

## Book of Discipline Proposed Revision (May 2026)

### General Notes

The first draft of a proposed revision to the Book of Discipline was presented to the 45<sup>th</sup> General Assembly and made available in October 2025 to all who wanted to review and comment. The Task Force received responses from 44 people and carefully reviewed over 325 individual comments. Many were incorporated in this draft submitted to the National Leadership Team and then to the Permanent Judicial Commission as required by Book of Government 21-3D.2. This final draft includes the input of the Permanent Judicial Commission.

The following proposed revision of the EPC *Book of Discipline* is presented in a 3-column format. The left-hand column is the current text of the *Book of Discipline*. The middle column is the proposed revision. The right-hand column has the rationale for the proposed changes.

For ease of comparison, the location of some sections of the current *Book of Discipline* has been changed. Those sections are indicated in *italics* in the “Current *Book of Discipline*” column.

In the proposed revision, all cross references to the **Book of Order** have been moved to footnotes. Amendments to the **Book of Order** sometimes necessitate changes to cross references. Footnotes may be easily changed in the editorial process without requiring additional amendments.

#### Abbreviations

**G** – Book of Government

**D** – Book of Discipline

**W** – Book of Worship

Following the 3-column presentation there is a “clean” copy of the proposed revision to the *Book of Discipline* for ease of reading. The Task Force has sought to produce an easier to follow and understand version of the Book of Discipline. Please review the attached draft to see if the Task Force has met its goal.

The Task Force is asking the 46<sup>th</sup> General Assembly to receive and vote on the document, acknowledging that amendments may be made by the process established in the Book of Government. This procedure has been followed four times in the past when approving significant revisions to the **Book of Order**.

Thank you for your input,

Book of Discipline Revision Task Force

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May 6, 2006

## **Digest of Changes in the Proposed Revision to the Book of Discipline**

### **Substantive Changes**

1-6B – Abuse has been added as one aspect of immorality.

One of the grounds for discipline is immorality, defined as “conduct inconsistent with the biblical standards for conduct as a ground for discipline.” Immorality includes but is not limited to: “bickering, brawling, debauchery, drunkenness, gossiping, hatred, idolatry, impurity, slander, and sexual immorality such as adultery, fornication, homosexual practice, and bestiality. One reason for forming the Task Force to review the Book of Discipline was the recognition that the instances of abuse are rising and the issue was not sufficiently addressed in the current Book of Discipline. The proposed revision adds “abuse” as an example of immorality, defining it as “the sinful use of power to harm, intimidate, exploit, or dominate another person.” In situations where abuse is the specific type of immorality being charged, the proposed revision gives Sessions and Presbyteries discretion in granting exceptions to the general requirement of going privately to a person when the person experiencing the harm would be in danger of further harm.

1-3D – “Protect those harmed by the sin of others” has been added as one of the purposes of discipline. It was added because of the increased concern regarding abuse, but ranges beyond that. It is the only purpose of discipline listed that relates to the church’s pastoral concern for those who have been harmed.

5-7C.4(c) – Requirements for forming judicial commissions in a local church have been added. The current Book of Discipline is silent on the matter. The new provisions allow for (but do not require) Pastors and Associate Pastors to be part of local church judicial commissions.

11-2A – The sanction of admonition has been renamed as “reprimand.”

The term “admonition” has been problematic in the discipline process. It is a biblical term and should be used and practiced as we encourage each other to press forward in our discipleship. For clarity, the proposed revision uses “reprimand” a separate term reserved for the time when an offender has been found guilty, and a sanction has been imposed.

11-5A – The sanction of removal from office is defined as the “offender’s ordination is permanently revoked, thus removing the offender from the office of Teaching Elder, Ruling Elder, or Deacon.” This clarifies the distinction between suspension, in which ordination is set aside for a time, and removal, which permanently revokes ordination. Once removed from office, there is no “restoration” because the person is no longer ordained. While it would be possible to become elected and ordained again, it would be a new process, not a “restoration.” If future restoration to office seems possible, church courts should use the sanction of indefinite suspension rather than removal from office.

Chapters 13-15 – The processes for appeal, complaint, dissent, and protest have been clarified. Appeals are for decisions related to actions for discipline. Complaints are for acts of a church court that are non-disciplinary in nature.

**Examples of terminology changes** to remove technical and/or confusing language.

- “Actions for Discipline” replaces “Ecclesiastical Judicial Procedures.”
- “Church courts in ascending order” replaces “church courts in regular gradation.”
- “Compelling evidence warranting a trial” replaces “strong presumption of guilt.”
- “Temporary Moderator” replaces “Moderator *pro tem*.”

**Reorganization** for a better flow of thought

A consistent criticism of the current *Book of Discipline* is that it is difficult to follow the process. One must go from chapter to chapter to understand all that is said on a particular topic. The proposed revision significantly re-organizes the content of the *Book of Discipline* so that the reader can follow the process from beginning to end in order. This is particularly noticeable in proposed chapter 1 and in chapter 5 (which brings together elements found in current chapters 6, 7, 8, and 10).

The proposed revision recognizes that people typically refer to the Book of Discipline only when the need arises and that they are unfamiliar with or have limited memory of its contents. The proposed revision includes numerous cross references to help the reader find sections that address a particular topic, define a term, or describe a process.

**Style**

- Unnecessary gender-specific pronouns have been removed.
- Longer paragraphs have been enumerated for easier navigation and reference.
- Sections of the current *Book of Discipline* in *italics* indicate that the section has been moved to a new location in the proposed revision.
- Words or sentences with ~~highlight and strikethrough~~ in the current *Book of Discipline* indicate deletion or replacement by new wording in the proposed revision.
- Words or sentences **highlighted** in the proposed revision indicate new wording.
- “Church” (capitalized) refers to the Universal Church whereas “church” refers to the local church or denomination.

## Chapter 1 - Proposed Book of Discipline Revision

Current Chapter 1	Proposed Chapter 1	Rationale
<p data-bbox="134 217 695 277">— 1 — DISCIPLINE: ITS NATURE, SUBJECTS, AND PURPOSE</p> <p data-bbox="109 378 554 407"><b>1-1 Definition of Church Discipline</b></p> <p data-bbox="180 412 716 824">There are two kinds of authority vested in the church; the responsibility of order and the authority of jurisdiction. Both kinds of authority are given the church by the Lord Jesus Christ to instruct and guide her members and to promote her purity and welfare. Discipline is the exercise of the responsibility of order, particularly in regard to the reproofing of the erring. As the exercise of such authority may adversely affect the membership rights of an individual who has been accused of an offense, the authority requires the use of ecclesiastical judicial procedures.</p> <p data-bbox="180 992 716 1117">The word “discipline,” when used in the Book of Discipline, chapters 1-11, shall therefore refer to the use of ecclesiastical judicial procedures.</p>	<p data-bbox="768 217 1329 277">— 1 — DISCIPLINE: ITS NATURE, PURPOSE, AND SUBJECTS</p> <p data-bbox="743 378 1188 407"><b>1-1 Definition of Church Discipline</b></p> <p data-bbox="772 412 1329 467"><b>A.</b> There are two kinds of authority vested in the church:</p> <ol data-bbox="827 472 1192 537" style="list-style-type: none"> <li>1. The Responsibility of Order<sup>1</sup></li> <li>2. The Authority of Jurisdiction<sup>2</sup></li> </ol> <p data-bbox="772 570 1346 889"><b>B.</b> Both kinds of authority are given the church by the Lord Jesus Christ to instruct and guide her members and to promote her purity and welfare. Discipline is the exercise of the Responsibility of Order, particularly regarding “reproofing the erring.”<sup>3</sup> As the exercise of such authority may adversely affect the membership rights<sup>4</sup> of an individual who has been accused of an offense, the authority may require utilizing actions for discipline.</p> <p data-bbox="772 992 1329 1052"><b>C.</b> The word “discipline,” when used in this <i>Book of Discipline</i> refers to actions for discipline.<sup>5</sup></p>	<p data-bbox="1381 217 1976 375">Chapter title changed to correspond to the proposed new order of the chapter. Little has been amended in proposed Chapter 1, but it has been significantly re-ordered to achieve clarity and better flow of thought.</p> <p data-bbox="1381 412 1976 537">Sections of current 1-1 are enumerated in the Revision for clarity and for ease of reference. Capitalization used for consistency with the Book of Government (3-2 and 3-3).</p> <p data-bbox="1381 704 1976 792">“Regarding” is more concise than “with regard to.” Quotation marks added to indicate quotation of G.3-2.</p> <p data-bbox="1381 834 1976 954">The final sentence has been edited for conciseness. “Actions for discipline” has been substituted for “ecclesiastical judicial procedures” throughout for clarity of language.</p> <p data-bbox="1381 992 1976 1117">“Ecclesiastical judicial procedures” has been changed to “actions for discipline” for simplicity of language and internal consistency (see proposed chapter 5).</p>

<sup>1</sup> G.3-2 “The officers’ Responsibility of Order includes especially the sharing of the gospel, reproofing the erring, visiting the sick, and otherwise exhibiting to the world the fruit of the Spirit.” See G.3-2 for the full reference.

