

ETERNAL LIFE FELLOWSHIP MINISTRIES & GLOBAL NETWORK

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STANDARD OPERATING PROCEDURES RULES OF DISCIPLINE



Faith • Evangelism • Fellowship • Discipleship • Worship • Ministry • Training • Giving • Pastoral Care

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RULES OF DISCIPLINE STANDARD OPERATING PROCEDURES

1.0 Purpose of Discipline

1.1 Discipline in the church is a positive expression in the spirit of love and helpfulness of concern both for the offender and for the ministry. Its purpose is that the life and work of the ministry may be orderly, conducive to the spiritual growth of its disciples, and corrective of weaknesses, mistakes and neglect by individuals and judicatories. Appropriate reasons for discipline are actions contrary to the faith and practice to which, according to the scriptures, all Christians are called, or which are contrary to the government of this ministry.

1.2 Discipline in this ministry shall be appropriate to the nature of the error, neglect, or offense. All acts of discipline, both for individuals and judicatories, should be weighed carefully, keeping in mind the purpose of discipline.

1.3 The various approaches in discipline have the same purpose and generally should begin with counseling and only then proceed to the more severe approaches. Discipline may include, but is not limited to, the following:

- a. **Counseling** is the effort to encourage and assist the person or judicatory to correct what is wrong, to remedy deficiencies, and to learn and grow spiritually through the experience;
- b. **Admonition** is a formal action to identify the weakness, mistake, or offense of a person or judicatory and to urge or order its correction;
- c. **Suspension** of a member of a church is a temporary exclusion from the right to vote in a congregational meeting and a removal from any position of committee, including conducting sacraments or acting in the diaconate. For a minister it is a temporary prohibition against the performance of the duties of gifts of the office for which they hold. For a judicatory it is a temporary withdrawal of its power to act and a denial of representation in higher judicatories. Suspension may be for a definite or indefinite period of time;
- d. **Dismissal/Revocation** is the act of deposing and revoking of the license, ordination, and commission of a minister, elder, or deacon and removal from the covering of this ministry to operate in the gift of said office.

NOTE: All ministers, elders, and deacons serve at the pleasure of the ministry Servant Leader/Pastor and can be dismissed at will. Nevertheless, the minister, elder, or deacon dismissed may request a hearing within thirty (30) days of their official notification. Notification can be done orally or in writing.

2.0 Authority in Discipline

- 2.1** The responsibility and authority for discipline in a particular church belongs to the Servant Leader/Pastor. Oversight of the children of the church belongs first to their parents, but the committee is responsible to give support to parents as they raise and guide children in their spiritual formation. The action by the committee to admonish or suspend a disciple shall be taken only with respect to serious offenses, and then only after full opportunity is given for the approach of counseling. Removal of an elder from the ministry or a deacon from the diaconate may be accompanied by deposition from office.
- 2.2** The responsibility and authority for the discipline of ministers and churches rests with the presbytery to which they belong. The action by the presbytery to admonish, suspend, or depose shall be taken only with respect to serious offenses and then only after full opportunity is given for the approach of counseling.
- 2.3** When the action of a particular church is detrimental to the spiritual welfare of its members or to fellowship relations and ministries of the larger church, it shall be counseled by the Apostolic Council of the presbytery or by a special committee or commission appointed by the Apostolic Council or local presbytery. Should counseling fail to achieve the desired objective, the local presbytery may admonish the church and instruct its committee to correct what is wrong, suspend the charter and govern the church temporarily through a commission, dissolve the church and conduct a new commission of elders, or dissolve the church and attach its members to other congregations.
- 2.4** The responsibility and authority for discipline of their constituent judicatories by synods and the Apostolic Council is exercised in general review and control, or in response to an appeal of an action taken by a constituent judicatory. When the action of a constituent judicatory is contrary to the rules of government of the church or detrimental to fellowship relations or life and ministries of the church, it may be counseled through a special committee or commission, admonished, suspended, instructed to correct what is wrong, or dissolved.
- 2.5** Each local presbytery may convene or have a standing commission which shall be called the "Judiciary Committee." Each judicatory may convene or have a standing commission which shall be called the "disciplinary commission." Notwithstanding that these bodies may be called "committees," each of these standing commissions shall exercise the powers and responsibilities entrusted to it under these Rules, and shall be authorized to deliberate upon and conclude any business submitted to it pursuant to these Rules. A judicatory may assign other duties and responsibilities to its Judiciary Committee or its disciplinary commission, with or without the authority to act upon or to conclude such other the matters.

NOTE: The Judiciary Committee and disciplinary commission may be separate bodies or may be subcommittees of existing committees or commissions of the judicatory. These bodies could also have responsibilities in addition to those assigned in these rules. In some instances, a committee may be a "hybrid" body, acting in some of its responsibilities as a committee and at other times acting with the authority of a commission. For example, a presbytery may already have a Judiciary Committee which performs other, committee-like functions.

The Judiciary Committee can continue to perform its function as a presbyterial committee, exercising only the traditional role and authority of a committee. However, when the Judiciary Committee is performing a function under these disciplinary rules, it takes on the role of a commission and "shall be authorized to deliberate upon and conclude any business submitted to it." Because the Judiciary Committee and disciplinary commission may act as commissions, each should be composed of enough ministers and elders to constitute a quorum of the presbytery (or synod, as the case may be).

