p> <p><b>D-11.0203 Refusal of Witness to Testify</b></p> <p>A member of the Presbyterian Church (U.S.A.) who, having been summoned as a witness and having appeared, refuses without good cause to testify, and, after warning, continues to refuse may be subject to disciplinary action.</p> | <p>to disciplinary action by their council of jurisdiction.</p>  |
| <p><b>D-11.0204 Deposition</b></p> <p>Testimony by deposition may be taken and received in accordance with the provisions of D-14.0304.</p>   | <p><b>D-8.04 Electronically Received Testimony</b></p> <p>Witnesses may be granted permission by the session or permanent judicial commission to appear electronically if unable to attend a trial that is held in person, in accordance with the provisions of G- 3.0105 and D-8.02.</p>  |
| <p><b>D-11.0300 3. Procedures in Trial</b></p>  | <p><b>D-8.05 Procedures in Trial</b></p>   |
| <p><b>D-11.0301 Counsel</b></p> <p>Each of the parties in a disciplinary case shall be entitled to appear and may be represented by counsel, provided, however, that no person shall act as counsel who is not a member of the Presbyterian Church (U.S.A.). No member of a permanent judicial commission shall appear as counsel before that commission while a member. Counsel need not be a paid representative or attorney-at-law.</p>  | <p><i>D-8.0501 Counsel</i></p> <p>Each of the parties in a disciplinary case shall be entitled to appear and may be represented by counsel. Counsel need not be a paid representative or an attorney. Counsel shall be a member of the Presbyterian Church (U.S.A.). No member of a permanent judicial commission shall appear as counsel before that commission while a member.</p> |
| <p><b>D-11.0302 Unable to Secure Counsel</b></p> <p>If the accused in a disciplinary case is unable to secure counsel, the session or permanent judicial commission shall appoint counsel for the accused. Reasonable expenses for defense shall be</p>   | <p><i>D-7.1003d.</i> if charges are later filed, the right to reasonable and timely notice of, and to be present at, all public proceedings related to the charges, to be represented by counsel (D-</p>   |

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| <p>authorized and reimbursed by the council in which the case originated.</p>   | <p>7.0104), and to have counsel appointed if unable to afford counsel.</p>   |
| <p><b>D-11.0303      Circulation of Materials</b></p> <p>No party to a disciplinary case or any other person shall circulate or cause to be circulated among the members of the session or permanent judicial commission any written, printed, or visual materials of any kind upon any matter pertaining to the case before the final disposition thereof. Notwithstanding this prohibition, the session or permanent judicial commission may request, or grant leave to file, additional materials.</p> | <p><i>D-8.0102    Circulation of Materials and Communication</i></p> <p>With regard to materials pertaining to the case and communication regarding the case, the following rules apply:</p> <p><i>D-8.0102a.</i>    Any materials pertaining to the case shall be filed with the clerk of session or stated clerk of the presbytery hearing the case. Parties to a disciplinary case or their counsel or any other person shall not circulate or cause to be circulated directly to the members of the session or permanent judicial commission any written, printed, electronic, or visual materials of any kind upon any matter pertaining to the case before its final disposition. Notwithstanding this prohibition, the session or the permanent judicial commission may request, or grant leave to file, additional materials.</p> <p><i>D-8.0102b.</i>    Parties or their counsel shall not communicate with members of the session or permanent judicial commission regarding any matter related to the case unless the other party and their counsel, if any, are included.</p> |
| <p><b>D-11.0304      Control Conduct of Trial</b></p> <p>The session or permanent judicial commission shall have full authority and power to control the conduct of the trial and of all parties, witnesses, counsel, and the public, including removal of them, to the end that proper dignity and decorum shall be maintained.</p>  | <p><i>D-8.0502      Control of Conduct of Trial</i></p> <p>The moderator of the session or permanent judicial commission shall have full authority and power to control the conduct of the trial and of all parties, witnesses, counsel, and the public, including removal of them, to the end that proper dignity and decorum shall be maintained. Rulings of the moderator related to control of the trial are subject to appeal to the full session or permanent judicial commission by any member of the session or permanent judicial commission, which shall decide the question by majority vote.</p>   |
| <p><b>D-11.0304a.    Questions as to Procedure</b></p>  | <p><i>D-8.0503      Procedural Questions</i></p>   |

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| <p>Questions as to procedure or the admissibility of evidence arising in the course of a trial shall be decided by the moderator after the parties have had an opportunity to be heard. A party or a member of the session or permanent judicial commission may appeal from the decision of the moderator to the session or commission, which shall decide the question by majority vote.</p> | <p>Questions as to procedure or the admissibility of evidence arising in the course of a trial shall be decided by the moderator after the parties have had an opportunity to be heard. A party or a member of the session or permanent judicial commission may appeal from the decision of the moderator to the body, which shall decide the question by majority vote.</p>             |
| <p><b>D-11.0304b. Absences</b></p> <p>The absence of any member of the session or permanent judicial commission after a trial has commenced shall be recorded. That person shall not thereafter participate in that case.</p>   | <p><i>D-8.0504 Absences</i></p> <p>Members of a session or permanent judicial commission must be present in person at trials. The absence of any member of the session or permanent judicial commission after a trial has commenced shall be recorded. That person shall not thereafter participate in deliberation and decision in the trial.</p>                                       |
| <p><b>D-11.0305 Loss of Quorum</b></p> <p>Loss of a quorum shall result in a mistrial and the case shall be tried again from the beginning.</p>   | <p><i>D-8.0506 Loss of Quorum</i></p> <p>Loss of a quorum shall result in a mistrial and the case shall be tried again from the beginning at a time and place to be determined by the session or permanent judicial commission.</p>  |
| <p><b>D-11.0306 Closed Proceedings</b></p> <p>The proceedings shall ordinarily be conducted in open session; however, at the request of any party, or on its own initiative, the session or permanent judicial commission may determine at any stage of the proceedings, by a vote of two thirds of the members present, to exclude persons other than the parties and their counsel.</p>     | <p><i>D-8.0505 Closed Proceedings</i></p> <p>The proceedings shall ordinarily be conducted in open session; however, at the request of any party, or on its own initiative, the session or permanent judicial commission may determine at any stage of the proceedings, by a vote of two thirds of the members present, to exclude persons other than the parties and their counsel.</p> |
| <p><b>D-11.0400 4. Trial</b></p>  | <p><b>D-8.06 Trial</b></p>   |
| <p><b>D-11.0401 Presumption of Innocence</b></p> <p>The accused in a disciplinary case is presumed to be innocent until the contrary is proved, and unless guilt is established beyond a reasonable doubt, the accused is entitled to be found not guilty.</p>  | <p><i>D-8.0201c.</i> The accused in a disciplinary case is presumed to be innocent unless a determination of guilt is rendered by two-thirds of the session or permanent judicial commission eligible to vote (see D-3.0602).</p>  |
| <p><b>D-11.0402 Procedure in a Disciplinary Case</b></p>  |  |

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| <p>The trial of a disciplinary case shall proceed as follows:</p> <p><b>D-11.0402a. Announcement by the Moderator</b></p> <p>The moderator shall read aloud sections D-1.0101 and D-1.0102, shall announce that the council is about to proceed to trial, and shall enjoin the members to recollect and regard their high character as judges of a council of the Church of Jesus Christ and the solemn duties they are about to undertake.</p> | <p><i>D-8.0601 Announcement by the Moderator</i></p> <p>The trial of a disciplinary case shall be opened with prayer, after which the moderator shall read aloud the Preamble to Church Discipline (D-1), shall announce that the council is about to proceed to trial, and shall enjoin the members to recollect and regard their high character as judges of a council of the Church of Jesus Christ and the solemn duties they are about to undertake.</p> |
| <p><b>D-11.0402b. Eligibility of Commission Members</b></p> <p>The parties or their counsel may object and be heard on the organization and jurisdiction of the session or permanent judicial commission.</p>   | <p><i>D-8.0602 Objections of Parties</i></p> <p>The parties or their counsel may object and be heard on the organization and jurisdiction of the session or permanent judicial commission.</p>  |
| <p><b><i>Disqualification</i></b></p> <p><b>D-11.0402b.(1)</b> A member of a session or permanent judicial commission is disqualified if the member is personally interested in the case, is related by blood or marriage to any party, has been active for or against any party, or is ineligible under the provisions of D-5.0205</p>   | <p><i>D-8.0602a.</i> A member of a session or permanent judicial commission is disqualified if the member is personally interested in the outcome of the case, is related by family relationship to any party, or has served as counsel for or against any party.</p>   |
| <p><b><i>Challenges</i></b></p> <p><b>D-11.0402b.(2)</b> Any member of a session or permanent judicial commission may be challenged by any party, and the validity of the challenge shall be determined by the remaining members of the session or permanent judicial commission.</p>   | <p><i>D-8.0602b.</i> Any member of a session or permanent judicial commission may be challenged by any party for conflict of interest, and the validity of the challenge shall be determined by majority vote of the remaining members of the session or permanent judicial commission.</p>   |
| <p><b>D-11.0402c. Preliminary Objections</b></p> <p>The session or permanent judicial commission shall determine all preliminary objections and any other objection affecting the order or regularity of the proceedings. It may dismiss the case or permit amendments to the charges in the furtherance of</p>   | <p><i>D-8.0603 Preliminary Determinations and Objections</i></p> <p>The session or permanent judicial commission shall place all preliminary determinations and any objections on the record and shall decide all such matters by majority vote. Any objections to the preliminary determinations and any other</p>   |