<sup>2</sup> G.3-3 “The Authority of Jurisdiction is the authority to rule and is exercised jointly in ascending Church courts.” See G.3-3 for the full reference.

<sup>3</sup> G.3-2

<sup>4</sup> Active members (G.8-3B) have the right to vote in congregational meetings (G.7-7), the right to receive the sacraments in a worthy manner (W3-3, W3-3), the right to hold office if elected and approved for ordination (G.10), and the benefits of discipline (D.1-5A). These rights could be removed by properly imposed sanctions (D.11).

<sup>5</sup> See *Book of Discipline* Chapter 5.

Current Chapter 1	Proposed Chapter 1	Rationale
<p>Church discipline does not supersede or negate the legal responsibility to report cases of suspected abuse to civil authorities according to local and state requirements.</p> <p><b>1-7 Definition of “Church”</b>  <i>As used in this Book of Discipline, the word “church” shall refer to the Evangelical Presbyterian Church, including her General Assembly, Presbyteries (including mission churches), and local churches.</i></p> <p><b>1-5 Purpose of Discipline</b>  <i>The purpose of discipline is to maintain the honor of God, to restore the sinner, and to remove offense from the church. Teaching Elders must instruct the officers and congregation in the use of discipline and jointly practice it in the context of the congregation and courts of the church.</i></p> <p><b>1-6 Basis of Discipline</b>  <i>As the revelation of God’s holy will, Scriptural law is the basis of all discipline. Therefore, proper disciplinary principles as set forth in the Scriptures must be followed before any charge alleging a personal offense can be brought before a court of the church.</i></p> <p><i>When a charge of personal offense is brought before any court of the church, the party bringing the charge must include a <del>ex</del> statement detailing how the principles outlined</i></p>	<p><b>D.</b> Church discipline does not supersede or negate the legal responsibility to report cases of suspected abuse to civil authorities according to local and state requirements.</p> <p><b>1-2 Definition of “Church”:</b>  <i>As used in this Book of Discipline, the word “church” shall refer to the Evangelical Presbyterian Church, including her General Assembly, Presbyteries (including mission churches), and local churches.</i></p> <p><b>1-3 Purpose of Discipline</b>  The purpose of discipline is to: A. Maintain the honor of God,  B. Restore the sinner,  C. <b>Protect those harmed by the sin of others,</b><sup>6</sup>  D. Remove offense from the church.</p> <p>Teaching Elders must instruct the officers and congregation in the use of discipline and jointly practice it in the context of the congregation and courts of the church.</p> <p><b>1-4 Basis of Discipline</b>  A. As the revelation of God’s holy will, Scriptural law is the basis of all discipline. Therefore, proper disciplinary principles as set forth in the Scriptures must be followed before any charge alleging a personal offense can be brought before a court of the church.</p> <p>B. When a charge of personal offense<sup>7</sup> is brought before any court of the church, the party bringing the charge must <b>ordinarily</b> include a <b>statement</b> detailing how the principles outlined in Matthew 18:15 and Galatians 6:1</p>	<p>Text of current 1-7 has been moved to proposed 1-2 for better flow of thought.</p> <p>Text of current 1-5 has been moved to proposed 1-3 for better flow of thought. Sections are enumerated for clarity. Proposed addition of 1-3.C recognizes the need to include the topic of abuse in the <i>Book of Discipline</i>. The proposed language includes abuse but applies to other offenses as well. See proposed D.1-6C for an example of a way a person may be protected from harm. Further refinement to the Book of Discipline will be needed as additional committees deal with this topic.</p> <p>Text of current 1-6 has been moved to proposed 1-4 for better flow of thought. Sections have been enumerated for clarity and easier reference.</p> <p>Typo in current 1-6 (“ex statement”) is corrected here. See footnote for rationale for the additions.</p>

<sup>6</sup> See G.9-5A.2

<sup>7</sup> Proposed D.4-2A

Current Chapter 1	Proposed Chapter 1	Rationale
<p><i>in Matthew 18:15 and Galatians 6:1 have been met.</i></p> <p><i>If anyone has evidence to suggest that a Teaching Elder may be guilty of a private offense, he should warn <del>him</del> in private. But if the offense persists, or becomes public, he should bring the case to the attention of <del>some other</del> Teaching Elder of the Presbytery.</i></p> <p><b>1-4 Persons Subject to Discipline</b>  <i>All active and inactive members of the church, confirmed, baptized, and affiliate, are entitled and subject to the benefits of discipline.</i></p> <p><i>All Teaching Elders are subject to discipline. <del>Accordingly</del>, no Teaching Elder should be shielded from discipline or lightly sanctioned on account of <del>his</del> office. Neither should serious charges be received against <del>him</del> on <del>slight</del> grounds.</i></p> <p><b>1-2 Grounds for Discipline</b>  <i>Not everything displeasing to God is a ground for discipline. The offenses that require</i></p>	<p>have been met. The court may waive this requirement if it deems that confronting the offender would be inappropriate or otherwise inadvisable.<sup>8</sup></p> <p>C. If anyone has evidence to suggest that a Teaching Elder may be guilty of a private offense,<sup>9</sup> <del>the Teaching Elder should be warned privately.</del> But if the offense persists, or becomes public, <del>the matter should be brought to another Teaching Elder of the Presbytery or the Ministerial Committee.</del></p> <p><b>1-5 Persons Subject to Discipline</b></p> <p>A. All active and inactive members of the church confirmed, baptized, and affiliate, are entitled and subject to the benefits of discipline.</p> <p>B. All Teaching Elders are subject to discipline. Teaching Elders should not be shielded from discipline or lightly sanctioned on account of their office. Neither should serious charges be received against a Teaching Elder on <del>insubstantial</del> grounds.</p> <p><b>1-6 Grounds for Discipline</b>  Not everything displeasing to God is a ground for discipline. Additionally, all Christians are prone to acts of infirmity which should be</p>	<p>See footnote 8 for rationale for the waiving the Matt 18/Gal 6 requirement in some situations.</p> <p>Gender specific pronoun is unnecessary in this context</p> <p>“Ministerial Committee” has been added because in some cases, the accuser may not have reasonable access to another Teaching Elder or perhaps only to a TE working under the authority of the TE being accused. The Ministerial Committee already has responsibility and authority over TEs and, as a group, is better able to respond as a neutral source.</p> <p>Text of current 1-4 has been moved to proposed 1-5 for better flow of thought. For clarity, the two subjects of this section have been split into sections A and B.</p> <p>For conciseness, the word “Accordingly” in current 1-4 has been deleted.</p> <p>Gender specific pronouns deleted in the Proposed Revision.  “Slight” has been changed to “insubstantial” for clarity. “Insubstantial” suggests “inadequacy or lack of significance.</p> <p>Text of current 1-2 moved here for better flow of thought.</p>

<sup>8</sup> Waiving these requirements has in view a situation where a one-on-one meeting of the accuser with the accused may carry a high potential of physical harm, intimidation, or coercion of the accused or be otherwise inadvisable. The Court may make that determination as it sees fit.