3.0 Discipline of Persons

3.1 Cases Without Disciplinary Hearings

3.2 When a minister, at his or her own initiative, acknowledges to the committee an error or offense and gives evidence of a sincere effort to correct the matter, a record shall be made of the case. With the consent of the person, any disciplinary action taken shall be without a formal disciplinary hearing. The Servant committee reserves the right to take immediate action without convening a hearing when it serves in the best interest of the overall ministry.

3.3 When a minister in good standing without securing a letter of dismissal or asking that his or her name be removed, shall join some other Christian church or religious body, the irregularity shall be noted and his or her name removed from the membership roll by action of the local church. If there are charges pending against the person, or if he or she is under some disciplinary action, this information shall be communicated to the church or religious body upon its request. If the member is an elder or deacon, and he or she joins a religious body other than a Christian church, his or her ordination shall be revoked and he or she shall be divested of the office.

NOTE: Paragraph 3.102 applies only if the member is moving to another denomination. If the member is joining another LAWMLACC church, the fact that charges are pending may, and generally should, be communicated to the new church. When the member is leaving the LAWMLACC fellowship, information on charges pending against the member is provided only upon the request of the receiving church.

3.4 A minister, at his or her own initiative, may acknowledge to the Judiciary Committee an error or offense. If the minister gives evidence of a sincere effort to correct the matter and consents to any discipline proposed by the committee, the matter may be resolved and the discipline imposed without a formal disciplinary hearing. Otherwise, the Judiciary Committee shall refer the matter to the disciplinary commission for action as provided in section 3.400

3.5 When a minister in good standing, without asking for a letter of dismissal, shall join some other Christian church or religious body, the irregularity shall be noted and his or her name removed from the presbyterial roll by action of the presbytery. If charges are pending against the person, or if he or she is under disciplinary action, this information shall be communicated to the church or religious body upon its request. If the minister joins a religious body other than a Christian church, his or her ordination shall be revoked and he or she shall be divested of the office.

NOTE: Paragraph 3.104 applies only if the minister is moving to another denomination. If the minister is moving to another presbytery of the Cumberland Presbyterian church, the fact that charges are pending should be communicated to the new presbytery. When the minister is leaving the Cumberland Presbyterian denomination, information on charges pending against the minister is provided only upon the request of the receiving church.

3.6 Disciplinary Hearings

3.6.0 Any charges made against a disciple (the accused) shall be acted upon by ministry committee only if they are in the form of a written document signed by the person making the charges (the complainant). The complainant may be a person who claims to be a victim of the conduct which is the basis for the complaint or another member who has reliable and compelling information about the conduct in the complaint. Whether or not the charges are written, the committee or any of its members may counsel with a member to encourage and assist the member to learn and grow spiritually.

NOTE: Disciplinary hearings for church members and for ministers are addressed in separate sections. Paragraph 3.201 makes it clearer that the charges may be brought, and the written charges can be signed, by a person other than the victim of the misconduct. For example, written charges can be brought by a witness to the misconduct or someone in whom the victim has confided (such as a parent) if there is "reliable and compelling information" that misconduct has occurred. The paragraph also reminds committees that Christian counseling is always in order.

3.6.1 No charges against a person shall be considered if they are made more than two years after the alleged error or offense, except in the case of sexual misconduct or sexual harassment, in which case a ten (10) year time limit shall apply, but in the case of the sexual abuse or molestation of a child, no time limit shall apply.

3.6.2 When a committee has received charges affecting the Christian character of a person under its care, it shall designate a committee to investigate the charges and counsel with the person accused. If the charges concern matters of potentially serious consequences, the committee may at any time suspend the person from any position of committee until the conclusion of the hearing and of any appeals. It shall be stated that the suspension is not a presumption of guilt but is a measure needed for the welfare of the church.

3.6.3 If the committee reports that, upon investigation, it finds no basis for the charges, the committee shall dismiss the charges. If the committee finds that there are grounds to believe that an offense was committed by the accused, and the accused acknowledges the error or offense, and gives evidence of a sincere effort to correct the matter, the committee shall so report to the committee and recommend appropriate disciplinary action. With the consent of the person, disciplinary action may be imposed without a formal disciplinary hearing. A record shall be made of the case, and the moderator shall direct the clerk to notify the complainant of the discipline imposed.

3.6.4 If the committee, upon investigation, finds that there are grounds to believe that an offense was committed by the accused, but the accused has not acknowledged the error or offense, or does not consent to the proposed disciplinary action, the committee shall present a written report to the committee which includes a statement of the charges, the information the committee obtained in its investigation, the committee's findings, and its recommendations for discipline. The committee shall hold a hearing to determine guilt, to impose discipline, or both.