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| <p>justice, provided that such amendments do not change the substance of the charges or prejudice the accused.</p>  | <p>objections affecting the order or regularity of the proceedings shall also be made part of the record and shall be decided by majority vote. A final decision is not permissible until the session or permanent judicial commission has heard the evidence and closing arguments.</p>   |
| <p><b>D-11.0402d. Plea</b></p> <p>If the proceedings are found to be in order, and the charges are considered sufficient, the accused shall be called upon to plead 'guilty' or 'not guilty' to each charge. The plea shall be entered on the record. If the accused declines to answer or pleads 'not guilty,' a plea of 'not guilty' shall be entered on the record and the trial shall proceed. If the accused pleads 'guilty,' the council shall proceed in accordance with D-11.0403.</p>  | <p><i>D-8.0604 Plea</i></p> <p>The accused shall be called upon to plead “guilty” or “not guilty” to each charge. The plea shall be entered on the record. If the accused declines to answer or pleads “not guilty,” a plea of “not guilty” shall be entered on the record and the trial shall proceed. If the accused pleads “guilty” to all charges, the council shall proceed in accordance with D-8.0903 unless the parties request an opportunity to seek an alternative resolution in accordance with D-7.16.</p>  |
| <p><b>D-11.0402e. Opening Statements</b></p> <p>The parties shall be given an opportunity to make opening statements.</p>   | <p><i>D-8.0605 Opening Statements</i></p> <p>The parties shall be given an opportunity to make opening statements, beginning with the prosecuting committee.</p>   |
| <p><b>D-11.0402f. Rules of Evidence</b></p> <p>The rules of evidence in D-14.0000 shall be followed.</p> <p><b>D-11.0402g. Prosecution</b></p> <p>The prosecuting committee shall present its evidence in support of the charges, subject to objection and cross-examination by the accused.</p> <p><b>D-11.0402h. Defense</b></p> <p>The accused shall have the opportunity to present evidence, subject to objection and cross-examination by the prosecuting committee.</p> <p><b>D-11.0402i. Rebuttal</b></p> <p>The prosecuting committee then may introduce additional evidence, but only to rebut evidence introduced on behalf of the accused. This additional evidence is subject to objection and cross-examination by the accused.</p> | <p><b>D-8.07 Evidence</b></p> <p><i>D-8.0701 Definition</i></p> <p>The parties shall be accorded the opportunity to present evidence on their behalf. Evidence, in addition to oral testimony of witnesses, may include records, writings, material objects, or other items. Evidence must be relevant to be received, and may include evidence that lays a foundation for the admissibility of other evidence. Relevant evidence is evidence that tends to prove or disprove a fact necessary to determine the outcome of a case. Laying a foundation means presenting preliminary evidence to show the authenticity and relevance of the evidence proposed. No distinction should be made between direct and circumstantial evidence as to the degree of proof required.</p> |



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| <p><b>D-11.0402j. Final Statements</b></p> <p>The parties shall be given an opportunity to make final statements. The prosecuting committee shall have the right of opening and closing the argument.</p>   | <p><b>D-8.08 Final Statements</b></p> <p>The parties shall be given an opportunity to make final statements, the prosecuting committee having the right of opening and closing the argument, after which the trial shall be closed with prayer.</p>  |
| <p><b>D-11.0403 Decision</b></p> <p>The session or permanent judicial commission shall then meet privately. All persons not members of the session or permanent judicial commission shall be excluded.</p>  | <p><b>D-8.09 Decision</b></p> <p><i>D-8.0901 Deliberation</i></p> <p>The session or permanent judicial commission shall then meet privately to deliberate. All persons not members of the session or permanent judicial commission shall be excluded.</p>  |
| <p><b>D-11.0403a. Beyond a Reasonable Doubt</b></p> <p>After careful deliberation, the session or permanent judicial commission shall vote on each charge separately and record the vote in its minutes. In order to find the accused guilty of a charge, the session or permanent judicial commission must find that the pertinent facts within that charge have been proven beyond a reasonable doubt. Proof beyond a reasonable doubt occurs when the comparison and consideration of all the evidence compels an abiding conviction that the material facts necessary to prove the charge are true.</p> <p><b>D-11.0403b. Judgment of Guilt by a Two-thirds Vote</b></p> <p>No judgment of guilt may be found on a charge unless at least two thirds of the members of the session or permanent judicial commission eligible to vote agree on the judgment.</p> | <p><i>D-8.0902 Decision on Guilt</i></p> <p>Decisions in disciplinary cases are reached and communicated as follows:</p> <p><i>D-8.0902a.</i> After careful deliberation, the session or permanent judicial commission shall vote on each charge separately and record the vote in its minutes. Members of the session or permanent judicial commission may find that the accused is guilty when a comparison and consideration of all the evidence compels an abiding conviction that the material facts necessary to prove the charge are true. No decision of guilt may be found on a charge unless at least two-thirds of the members of the session or permanent judicial commission eligible to vote agree on the judgment (see D-3.0602).</p> |
| <p><b>D-11.0403c. Written Decision</b></p> <p>A written decision stating the judgment on each charge and the determination of the degree of censure, if any, shall be prepared while in session. It shall become the final decision when signed by</p>  | <p><i>D-8.0902b.</i> A written decision stating the judgment on each charge shall be prepared while in session. It shall become the final decision when signed by the moderator and clerk of the session or the permanent judicial commission.</p>   |

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| <p>the moderator and clerk of the session or of the permanent judicial commission.</p>  |  |
| <p><b>D-11.0403d. Announcement in Open Meeting</b></p> <p>When a session or permanent judicial commission has arrived at a decision, the moderator shall, in open meeting, announce the verdict for each charge separately.</p>   | <p><i>D-8.0902c.</i> When a session or permanent judicial commission has arrived at a decision, the moderator shall, in open meeting, announce the verdict for each charge separately.</p>   |
| <p><b>D-11.0403e. Degree of Censure</b></p> <p>If the accused is found guilty or after the guilty plea, the session or permanent judicial commission should hear evidence as to the extent of the injury suffered, mitigation, rehabilitation, and redemption. This evidence may be offered by either party or the original accuser or that person's representative. The person who was directly harmed by the offense may submit a victim impact statement. The statement shall not be subject to cross-examination. The session or permanent judicial commission shall then meet privately to determine the degree of censure to be imposed. (D-12.0000) Following such determination and in an open meeting, the moderator of the session or permanent judicial commission shall then pronounce the censure.</p> | <p><i>D-8.0903</i>      <i>Decision on Degree of Censure</i></p> <p>If the accused is found guilty or after the guilty plea, the session or permanent judicial commission shall hear evidence within thirty (30) days of the decision as to the extent of the injury suffered, mitigation, rehabilitation, and redemption. This evidence may be offered by either party, or the original accuser or that person's representative. Each person who was directly harmed by the offense may submit a victim impact statement, which shall become part of the record. The statement shall not be subject to cross-examination. The accused may offer a plan to address the harm done and to seek reconciliation with the victim(s) and the church. The session or permanent judicial commission shall then meet privately to determine the degree of censure to be imposed. Following such determination and in an open meeting, the moderator of the session or permanent judicial commission shall then pronounce the censure.</p> |
| <p><b>D-11.0403f. Filed Promptly</b></p> <p>The decision shall be filed promptly with the clerk or stated clerk of the council.</p>   | <p><b>D-8.10 Filing and Notification of Parties</b></p> <p><i>D-8.1001</i>      <i>Filed Promptly</i></p> <p>The decision shall be filed promptly with the clerk or stated clerk of the council.</p>   |
| <p><b>D-11.0403g. Notification of Parties</b></p>   | <p><i>D-8.1002</i>      <i>Notification of Parties</i></p> <p>Notification of a decision shall be as follows:</p> <p><i>D-8.1002a.</i> The clerk of session or clerk of the permanent judicial commission shall</p>  |

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| <p>The clerk of session or clerk of the permanent judicial commission shall deliver a copy of the decision to each party named in the decision either by personal service or by certified delivery.</p> <p><b>D-11.0403h. Further Publicity</b></p> <p>The moderator or clerk of session or of the permanent judicial commission shall disseminate the decision as the session or permanent judicial commission may direct.</p> | <p>deliver a copy of the decision to the parties in accordance with D-7.0104b, or by electronic communication if agreed upon in advance by the parties.</p> <p><i>D-8.1002 b.</i> The moderator or clerk of the session or permanent judicial commission shall disseminate the decision as the session or permanent judicial commission may direct.</p> |
| <p><b>D-11.0500 5. Provisions for Appeal</b></p>  |   |
| <p><b>D-11.0501 Appeal Time</b></p> <p>The time for filing an appeal shall run from the date the decision is delivered to, or refused by, the person found guilty.</p>  | <p><i>D-10.0102 Initiation of Appeal</i></p> <p>The time for filing an appeal shall begin from the date the decision is delivered to, or refused by, the person found guilty.</p>   |
| <p><b>D-11.0502 Appeals</b></p> <p>Only the person found guilty may initiate the first level of appeal. Either party may initiate an appeal of the appellate decision. Rules of appeal are found in D-13.0000.</p>  | <p><i>D-10.0102a.</i> Only the person found guilty of an offense may initiate the first level of appeal.</p> <p><i>D-10.0102b.</i> Once the first appeal has been decided, either party may initiate the next level of appeal.</p>  |
| <p><b>D-11.0600 6. Record of Proceedings</b></p>  | <p><b>D-8.12 Record of Proceedings</b></p>  |
| <p><b>D-11.0601 Record of Proceedings</b></p> <p>The clerk of session or the clerk of the permanent judicial commission shall do the following:</p>   | <p><i>D-8.1201 Duty of Clerk</i></p> <p>The clerk of session or the clerk of the permanent judicial commission shall do the following:</p>  |
| <p><b>D-11.0601a. Verbatim Recording</b></p> <p>Arrange in advance for the accurate verbatim recording of all testimony and oral proceedings.</p>   | <p><i>D-8.1201a.</i> Arrange in advance for the accurate verbatim recording of all testimony and oral proceedings. This may be accomplished through a digital voice recording.</p>  |
| <p><b>D-11.0601b. Exhibits</b></p> <p>Identify and maintain all exhibits offered in evidence (noting whether or not they were accepted as evidence) and keep a list of all exhibits.</p>  | <p><i>D-8.1201b.</i> Identify and maintain all exhibits offered in evidence (noting whether or not they were accepted as evidence) and keep a list of all exhibits.</p>   |

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| <p><b>D-11.0601c. Minutes</b></p> <p>Record minutes of the proceedings, which shall include any actions or orders of the session or permanent judicial commission relating to the case with the vote thereon.</p>   | <p><i>D-8.1201c.</i> Record minutes of the proceedings, which shall include any actions or orders of the session or permanent judicial commission relating to the case with the vote thereon.</p>   |
| <p><b>D-11.0601d. Record</b></p> <p>Prepare the record of the case, which shall consist of</p> <p><b>D-11.0601d.(1)</b> the charges;</p> <p><b>D-11.0601d.(2)</b> a record of the plea entered by the accused on each charge;</p> <p><b>D-11.0601d.(3)</b> a certified transcript, if requested;</p> <p><b>D-11.0601d.(4)</b> all properly marked exhibits, records, documents, and other papers;</p> <p><b>D-11.0601d.(5)</b> the written decision, including the verdict for each charge and the degree of censure, if any, to be imposed by the council; and</p> <p><b>D-11.0601d.(6)</b> any actions or orders of the session or permanent judicial commission relating to the case, with the vote thereon.</p> | <p><i>D-8.1201d.</i> Prepare the record of the case, which shall consist of:</p> <p><i>D-8.1201d.(1)</i> the charges;</p> <p><i>D-8.1201d.(2)</i> a record of the plea entered by the accused on each charge;</p> <p><i>D-8.1201d.(3)</i> a certified transcript, if requested;</p> <p><i>D-8.1201d.(4)</i> all properly marked exhibits, records, documents, and other papers;</p> <p><i>D-8.1201d.(5)</i> the written decision, including the verdict for each charge and the degree of censure, if any, to be imposed by the council; and</p> <p><i>D-8.1201d.(6)</i> any actions or orders of the session or permanent judicial commission relating to the case, with the vote on each.</p> |
| <p><b>D-11.0601e. Preservation of the Record</b></p> <p>Preserve the original of all records in the following manner:</p> <p><b>D-11.0601e.(1)</b> The clerk of session shall, after the decision becomes final, retain the record of the case for at least two years.</p> <p><b>D-11.0601e.(2)</b> The clerk of the permanent judicial commission shall, within fourteen 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 two years.</p>   | <p><i>D-8.1201e.</i> The clerk of session shall preserve the record of the case for at least ten (10) years, and in accordance with the policy of the council for the preservation of records. The clerk of the permanent judicial commission shall, within thirty (30) days after the decision becomes final, certify and transmit the record of the case to the stated clerk of the electing presbytery, who shall preserve it for at least ten (10) years, and in accordance with the policy of the council for the preservation of records.</p>   |