<sup>9</sup> Proposed D.4-3A

Current Chapter 1	Proposed Chapter 1	Rationale
<p><i>discipline and are subject to ecclesiastical judicial procedures are as follows:</i></p> <p>A. Heresy.  <b>1-9 Definition of “Heresy”</b>  <i>Heresy is the expressed or implied denial, openly taught and obstinately maintained, of one or more of the essential doctrines of Christianity.</i></p> <p>B. Immorality.  <b>1-10 Definition of “Immorality”</b>  <i>Immorality is conduct inconsistent with the biblical standards for conduct, including but not limited to bickering, brawling, debauchery, drunkenness, gossiping, hatred, idolatry, impurity, slander, and sexual immorality such as adultery, fornication, homosexual practice, and bestiality.</i></p>	<p>amended but do not require discipline. The offenses that require discipline and are subject to actions for discipline are as follows:</p> <p>A. <b>Heresy:</b> the expressed or implied denial, openly taught and obstinately maintained, of one or more of the essential doctrines of Christianity.</p> <p>B. <b>Immorality:</b> conduct inconsistent with the biblical standards for conduct, including but not limited to bickering, brawling, debauchery, drunkenness, gossiping,<sup>10</sup> hatred, abuse, idolatry, impurity, slander, and sexual immorality such as adultery, fornication, homosexual practice, and bestiality.</p> <ol style="list-style-type: none"> <li>1. Abuse is the sinful use of power or position to harm, intimidate, exploit, or dominate another person.<sup>11</sup></li> <li>2. In cases charging possible abuse, a court may make reasonable accommodations to protect vulnerable parties from possible harm or distress provided that such accommodations do not interfere with the rights of the accused to present an unhindered defense. Any such accommodations may not be used as evidence of abuse in any trial, mediation, implementation of sanctions, or other action of the court.</li> </ol>	<p>“Acts of infirmity” is terminology from current 11-2. It has been moved and explained in proposed 1-6. “Actions for discipline” has been substituted for “ecclesiastical judicial procedures” throughout for simplicity of language.</p> <p>Definitions of contempt, heresy, and immorality currently in 1-8, 1-9, and 1-10 are included in proposed 1-6 for better flow of thought.</p> <p>The inclusion of “abuse” in proposed 1-6B is in response to concerns that the current <i>Book of Discipline</i> does not sufficiently address this increasingly pressing issue. Feedback on the proposed revision was strongly in favor of including abuse as a category of immorality rather than as a separate “ground for discipline.” The definition of “abuse” in proposed 1-6B.1 was supplied by a select task force of the National Leadership Team. Additional work needs to be done on this topic by General Assembly Committees and may require future amendments to the Book of Discipline. committees on this topic provide a different definition, this section may be amended.</p> <p>Proposed 1-6B.2 has been added in recognition that there are some situations, especially involving abuse, where the general rule of going privately to the individual has a strong potential to inflict greater harm rather than healing. The court should have discretion to allow exceptions to the general rule in such cases.</p>

<sup>10</sup> The terms “bickering and “gossiping” as used herein are intended to deal with those acts that are disruptive to the peace and unity of the church.

<sup>11</sup> See **Westminster Larger Catechism** questions 129, 130 & 151.

Current Chapter 1	Proposed Chapter 1	Rationale
<p>C. <i>Contempt</i></p> <p><b>1-8 Definition of “Contempt”</b>  <i>Contempt is willful conduct done in deliberate disrespect of a court of the church, the constitutional documents of the church, or the officers of the church acting in their official capacities.</i></p> <p><b>1-3 Church Members Who Are Also Employees</b>  <i>The employer/employee relationship is not within the scope of the Book of Discipline. Church members who are also employees of the church shall be subject to discipline as an employee under whatever procedures may be established by the church for employees. They may also be subject to discipline as a member under the Book of Discipline.</i></p> <p><b>1-11 Definition of “Jurisdiction” [A revised version of the first paragraph has been moved to proposed chapter 3]</b>  <i>Jurisdiction, as defined herein, is the authority of a court to render a decision in a case requiring discipline. This is the exercise of the responsibility of order. A court must have jurisdiction over both the individual accused and the subject matter of the charge before it can issue an indictment or render a decision. This definition is not to be confused with the authority of jurisdiction. The authority of jurisdiction is the power to rule and is a joint power to be exercised in church courts in regular gradation. The exercise of such power shall always reflect the essential unity of the church. The exercise of the authority of jurisdiction provides the court with the authority to decide issues of government, administration, or law as it pertains to the rule of the church.</i></p>	<p>C. <b>Contempt:</b> willful conduct done in deliberate disrespect of a court of the church, the constitutional documents of the church, or the officers of the church acting in their official capacities.</p> <p><b>1-7 Church Members Who Are Also Employees</b>  The employer/employee relationship is not within the scope of the Book of Discipline. Church members who are also employees of the church shall be subject to discipline as an employee under whatever procedures may be established by the church for employees. They may also be subject to discipline as a member under the <i>Book of Discipline</i>.</p>	<p>Text of current 1-3 has been moved to proposed 1-7 for better flow of thought.</p> <p><i>Current 1-11 has been moved to proposed 3-2 for better flow of thought.</i></p>

Current Chapter 1	Proposed Chapter 1	Rationale
<p><i>In the case of actions by a church court raising issues, misunderstandings, and disputes— which are not personal offenses requiring discipline, but which raise issues that bear upon the authority of jurisdiction— one may seek review / file a complaint (petition, request for review by) in the court having original jurisdiction thereof. Such complaint, however, will not be subject to ecclesiastical judicial procedures unless the court determines that the conduct made the basis of the complaint is willful and done in deliberate disrespect of a court of the church, the constitutional documents of the church, or the officers of the church acting in their official capacities. If such determination is made, the court will then signify the use of ecclesiastical judicial procedures in all further proceedings and, upon judgment, an automatic appeal will be taken to the next higher court.</i></p>		

## Chapter 2 - Proposed Book of Discipline Revision

Current Chapter 2	Proposed Chapter 2	Rationale
<p>— 2 — PASTORAL CARE</p> <p><b>2-1 The Duty to Evangelize</b>            In terms of its work, the first duty of the church is to evangelize by extending the gospel both at home and abroad, leading others to a saving knowledge of Jesus Christ as Lord and Savior, and to provide for the nurture of that faith that all might grow in grace and in sanctification (Book of Government 4-3).203</p> <p><b>2-2 The Spiritual Power of the Church</b>            The power of the church is moral and spiritual, thus distinguishing the government of the church from civil government (Book of</p>	<p>— 2 — SPIRITUAL POWERS OF THE CHURCH</p> <p><b>2-1 The Spiritual Power of the Church</b>            The power of the Church is moral and spiritual, thus distinguishing the government of the Church from civil government. The Evangelical</p>	<p>Title has been changed to better reflect the topic of the chapter.</p> <p>2-1 has been deleted for conciseness. Evangelism is the first duty of the church. It is well stated and appropriately placed in the <i>Book of Government</i>. Evangelism is not within the scope of the <i>Book of Discipline</i>.</p> <p>“Church,” when capitalized, refers to the Universal Church (<i>Book of Government</i> chapter 1)</p>

<p><del>Government 3-1</del>: This means that the church does not have civil authority <del>over anyone</del>.</p> <p><b>2-3 Spiritual Nurture of Members</b> Among other duties, it is the duty of the church to provide for the nurture of its members (<del>Book of Government 4-4A</del>).</p> <p><b>2-4 Retention of Authority over Church Property</b> While possessing no civil authority over any person, the church does retain authority over its property and ministries. In providing a secure and nurturing atmosphere for worship and spiritual growth, the church retains the right to exclude anyone from its property, services or ministries on such terms and conditions as it may desire. Thus, for example, a <del>particular</del> church may require certain standards before permitting adults to teach <del>Sunday School</del>, lead ministries, or otherwise participate in the life and ministry of the church.</p>	<p>Presbyterian Church does not have civil authority.<sup>12</sup></p> <p><b>2-2 Spiritual Nurture of Members</b> Among other duties, it is the duty of the church to provide for the nurture of its members <del>and their families</del>.<sup>13</sup></p> <p><b>2-3 Retention of Authority over Church Property</b> While possessing no civil authority over any person, the church does retain authority over its property and ministries. In providing a secure and nurturing atmosphere for worship and spiritual growth, the church retains the right to exclude anyone from its property, services, or ministries on such terms and conditions as it may desire. Thus, for example, a <del>local</del> church may require certain standards before permitting adults to teach, lead ministries, or otherwise participate in the life and ministry of the church.</p>	<p>For conciseness, “This means that” and “over anyone” in current 2-2 has been dropped.</p> <p>“And their families” was added to proposed D.2-2 for consistency with WCF 2.1: the visible church “consists of everyone in the world who professes the true religion together with their children.”</p> <p>Note: The Session has the responsibility to define the specific nature of a “secure and nurturing atmosphere.”</p> <p>“Particular” changed to “local” for consistency with the <i>Book of Government</i> 5.5. “Sunday School” omitted as unnecessary. It is included in the word “teach.”</p>
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### Chapter 3 – Proposed Book of Discipline Revision