- a. Unless the accused, the complainant, and the committee agree otherwise, a date for the hearing shall be set no sooner than ten (10) days. The moderator shall direct the clerk to give written notice of the hearing to the person charged (the accused); the person filing the charges (the complainant); all active members of the committee; the investigating committee; and all witnesses requested by the accused, the complainant, or the committee.
- b. The notice shall include the statement of the charges as framed by the investigating committee and shall state that the decision to conduct the hearing is not an indication that the accused is guilty of the offense.
- c. Written notice should be hand delivered or sent by first class mail to the last known address of the person entitled to notice. Written notice provided in some other manner is effective if actually received.
- d. The committee may postpone the hearing for good cause. The failure of the accused or the complainant to appear at the hearing shall not automatically cause a postponement.

3.6.5 The Hearing Shall Be Conducted

- a. The hearing shall be a closed meeting unless the accused, the complainant, and the committee agree otherwise. If closed, the persons permitted to attend shall be: the members of the committee; the accused and a companion; the complainant and a companion; and, if requested by the committee, a representative from the investigating committee. The committee shall determine whether to permit all of the witnesses to be present for the entire proceeding or to hear witnesses one at a time.
- b. NOTE: The "companion" who is permitted to accompany the complainant or accused may be a spouse, parent, other family member, friend, or a professional adviser such as a counselor or attorney. However, unless the companion is also a witness, he or she has no role in the process except to provide support and advice to the complainant or accused. The companion should not inject himself or herself into the proceedings. If the companion is an attorney, he or she should bear in mind that the proceeding is an ecclesiastical and spiritual proceeding, not a legal one.

- c. The clerk shall keep a complete recording of the hearing, either by audio recording, audio-video recording, or by a written transcript.
- d. The moderator shall charge the members of the body and all others present to remember the purpose of discipline in the church as stated in Section 1.1.
- e. The statement of charges prepared by the investigating committee shall be read.
- f. The list of witnesses shall be reviewed. Any person may challenge whether a witness is competent to provide evidence. The committee shall be the final judge of whether a witness is competent to provide evidence and whether any evidence offered is relevant to the proceeding.
- g. The accused may give a statement in response to the charges.
- h. Testimony and other evidence against the accused shall be received first, followed by testimony and other evidence on behalf of the accused. Testimony should be offered in a manner consistent with the purposes of discipline, and not in a bitter or retaliatory spirit.
- i. The moderator shall provide an opportunity for the accused, the complainant, or members of the committee to question each witness and any other evidence. The moderator may disallow any question which is frivolous, irrelevant, or otherwise inappropriate, but the moderator's ruling may be appealed to the committee.
- j. The accused or the complainant may challenge the right of any member of the committee to speak or vote on the grounds of personal prejudice, including undue personal interest in the matter. All challenges shall be decided by the committee.
- k. A final statement may be made by the complainant and the accused, who shall have the right to speak last.
- l. k. Only the members of the committee shall be present during, and participate in, the deliberation of the case. All of the evidence shall be weighed and evaluated.
- m. l. The committee shall vote on the following question: "According to the evidence presented, is it more likely that the accused is guilty or not guilty of the charge(s) made against him or her?" The accused shall be found not guilty unless a majority of those members of the committee who are present and voting shall find the accused guilty.

3.6.6 If The Accused is Found Not Guilty:

- a. The moderator shall announce the decision to the accused and the complainant. The moderator shall remind those present of the gravity of disciplinary proceedings, the nature of the church as a fellowship of reconciliation, and the responsibility of all Christians to act toward each other in the spirit of repentance and forgiving love.
- b. No record of the charges or the decision need be entered into the minutes unless the committee, for good cause, shall direct otherwise.

3.6.7 If The Accused is Found Guilty:

- a. The committee shall determine the discipline under which he or she shall be placed. When the nature of the discipline has been determined, the moderator shall announce the decision and the discipline to the accused and the complainant. Any discipline imposed shall take effect immediately unless the committee directs otherwise.
- b. The moderator shall urge the person placed under discipline to respond to the decisions in prayer and self-examination and to make such efforts as are possible to remedy the error or offense.
- c. The moderator shall remind those present of the gravity of disciplinary proceedings, the nature of the church as a fellowship of reconciliation, and the responsibility of all Christians to act toward each other in the spirit of repentance and forgiving love.
- d. The minutes shall reflect the name of the accused, the charges of which he or she has been found guilty, and the discipline imposed. Appropriate care shall be taken to protect the name or identity of any victim.

NOTE: If, after a disciplinary hearing has been held, new evidence is discovered that could alter the decision that was made, the person under discipline may ask the committee to conduct a supplemental hearing. If the committee determines that a new hearing should be held, only evidence not already presented may be offered at the new hearing.

3.6.8 If there appears to be sufficient evidence to warrant terminating the discipline imposed, the committee may conduct a hearing to consider such action. The discipline may be terminated if sufficient and reliable testimony or other evidence is presented that

1. The person has repented of the error or offense;
2. The person has taken steps to correct the matter; and
3. The committee finds that the person is unlikely to commit the error or offense again.

NOTE: Discipline should not be terminated unless the committee believes it is unlikely that the person will commit the error or offense again.

3.6.9 When a person under some kind of discipline moves his or her membership to another church, the committee may, if it seems advisable, transmit a summary of the disciplinary hearing to that body, which shall proceed to act as though it had imposed the discipline.