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| <p><b>D-11.0601f. Transcript</b></p> <p>Upon the request, and at the expense of any requesting party, 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. A copy of this transcript, when certified by the person making the same to be true and complete, shall be delivered to each party requesting the same 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-13.0000.</p>  | <p><i>D-8.1201f.</i> Upon the request, and at the expense of, any requesting party, the clerk of the session or the clerk of the permanent judicial commission shall cause a true and complete transcript be prepared of all the testimony and oral proceedings during the course of the trial. A copy of this transcript, when certified by the person making the same to be true and complete, shall be delivered to each party. One additional copy shall be made for inclusion in the record to be sent forward upon any appeal pursuant to D-10.0602.</p>  |
| <p><b>D-11.0602 Additions to the Record</b></p> <p>No person may supplement or add to the record in a case except for good cause as determined by the moderator and clerk of the session or of the permanent judicial commission responsible for conducting the trial. No request to supplement the record shall be considered until received in writing by the clerk of session or the stated clerk of the lower council who shall transmit it to the moderator of the session or moderator and clerk of the permanent judicial commission. A copy of the request shall be delivered to all parties and every party shall have ten days to respond in writing.</p> | <p><i>D-8.1202 Additions to the Record</i></p> <p>No person may supplement or add to the record in a case except for good cause as determined by the moderator and clerk of the session or of the permanent judicial commission responsible for conducting the trial. No request to supplement the record shall be considered until received in writing by the clerk of session or the stated clerk of council that conducted the trial, who shall transmit it to the moderator of the session or moderator and clerk of the permanent judicial commission. A copy of the request shall be delivered to all parties and every party shall have ten (10) days to respond in writing.</p> |
| <p><b>D-11.0700 7. Duty of Stated Clerk</b></p>   |   |
| <p><b>D-11.0701 Reporting the Decision</b></p>  | <p><i>D-9.0102 Reporting of Decision and Censure</i></p> <p>Public oral reports of decisions and censure in disciplinary cases shall be as follows:</p> <p><i>D-9.0102a.</i> When a censure is imposed on a church member, a congregational meeting shall be called by the session in accordance with G-1.0503g for the purpose of receiving the decision and censure. The verbal report to the congregation may contain only a summary of the decision and censure, but shall contain a statement of the nature of the offense, the name of the person being censured, and the censure.</p>  |

If the presbytery is meeting when the decision is received from the clerk of the permanent judicial commission, the stated clerk shall read the decision to the presbytery immediately and enter the full decision upon the minutes of the presbytery. If the presbytery is not meeting, the stated clerk shall read the decision to the presbytery at its first stated or adjourned meeting thereafter, or at a meeting called for that purpose, and enter the full decision upon the minutes of the presbytery.

The summary shall be recorded in the minutes of the congregational meeting.

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

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

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|   | in accordance with G-1.0503g and report the decision as described in D-9.0102a above.  |
| <b>D-11.0800</b> <b>8. Enforcement</b>  |  |
| <p><b>D-11.0801</b>      <b>Enforcement by Council</b></p> <p>When a session has completed the trial and found the accused guilty and the decision has been pronounced, or when the stated clerk of a higher council has received the decision of its permanent judicial commission in which the accused was found guilty, the session or higher council shall proceed to enforce the decision. The person against whom the decision has been pronounced shall refrain from the exercise of ordered ministry or from participating and voting in meetings, according to the situation, until an appeal has been decided or the time for appeal has expired, unless the session or the presbytery specifically grants a request to allow the person to continue in ordered ministry pending an appeal.</p> | <p><b>D-8.13</b>      <b>Enforcement</b></p> <p>When a session or presbytery has completed the trial and found the accused guilty and the decision has been pronounced in accordance with the censure imposed in the following chapter, the session or presbytery shall proceed to enforce the decision regardless of an appeal, including supervision of any rehabilitation required in the censure, unless there has been a full or partial stay of enforcement.</p>   |
| <b>D-12.0000</b> <b>CHAPTER XII. CENSURE AND RESTORATION IN A DISCIPLINARY CASE</b>   | <b>CHAPTER IX<br/>CENSURE AND RESTORATION IN A DISCIPLINARY CASE</b>   |
| <b>D-12.0100</b> <b>1. Censures</b>   | <b>D-9.01</b> <b>Censure</b>   |
| <p><b>D-12.0101</b>      <b>Degrees of Church Censure</b></p> <p>The degrees of church censure are rebuke, rebuke with supervised rehabilitation, temporary exclusion from exercise of ordered ministry or membership, and removal from ordered ministry or membership.</p>   | <p><i>D-9.0101 Degrees of Censure</i></p> <p>The degrees of church censure are rebuke, rebuke with supervised rehabilitation, temporary exclusion from exercise of ordered ministry (for deacons, ruling elders, and ministers of the Word and Sacrament) or membership rights (for non-ordained church members), and removal from ordered ministry or membership. Whatever the censure is, it is never given with malice and vindictiveness but in Christian love to offer correction in error and restoration of the community. A censure is about the accountability of an individual to the church and should not include names of persons who have been harmed.</p> |
| <b>D-12.0102</b> <b>Rebuke</b>  |  |

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| <p><b>Rebuke</b></p> <p>Rebuke is the lowest degree of censure for an offense and is completed when pronounced. (D-11.0403e) It consists of setting forth publicly the character of the offense, together with reproof, which shall be pronounced in the following or like form:</p> <p style="padding-left: 40px;">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 <i>Constitution of the Presbyterian Church (U.S.A.)</i>); now, therefore, the Presbytery (or Session) of _____, in the name and authority of the Presbyterian Church (U.S.A.), expresses its condemnation of this offense, and rebukes you. You are enjoined to be more watchful and avoid such offense in the future. We urge you to use diligently the means of grace to the end that you may be more obedient to our Lord Jesus Christ.</p> <p><b>Prayer</b></p> <p style="padding-left: 40px;">This formal rebuke shall be followed by intercessory prayer to Almighty God.</p> | <p><i>D-9.0103 Rebuke</i></p> <p>Rebuke is the lowest degree of censure for an offense and is completed when pronounced. It consists of setting forth publicly the character of the offense, together with reproof, which shall be pronounced in the following or like form:</p> <p style="padding-left: 40px;">“Whereas, you, (Name) _____, have been found guilty of the offense(s) of _____ (here insert a summary of the offense), and by such offense(s) you have acted contrary to the Scriptures and/or the Constitution of the Presbyterian Church (U.S.A.); now, therefore, the Session or the Permanent Judicial Commission of the Presbytery of _____, in the name and authority of the Presbyterian Church (U.S.A.), expresses its condemnation of this offense, and rebukes you. This rebuke is given not with malice or vindictiveness but in Christian love to offer you correction in error and restoration that you may be more watchful and avoid such offense in the future. We urge you to use diligently the means of grace to the end that you may be more obedient to our Lord Jesus Christ.”</p> <p style="padding-left: 40px;">This formal rebuke shall be followed by intercessory prayer to Almighty God.</p> |
| <p><b>D-12.0103 Rebuke with Supervised Rehabilitation</b></p> <p>Rebuke with supervised rehabilitation is the next to lowest degree of censure. It consists of setting forth the character of the offense, together with reproof and mandating a period of supervised rehabilitation imposed by the session or permanent judicial commission (D-11.0403e). This censure shall be pronounced in the following or like form.</p>  | <p><i>D-9.0104 Rebuke with Supervised Rehabilitation</i></p> <p>Rebuke with supervised rehabilitation is the next to lowest degree of censure. It consists of setting forth the character of the offense, together with reproof and mandating a period of supervised rehabilitation imposed by the session or permanent judicial commission as described at item b. of this section.</p> <p><i>D-9.0104d. Censure Pronouncement</i></p> <p>This censure shall be pronounced in the following or like form.</p>   |



Whereas, you, (Name) \_\_\_\_\_, have been found guilty of the offense(s) of \_\_\_\_\_, and by such offense(s) you have acted contrary to the Scriptures and/or the *Constitution of the Presbyterian Church (U.S.A.)*; now, therefore, the Permanent Judicial Commission (or Session) of \_\_\_\_\_, in the name and authority of the Presbyterian Church (U.S.A.), expresses its condemnation of this offense, rebukes you, and orders you to complete a program of supervised rehabilitation supervised by \_\_\_\_\_ as described below: \_\_\_\_\_.

You are enjoined to be more watchful and avoid such offense in the future. We urge you to use diligently the means of grace to the end that you may be more obedient to our Lord Jesus Christ.

**D-12.0103a. Prayer**

The rebuke shall be followed by intercessory prayer to Almighty God.

“Whereas, you, (Name) \_\_\_\_\_, have been found guilty of the offense(s) of \_\_\_\_\_, and by such offense(s) you have acted contrary to the Scriptures and/or the *Constitution of the Presbyterian Church (U.S.A.)*; now, therefore, the Session or the Permanent Judicial Commission of the Presbytery of \_\_\_\_\_, in the name and authority of the Presbyterian Church (U.S.A.), expresses its condemnation of this offense, rebukes you, and orders you to complete a program of supervised rehabilitation supervised by \_\_\_\_\_ as described below: \_\_\_\_\_ . This rebuke is given not with malice or vindictiveness but in Christian love to offer you correction in error and the possibility of full community restoration. You are enjoined to be more watchful and avoid such offense in the future. We urge you to use diligently the means of grace to the end that you may be more obedient to our Lord Jesus Christ.”

The rebuke shall be followed by intercessory prayer to Almighty God.

**D-12.0103b. Communicate Goals**

The session or permanent judicial commission shall formally communicate to the supervising entity and the person censured the goals of the rehabilitation and the specific authority conferred on the supervisor(s).

*D-9.0104a. Communicate Goals*

The session or permanent judicial commission shall formally communicate to the supervising entity and the person censured the goals of the rehabilitation and the specific authority conferred on the supervisor(s).