Current Chapter 4	Proposed Chapter 3	Rationale
<p>— 4 — JURISDICTION</p> <p><b>4-1 The Right of Private Judgment</b> Since “God alone is Lord of the conscience,” we consider the right of private judgment in religious matters to be universal and unalienable. Therefore,</p>	<p>— 3 — JURISDICTION OF CHURCH COURTS</p> <p><b>3-1 The Right of Private Judgment</b> Since “God alone is Lord of the conscience,”<sup>14</sup> we consider the right of private judgment in religious matters to be universal and unalienable.<sup>15</sup> Therefore,</p>	<p>Current chapter 4 has moved to proposed chapter 3 for better flow of thought. Title has been changed to better reflect the content of the chapter.</p>

<sup>12</sup> G.3-1

<sup>13</sup> G.4-4B

<sup>14</sup> *Westminster Confession of Faith* 20.2

<sup>15</sup> G.25-2A

Current Chapter 4	Proposed Chapter 3	Rationale
<p>the church in disciplinary cases has jurisdiction only over her members (D.1-4).</p> <p><b>1-11 Definition of “Jurisdiction”</b>  Jurisdiction, as defined herein, is the authority of a court to render a decision in a case requiring discipline. This is the exercise of the responsibility of order. A court must have jurisdiction over both the individual accused and the subject matter of the charge before it can issue an indictment or render a decision. This definition is not to be confused with the authority of jurisdiction. The authority of jurisdiction is the power to rule and is a joint power to be exercised in church courts in regular gradation. The exercise of such power shall always reflect the essential unity of the church. The exercise of the authority of jurisdiction provides the court with the authority to decide issues of government, administration, or law as it pertains to the rule of the church.</p> <p><del>In the case of actions by a church court raising issues, misunderstandings, and disputes— which are not personal offenses requiring discipline, but which raise issues that bear upon the authority of jurisdiction— one may seek review / file a complaint (petition, request for review by) in the court having original jurisdiction thereof. Such complaint, however, will not be subject to ecclesiastical judicial procedures unless the court determines that the conduct made the basis of the complaint is willful and done in deliberate disrespect of a</del></p>	<p>the church in disciplinary cases has jurisdiction only over her members.<sup>16</sup></p> <p><b>3-2 Definition of Jurisdiction</b>  Jurisdiction is the authority of a church court to render a decision in a case requiring discipline. This is the exercise of the Responsibility of Order.<sup>17</sup> A court must have jurisdiction over both the individual accused and the subject matter of the charge before it can issue an indictment or render a decision. This definition is not to be confused with the Authority of Jurisdiction. The Authority of Jurisdiction is the power to rule and is a joint power to be exercised in church courts in ascending order.<sup>18</sup> The exercise of such power shall always reflect the essential unity of the church. The exercise of the Authority of Jurisdiction provides the court with the authority to decide issues of government, administration, or law as it pertains to the rule of the church.</p>	<p>Current 1-11 has been moved to proposed 3-2 for better flow of thought.</p> <p>Capitalization of Responsibility of Order and Authority of Order has been added for consistency with <i>Book of Government</i> chapter 3.</p> <p>“Regular gradation” in current 1-11 has been changed to “ascending order” for simplicity of language and internal consistency. Footnotes to <i>Book of Government</i> have been added.</p> <p>The second paragraph of current 1-11 has been deleted as being unnecessary and confusing.</p>

<sup>16</sup> Proposed D.1-5

<sup>17</sup> G.3-2

<sup>18</sup> “Ascending order” is the same as “regular gradation” in G.2-1A, G.3-3, and G.9-10.

Current Chapter 4	Proposed Chapter 3	Rationale
<p>court of the church, the constitutional documents of the church, or the officers of the church acting in their official capacities. If such determination is made, the court will then signify the use of ecclesiastical judicial procedures in all further proceedings and, upon judgment, an automatic appeal will be taken to the next higher court.</p> <p><b>4-2 Original Jurisdiction</b> In cases of original jurisdiction, the following rules apply:</p> <p>A. The Session The Session has original jurisdiction in every disciplinary case involving members of that local church.</p> <p>B. The Presbytery The Presbytery has original jurisdiction in every disciplinary case involving Teaching Elders of the Presbytery and jurisdiction over chapter 14 complaints regarding actions or decisions of sessions within its designated area (G.19-1).</p> <p>C. The General Assembly The General Assembly has original jurisdiction over chapter 14 complaints regarding actions or decisions of Presbyteries and judicial cases referred to it by a lower court (G.22-3)</p> <p>D. Dissolved Churches If a particular church is dissolved, the Presbytery shall assume jurisdiction with</p>	<p><b>3-3 Original Jurisdiction</b> In cases of original jurisdiction, the following rules apply:</p> <p>A. The Session The Session has original jurisdiction in every disciplinary case involving members of that local church.</p> <p>B. The Presbytery The Presbytery has original jurisdiction in every disciplinary case involving Teaching Elders of the Presbytery, appeals from actions for discipline decided by sessions,<sup>19</sup> and complaints<sup>20</sup> regarding actions or decisions of sessions within its designated area.<sup>21</sup></p> <p>C. The General Assembly The General Assembly has original jurisdiction over complaints<sup>22</sup> regarding actions or decisions of Presbyteries and judicial cases referred to it by a lower court.<sup>23</sup></p> <p>D. Dissolved Churches The Presbytery shall immediately assume jurisdiction in cases of discipline in process</p>	<p>Wording has been dropped from current 4-2B for conciseness. The jurisdiction of presbyteries over appeals arising from disciplinary cases at the local church level is missing in the current version and has been added in the proposed revision.</p> <p>Book of Order references have been moved to footnotes.</p>

<sup>19</sup> See Proposed D.13, on “Appeals” and Proposed D.3-4 and 3-5 on assumption of jurisdiction due to unwillingness or failure to act.

<sup>20</sup> See Proposed D.14, “Complaints.”