3.7 Specific Procedures for Deacons & Lay Leaders

3.7.0 No elder or deacon, because of the office, is to be shielded from investigation or discipline; nor is he or she, because of the prominence which the office gives, to be subjected to investigation on insignificant charges nor disciplined on slight grounds.

3.7.1 If, as a result of an investigation and hearing as provided in section 3.200, an elder or deacon has been found guilty of an error or offense that has caused great harm in the church or seriously compromised his or her ability to perform the duties of the office, regardless of any mitigating circumstances, he or she shall be suspended or deposed. The committee shall nevertheless express its hope that healing and reconciliation may be accomplished.

3.7.2 When an elder or deacon has been suspended or deposed, the committee shall continue to exercise pastoral care over the person, with the particular intention of bringing about reconciliation and restoration.

3.7.3 When an elder or deacon is suspended or deposed, or when the suspension or deposition has been removed, notice of the action shall be given to the congregation.

3.7.4 When an elder or deacon has been deposed, the action to remove the discipline renews the ordination and restores the office, but in order to serve in a congregation the person must be elected again.

3.8 Discipline of Ministers

3.8.0 A complaint of misconduct on the part of a minister should be reported to the stated clerk of the presbytery or a member of the disciplinary commission. The person who receives the complaint shall promptly communicate it to the chair of the disciplinary commission and the stated clerk.

NOTE: These rules recognize an important philosophical principle regarding a complaint: Once a complaint has been made, jurisdiction over the complaint belongs to the body (in this case, the presbytery or its subordinate bodies), and not to the individual who initially brought the complaint. A complaint will not result in a formal disciplinary hearing if the disciplinary commission, upon investigation, finds the complaint to be groundless. Conversely, if it appears that a member of the presbytery has engaged in misconduct, it is the duty of the presbytery, not the complainant, to see that the misconduct is stopped and appropriate discipline is imposed. These rules place the burden of going forward on a complaint on the disciplinary commission and the Judiciary Committee, not on the complainant. Any person with knowledge of a complaint should assist the complainant in getting the complaint to the attention of the proper authority.

3.8.1 Any charges made against a minister (the accused) shall be acted upon by the disciplinary commission only if they are in the form of a written document signed by the person making the charges (the complainant). The complainant may be a person who claims to be a victim of the conduct which is the basis for the complaint or another person who has reliable and compelling information about the conduct in the complaint. Whether or not the charges are written, the disciplinary commission or any other member of a presbytery may counsel with a minister to encourage and assist the minister to learn and grow spiritually.

3.8.2 No charges against a minister shall be considered if they are made more than two years after the alleged error or offense except as provided below. In the case of sexual misconduct or sexual harassment, the charges must be brought within ten (10) years after the alleged error or offense. In the case of the sexual abuse or molestation of a child, no time limit shall apply.

3.8.3 When the disciplinary commission has received charges affecting the Christian character of a person under the care of the presbytery, it shall investigate the charges and counsel with the minister accused. If the charges concern matters of potentially serious consequences, the disciplinary commission may at any time place limitations on the person's ministry or suspend the person from any position of ministry until the conclusion of the hearing and of any appeals. It shall be stated that the action taken is not a presumption of guilt but is a protective measure for the welfare of the church.

3.8.4 If the disciplinary commission, upon investigation, finds no basis for the charges, it shall close the matter and report that action to the accused, the complainant, and the Judiciary Committee. If the committee finds that there are grounds to believe that an offense was committed by the accused, and the accused acknowledges the error or offense and gives evidence of a sincere effort to correct the matter, the disciplinary commission shall so report to the Judiciary Committee and recommend appropriate disciplinary action. With the accuser's consent, the Judiciary Committee may impose disciplinary action without a formal disciplinary hearing. A record shall be made of the case, and the committee on ministry shall notify the complainant of the discipline imposed.

3.8.5 If the disciplinary commission, upon investigation, finds that there are grounds to believe that an offense was committed by the accused, but the accused has not acknowledged the error or offense, or does not consent to the proposed disciplinary action, the disciplinary commission shall name from one to three of its members to serve as representatives to bring the charges before the Judiciary Committee in a formal hearing. The disciplinary commission shall promptly provide a written report to the chair of the Judiciary Committee which includes the names of the commission's representatives, a statement of the charges, the information the commission obtained in its investigation, the commission's findings, and its recommendations for discipline.

3.8.6 The Judiciary Committee Shall Hold a Hearing to Determine Guilt, To Impose Discipline, or Both.

- a. Absent extraordinary circumstances, the hearing shall take place no sooner than fourteen (14) days nor more than thirty (30) days from the date the disciplinary commission makes its report. The chair of the Judiciary Committee shall give written notice of the hearing to the accused; the complainant; the members of the Judiciary Committee; the representatives of the disciplinary commission; and all witnesses requested by the accused or representatives of the disciplinary commission. The notice shall include the statement of the charges as framed by the disciplinary commission and shall state that the decision to conduct the hearing is not an indication that the accused is guilty of the offense.
- b. Written notice should be hand delivered or sent by first class mail to the last known address of the person entitled to notice. Written notice provided in some other manner is effective if actually received.
- c. The Judiciary Committee may postpone the hearing for good cause. The failure of the accused or the complainant to appear at the hearing shall not automatically cause a postponement.