**D-12.0103c. Rehabilitation Program**

The description of the rehabilitation program shall include a clear statement of how progress will be evaluated and how it will be determined when and if the

*D-9.0104b. Supervised Rehabilitation*

An outline of the rehabilitation program shall include a clear statement of how progress will be evaluated and how it will be determined when and if the supervised rehabilitation has been satisfactorily completed.

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| <p>supervised rehabilitation has been satisfactorily completed.</p>   |  |
| <p><b>D-12.0103d. Voluntary Acts of Repentance</b></p> <p>In a case in which the offense is sexual abuse of another person, the rehabilitation program may include the advice that the person found guilty complete a voluntary act or acts of repentance. Such acts may include: public acknowledgement of guilt, community service, symbolic restoration of what was lost by the person who was harmed, and/or contributions toward documented medical/psychological expenses incurred by the person who was harmed.</p>  | <p><i>D-9.0104c. Voluntary Acts of Repentance</i></p> <p>The rehabilitation program may include a voluntary act or acts of repentance by the person censured on their own initiative. Such acts may include, for example, public acknowledgement of guilt, community service, or symbolic or monetary restoration of what was lost or expended by the person who was harmed. No session or permanent judicial commission may require or recommend any voluntary act of repentance, but may, in extraordinary circumstances, forbid such act.</p>   |
| <p><b>D-12.0104 Temporary Exclusion</b></p> <p>Temporary exclusion from the exercise of ordered ministry or membership is a higher degree of censure for a more aggravated offense and shall be for a definite period of time, or for a period defined by completion of supervised rehabilitation imposed by the session or the permanent judicial commission. (D-11.0403e) This censure shall be pronounced in the following or like form:</p> <p>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 <i>Constitution of the Presbyterian Church (U.S.A.)</i>); now, therefore, the Presbytery (or Session) of _____, in the name and by the authority of the Presbyterian Church (U.S.A.), does now declare you temporarily excluded from</p> | <p><i>D-9.0105 Temporary Exclusion</i></p> <p>Temporary exclusion is a higher degree of censure for a more aggravated offense and shall be for a period defined by completion of supervised rehabilitation imposed by the session or the permanent judicial commission, which may include a minimum defined period of time. Temporary exclusion is from the exercise of ordered ministry for ordained members, and from membership rights for non-ordained members. During temporary exclusion membership may not be transferred.</p> <p><i>D-9.0105j. Censure Pronouncement</i></p> <p>This censure shall be pronounced in the following or like form:</p> <p>“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 <i>Constitution of the Presbyterian Church (U.S.A.)</i>); 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</p> |

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| <p>_____ for a period of _____, or until completion of the following rehabilitation program supervised by _____, as described below:</p> <p>_____</p> <p>_____</p> <p><b>D-12.0104a. Prayer</b></p> <p>This formal declaration shall be followed by intercessory prayer to Almighty God.</p>  | <p>declare you temporarily excluded from _____ for a period of at least _____, and until completion of the following rehabilitation program supervised by _____, as described below:</p> <p>_____. 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.”</p> <p>This formal declaration shall be followed by intercessory prayer to Almighty God.</p>   |
|   | <p><i>D-9.0105a. Communicate Goals</i></p> <p>The session or permanent judicial commission shall formally communicate to the supervising entity and the person censured the goals of the rehabilitation and the specific authority conferred on the supervisor(s).</p>   |
| <p><b>D-12.0104b. Supervised Rehabilitation</b></p> <p>If the period of temporary exclusion is defined by completion of supervised rehabilitation, the session or permanent judicial commission shall formally communicate to the supervising entity and the person found guilty the specific authority conferred on the supervisor.</p>  | <p><i>D-9.0105b. Supervised Rehabilitation -</i></p> <p>An outline of the rehabilitation program shall include a clear statement of how progress will be evaluated and how it will be determined when and if the supervised rehabilitation has been satisfactorily completed.</p>  |
| <p><b>D-12.0104c. Rehabilitation in Cases of Sexual Abuse</b></p> <p>In a case in which the offense is sexual abuse of another person, the rehabilitation program may include the advice that the person found guilty complete a voluntary act or acts of repentance. Such acts may include: public acknowledgement of guilt, community service, symbolic restoration of what was lost by the person harmed, and/or contributions toward documented medical/psychological expenses incurred by the person who was harmed.</p> | <p><i>D-9.0105c. Voluntary Acts of Repentance</i></p> <p>The rehabilitation program may include a voluntary act or acts of repentance by the person censured on their own initiative. Such acts may include, for example, public acknowledgement of guilt, community service, or symbolic or monetary restoration of what was lost or expended by the person harmed. No session or permanent judicial commission may require or recommend any voluntary act of repentance, but may, in extraordinary circumstances, forbid such act.</p> |

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| <p><b>D-12.0104d. Refrain from Exercise of Ordered Ministry</b></p> <p>During the period of temporary exclusion from ordained ordered ministry, the person found guilty shall refrain from the exercise of any function of ordained ordered ministry.</p>     | <p><i>D-9.0105d.</i> Effects of Temporary Exclusion from the Exercise of Ordered Ministry</p> <p>During the period of temporary exclusion from ordered ministry, the person under this exclusion shall refrain from the exercise of any function of ordered ministry. While under this exclusion, the person remains a member of their congregation or presbytery, but may not participate or vote in meetings of any council of the church, hold office, or serve on committees or commissions, except that the member may be present and may speak on matters related to that member. The person under this exclusion shall not preach, teach, administer Sacraments, preside at other services of worship, or moderate sessions.</p> |
| <p><b>D-12.0104e. Cannot Vote or Hold Office</b></p> <p>During the period of temporary exclusion from membership, the person found guilty shall refrain from participating and voting in meetings and from holding or exercising any office.</p>              | <p><i>D-9.0105e</i> Effects of Temporary Exclusion from Membership Rights</p> <p>During the period of temporary exclusion from membership rights of non-ordained church members, the person under this exclusion may continue to participate in the worship and life of the congregation of membership, but shall refrain from participating and voting in meetings of the congregation and from serving on committees, or holding any office or position of leadership in the congregation or in any council of the church.</p>  |
| <p><b>D-12.0104f. Effect of Temporary Exclusion of a Pastor</b></p> <p>If a pastor 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.</p> | <p><i>D-9.0105f.</i> Effect of Temporary Exclusion of a Pastor</p> <p>If a minister of the Word and Sacrament serving in a pastoral relationship in a congregation (G-2.0504) is temporarily excluded from the exercise of ordered ministry, the presbytery may, if no appeal from the case is pending, declare the pastoral relationship dissolved.</p>  |
| <p><b>D-12.0104g. Notice of Temporary Exclusion</b></p> <p>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</p>   | <p><i>D-9.0105g.</i> Notice of Temporary Exclusion</p> <p>When the censure of temporary exclusion has been pronounced with respect to a minister of the Word and Sacrament, the stated clerk of the</p>   |

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| <p>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.</p>  | <p>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.</p>  |
| <p><b>D-12.0104h. Termination of Censure of Temporary Exclusion</b></p> <p>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 expiration of the time of exclusion or completion of the supervised rehabilitation pronounced. The council that imposed the censure shall approve the restoration when the time of exclusion has expired or when the council is fully satisfied that the supervised rehabilitation pronounced has been completed.</p> | <p><i>D-9.0105h. Termination of Censure of Temporary Exclusion</i></p> <p>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.</p> |
| <p><b>D-12.0104i. Early Restoration</b></p> <p>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 the expiration of the time of exclusion or the completion of the supervised rehabilitation fixed in the censure. The council may approve such a restoration when it is fully satisfied that the action is justified.</p>  | <p><i>D-9.0105i. Early Restoration</i></p> <p>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.</p>   |
| <p><b>D-12.0105 Removal from Ordered Ministry or Membership</b></p> <p>Removal from ordered ministry or membership is the highest degree of censure.</p> <p><b>D-12.0105a. Removal from Ordered Ministry</b></p> <p>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</p>  | <p><i>D-9.0106 Removal from Ordered Ministry and/or Membership</i></p> <p>Removal from ordered ministry and/or membership is the highest degree of censure.</p> <p>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</p>  |

removed from all ordered ministries without removal from membership.

**D-12.0105b. 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.

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 Presbytery (or Session) 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, which includes removal from all ordered ministries).

**D-12.0105c. Prayer**

This formal declaration shall be followed by intercessory prayer to Almighty God.

**D-12.0105d. 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 give the minister of the Word and Sacrament a certificate of membership to a Christian church of the minister of the Word and Sacrament's choice. If the minister of the Word and Sacrament is a pastor, the pastoral relationship is automatically dissolved by the censure.

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.

*D-9.0106c.* 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-9.0106a.* 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.

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| <p><b>D-12.0105e. Notice of Removal</b></p> <p>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.</p>  | <p><i>D-9.0106b. Notice of Removal</i></p> <p>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.</p>   |
| <p><b>D-12.0200 2. Restoration</b></p>   | <p><b>D-9.02 Restoration</b></p>   |
| <p><b>D-12.0201 Decision of Council</b></p> <p>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 and the person makes a reaffirmation of faith for membership restoration or is reordained for restoration to ordered ministry. The forms of the restoration are described in D-12.0202 and D-12.0203.</p>   | <p><i>D-9.0201 Restoration to Membership or Ordered Ministry</i></p> <p>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.</p>   |
| <p><b>D-12.0202 Form of Restoration to Ordered Ministry after Removal</b></p> <p>The restoration to ordered ministry shall be announced by the moderator in the following or like form:</p> <p><b>D-12.0202a. Form</b></p> <p>Whereas, you, (Name) _____, have manifested such repentance as satisfies the church, the Presbytery of _____ (or Session of this church) does now restore you to the ordered ministry of _____ and authorize you to perform the functions of that ministry in accordance with the <i>Constitution</i> of this church by this act of ordination.</p> <p><b>D-12.0202b. Restored to Roll</b></p> | <p><i>D-9.0203 Restoration to Ordered Ministry</i></p> <p>The restoration to ordered ministry shall be announced by the moderator in the following or like form:</p> <p>“Whereas, you, (Name) _____, have manifested such repentance as satisfies the church, the Presbytery of _____ (or Session of this church) does now restore you to the ordered ministry of _____ and authorize you to perform the functions of that ministry in accordance with the Constitution of this church by this act of ordination.”</p> <p>Thereafter, a full service of ordination shall take place in accordance with W-4.04 and the individual’s name shall be restored to the appropriate roll.</p> |