<sup>21</sup> G.19-1

<sup>22</sup> Proposed D.14

<sup>23</sup> G.22-3

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<p><del>regard to any case of discipline begun by the Session but not concluded.</del></p> <p>E. Transfer of Membership A member of a local church or a Presbytery whose membership is being transferred shall remain under the jurisdiction of the <del>first until received by the second.</del></p> <p><b>4-3 Assumption of Jurisdiction</b> In the event a court shall be unable or unwilling to try a person or persons accused, the next higher court may assume jurisdiction after giving thirty days' written notice to the lower court of its intention to assume jurisdiction.</p> <p><b>4-4 Failure to Act</b> When a court of original jurisdiction fails to act <del>in a disciplinary case before it for a period of ninety days after initiation of the case,</del> the next higher court may, <del>on motion by any member of the church,</del> assume jurisdiction. It may issue <del>instructions to the lower court, or it may conclude the case itself.</del></p> <p><b>4-5 Termination of Jurisdiction</b> Jurisdiction in judicial cases ends upon receipt of written notice of renunciation by the Clerk or Stated Clerk of the court of original jurisdiction. In the event an individual orally renounces jurisdiction, this fact shall be confirmed by letter from the court</p>	<p>but interrupted by the dissolution of a local church or mission church.</p> <p>E. Transfer of Membership A member of a local church or Presbytery whose membership is being transferred shall remain under the jurisdiction of the original court until received by the receiving court.</p> <p><b>3-4 Assumption of Jurisdiction</b> In the event a court shall be unable or unwilling to try a person or persons accused, the next higher court may assume jurisdiction after giving thirty days' written notice to the lower court of its intention to assume jurisdiction.</p> <p><b>3-5 Failure to Act</b> When a court of original jurisdiction fails to act <del>in an action for discipline</del> within ninety days after receiving a written charge or notice of offense, upon request from</p> <p>A. Any active member of the Evangelical Presbyterian Church from within the same Presbytery,</p> <p>B. A member of the court of original jurisdiction, or</p> <p>C. An accused or accuser in an out of bounds offense,<sup>24</sup></p> <p>the next higher court, may either instruct the lower court to act or assume jurisdiction to conclude the case itself.</p> <p><b>3-6 Termination of Jurisdiction by Renunciation</b> Jurisdiction in judicial cases ends upon receipt <del>from the accused</del> of written notice of renunciation by the Clerk or Stated Clerk of the court of original jurisdiction. In the event an individual orally renounces jurisdiction, this fact shall be confirmed by letter from the court</p>	<p>Wording in proposed 3-3-D has been rewritten for clarity.</p> <p>Wording in proposed 3-3E has been changed for clarity.</p> <p>Proposed D.3-5 has been rewritten for clarity and internal consistency. This section includes input from the Permanent Judicial Commission.</p> <p>Title of proposed D.3-6 has been changed to better reflect the content of the section. "From the accused" added for clarity.</p>

<sup>24</sup> See proposed D.4-5 regarding "Out of Bounds Offenses."

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<p>acknowledging that renunciation. The letter shall be delivered in person or by form of mail requiring a written receipt. If the court receives no written response within ten days, the acknowledgement of renunciation of jurisdiction shall be deemed final. In such instances, a case already begun may be concluded only with the permission of the accused.</p>	<p>verifying the individual’s intention to renounce jurisdiction. The letter shall be delivered in person or by form of mail requiring a written receipt. If the court receives no written response within ten days, the acknowledgement of renunciation of jurisdiction shall be deemed final. In such instances, a case already begun may be concluded only with the signed permission of the accused.<sup>25</sup></p>	<p>Sentence modified for clarity.</p> <p>“Signed” has been added to clarify how the accused gives permission.</p>

## Chapter 4 – Proposed Book of Discipline Revision

Current Chapter 5	Proposed Chapter 4	Rationale
<p style="text-align: center;">— 5 — OFFENSES</p> <p><b>5-1 Offenses</b> As defined D.1-2 offenses which require discipline are three kinds: Heresy, Immorality, and Contempt for the established order of the church. Nothing ought to be considered by any court as an offense, or admitted as a matter of accusation, which cannot be proved to be such from Scripture. The Westminster Confession of Faith, with the Larger and Shorter Catechisms and the Book of Order consisting of the Book of Government, the Book of Discipline, and the Book of Worship, are the standards adopted by the church as expositions of the teachings of Scripture in relation to faith and practice.</p> <p><b>5-2 Personal and General Offenses</b> A personal offense is an offense as defined in D.5-1 in a way of wrong done to some particular person or persons, including one’s</p>	<p style="text-align: center;">— 4 — OFFENSES</p> <p><b>4-1 Offenses</b> Three kinds of offenses require discipline: Heresy, Immorality, and Contempt.<sup>26</sup> Nothing ought to be considered by any court as an offense, or admitted as a matter of accusation, which cannot be proved to be such from Scripture. <b>The Westminster Confession of Faith, with the Larger and Shorter Catechisms, The Essentials of Our Faith,</b> and the <b>Book of Order,</b> are the standards adopted by the church as expositions of the teachings of Scripture in relation to faith and practice.</p> <p><b>4-2 Personal and General Offenses</b> A. A personal offense is a wrong done to a person or persons, including one’s own self.</p>	<p>Current chapter 5 has been moved to proposed chapter 4 for better flow of thought.</p> <p>First sentence edited for conciseness. Elaboration of “contempt” has been deleted as it is unnecessary here.</p> <p>“Essentials of our Faith” is part of the Constitution of the EPC (see Preface to the <b>Book of Order.</b>” Elaboration of the <b>“Book of Order”</b> has been deleted as it is unnecessary here.</p> <p>Proposed 4-2 has been condensed for conciseness. Cross references are unnecessary here.</p>

<sup>25</sup> See G.14-2B.3 and 14-4C for the effect of renunciation of jurisdiction.

<sup>26</sup> Proposed D.1-6

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<p>own self. A general offense is <del>an offense as defined in D.5-1,</del> but not directed against any particular person.</p> <p><b>5-3 Private and Public Offenses</b> Private offenses are those known only to an individual <del>or at most only</del> to a few persons. Public offenses are those that are known to more than a few persons.</p> <p><b>5-4 Preliminary Sanctions</b> When it is impracticable to commence an action against an accused church member, the Session may, if it thinks the edification of the church requires it, exclude the accused from the sacraments until the charges against him can be examined.</p> <p><b>5-5 Out-of-Bounds Offenses</b> When an offense, alleged to have <del>been committed at a distance, is not likely to otherwise become known to the court having jurisdiction,</del> it shall be the duty of the court within whose bounds the <del>facts</del> occurred, after satisfying itself there is a <del>strong presumption of guilt,</del> to send notice to the court having jurisdiction, which shall at once proceed against the accused; or the whole case may be</p>	<p><b>B.</b> A general offense is a wrong that is not directed against any particular person.</p> <p><b>4-3 Private and Public Offenses</b> <b>A.</b> Private offenses are those known only to an individual or to a few persons. <b>B.</b> Public offenses are those that are known to more than a few persons.</p> <p><b>4-4 Temporary Suspensions</b> When an action against an accused church member, the Session may, if it thinks the peace and purity<sup>27</sup> of the church requires it, temporarily suspend the accused from the sacraments and/or bar the accused from church property<sup>28</sup> until the action for discipline has been concluded.</p> <p><b>4-5 Out-of-Bounds Offenses</b> When an offense is alleged to have taken place in a manner or location unknown to and/or outside the bounds of the court of original jurisdiction, it shall be the duty of the court within whose bounds the alleged offense occurred, after satisfying itself there is compelling evidence warranting a trial, to send notice of pending charge(s) to the court having jurisdiction, which shall at once proceed against the accused; or the whole case may be</p>	<p>For clarity, the two subjects of this section are given separate headings.</p> <p>Proposed 4-3 has been condensed for conciseness.</p> <p>For clarity, the two subjects of this section are given separate headings.</p> <p>The title of proposed 4-4 has been changed for clarity. The section has to do with procedures prior to trial. Sanctions occur following trial. Prior to trial a suspension is temporary. Following trial, a suspension is either “definite” or “indefinite.” The first sentence has been rewritten in proposed 4-4 to reflect the situation in which there may be a temporary suspension. There should be no temporary suspension if there is no action for discipline in process. “Edification” has been changed to “peace and purity” for consistency of language (see footnotes). Excluding a person from the property may be necessary to ensure security (proposed D.2-3). Gender specific pronoun is unnecessary.</p> <p>The wording change in proposed 4-5 clarifies what “at a distance” means. An offense may occur at a short distance, but outside the jurisdiction of a presbytery. “Facts” has been changed to “alleged offense” for clarity. “Strong presumption of guilt” has been changed to “compelling evidence warranting a trial” to maintain a high bar for going to trial and ensure that the accused is not presumed guilty during a trial. See also proposed 5-6B and 5-7.</p>

<sup>27</sup> See G.4-1, 5-5A, 5-6A, D.8-3A and vows taken by members and officers.

<sup>28</sup> Proposed D.2-3

Current Chapter 5	Proposed Chapter 4	Rationale
transferred for trial and imposition of sanctions, if any, to the coordinate court within whose bounds the offense is alleged to have been committed.	transferred for trial and imposition of sanctions, if any, to the coordinate court within whose bounds the offense is alleged to have been committed.	