3.8.7 The Hearing Shall be conducted as follows:

- a. The hearing shall be closed except to those persons entitled to notice of the hearing. The Judiciary Committee may determine whether to permit all of the witnesses to be present for the entire proceeding or to hear witnesses one at a time.
- b. The Judiciary Committee shall keep a complete recording of the hearing, either by audio recording, audio-video recording, or by a written transcript.
- c. The hearing shall be conducted by the chair of the Judiciary Committee or, if the chair is absent, by the vice chair or another member of the Judiciary Committee. The chair shall charge all those present to remember the purpose of discipline in the church as stated in Section 1.1.
- d. The statement of charges submitted by the disciplinary commission shall be reviewed.
- e. The list of witnesses shall be reviewed. Any person may challenge whether a witness is competent to provide evidence. The Judiciary Committee shall be the final judge of whether a witness is competent to provide evidence and whether any evidence offered is relevant to the proceeding.
- f. The accused may give a brief statement in response to the charges.
- g. Testimony and other evidence against the accused shall be received first, followed by testimony and other evidence on behalf of the accused. Testimony should be offered in a manner consistent with the purposes of discipline, and not in a bitter or retaliatory spirit;

- h. The chair shall provide an opportunity for the accused, the representatives of the disciplinary commission, or members of the Judiciary Committee to question each witness and any other evidence. The moderator may disallow any question which is frivolous, irrelevant, or otherwise inappropriate, but the chair's ruling may be appealed to the Judiciary Committee.
- i. The accused or the representatives of the disciplinary commission may challenge the right of any member of the Judiciary Committee to speak or vote on the grounds of personal prejudice, including undue personal interest in the matter. All challenges shall be decided by the Judiciary Committee.
- j. A final statement may be made by the representatives of the disciplinary commission and/or the complainant and the accused, but the accused shall have the right to speak last.
- k. Only the members of the Judiciary Committee shall be present during, and participate in, the deliberation of the case. All of the evidence shall be weighed and evaluated.
- l. The Judiciary Committee shall vote on the following question: "According to the evidence presented, is it more likely that the accused is guilty or not guilty of the charge(s) made against him or her?" The accused shall be found not guilty unless a majority of those members of the Judiciary Committee who are present and voting shall find the accused guilty.

3.8.8 If The Accused is Found Not Guilty

- a. The chair shall report the decision to the accused, the complainant, and the representatives of the disciplinary commission. The chair shall remind those present of the gravity of disciplinary proceedings, the nature of the church as a fellowship of reconciliation, and the responsibility of all Christians to act toward each other in the spirit of repentance and forgiving love.
- b. The Judiciary Committee shall make a report to the presbytery as follows: "The Judiciary Committee considered charges brought against [name of accused]. After an investigation and hearing, the committee found [name of accused] not guilty of the charges."

3.8.9 If The Accused is Found Guilty

- a. The Judiciary Committee shall determine the discipline under which he or she shall be placed. If the error or offense has caused great harm in the church and seriously compromised his or her ability to perform the duties of the office, regardless of any mitigating circumstances, he or she shall be suspended or deposed.
- b. When the nature of the discipline has been determined, the chair shall announce the decision and the discipline to the accused, the complainant, and the representatives of the disciplinary commission. Any discipline imposed shall take effect immediately unless the Judiciary Committee directs otherwise.

- c. The chair shall urge the minister placed under discipline to respond to the decisions in prayer and self-examination and to make such efforts as are possible to remedy the error or offense.
- d. The chair shall remind those present of the gravity of disciplinary proceedings, the nature of the church as a fellowship of reconciliation, and the responsibility of all Christians to act toward each other in the spirit of repentance and forgiving love.
- e. The Judiciary Committee shall make a report to the presbytery in a closed meeting attended only by the committee and the members of presbytery, except that the complainant and the accused shall have the opportunity to address the presbytery in the meeting. The report shall include the name of the accused, the charges of which he or she was found guilty, and the discipline imposed. Appropriate care shall be taken to protect the name or identity of any victim. The action of the Judiciary Committee shall be final unless the presbytery, by a two-thirds vote shall appoint a new commission to review the finding of guilt, the discipline imposed, or both. If a new commission is appointed, it shall review the decision of the Judiciary Committee using the rules applicable to an appeal.

NOTE: There are several reasons why a two-thirds vote of the presbytery is required to overturn the decision of the Judiciary Committee. The presbytery has vested its authority in the Judiciary Committee. Rescinding the committee's decision is treated like a motion to rescind, which requires a two-thirds vote (see Rules of Order sec. 8.35b). Most presbyteries have considered it wise not to address disciplinary matters on the floor of presbytery for several reasons (including the press of time, the need to protect a victim's privacy, concern about defamation or other legal liabilities, and the fact that, especially for larger presbyteries, presbyterial meetings do not lend themselves well to conducting hearings). An appeal can proceed directly to the next highest judicatory without the delay inherent in waiting for the presbytery to meet.