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| <p>Thereafter, a full service of ordination shall take place and the name shall be restored to the appropriate roll. (W-4.4000)</p>  |   |
| <p><b>D-12.0203 Form of Restoration to Membership after Removal</b></p> <p>The restoration to membership shall be announced by the moderator in a meeting of the council in the following or like form:</p> <p><b>D-12.0203a. Form</b></p> <p>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.</p> <p><b>D-12.0203b. Restored to Roll</b></p> <p>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.</p> <p><b>D-12.0203c. Restored to Ordered Ministry</b></p> <p>If the member is also to be restored to an ordered ministry, the procedure prescribed in D-12.0202 shall be followed.</p> | <p><i>D-9.0202 Restoration to Membership</i></p> <p>The restoration to membership shall be announced by the moderator in a meeting of the council in the following or like form:</p> <p>“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.”</p> <p><i>D-9.0202a.</i> 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.</p> <p><i>D-9.0202b.</i> 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.</p> |
| <p><b>D-13.0000 CHAPTER XIII. APPEAL IN A DISCIPLINARY CASE</b></p>  | <p><b>CHAPTER X<br/>DISCIPLINARY APPEALS</b></p>  |
| <p><b>D-13.0100 1. Initiation of Appeal</b></p>  | <p><b>D-10.01 Filing an Appeal</b></p>  |
| <p><b>D-13.0101 Definition</b></p> <p>An appeal of a disciplinary case is the transfer to the next higher council of a case in which a decision has been rendered in a lower council, for the purpose of obtaining a review of the proceedings and decision to correct, modify, set aside, or reverse the decision.</p>  | <p><i>D-10.0101 Definition</i></p> <p>An appeal of a disciplinary case is the transfer to the next higher council of a case in which a decision has been rendered in a lower council, for the purpose of obtaining a review of the proceedings and decision in order to correct, modify, set aside, or reverse the decision.</p>  |
| <p><b>D-13.0102 Initiation of Appeal</b></p>   | <p><i>D-10.0102 Initiation of Appeal</i></p>  |



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| <p>Only the person found guilty may initiate the first level of appeal by the filing of a written notice of appeal.</p> <p><b>D-13.0103            Appeal of Appellate Decision</b></p> <p>Either party may initiate an appeal of the appellate decision by the filing of a written notice of appeal.</p>  | <p>The time for filing an appeal shall begin from the date the decision is delivered to, or refused by, the person found guilty.</p> <p><i>D-10.0102a.</i> Only the person found guilty of an offense may initiate the first level of appeal.</p> <p><i>D-10.0102b.</i> Once the first appeal has been decided, either party may initiate the next level of appeal.</p>   |
|  | <p><i>D-10.0103 Parties</i></p> <p>The parties in a disciplinary appeal are the person found guilty and the Presbyterian Church (U.S.A.) through the prosecuting committee of the council that issued the censure.</p>  |
| <p><b>D-13.0104            Effect of Appeal</b></p> <p>The notice of appeal, if properly and timely filed, shall suspend further proceedings by lower councils, except that, in the instance of temporary exclusion from exercise of ordered ministry or membership or removal from ordered ministry or membership, the person against whom the judgment has been pronounced shall refrain from the exercise of ordered ministry or from participating and voting in meetings until the appeal is finally decided.</p> | <p><b>D-10.03            Duty of Stated Clerk</b></p> <p>Upon receipt of the written notice of appeal, the stated clerk of the council that will hear the appeal shall transmit it to the officers of that council's permanent judicial commission and the other party. The notice of appeal, if properly and timely filed, shall suspend further proceedings by lower councils, until the appeal is finally decided, except that any censure may be enforced.</p>  |
| <p><b>D-13.0105            Withdrawal of Appeal</b></p> <p>On application, the permanent judicial commission of the higher council may grant a petition for withdrawal of an appeal. The permanent judicial commission shall deny a petition if its approval would defeat the ends of justice.</p>   | <p><b>D-10.04            Withdrawal of Appeal</b></p> <p>The parties in a disciplinary appeal are encouraged to seek resolution of their differences in a manner acceptable to all parties and consistent with the Constitution of the Presbyterian Church (U.S.A.). If at any time in the appeal process the parties to a disciplinary appeal jointly file with the stated clerk of the council hearing the appeal a petition for the withdrawal of the appeal, the stated clerk shall inform the members of the permanent judicial commission that the appeal has been withdrawn, which shall end the judicial process unless within seven (7) days any member of the permanent judicial commission challenges the withdrawal. If the withdrawal is so challenged, a majority of the commission at a duly</p> |

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|  | 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.   |
| <p><b>D-13.0106 Grounds for Appeal</b></p> <p>The grounds for appeal are</p> <p><b>D-13.0106a.</b> irregularity in the proceedings;</p> <p><b>D-13.0106b.</b> refusing a party reasonable opportunity to be heard or to obtain or present evidence;</p> <p><b>D-13.0106c.</b> receiving improper, or declining to receive proper, evidence or testimony;</p> <p><b>D-13.0106d.</b> hastening to a decision before the evidence or testimony is fully received;</p> <p><b>D-13.0106e.</b> manifestation of prejudice in the conduct of the case;</p> <p><b>D-13.0106f.</b> injustice in the process or decision;</p> <p><b>D-13.0106g.</b> error in constitutional interpretation; and</p> <p><b>D-13.0106h.</b> undue severity of censure.</p> | <p><i>D-10.0202e.</i> a statement and description of the errors alleged to have been made in the ruling that are the grounds for appeal. The grounds for which an appeal may be filed are:</p> <p><i>D-10.0202e.(1)</i> irregularity in the proceedings,</p> <p><i>D-10.0202e.(2)</i> refusing a party reasonable opportunity to be heard or to obtain or present evidence,</p> <p><i>D-10.0202e.(3)</i> receiving improper, or declining to receive proper evidence or testimony,</p> <p><i>D-10.0202e.(4)</i> hastening to file an appeal before the evidence or testimony is fully received,</p> <p><i>D-10.0202e.(5)</i> manifestation of prejudice in the conduct of the case,</p> <p><i>D-10.0202e.(6)</i> injustice in the process or decision,</p> <p><i>D-10.0202e.(7)</i> error in constitutional interpretation, and</p> <p><i>D-10.0202e.(8)</i> undue severity of censure.</p> |
| <p><b>D-13.0200 2. Filings in Appeal Process</b></p>   | <p><b>D-10.02 Notice of Appeal</b></p>  |
| <p><b>D-13.0201 Time for Filing Written Notice of Appeal</b></p> <p>A written notice of appeal shall be filed within forty-five days after a copy of the judgment has been delivered by certified delivery or personal service to the party appealing.</p> <p><b>D-13.0201a.</b> The written notice of appeal shall be filed with the clerk of session or stated clerk of the lower council that elected the permanent</p>   | <p><i>D-10.0201 Notice Filed</i></p> <p>A written notice of appeal shall be filed with the stated clerk of the next higher council within forty-five (45) days after a copy of the final order was received by the appealing party. The written notice may be delivered by means of electronic communication, provided that the stated clerk certifies receipt of the notice, which may also be communicated electronically. If filing the notice electronically, care should be</p>  |

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| <p>judicial commission from whose judgment the appeal is taken.</p> <p><b>D-13.0201b.</b> The party appealing shall provide a copy of the notice of appeal to each of the other parties and to the stated clerk of the council that will hear the appeal a copy of the notice of appeal.</p> | <p>taken to deliver the notice in a manner that can clearly demonstrate timely filing. By written agreement of the parties, all additional filings may be electronic. The appealing party shall provide a copy of the written notice of appeal to the clerk of session or stated clerk of the council that issued the ruling, as well as to the stated clerk of the council that would hear the appeal, who shall distribute the notice to the other party or parties.</p>             |
| <p><b>D-13.0202 Content of Written Notice of Appeal</b></p> <p>The written notice of appeal shall state and include</p>  | <p><i>D-10.0202 Items to be Included:</i></p> <p>Items to be included in a disciplinary appeal are as follows:</p>   |
| <p><b>D-13.0202a.</b> the name of the party or parties filing the appeal, called the appellant or appellants, and their counsel if any;</p>  | <p><i>D-10.0202a.</i> the name of the party filing the appeal (the appellant) and their counsel, if any;</p>   |
| <p><b>D-13.0202b.</b> the name of the other party or parties, called the appellee or appellees, and their counsel if any;</p>  | <p><i>D-10.0202b.</i> the name of the other party (the appellee) and their counsel, if any;</p>  |
| <p><b>D-13.0202c.</b> the council from whose judgment the appeal is taken;</p>   | <p><i>D-10.0202c.</i> the council from whose decision the appeal is taken;</p>   |
| <p><b>D-13.0202d.</b> the judgment or decision, and date and place thereof, from which the appeal is taken (enclose a copy of the judgment or decision with the notice of appeal);</p>   | <p><i>D-10.0202d.</i> a copy of the ruling; and</p>  |
| <p><b>D-13.0202e.</b> a statement of the errors of session or permanent judicial commission which conducted the trial or hearing on appeal that are the grounds for appeal (D-13.0106);</p>  | <p><i>D-10.0202e.</i> a statement and description of the errors alleged to have been made in the ruling that are the grounds for appeal. The grounds for which an appeal may be filed are:</p> <p><i>D-10.0202e.(1)</i> irregularity in the proceedings,</p> <p><i>D-10.0202e.(2)</i> refusing a party reasonable opportunity to be heard or to obtain or present evidence,</p> <p><i>D-10.0202e.(3)</i> receiving improper, or declining to receive proper evidence or testimony,</p> |

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|   | <p><i>D-10.0202e.(4)</i> hastening to file an appeal before the evidence or testimony is fully received,</p> <p><i>D-10.0202e.(5)</i> manifestation of prejudice in the conduct of the case,</p> <p><i>D-10.0202e.(6)</i> injustice in the process or decision,</p> <p><i>D-10.0202e.(7)</i> error in constitutional interpretation, and</p> <p><i>D-10.0202e.(8)</i> undue severity of censure.</p>   |
| <p><b>D-13.0202f.</b> a certification that a copy of the notice of appeal was provided by certified delivery or by personal service to each of the other parties and to the stated clerk of the council that will hear the appeal.</p>                                | <p><i>D-10.0202f.</i> a certification that a copy of the notice of appeal has been sent as required by D-10.0201 to the clerk of session or stated clerk of the council from whose decision the appeal is taken. This certification may be in the form of an electronic communication if agreed upon in advance by the parties.</p>  |
| <p><b>D-13.0203 Transmittal of Notice of Appeal to Officers</b></p> <p>Upon receipt of the notice of appeal and the decision being appealed, the stated clerk of the higher council shall transmit them to the officers of the permanent judicial commission.</p>     | <p><b>D-10.03 Duty of Stated Clerk</b></p> <p>Upon receipt of the written notice of appeal, the stated clerk of the council that will hear the appeal shall transmit it to the officers of that council's permanent judicial commission and the other party. The notice of appeal, if properly and timely filed, shall suspend further proceedings by lower councils, except any censure shall continue until the appeal is finally decided.</p> |
| <p><b>D-13.0300 3. Prehearing Proceedings</b></p>   | <p><b>D-10.05 Preliminary Process</b></p>  |
| <p><b>D-13.0301 Examination of Papers</b></p> <p>Upon receiving the papers specified in D-13.0203, the moderator and the clerk of the permanent judicial commission of the council that will hear the case shall promptly examine the papers to determine whether</p> | <p><i>D-10.0501 Examination of Notice of Appeal</i></p> <p>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:</p>  |
| <p><b>D-13.0301a.</b> the council has jurisdiction;</p>   | <p><i>D-10.0501a.</i> the council has jurisdiction,</p>  |