## Chapter 5 - Proposed Book of Discipline Revision

Current Chapter 6	Proposed Chapter 5	Rationale
<p data-bbox="163 440 684 492">— 6 — COMMENCING AN ECCLESIASTICAL JUDICIAL PROCEDURE INVOLVING DISCIPLINE</p> <p data-bbox="109 565 478 591"><b>7-1 Investigation of a Charge</b></p> <p data-bbox="138 597 709 883">A. <i>Care over the Church</i> It is the duty of all church courts to exercise care over those subject to their authority. They shall, with care and discretion, investigate reports concerning alleged offenses that require discipline. This duty is imperative when a person claiming to be aggrieved by an offense shall request an investigation in writing.</p> <p data-bbox="109 922 680 980"><b>6-1 Commencement of Actions for Discipline</b> An action for discipline shall commence:</p> <p data-bbox="138 1052 693 1143">A. By a Person or Persons When a person files a written charge with the Clerk of the court of appropriate jurisdiction.</p> <p data-bbox="138 1214 331 1240">B. By the Court</p>	<p data-bbox="768 440 1331 466">— 5 — COMMENCING ACTIONS FOR DISCIPLINE</p> <p data-bbox="743 565 1071 591"><b>5-1 Care over the Church</b> It is the duty of all church courts to exercise care over those subject to their authority. They shall, with care and discretion, investigate reports concerning alleged offenses that require discipline. This duty is imperative when a person claiming to be aggrieved files a written charge with the court.<sup>29</sup></p> <p data-bbox="743 922 1331 1013"><b>5-2 Commencement of Actions for Discipline</b> Actions for discipline are commenced by one of three means:</p> <p data-bbox="768 1052 1344 1175">A. By a Person or Persons When a person or persons file a written charge with the Clerk of the court of original jurisdiction.<sup>30</sup></p> <p data-bbox="768 1214 1226 1305">B. By the Court When the court having jurisdiction<sup>31</sup> determines that a charge is in order.</p>	<p data-bbox="1381 440 1982 558">Current chapter 6 and portions of current chapters 7 and 10 have been moved to proposed chapter 5 for better flow of thought. The title for proposed chapter 5 has been simplified to “Action for Discipline.”</p> <p data-bbox="1381 597 1990 656">Current 7-1A moved to proposed 5-1 for better flow of thought.</p> <p data-bbox="1381 760 1856 786">Phrase edited for conciseness and clarity.</p> <p data-bbox="1381 954 1982 1013">First sentence of proposed 5-2 has been modified for clarity.</p> <p data-bbox="1381 1052 1990 1175">Wording has been changed to “person or persons” for internal consistency. “Appropriate” has been changed to “original” for internal consistency.</p>

<sup>29</sup> The aggrieved party should use the appropriate Form for Discipline.

<sup>30</sup> Proposed D.3-3

<sup>31</sup> *Ibid.*

Current Chapter 6	Proposed Chapter 5	Rationale
<p>When the court having jurisdiction determines that a charge is in order <del>and there is a strong presumption of the guilt of the accused.</del></p> <p><b>11-9 Confession and Restoration</b></p> <p>A. <i>Confession</i></p> <p>When any person shall come forward and make his offense known to the court or commission, a full statement of the facts shall be recorded, and judgment rendered without judicial procedures.</p> <p><del>When an officer, before judgment is entered, shall make a confession of a matter that is marked by outrageous or scandalous crime or vice, such as substance abuse, marital infidelity, embezzlement or the like, however penitent he may appear to the satisfaction of all, the court or commission shall without delay suspend or remove him from his office.</del></p>	<p><b>C. By Confession</b></p> <p>When any person comes forward and makes his or her offense known to the court or commission of original jurisdiction,<sup>32</sup> a statement of the facts shall be recorded, and judgment may be rendered and sanctions may be imposed with or without further actions for discipline, formal trial, or mediation.</p>	<p>“Strong presumption of the guilt of the accused” has been deleted as it is too early in the process to come to this conclusion. In proposed 4-5, 5-6B, and 5-7, “strong presumption of guilt” has been changed to “compelling evidence warranting a trial” throughout. See note on proposed 4-5 for rationale of the new terminology.</p> <p>Current 11-9A moved to proposed 5-2C for better flow of thought.</p> <p>“Or her” is necessary in this context.</p> <p>“Of original jurisdiction” has been added for clarity.</p> <p>“Full” has been deleted because it is never certain when this target has been reached.</p> <p>“Shall” has been changed to “may” because it is appropriate to give the court discretion in these situations.</p> <p>“Sanctions may be imposed” has been added for clarity.</p> <p>“Actions for discipline” has been substituted for “ecclesiastical judicial procedures” for internal consistency.</p> <p>In the situation of a confession, mandatory imposition of sanctions has been changed to discretionary. The court needs a wide range of options on how best to proceed, including the ability to impose sanctions without a trial. Experience has shown that in many cases only a small part of deeply rooted sins may be revealed in a confession.</p>
<p><b>7-6 Biased Accusations and Testimony</b></p> <p><i>Great caution should be exercised by the court or commission in receiving accusations and testimony from any person:</i></p> <p>A. <i>Who is known to hold a malignant spirit against the accused;</i></p> <p>B. <i>Who is not of good character;</i></p>	<p><b>5-3 Cautions Against Biased Accusations and Testimony</b></p> <p>Great caution should be exercised by the court or commission in receiving accusations and testimony from any person</p> <p>A. <i>Who is known to hold a malignant spirit towards the accused,</i></p> <p>B. <i>Who is not of good character,</i></p>	<p>Current 7-6 has been moved to proposed 5-3 for better flow of thought.</p> <p>Section title has been changed to better reflect the content of the section.</p> <p>The word “towards” is preferred rather than “against.”</p>

<sup>32</sup> Ibid.

Current Chapter 6	Proposed Chapter 5	Rationale
<p>C. <i>Who is under sanction or who is the subject of an action for ecclesiastical judicial procedures;</i></p> <p>D. <i>Who is deeply interested in any respect in the conviction of the accused; or</i></p> <p>E. <i>Who is known to be litigious, contentious, rash, or highly imprudent.</i></p> <p><b>6-2 Limitation on Actions</b>  An action for discipline must be commenced within three years after the acts constituting the offense were committed, unless the acts were unknown and were not reasonably knowable by the offended person or court.</p> <p>In the event that the offended person is under the age of 18, the action for discipline must be commenced before that person's twenty-first birthday.</p> <p><b>7-5 Private Reconciliation</b>  <del>When the prosecution is instituted by the court or commission the steps required by D.1-6 in the case of personal offenses are not necessary. There are many cases, however, in which it will be advisable to send a committee to converse in a private manner with the accused and endeavor to bring him to a sense of repentance, before instituting actual ecclesiastical judicial procedures. The committee may then make recommendations to the court or commission concerning further prosecution of the case.</del></p>	<p>C. Who is under sanction or who is the subject of an action for discipline,</p> <p>D. Who is deeply interested in any respect in the conviction of the accused,</p> <p>E. Who is known to be litigious, contentious, rash, or highly imprudent,</p> <p>F. Who is offering a confession for an offense which may be incomplete or not fully accurate.</p> <p><b>5-4 Limitation on Actions</b>  An action for discipline must commence within three years after the acts constituting the offense were committed, with certain exceptions:</p> <p>A. The acts were unknown and were not reasonably knowable by the offended person or court.</p> <p>B. The offended person is under the age of 18, in which case the action for discipline must commence before that person's twenty-first birthday unless the offense includes abuse.<sup>33</sup></p> <p><b>5-5 Private Reconciliation</b>  There are cases of personal offenses in which it will be advisable for the court to send a committee to converse in a private manner with the accused and endeavor to bring the accused to a sense of repentance before instituting actions for discipline. The committee may then make recommendations to the court or commission concerning further prosecution of the case.</p>	<p>"Actions for discipline replaces "ecclesiastical judicial procedures" throughout.</p> <p>Section F has been added to acknowledge that when confessing, the accused is his/her own accuser. Experience has shown that confessions are often prejudicial and incomplete.</p> <p>Active voice "must commence" is preferable to passive.  Sections of proposed 5-4 are enumerated for clarity. Introductory phrase was added due to the new format.</p> <p>Statute of limitations should be extended for children who may be unable to bring an accusation during the 3-year time limitation. There is no time limitation if the offense includes abuse.</p> <p>Current 7-5 moved to proposed 5-5 for better flow of thought. First sentence of current 7-5 has been deleted as unnecessary in the new context. "For the court" has been added for clarity.</p> <p>"Actual" was deleted as unnecessary.  "Actions for discipline" was added for internal consistency.</p>

<sup>33</sup> See D.1-1D regarding reporting to civil authorities..