- a. If, after a disciplinary hearing has been held, new evidence is discovered that could alter the decision that was made, the minister under discipline may ask the Judiciary Committee to conduct a supplemental hearing. If the Judiciary Committee determines that a new hearing should be held, only evidence not already presented may be offered at the new hearing.
- b. No minister, because of the office, shall be shielded from investigation or discipline; nor shall he or she, because of the prominence which the office gives, be subjected to investigation on insignificant charges nor disciplined on slight grounds.
- c. If a minister habitually fails to engage in some form of ministry approved by the presbytery as described in the Constitution, it shall be the duty of the presbytery to inquire into the reasons for such failure and to take such action as may be proper.
- d. When a minister has been suspended or deposed, the presbytery shall continue to exercise pastoral care over the person and shall confer with the person about his or her continuing church relation.

- e. A minister who has been suspended or deposed may be restored only at his or her request. If there appears to be sufficient evidence to warrant restoring the minister, the Judiciary Committee may conduct a hearing to consider such action. The minister may be restored only if the Judiciary Committee finds on the basis of sufficient and reliable testimony or other evidence that (i) the person has, over a satisfactory period of time, exhibited repentance for the error or offense; (ii) the person has taken steps to correct the matter; (iii) the person is unlikely to commit the error or offense again; and (iv) the person is fit for ministry in the Church. Restoring a minister who has been deposed renews his or her ordination and restores the office.
- f. When a minister is suspended he or she shall not perform the duties of the office in any church during the time of suspension. Any church which he or she is serving as pastor shall be notified of the suspension. Any church, aware of the suspension, and which permits the minister to perform the duties of the office in its bounds during the time of suspension, becomes liable to discipline.
- g. When a minister is suspended, the presbytery may, at its discretion, dissolve the pastoral relationship which he or she has with any church in its bounds.
- h. When a minister is deposed he or she shall not perform the duties of the office in any church. Any church which he or she is serving as pastor shall be notified, and the presbytery shall dissolve the pastoral relationship. Any church which is aware of the act of deposing, and which permits the minister to perform the duties of the office in its bounds, becomes liable to discipline.
- i. When a minister has been suspended or deposed, the clerk shall send a notice to the clerks of all other presbyteries stating that the person was found guilty of a serious error or offense and deposed. When a minister has been restored, the clerk shall send a notice to the clerks of all other presbyteries stating that the person has been restored.

3.9 Appeals Regarding the Discipline of Persons

3.9.0 An appeal of a disciplinary action removes the case to the next higher judicatory. An appeal of any disciplinary action of a lower judicatory must be filed within thirty (30) days after the decision of the committee, the presbytery's Judiciary Committee, or the synod's Judiciary Committee, whichever shall apply. If no appeal of a judicatory's action is filed in a timely manner, the action of the lower judicatory shall be final.

NOTE: An appeal may be filed long before the disciplinary action has been reported to the full presbytery or synod. If the presbytery or synod votes to reconsider the disciplinary decision which has been made on its behalf, the appeal is dismissed in order to give the lower judicatory the opportunity to make a final decision. Once an appeal has been decided by a higher judicatory, it is too late for the lower judicatory to undertake a reconsideration of its own decision.

3.9.1 If a lower judicatory whose action is being appealed votes to reconsider its decision, the appeal shall be dismissed and the matter sent back to the lower judicatory. When the lower judicatory has completed its reconsideration and taken a final action on the matter, that action may be the subject of a new appeal.

3.9.2 Proper grounds for appeal are: the lower judicatory failed to follow the proper procedures; the lower judicatory committed an error or injustice in the decision; or the lower judicatory acted contrary to the Constitution or other rules of the church.

3.9.3 An appeal of a matter regarding the discipline of persons may be made by the complainant or an accused who has been found guilty of an offense or error. A disciplinary decision of a presbytery's Judiciary Committee may also be appealed by the presbytery's disciplinary commission.

3.9.4 An appeal is begun by filing a notice of appeal with the stated clerk of the next higher judicatory. The notice of appeal shall include information sufficient to identify the person making the appeal, the body which issued the ruling from which the appeal is taken, the grounds for the appeal, and that portion of the decision below which is being appealed.

3.9.5 The stated clerk shall promptly forward a copy of the appeal to the chair of the judicatory's standing Judiciary Committee. The appeal shall go forward unless the stated clerk and the chair of the Judiciary Committee find that the appeal fails to meet the criteria for a proper appeal, in which case the appeal shall be dismissed. If the appeal is dismissed, the stated clerk shall write a letter to the person who filed the appeal explaining why the appeal was dismissed. If the appeal is permitted to go forward, the chair of the Judiciary Committee shall obtain the record of the full hearing held by the committee or the Judiciary Committee, whichever shall apply.

3.9.6 The Proper Parties To An Appeal Are As Follows:

- a. In an appeal from the action of a committee, the accused and the complainant.
- b. In any other appeal, the accused, the complainant, and the presbytery's disciplinary commission.
- c. The party which files the appeal shall be the appellant, and all other parties shall be considered respondents.

3.9.7 The appeal shall be considered by the Judiciary Committee of the higher judicatory, which shall hold an appeal hearing as soon as practical after the receipt of the appeal.