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| <p><b>D-13.0301b.</b> the appellant has standing to file the appeal;</p>  | <p><i>D-10.0501b.</i> the appellant has standing to file the appeal,</p>  |
| <p><b>D-13.0301c.</b> the appeal papers were properly and timely filed; and</p>   | <p><i>D-10.0501c.</i> the appeal was timely and properly filed, and</p>   |
| <p><b>D-13.0301d.</b> the appeal states one or more of the grounds for appeal set forth in D-13.0106.</p>   | <p><i>D-10.0501d.</i> the appeal states and describes one or more of the grounds for appeal listed in D-10.0202e.</p>   |
| <p><b>D-13.0302 Preliminary Questions Determined</b></p> <p>The moderator and clerk shall report their findings to the parties and to the permanent judicial commission.</p>  | <p><i>D-10.0502 Preliminary Ruling</i></p> <p>The officers of the permanent judicial commission shall report their determination to the parties and to the members of the commission in a preliminary ruling.</p>   |
| <p><b>D-13.0302a.</b> If a challenge is made to the findings of the moderator and clerk within thirty days after receipt of those findings, either by a party to the case or by a member of the permanent judicial commission, opportunity shall be provided to present evidence and argument on the finding in question.</p> <p><b>D-13.0302b.</b> If a hearing is necessary to decide the item in question, that hearing shall be scheduled at least thirty days prior to the hearing on the appeal, unless the circumstances, including monetary considerations, render advisable the disposition of the preliminary questions immediately before the hearing on the appeal.</p> <p><b>D-13.0302c.</b> If the permanent judicial commission determines that any point listed in D-13.0301 has been answered in the negative, the permanent judicial commission shall dismiss the appeal.</p> | <p><i>D-10.0503 Challenge to Preliminary Ruling</i></p> <p>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.</p> |
|   | <p><i>D-10.0504 When No Challenge is Received</i></p> <p>When there are no challenges to the determination in the preliminary ruling, the following shall apply:</p>  |

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| <p><b>D-13.0302d.</b> If no challenge is made to a finding of the moderator and clerk that one or more points listed in D-6.0305 (or D-8.0301, or D-13.0106, as applicable) has been answered in the negative, the case shall be dismissed without further action or order of the permanent judicial commission.</p>   | <p><i>D-10.0504a.</i> If no challenge is made to the preliminary ruling of the officers that one or more points in D-10.0501 are answered in the negative, the case shall be dismissed without further action or order of the permanent judicial commission.</p>   |
|  | <p><i>D-10.0504b.</i> If no challenge is made to the preliminary ruling of the officers that all of the points in D-10.0501 are answered in the affirmative, the stated clerk of the council shall schedule a hearing at a time acceptable to the parties and at which a quorum of the commission can be present.</p>  |
| <p><b>D-13.0303 Record on Appeal</b></p> <p>The record on appeal shall be formed as follows:</p>   | <p><b>D-10.06 Record of the Case</b></p>   |
| <p><b>D-13.0303a. List of Record</b></p> <p>Within forty-five days after the receipt of a written 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 constitute the record of the case. (D-11.0601d)</p> <p><b>D-13.0303b. Additional Records</b></p> <p>Within fifteen days thereafter, any party may file with the stated clerk of the lower council a written statement challenging the accuracy or completeness of the record of the case as listed by the stated clerk. The written challenge shall state specifically the item or items listed in D-11.0601d which are claimed to be omitted from the record of the case.</p> | <p><i>D-10.0601 List of Papers</i></p> <p>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 &amp; 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.</p> |
| <p><b>D-13.0303c. Filing of Record on Appeal</b></p> <p>Upon notification by the stated clerk of the higher council of jurisdiction that the case has been accepted, the stated clerk of the lower council shall certify and file the record of the case, which may include authenticated copies of parts of the record, and shall include any written challenges</p>  | <p><i>D-10.0602 Filing of Record on Appeal</i></p> <p>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</p>  |

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| <p>disputing the completeness or accuracy of the record, with the stated clerk of the higher council.</p>  | <p>distribute it to the members of the permanent judicial commission.</p>   |
| <p><b>D-13.0303d. Correction of the Record</b></p> <p>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 session or permanent judicial commission 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.</p> | <p><i>D-10.0603 Correction of the Record</i></p> <p>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 hearing on the appeal, which may be held electronically in accordance with G-3.0105.</p> |
| <p><b>D-13.0303e. Notice of Date of Reception</b></p> <p>The stated clerk of the higher council shall notify the parties of the date the record on appeal was received.</p>  |   |
| <p><b>D-13.0303f. Copy Furnished at Cost</b></p> <p>Upon written request, the stated clerk of the higher council shall furnish any party to the appeal, at cost to that party, a copy of the record on appeal.</p>   |   |
| <p><b>D-13.0303g. Extension</b></p> <p>For good cause shown, the stated clerk of the higher council may extend the time limits in D-13.0303 for a reasonable period.</p>   |   |
| <p><b>D-13.0304 Filing of Appellant's Brief</b></p> <p>Within thirty days after the date of the filing of the record on appeal, the appellant shall file with the stated clerk of the higher council a written brief</p>   | <p><b>D-10.07 Briefs</b></p> <p><i>D-10.0701 Filing of Appellant Brief</i></p> <p>Within thirty (30) days after the date of receiving the record on appeal, the appellant shall file with the stated clerk of the higher</p>  |

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| <p>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 as to the alleged errors specified.</p> <p><b>D-13.0304a. Copy to Other Party</b></p> <p>The brief shall be accompanied by a certification that a copy has been furnished to the other party or parties.</p>           | <p>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.</p>  |
| <p><b>D-13.0304b. Extension</b></p> <p>For good cause shown, the stated clerk of the higher council may extend this time limit for a reasonable period.</p>  | <p><b>D-10.08 Extensions</b></p> <p>For good cause shown, the stated clerk of the higher council may extend any of the time limits contained in D-10.06 or D-10.07 for a reasonable period.</p>   |
| <p><b>D-13.0304c. Failure to File Brief</b></p> <p>Failure of appellant to file a brief within the time allowed, without good cause, shall be deemed by the permanent judicial commission an abandonment of the appeal.</p>  | <p><i>D-10.0702 Failure of Appellant to File Brief</i></p> <p>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.</p>   |
| <p><b>D-13.0305 Filing of Appellee's Brief</b></p> <p>Within thirty days after the filing of appellant's brief, the appellee shall file with the stated clerk of the higher council a written brief responding thereto.</p> <p><b>D-13.0305a. Copy to Other Party</b></p> <p>The brief shall be accompanied by a certification that a copy has been furnished to the other party or parties.</p> | <p><i>D-10.0703 Filing of Appellee Brief</i></p> <p>Within thirty (30) days of the receipt of the appellant's brief, the appellee shall file with the stated clerk of the council whose permanent judicial commission will hear the appeal a brief in response to the appellant's brief. Copies of the brief shall be distributed by the stated clerk to the members of the commission and to the opposing party.</p> |
| <p><b>D-13.0305b. Extension</b></p> <p>For good cause shown, the stated clerk of the higher council may extend this time limit for a reasonable period.</p>  | <p><b>D-10.08 Extensions</b></p> <p>For good cause shown, the stated clerk of the higher council may extend any of the time limits contained in D-10.06 or D-10.07 for a reasonable period.</p>   |
| <p><b>D-13.0305c. Failure to File Brief</b></p> <p>Failure by appellee to file a brief within the time allowed, without good cause, shall constitute</p>   | <p><i>D-10.0704 Failure of Appellee to File Brief</i></p> <p>Failure of the appellee to file a brief within the time allowed, without good cause, shall</p>   |



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| waiver of the rights to file a brief, to appear, and to be heard.   | constitute waiver of the rights to file a brief, to appear, and to be heard.   |
|   | <p><i>D-10.0705 Filing of Appellant Reply Brief</i></p> <p>Within fifteen (15) days of receipt of the appellee’s brief, the appellant may file a reply brief limited to the issues raised in the appellee’s brief. Copies of the brief shall be distributed by the stated clerk to the members of the permanent judicial commission and to the other party.</p>  |
| <p><b>D-13.0306 Transmittal of Record and Briefs</b></p> <p>Upon receipt of the record and the briefs, or upon the expiration of the time for filing them, the stated clerk of the higher council shall transmit the record and briefs to the clerk of the permanent judicial commission.</p>   | <p><b>D-10.09 Transmittal of Record and Briefs</b></p> <p>Upon receipt of the record and the briefs, or upon the expiration of the time for filing them, the stated clerk of the higher council shall transmit the record and briefs to the clerk of the permanent judicial commission.</p>  |
| <p><b>D-13.0307 Prehearing Conference</b></p> <p>At any time after an appeal is received by a permanent judicial commission, the commission 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.</p>                  | <p><b>D-10.10 Prehearing Conference</b></p> <p>At any time after an appeal has been received by a permanent judicial commission, the commission may provide for the parties and their counsel, if any, for the opportunity in a prehearing conference to seek agreement on any of the disputed issues in the appeal and to take other action which might reasonably and impartially narrow the dispute and expedite its resolution.</p>  |
| <p><b>D-13.0400 4. Hearing of Appeal</b></p>  | <p><b>D-10.11 Hearing of Appeal</b></p>  |
| <p><b>D-13.0401 Notice of Hearing</b></p> <p>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.</p> <p><b>D-13.0402 Failure to Appear</b></p> <p>Failure of a party to appear in person or by counsel shall constitute a waiver of participation in the hearing on appeal.</p> | <p><i>D-10.1101 Hearing Process</i></p> <p>The moderator or clerk of the permanent judicial commission shall notify the parties of the date when they may appear in person or by counsel before the permanent judicial commission. Failure of a party to appear in person or by counsel shall constitute a waiver of participation in the hearing of the appeal. At the hearing, the permanent judicial commission shall give opportunity to be heard on the grounds of the appeal to those parties who have</p> |