Current Chapter 6	Proposed Chapter 5	Rationale
<p><b>6-3 Preliminary Investigation of a Charge by a Person or Persons</b></p> <p>After an action is commenced by a person:</p> <p>A. <del>The court or commission shall commence a preliminary investigation in accordance with D.7-1.</del></p> <p><b>7-1C. Judicial Investigative Committee</b>  <del>The court may appoint a judicial investigative committee to serve as a finder of fact, which shall report its findings to the court with its recommendations. The judicial investigative committee shall have no authority to act for the court other than as an investigative body.</del></p> <p>[6-3 continued]</p> <p>B. After the preliminary investigation is concluded, the court or commission shall make a determination whether or not there is a strong presumption of the guilt of the accused.</p>	<p><b>5-6 Investigation of a Charge</b></p> <p>A After an action for discipline is commenced by a person (persons) and when private reconciliation is either not advisable or has been unsuccessful</p> <ol style="list-style-type: none"> <li>1. The Clerk of the court, or a duly appointed body, shall determine if the action for discipline is in order.</li> <li>2. If the action for discipline is determined to be out of order, the Clerk or a duly appointed body shall advise the accusers of the decision and its grounds. The decision shall be reported to the court, which shall sustain or not sustain the decision.</li> </ol> <p>B. If the action for discipline is determined to be in order or if the court has initiated the action for discipline, the court shall form a judicial investigative committee to conduct an investigation into charges filed. The judicial investigative committee shall have no authority to act for the court other than as an investigative body. The judicial investigative committee shall report its findings and recommendations to the court.</p> <p>C. After the investigation is concluded, the court shall decide whether there is compelling evidence to warrant a trial.</p> <p>D. If the court does not find compelling evidence of guilt to warrant a trial, the charge will be dismissed.</p>	<p>Title of 5-6 has been changed to reflect added content. A “preliminary” investigation is a confusing category has been deleted.</p> <p>A process has been added to determine whether a charge filed is in order. The process is like that of filing a complaint (proposed chapter 14).</p> <p>Current 7-1C has been moved to proposed 5-6A for better flow of thought.</p> <p>Forming a judicial investigative committee (JIC) has been changed from discretionary (may) to mandatory (shall) when an action for discipline has been commenced and determined to be in order. Forming a JIC is the appropriate next step. There is not another means by which a charge can be properly investigated by the court. A “preliminary investigation” and “finder of fact” are nebulous terms.</p> <p>The final sentence has been added for clarity in the process.</p> <p>“Preliminary” has been dropped because the investigation is intended to end with the committee’s recommendations. “Make a determination” has been changed to “decide” and “whether or not” changed to “whether” for more concise wording. See proposed 4-5 for the rationale for “compelling evidence to warrant a trial.”</p> <p>Proposed 5-6 D has been added to provide clarity in the process.</p>

Current Chapter 6	Proposed Chapter 5	Rationale
<p><b>6-4 Proceedings upon a Determination of a Strong Presumption of Guilt</b>  <i>In the event of a determination of a strong presumption of the guilt of the accused, the court or commission shall appoint a prosecutor, who shall prepare an indictment and proceed to trial in accordance with Chapters 7 through 10.</i></p> <p><b>7-2 Appointment of a Prosecutor</b>  <i>If an investigation should result in raising a strong presumption of guilt of the party accused, the court shall institute an ecclesiastical judicial procedure, and shall appoint a prosecutor to prepare an indictment and to prosecute the case. The prosecutor shall be a member of the court. In cases before the Session, however, he need not be a member of that court, but needs only to be a communing member of the church (as defined in D.1-7).</i></p> <p><b>7-3 Selection of Prosecutor</b>  <i>Ordinarily, no offended person (or person knowing of an offense) shall become a prosecutor of personal offenses. A church court, however, may investigate personal offenses requiring discipline under D.6-1 when they become known to members of the court.</i></p> <p><b>7-4 Parties in a Case</b>  <i>The original and only parties in a case of ecclesiastical judicial procedure are the accuser and the accused. The accuser is always the Evangelical Presbyterian Church, whose honor and purity are to be maintained.</i></p>	<p><b>5-7 Proceedings upon a Determination of Compelling Evidence Warranting a Trial</b></p> <p>A. The court shall appoint a prosecutor.</p> <ol style="list-style-type: none"> <li>1. In actions before the Presbytery, the prosecutor shall be a Teaching Elder who is a member of the Presbytery or a Ruling Elder who is an active member in a local church of the Presbytery.</li> <li>2. In actions before the Session, the prosecutor need not be a Ruling Elder of that congregation but shall be an active member of that church.<sup>3435</sup></li> <li>3. In the case of a personal offense, no offended person or a potential witness having personal knowledge of an offense shall become a prosecutor.</li> </ol> <p>B. The prosecutor shall prepare an indictment and proceed to trial.</p> <ol style="list-style-type: none"> <li>1. The parties in actions for discipline are the accuser and the accused. The accuser is always the Evangelical Presbyterian</li> </ol>	<p>The title of current 6-4 has been kept, substituting “compelling evidence warranting a trial.” The bulk of current 6-4 has been deleted due to redundancy with current 7-2. The repetition is unnecessary in the reorganization of the proposed revision.</p> <p>Current 7-2 and 7-3 have been moved to proposed 5-7 for better flow of thought. Current 7-2 has been clarified in proposed 5-7 due to questions that have arisen in past disciplinary actions. Text has been condensed and enumerated in proposed 5-7 for clarity.</p> <p>Proposed 5-7A.2: Gender-specific pronoun is unnecessary. “Active member” has been substituted for “communing member” for consistency with the <i>Book of Government</i> (G.8-3B).</p> <p>“Ordinarily” has been deleted and wording changed so that there is no exception to this conflict of interest. The final sentence of current 7-3 has been deleted as it is confusing in this context and provisions for the court commencing an action for discipline have been covered in earlier sections.</p> <p>Title of proposed 5-7B has been taken from the text of current 6-4. “In a case of ecclesiastical judicial procedure” has been changed to “actions for discipline” in proposed 5-7B for internal consistency.</p>

<sup>34</sup> G.8-3B

<sup>35</sup> See D.3-4 and D.3-5 in the event a local church is unwilling, unable, or fails to act on a action for discipline.

Current Chapter 6	Proposed Chapter 5	Rationale
<p><i>The prosecutor is always the representative of the church. <del>On appeal the parties are known as appellant and appellee.</del></i></p> <p><b>8-3 — Indictment</b></p> <p>A. <i>Heading of the Indictment</i>  <i>Every indictment shall begin: “In the name of the Evangelical Presbyterian Church,” and shall conclude, “against the peace, unity, and purity of the church, and the honor and majesty of the Lord Jesus Christ, as the King and Head thereof.”</i></p> <p>B. <i>Contents of the Indictment</i>  <i>The indictment shall clearly state the times, places and circumstances as to the actions alleged to require disciplinary sanctions, so that the accused may have adequate notice of the charges and the opportunity to make his defense.</i></p> <p><b>8-2 — Processing a Charge</b></p> <p>A. <i>Commencement</i>  <i>When ecclesiastical judicial procedures are commenced in accordance with D.6-1, nothing shall be done at the first meeting of the court thereafter, unless by consent of the parties, except:</i></p> <ol style="list-style-type: none"> <li>1. <i>To appoint a prosecutor in accordance with D.7-1 and D.7-3.</i></li> <li>2. <i>To order the indictment drawn and a copy, including names of witnesses then known to support it, served on the accused, in person or by means requiring a written receipt.</i></li> <li>3. <i>To set a date for trial. [moved to proposed D5-7C.5]</i></li> </ol> <p>B. <i>Commissions</i></p>	<p>Church, whose honor and purity are to be maintained. The prosecutor is always the representative of the church.</p> <ol style="list-style-type: none"> <li>2. Every indictment shall begin: “In the name of the Evangelical Presbyterian Church,” and shall conclude, “against the peace, unity, and purity of the church, and the honor and majesty of the Lord Jesus Christ, as the King and Head thereof.”</li> <li>3. The indictment shall clearly state the times, places, circumstances, and names of witnesses of the actions alleged to require an action for discipline, including the names of witnesses then known to support it so that the accused will be given adequate notice of the charges and the opportunity to make a defense.</li> <li>4. The prosecutor shall serve a copy of the indictment either in person or by means requiring a written receipt.</li> </ol> <p>C. Actions of the Court upon appointment of a prosecutor</p>	<p>“Original and only” has been deleted for conciseness.  “Appellant and Appellee” are unneeded in this context and are described in proposed chapter 13 on “Appeals.”</p> <p>Current 8-3A and B have been moved to proposed 5-7B.2 and 3 for better flow of thought.</p> <p>Heading of current 8-3B has been deleted as unnecessary.  “Names of witnesses...” is language from current 8-2A.2.</p> <p>“Will be given” is appropriately stronger language than “may have.”  Gender specific pronoun is unnecessary in this context.</p> <p>Much of the text of current 8-2 has been deleted as unnecessary in the reorganization of the proposed revision.</p> <p>Proposed 5-7B.4 has been revised for conciseness.</p> <p>Setting a date for trial has been moved to proposed D5-7C.5 for better flow of thought.</p>