- a. Written notice of the appeal hearing shall be provided to the accused, the complainant, the presbytery's disciplinary commission, and the members of the Judiciary Committee hearing the appeal.
- b. The notice shall include the date, time, and place of the appeal hearing; the names of the accused and the complainant; the statement of the charges which were the subject of the hearing below; the decision reached by each lower judicatory which has considered the matter; the name of the party who appealed; the grounds for the appeal; and describe the portion of the decision below which is being appealed.
- c. Written notice should be hand delivered or sent by first class mail to the last known address of the person entitled to notice. Written notice provided in some other manner is effective if actually received.
- d. The Judiciary Committee may postpone the appeal hearing for good cause. The failure of any party to appear at the hearing shall not automatically cause a postponement.

3.9.8 The appeal hearing according to the following rules.

- a. The Judiciary Committee shall review the record of the hearing below, either during or shortly before the appeal hearing.
- b. The Judiciary Committee shall hear first from the appellant, who shall explain why the action of the lower judicatory was flawed or incorrect. The Judiciary Committee shall then hear from the respondent or respondents. The appellant shall then be entitled to make a closing statement.
- c. The appeal hearing shall be conducted entirely on the record of the proceedings below unless the Judiciary Committee shall request additional evidence or information. The appeal hearing may be continued in order that the additional information or evidence may be obtained.
- d. Only the members of the Judiciary Committee shall be present during, and participate in, the deliberation of the appeal.

3.9.9 The Judiciary Committee shall rule against the appeal unless the appellant shows both:

- a. the lower judicatory failed to follow the proper procedures; committed an error or injustice in the decision; or acted contrary to the Constitution or other rules of the church; and
- b. the improper action by the lower judicatory had a significant affect on the final decision in the case.

3.9.10 If the Judiciary Committee rules against the appeal, the ruling of the lower judiciary shall stand. The appellant shall have a right of appeal to the next higher judiciary, if any.

3.9.11 If the Judiciary Committee rules in favor of the appeal, it may reverse the action appealed in whole or in part; remit the case to the lower judiciary for the purpose of amending an incorrect or defective record; or direct the lower judiciary to reconsider the action appealed.

3.9.12 The Judiciary Committee shall make a report directly to its judiciary which states: that an appeal was made, the parties to the appeal (except that appropriate care shall be taken to protect the name or identity of any victim), the grounds for the appeal, and the disposition of the appeal. The Judiciary Committee's disposition of the appeal shall be final unless the judiciary, by a two-thirds vote, shall appoint a new commission to review the appeal. If a new commission is appointed, it shall review the decision of the lower judiciary using the rules applicable to an appeal.

NOTE: Because the Judiciary Committee's action is the act of a commission, the report of its action should go directly to the judiciary and should not pass through or be made to a committee of the judiciary.

4.00 Discipline of Judicatories

4.0 Every decision made by any judicatory, except the General Assembly, is subject to review by the next highest judicatory and may be brought before it by general review and control, appeal, or protest.

4.1 Persons who are members of a judicatory whose actions are the subject of appeal or protest shall not be eligible to serve on a committee or commission of the higher judicatory dealing with the appeal or protest; nor shall such persons, if members of the higher judicatory, be eligible to vote on any motions related to the appeal or protest.

4.2 General Review and Control

Every judicatory above the committee shall, at stated intervals as prescribed, review the proceedings of the judicatory next below. If any judicatory shall fail to send its records to the next highest judicatory for this purpose, it may be ordered to do so immediately or on a specified date, or else face disciplinary action.

In reviewing the records of a lower judicatory, it is proper to examine whether:

- a. The proceedings have been correct;
- b. The proceedings have been wise and equitable and for the edification of the church;
- c. The proceedings have been correctly recorded; and
- d. The directives of the higher judicatories have been obeyed.

4.3 Generally, the higher judicatory shall record in its minutes the approval of the record or any action it considers appropriate with regard to any errors or irregularities that were found. It shall make an entry of the same in the records under review. In addition, if any action is taken, it shall send a communication to the clerk of the judicatory whose records were under review, listing the errors or irregularities and indicating the corrective action that is to be taken. In reviewing the record of disciplinary actions against persons, no action of a lower judicatory shall be altered or reversed, unless regularly brought up by appeal.

4.4 Should a judicatory neglect to perform its duty, and thereby allow false doctrine or immorality to develop, offenders to go undisciplined, or other great irregularities to occur and not be properly recorded, the higher judicatory being aware by other means that such neglect or irregularity has occurred, shall make inquiry into and shall examine, deliberate, and decide the entire matter as if it had been recorded, and thus brought up by review and control.

4.5 When a judicatory has been advised by the records of a constituent judicatory, by resolution, or by any other satisfactory means of any important neglect, error, or irregularity of its proceedings, it may cite the lower judicatory to appear through a representative or in writing to explain what it has done or failed to do in the matter in question. Except in disciplinary cases, after full investigation the actions of a lower judicatory may be reversed in part or as a whole; or the matter may be referred back to the lower judicatory with instructions that it be reconsidered and corrective action taken. If the explanations of the lower judicatory are satisfactory and it is able to show that the matter is not of serious consequence, the review may be terminated with a caution to exercise greater care in future actions.