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| <p><b>D-13.0403 Hearing:</b></p> <p>At the hearing, the permanent judicial commission shall</p> <p><b>D-13.0403a. New Evidence</b></p> <p>determine whether to receive newly discovered evidence, under the provisions of D-14.0502, providing for the verbatim recording of such new evidence; and</p> <p><b>D-13.0403b. Hearing</b></p> <p>give opportunity to be heard on the grounds of the appeal to those parties who have not waived that right, the appellant having the right of opening and closing the argument.</p>                               | <p>not waived that right. The appellant has the right of opening and closing the argument.</p>  |
| <p><b>D-13.0404 Decision of Permanent Judicial Commission</b></p>   | <p><b>D-10.12 Decision of the Permanent Judicial Commission</b></p>   |
|   | <p><i>D-10.1201 Standard of Review</i></p> <p>Factual determinations by the session or permanent judicial commission that tried the case shall be accorded a presumption of correctness in appeals. Factual determinations are not to be disturbed unless they are plainly wrong, without supporting evidence, or manifestly unjust. Determinations related to the correct interpretation and application of provisions of the Constitution of the Presbyterian Church (U.S.A.) are not accorded the same presumption of correctness.</p> |
| <p>After the hearing and after deliberation, the permanent judicial commission shall vote separately on each specification of error alleged. The vote shall be on the question, "Shall the specification of error be sustained?" The minutes shall record the numerical vote on each specification of error. If the appeal was initiated by a prosecuting committee appealing a verdict of not guilty and the permanent judicial commission sustains that portion of the appeal, the permanent judicial commission shall remand the case for a new trial.</p> | <p><i>D-10.1202 Voting Procedure</i></p> <p>After the hearing and after deliberation, the permanent judicial commission shall vote separately on each specification of error alleged. The vote, which shall be by counted vote, shall be on the question, "Shall the specification of error be sustained?" The minutes shall record the vote on each specification of error. A majority vote sustains each specification of error.</p>  |

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|   | <p><i>D-10.1203 Decision</i></p> <p>The decision of the permanent judicial commission shall include the determination of errors specified, and state the remedy as provided in D-10.0101. The permanent 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.</p>  |
|   | <p><i>D-10.1203a.</i> Decisions of permanent judicial commissions other than the General Assembly’s Permanent Judicial Commission are binding only on the parties to the case.</p>  |
| <p><b>D-13.0404a. If No Errors Found</b></p> <p>If none of the specifications of error is sustained, and no other error is found, the decision of the lower council shall be affirmed.</p>  | <p><i>D-10.1203b.</i> If none of the specifications of error is sustained, and no other error is found, the decision of the lower council shall be affirmed.</p>  |
| <p><b>D-13.0404b. If Errors Are Found</b></p> <p>If one or more errors are found, the permanent judicial commission shall determine whether the decision of the lower council shall be affirmed, set aside, reversed, modified, or the case remanded for a new trial.</p>                                   | <p><i>D-10.1203c.</i> If one or more errors are found, the permanent judicial commission may conclude that despite the errors found, the decision of the lower council is affirmed. Alternatively, it may reverse the decision of the lower council either completely or in part, and if reversed in part, it may determine whether the decision of the lower council shall be modified or set aside, or the case remanded for a new trial.</p> |
| <p><b>D-13.0404c. Written Decision</b></p> <p>A written decision shall be prepared while in session, and shall become the final decision when a copy of the written decision is signed by the clerk and moderator of the commission.</p>  | <p><i>D-10.1203e.</i> The decision shall become the final decision when a copy of the written decision is signed by the moderator and clerk of the permanent judicial commission. A copy of the decision shall immediately be delivered to the parties to the case in accordance with D-7.0104b, or electronic communication if agreed upon in advance by the parties.</p>  |
| <p><b>D-13.0404d. Determination of Each Error</b></p> <p>The decision shall include the determination of errors specified, and state the remedy as provided in D-13.0101. The permanent judicial commission may prepare its decision in a manner that will dispose of all substantive questions without</p> | <p><i>D-10.1203d.</i> The questions presented for decision shall be fully debated and voted upon while all participating permanent judicial commission members are present. A written outline of a decision shall be prepared while in session. A written decision shall be reviewed by all participating members of the panel, which</p>   |

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| <p>redundancy. It may include an explanation of its determination.</p>  | <p>may take place either while the participating permanent judicial commission members are present or by meeting within ten (10) days either in person, or electronically in accordance with G-3.0105.</p>   |
| <p><b>D-13.0404e. Filed Promptly</b></p> <p>The decision shall be filed promptly with the stated clerk of the council that appointed the permanent judicial commission and the parties to the case by personal service or by certified delivery.</p>  | <p><i>D-10.1203e.</i> The decision shall become the final decision when a copy of the written decision is signed by the moderator and clerk of the permanent judicial commission. A copy of the decision shall immediately be delivered to the parties to the case in accordance with D-7.0104b, or electronic communication if agreed upon in advance by the parties.</p>   |
| <p><b>D-13.0404f. Further Publicity</b></p> <p>The moderator or clerk shall disseminate the decision as the commission may direct.</p>  |  |
| <p><b>D-13.0405 Effect of Reversal on Appeal in Disciplinary Case</b></p> <p>When a permanent judicial commission in an appeal in a disciplinary case reverses all findings of guilt, it is in effect an acquittal, and the person is automatically restored to ordered ministry or membership in the church. Declaration to this effect shall be made in the lower council.</p>          | <p><i>D-10.1204 Effect of Reversal on Appeal in Disciplinary Case</i></p> <p>If the permanent judicial commission reverses all determinations of guilt, it becomes an acquittal and the person is automatically restored to ordered ministry or membership in the church. This declaration shall be made in the lower council and recorded in the minutes of the lower council with jurisdiction over the person found guilty.</p>         |
| <p><b>D-14.0000 CHAPTER XIV. EVIDENCE IN REMEDIAL OR DISCIPLINARY CASES</b></p>   |  |
| <p><b>D-14.0100 1. Evidence</b></p>   | <p><b>D-8.07 Evidence</b></p>  |
| <p><b>D-14.0101 Evidence Defined</b></p> <p>Evidence, in addition to oral testimony of witnesses, may include records, writings, material objects, or other things presented to prove the existence or nonexistence of a fact. Evidence must be relevant to be received. No distinction should be made between direct and circumstantial evidence as to the degree of proof required.</p> | <p><i>D-8.0701 Definition</i></p> <p>The parties shall be accorded the opportunity to present evidence on their behalf. Evidence, in addition to oral testimony of witnesses, may include records, writings, material objects, or other items. Evidence must be relevant to be received, and may include evidence that lays a foundation for the admissibility of other evidence. Relevant evidence is evidence that tends to prove or</p> |

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|  | <p>disprove a fact necessary to determine the outcome of a case. Laying a foundation means presenting preliminary evidence to show the authenticity and relevance of the evidence proposed. Evidence of authenticity goes to show the item is what the proponent claims it is. No distinction should be made between direct and circumstantial evidence as to the degree of proof required.</p>  |
| <p><b>D-14.0200</b>     <b>2. Witnesses</b></p>  | <p><i>D-5.0703</i>     <i>Witnesses</i><br/> With regard to witnesses, the following applies:</p> <p><i>D-8.0704</i>     <i>Witnesses</i><br/> With regard to witnesses, the following applies:</p>  |
| <p><b>D-14.0201</b>     <b>Challenge</b></p> <p>Any party may challenge the ability of a witness to testify, and the session or permanent judicial commission shall determine the competence of the witness so challenged.</p> | <p><i>D-5.0703a.</i>     Any party may challenge whether a witness may testify, and the moderator of the permanent judicial commission shall determine the competence of the witness. The ruling of the moderator may be appealed by any party or a member of the permanent judicial commission and decided by majority vote of the permanent judicial commission.</p> <p><i>D-8.0704a.</i>     Any party may challenge whether a witness may testify, and the moderator of the session or permanent judicial commission shall determine the competence of the witness. The ruling of the moderator may be appealed by any party or a member of the session or permanent judicial commission and decided by majority vote of the session or permanent judicial commission.</p> |
|  | <p><i>D-5.0703b.</i>     Each witness called to testify must be competent to testify. To be received by the permanent judicial commission, any testimony from any witness must be relevant and must have a proper foundation. An expert opinion or other testimony may be offered by any witness upon adequate proof of the qualifications of the witness as an expert in the field of such testimony and that such opinion or</p>   |

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|  | <p>other testimony will assist the resolution of the case.</p> <p><i>D-8.0704b.</i> Each witness called to testify must be competent to testify. To be received by the session or permanent judicial commission, any testimony from any witness must be relevant. An expert opinion or other testimony may be offered by any witness upon adequate proof of the qualifications of the witness as an expert in the field of such testimony and that such opinion or other testimony will assist the resolution of the case.</p> |
| <p><b>D-14.0202 Husband or Wife</b></p> <p>A husband or wife, otherwise competent to testify, may be a witness for or against the other, but neither shall be compelled to testify against the other.</p>  | <p><i>D-8.0704f.</i> A married person, otherwise competent to testify, may be a witness for or against the spouse, but shall not be compelled to testify against the other.</p>  |
|  | <p><i>D-8.0704g.</i> The session or permanent judicial commission may recognize other privileges including, but not limited to therapist-patient, doctor-patient, pastor-penitent, and attorney-client privileges as a basis for not compelling the testimony of a witness.</p>  |
| <p><b>D-14.0203 Counselor</b></p> <p>A person duly appointed by a council to provide counseling services for persons within the jurisdiction of the council shall not testify before a session or permanent judicial commission, except that the restriction may be waived by the person about whom the testimony is sought.</p> | <p><i>D-8.0704d.</i> A person duly appointed by a council to provide counseling services for persons within the jurisdiction of the council shall not testify before a session or permanent judicial commission, except that the restriction may be waived by the person about whom the testimony is sought.</p>   |
| <p><b>D-14.0204 Counsel for Parties</b></p> <p>The counsel for the parties involved in a case may not be compelled to testify about confidential matters, nor may they testify concerning any matters without the express permission of the party they represent.</p>  | <p><i>D-5.0703c.</i> No counsel for a party involved may be compelled to testify about any confidential matter, nor may any such counsel testify concerning any matter without the express permission of the party they represent.</p> <p><i>D-8.0704c.</i> No counsel for a party involved may be compelled to testify about</p>  |