5.0 Appeals

5.1 The following rules apply to appeals of a disciplinary action by a judicatory concerning a constituent body and appeals of all non-disciplinary actions. An appeal removes a case already decided from a lower to the next higher judicatory.

5.2 Proper grounds for appeal are: the lower judicatory failed to follow the proper procedures; the lower judicatory committed an error or injustice in the decision; or the lower judicatory acted contrary to the Constitution or other rules of the church.

5.3 An appeal is begun by filing a written notice of appeal with the stated clerk of the next higher judicatory. The notice of appeal shall include information sufficient to identify the person(s) or judicatory making the appeal, the action which is being appealed, the judicatory which took the action which is being appealed, the grounds for the appeal, and that portion of the action below which is being appealed. Notice of appeal by a person or persons must be given within ten days of the action being appealed. Notice of appeal by a judicatory must be given within sixty days following the date of the action it wishes to appeal.

5.4 An appeal of a disciplinary action by a judicatory of one of its constituent judicatories may be made by any member of the higher judicatory, provided it is signed by one-third of those present and voting when the disciplinary action was taken; or it may be authorized by an action of the judicatory that is the subject of the discipline. The appeal suspends the disciplinary action until the appeal is finally decided.

5.5 An appeal of any and all non-disciplinary actions of a judicatory may be made by any person who is a member of the Cumberland Presbyterian Church/Cumberland Presbyterian Church in America, but it shall not suspend the action until the appeal is finally decided, except in the following cases, and then only if the appeal is signed by one-third of the members of the judicatory who were present and voting at the time the action was taken:

- a. The ordination of a minister;
- b. The action of a presbytery to unite, divide, or dissolve particular churches;
- c. The action of a synod to unite, divide, or dissolve any of its presbyteries.

5.6 The Proper Parties To An Appeal Are As Follows:

- a. The person(s) or judicatory which filed the appeal, which shall be the appellant.
- b. The judicatory which is alleged to have committed the error or offense, which shall be the respondent.

5.6 If the appeal has been properly and timely made, an appeal hearing shall be held as soon as practical after the receipt of the appeal. The appeal hearing shall be conducted by the higher judicatory or by a commission it appoints for that purpose.

- a. Written notice of the appeal hearing shall be provided to the appellant, which shall be directed to the stated clerk if the appellant is a judicatory; to the stated clerk of the respondent; and to the members of the judicatory or commission which is hearing the appeal. The notice shall include the date, time, and place of the appeal hearing and shall include a copy of the notice of appeal filed by the appellant.
- b. Written notice should be hand delivered or sent by first class mail to the last known address of the person entitled to notice. Written notice provided in some other manner is effective if actually received.
- c. The judicatory or commission hearing the appeal may postpone the appeal hearing for good cause. The failure of any party to appear at the hearing shall not automatically cause a postponement.
- d. 4.208 The appeal hearing shall be conducted according to the following rules.
- e. The judicatory or commission hearing the appeal shall confirm that the appeal was properly and timely filed.
- f. The record of the action being appealed shall be reviewed.
- g. The appellant (or a representative of the appellant if the appellant is more than one person or a judicatory) shall be called upon to explain the error or offense of the lower judicatory. The respondent shall have an opportunity to defend the action, or failure to act, of the lower judicatory. The appellant shall then be entitled to make a brief closing statement.
- h. The body hearing the appeal may request additional evidence or information. If necessary, the appeal hearing may be continued in order that the additional information or evidence may be obtained.
- i. Only the members of the judicatory or commission hearing the appeal shall participate in the deliberation of the appeal.

5.7 The appeal shall be denied unless the appellant shows the lower judicatory failed to follow the proper procedures; or committed an error or injustice in the decision; or acted contrary to the Constitution or other rules of the church.

5.8 If the appeal is denied, the action of the lower judicatory shall stand. The appellant shall have an immediate right of appeal to the next higher judicatory, if any. If the appellant fails to pursue another appeal in a timely manner, the appeal shall be regarded as abandoned and the action or decision appealed from shall be final.

5.9 If the judicatory or commission hearing the appeal rules in favor of the appeal, it may reverse the action appealed in whole or in part; remit the case to the lower judicatory for the purpose of amending an incorrect or defective record; or direct the lower judicatory to reconsider the action appealed. If the action of the lower judicatory is of such a nature that it cannot be corrected, the lower judicatory may be admonished.

6.0 Dissents and Protests

6.1 A dissent is a declaration unaccompanied by reasons by one or more members of a minority of a judicatory, expressing a different opinion from that of the majority as to a particular matter. If stated in temperate language, the dissent shall be noted in the records of the judicatory, together with the names of the persons dissenting.

6.2 A protest is a declaration accompanied by reasons by one or more members of a minority of a judicatory, expressing a different opinion from that of the majority, as to a particular matter. If stated in temperate language, the protest with its reasons shall be entered in the records, together with the names of the persons protesting.

6.3 When a protest is lodged by any member of a judicatory, the judicatory may respond to the reasons given in the protest.

6.4 The higher judicatory shall take cognizance of all protests appearing upon the records passing under its review. The higher judicatory may, but need not, take any other action with respect to a protest.