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|  | <p>any confidential matter, nor may any such counsel testify concerning any matter without the express permission of the party they represent.</p>   |
| <p><b>D-14.0205 Credibility of Witnesses</b></p> <p>Credibility means the degree of belief that may be given to the testimony of a witness. The session or permanent judicial commission may consider, in determining the credibility of a witness, any matter that bears upon the accuracy or truthfulness of the testimony of the witness.</p> | <p><i>D-5.0703d.</i> 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.</p> <p><i>D-8.0704e.</i> Credibility means the degree of belief that may be given to the testimony of a witness. In determining the credibility of a witness, the session or permanent judicial commission may consider any matter that bears upon the accuracy of the testimony or the truthfulness of the witness.</p> |
| <p><b>D-14.0300 3. Testimony</b></p>   | <p><i>D-5.0704 Testimony</i></p> <p>Receiving the testimony of witnesses shall proceed as follows:</p> <p><i>D-8.0705 Testimony</i></p> <p>Receiving the testimony of witnesses shall proceed as follows:</p>  |
| <p><b>D-14.0301 Separate Examination</b></p> <p>At the request of either party, no witness shall be present during the examination of another witness. This shall not limit the right of the accused or the committee of counsel of the respondent to be present and to have expert witnesses present.</p>                                       | <p><i>D-5.0704a.</i> 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.</p> <p><i>D-8.0705a.</i> 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.</p> |
| <p><b>D-14.0302 Examination of Witnesses</b></p>   | <p><i>D-5.0704b.</i> 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</p>   |

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| <p>Witnesses in either disciplinary or remedial cases shall be examined first by the party producing them, and then they may be cross-examined by the opposing party. Thereafter, any member of the session or permanent judicial commission may ask additional questions.</p>   | <p>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.</p> <p><i>D-8.0705b.</i> Witnesses shall be examined first by the party producing them, and then they may be cross-examined by the opposing party. The moderator may permit additional questions from the parties (including both re-examination, followed by re-cross-examination) if so requested. Thereafter, any member of the session or permanent judicial commission may ask additional questions.</p> |
| <p><b>D-14.0302a. Oath</b></p> <p>Prior to giving testimony, a witness shall make an oath by answering the following question in the affirmative:</p> <p>"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?"</p>   | <p><i>D-5.0704c.</i> 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?"</p> <p><i>D-8.0705c.</i> 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?"</p>              |
| <p><b>D-14.0302b. Affirmation</b></p> <p>If a witness objects to making an oath, the witness shall answer the following question in the affirmative:</p> <p>"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?"</p> | <p><i>D-5.0704d.</i> 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?"</p> <p><i>D-8.0705d.</i> 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?"</p>                        |
| <p><b>D-14.0303 Record of Testimony</b></p> <p>The testimony of each witness shall be accurately and fully recorded by a qualified reporter or other means.</p>  | <p><i>D-5.0704e.</i> 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.</p>  |



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|   | <p><i>D-8.0705e.</i> 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.</p>  |
| <p><b>D-14.0304 Testimony Taken on Deposition</b></p> <p>Any session or permanent judicial commission before which a case may be pending shall have power to appoint, on the application of any party, one or more persons to take and record testimony in the form of a deposition</p> <p><b>D-14.0304a. Person from Another Council</b></p> <p>When necessary, the person or persons so appointed may be from within the geographical bounds of another council.</p> <p><b>D-14.0304b. Taking of Testimony</b></p> <p>Any person so appointed shall take the testimony offered by either party after notice has been given to all parties of the time and place where the witnesses are to be examined. All parties shall be entitled to be present and be permitted to cross-examine.</p> <p><b>D-14.0304c. Offered as Evidence</b></p> <p>This testimony, properly authenticated by the signature or signatures of the person or persons so appointed, shall be transmitted promptly to the clerk of the session or permanent judicial commission before which the case is pending and may be offered as evidence by any party.</p> | <p><i>D-5.0704f.</i> Witnesses may appear electronically if unable to attend the trial in person, in accordance with the provisions of D-5.04.</p> <p><i>D-8.0705f.</i> Witnesses may appear electronically if unable to attend the trial in person, in accordance with the provisions of D-8.04.</p> <p><b>D-5.04 Electronically Received Testimony</b></p> <p>Witnesses may be granted permission by the permanent judicial commission to appear electronically if unable to attend a trial that is held in person, in accordance with the provisions of G-3.0105 and D-5.02.</p> <p><b>D-8.04 Electronically Received Testimony</b></p> <p>Witnesses may be granted permission by the session or permanent judicial commission to appear electronically if unable to attend a trial that is held in person, in accordance with the provisions of G-3.0105 and D-8.02.</p> |
| <p><b>D-14.0304d. Questions of Admissibility</b></p> <p>All questions concerning the admissibility of statements made in deposition testimony shall be determined by the session or permanent judicial commission when the record of such testimony is offered as evidence.</p>   | <p><i>D-5.0504 Procedural Questions</i></p> <p>Questions as to procedure or the admissibility of evidence arising in the course of a trial shall be decided by the moderator after the parties have had an opportunity to be heard. A party or a member of the permanent judicial commission may appeal from the decision of the moderator to the commission, which shall decide the question by majority vote.</p>  |

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|   | <p><i>D-8.0503 Procedural Questions</i></p> <p>Questions as to procedure or the admissibility of evidence arising in the course of a trial shall be decided by the moderator after the parties have had an opportunity to be heard. A party or a member of the session or permanent judicial commission may appeal from the decision of the moderator to the body, which shall decide the question by majority vote.</p>   |
| <p><b>D-14.0305 Member as Witness</b></p> <p>A member of the session or permanent judicial commission before which the case is pending may testify, but thereafter shall not otherwise participate in the case.</p> | <p><i>D-5.0704g.</i> A member of the permanent judicial commission before which the case is pending may testify, but thereafter shall not otherwise participate in the case.</p> <p><i>D-8.0705g.</i> A member of the session or permanent judicial commission before which the case is pending may testify, but thereafter shall not otherwise participate in the case.</p>   |
| <p><b>D-14.0400 4. Records as Evidence</b></p>  |  |
| <p><b>D-14.0401 Admissibility of Records</b></p> <p>The authenticated written records of a council or permanent judicial commission shall be admissible in evidence in any proceeding.</p>                          | <p><i>D-8.0702 Records as Evidence</i></p> <p>Written records of a council or permanent judicial commission and authenticated records of testimony are admissible as evidence.</p> <p><i>D-8.0702a.</i> The authenticated written records of a council or permanent judicial commission shall be admissible in evidence in any proceeding.</p> <p><i>D-8.0702b.</i> An authenticated record or transcript of testimony taken by a council or permanent judicial commission shall be admissible in any proceeding in another council.</p> |
| <p><b>D-14.0402 Admissibility of Testimony</b></p> <p>A record or transcript of testimony taken by one council or permanent judicial commission and</p>   | <p><i>D-5.0702b.</i> An authenticated record or transcript of testimony taken by a council or permanent judicial commission shall be admissible in any proceeding in another council.</p>  |

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| <p>regularly authenticated shall be admissible in any proceeding in another council.</p>   |  |
|  | <p><i>D-8.0703 Hearsay Evidence</i></p> <p>Hearsay is a statement made outside the presence of the session or permanent judicial commission hearing the case, whether written or oral, and which is offered to prove the truth of whatever it asserts. Because of the limitations of a council’s authority to compel witnesses to testify in a disciplinary process, as well as the limitations of resources in investigations, hearsay evidence is allowed. The session or permanent judicial commission shall determine the credibility or weight of hearsay evidence.</p>   |
| <p><b>D-14.0500      5. New Evidence</b></p>   | <p><i>D-5.0904      New Evidence</i></p> <p>New evidence can be considered either prior to an appeal or following the filing of an appeal.</p> <p><b>D-8.11            New Evidence Received</b></p>   |
| <p><b>D-14.0501            Application for New Trial</b></p> <p>Prior to filing notice of appeal, but without extending the time for appeal, any person convicted of an offense, or any party against whom an order or decision has been entered in a remedial case, may apply for a new trial on the ground of newly discovered evidence. The session or permanent judicial commission -when satisfied that such evidence could reasonably have resulted in a different decision and which, in the exercise of reasonable diligence, could not have been produced at the time of trial- may grant such application.</p> | <p><i>D-5.0904a.</i>    Prior to filing a notice of appeal, but without extending the time for appeal, any party against whom an order or decision has been entered may apply for a new trial on the basis of newly discovered evidence. The permanent judicial commission – when it is satisfied that such evidence could reasonably have resulted in a different decision and that in the exercise of reasonable diligence it could not have been produced at the time of trial – may grant such application. An appeal filed while such an application is pending shall be held in abeyance until such time as the permanent judicial commission that conducted the trial has made its determination. The higher council shall be notified of the determination by the stated clerk of the lower council.</p> <p><i>D-8.1101            Prior to the Filing of a Notice of Appeal</i></p> <p>Prior to filing a notice of appeal, but without extending the time for appeal, the person found guilty may apply for a new trial on the ground of newly discovered evidence. The permanent</p> |

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|  | <p>judicial commission – when satisfied that such evidence could reasonably have resulted in a different decision and that in the exercise of reasonable diligence it could not have been produced at the time of trial – may grant such application. An appeal filed while such an application is pending shall be held in abeyance until such time as the session or permanent judicial commission that conducted the trial has made its determination. The higher council shall be notified of the determination by the clerk of session or stated clerk of the lower council.</p>  |
| <p><b>D-14.0502            Consideration in Appeal</b></p> <p>If, subsequent to the filing by any party of a notice of appeal, new evidence is discovered, which in the exercise of reasonable diligence could not have been discovered prior to the filing of the notice of appeal, the permanent judicial commission receiving the appeal may, in its discretion, receive the newly discovered evidence and proceed to hear and determine the case. However, no newly discovered evidence may be admitted unless the party seeking to introduce it shall have made application, with copies to the adverse party, at least thirty days prior to the hearing. That application shall be accompanied by a summary of the evidence.</p> | <p><i>D-5.0904b.</i> If, subsequent to the filing by any party of a notice of appeal, new evidence is discovered which in the exercise of reasonable diligence could not have been discovered prior to the filing of the notice of appeal, the permanent judicial commission receiving the appeal may remand the case for a new trial, in which case the appeal shall be stayed until the permanent judicial commission that conducted the trial reports its decision in the new trial.</p> <p><i>D-5.0904c.</i> The application for admission of newly discovered evidence shall be made to the permanent judicial commission with copies to the other party. That application shall be accompanied by a summary of the evidence. The permanent judicial commission shall conduct a hearing on the application for admission of newly discovered evidence not less than thirty (30) days after the application.</p> <p><i>D-8.1102            Subsequent to the Filing of a Notice of Appeal</i></p> <p>If, subsequent to the filing by a person found guilty of a notice of appeal, new evidence is discovered by the person found guilty which in the exercise of reasonable diligence could not have been discovered prior to the filing of the notice of appeal, the permanent judicial commission receiving the appeal may, in its discretion, remand the case for a new trial, in which case the appeal shall be stayed until the session or permanent judicial commission that conducted the trial reports its decision in the</p> |

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|  | <p>new trial. The application for admission of newly discovered evidence shall be made to the permanent judicial commission at least thirty (30) days prior to the hearing with copies to the other party. That application shall be accompanied by a summary of the evidence.</p> |
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