Current Chapter 6	Proposed Chapter 5	Rationale
<p><del>Ordinarily, the court shall decide at this time whether it shall try the case or refer the case for trial and decision to a judicial commission in accordance D.10-5 and G.21-1B. Commissioners shall be ordained Elders within the jurisdiction of the court involved.</del></p> <p><del>C. Moderator Pro-Tempore</del>  <del>With the consent of the Moderator, and if the court so desires, it may elect one of its members to serve as Moderator Pro-Tempore for a particular case. The Moderator Pro-Tempore shall exercise the duties of a Moderator as described in G.18-2 or G.19-3 with respect to the particular judicial case only.</del></p> <p><b>10-5 Judicial Commissions</b></p> <p><del>A. Rights and Duties</del>  <del>A judicial commission created in accordance with D.8-2 B, shall have all the rights, privileges, duties, and obligations of the court in the matter assigned to it.</del></p> <p><del>B. Composition</del>  <del>Judicial commissions shall be composed of no less than three or more than seven members elected by the court.</del></p> <p><del>C. Membership</del>  <del>Judicial commissions of Presbytery shall be composed of Teaching Elders and Ruling Elders in proportion as near to two Ruling</del></p>	<ol style="list-style-type: none"> <li>1. The court shall decide whether it will try the case or refer the case for trial and decision to a judicial commission<sup>36</sup> appointed by the court.</li> <li>2. If the court tries the case, it may elect one of its members to serve as Temporary Moderator for the case with the consent of the Moderator. The Temporary Moderator shall exercise the duties of a Moderator<sup>37</sup> only with respect to the particular action for discipline. Neither the Moderator nor the Temporary Moderator may serve if they have a conflict of interest in the case.</li> <li>3. If the case is referred to a judicial commission, the commission has the full authority of the court to act on the matter referred. Ordinarily the Judicial Commission will be dissolved at the stated meeting of the court following the conclusion of the trial.</li> <li>4. Composition of judicial commissions: <ol style="list-style-type: none"> <li>a. Judicial commissions of the shall be composed of no fewer than three and no more than seven members elected by the court</li> <li>b. Judicial commissions of the Presbytery shall be composed of a ratio of one Teaching Elders to two Ruling Elders to the extent possible unless the court appoints the</li> </ol> </li> </ol>	<p>“Ordinarily” has been deleted because determining whether to try by court or commission is essential at this point in the process. “Shall” reflects this necessity.</p> <p>Requirements for membership of a judicial commission have been moved to proposed 5-7C.4 for better flow of thought.</p> <p>Current 8-2C moved to proposed 5-7C.2 for better flow of thought. “If the court tries the case” establishes the necessary condition for possible election of a Temporary Moderator. “Temporary Moderator” has replaced “Moderator Pro-Tempore” for simplicity of language.</p> <p>Book of Government reference has been moved to a footnote.</p> <p>“Action for discipline” has replaced “judicial case” for internal consistency of terminology.</p> <p>The final sentence is included to prohibit conflict of interest.</p> <p>Authority and composition of a judicial commission in current 10-5 has been moved to proposed D.5-7C.3 for better flow of thought. The text has been rewritten for clarity.</p> <p>Requirements for composition of judicial commissions have been enumerated for clarity. “Fewer” is correct when referring to countable things.</p> <p>Additional wording is necessary to harmonize proposed D.5-7C.4(b) with G.21-2D.2(e) which authorizes the Presbytery to appoint the Ministerial Committee as a judicial commission. The Ministerial</p>

<sup>36</sup> G.21-1A, B

<sup>37</sup> G.18-2A; G.19-3A

Current Chapter 6	Proposed Chapter 5	Rationale
<p data-bbox="180 133 716 191"><i>Elders to one Minister as possible in accordance with Book of Government G.21-1G.</i></p> <p data-bbox="109 976 705 1195"><b>7-7—Suspension of Official Functions</b> <i>When an action for discipline has been commenced against a member of a court, any or all of his official functions may be suspended at the court's or commission's discretion, but this shall never be done in the way of sanction.</i></p> <p data-bbox="109 1235 653 1318"><b>6-5 Trial</b> <i>The court or commission shall conduct a trial in accordance with Chapters 9 and 10.</i></p>	<p data-bbox="911 133 1335 191">Ministerial Committee as the judicial commission.</p> <p data-bbox="871 201 1346 420">c. Judicial commissions of the Session shall be composed of Ruling Elders of the congregation and may include the Teaching Elders of the congregation.<sup>38</sup> At least one member of the Commission must be a Ruling Elder actively serving on the Session.</p> <p data-bbox="871 492 1346 613">d. Members of a judicial investigative committee should ordinarily not serve on a judicial commission to avoid any appearance of bias.</p> <p data-bbox="871 623 1346 745">e. The court shall appoint the Moderator of the judicial commission. The Moderator is a member of the judicial commission with voice and vote.</p> <p data-bbox="871 755 1346 808">f. The prosecutor is not eligible to be a member of the judicial commission.</p> <p data-bbox="821 849 1335 902">5. Ordinarily the court will set a date for trial upon the appointment of the prosecutor.</p> <p data-bbox="821 943 1335 1065">6. If the accused is a member of the court, the court may temporarily suspend any or all the official functions of the accused. This shall not be considered a sanction.<sup>39</sup></p>	<p data-bbox="1379 133 1938 191">Committee may not meet the otherwise required ratio.</p> <p data-bbox="1379 201 1980 483">Language of proposed D.5-7C.4b has been added to address membership requirements for judicial commissions formed by Sessions. Pastors and associate pastors are members of the court and as such are eligible to serve on a judicial commission of the court. Assistant pastors are excluded as they are not members of the court. D.5-7C.4d has been added to rule out bias on the commission</p> <p data-bbox="1379 623 1959 711">D.5-7C.4e has been added to address an area of confusion due to the silence of the current <i>Book of Discipline</i> on the matter.</p> <p data-bbox="1379 751 1980 839">D.5-7C.4f clarifies that the prosecutor is not a voting member of the commission. The prosecutor is representing the court and is biased.</p> <p data-bbox="1379 849 1959 902">D.5-7C.5 clarifies an issue upon which the current Book of Discipline is silent.</p> <p data-bbox="1379 943 1980 1065">Current D.7-7 has been moved to proposed D.5-7C.6 for better flow of thought. The text has been rewritten for clarity and internal consistency (see proposed 11-2A on temporary suspensions).</p> <p data-bbox="1379 1203 1980 1325">Current 6-5 and 6-6 address the trial phase where proposed chapter have been deleted as unnecessary in the context of proposed chapter 5 addresses commencing actions for discipline (pre-trial).</p>

<sup>38</sup> Teaching Elders of the congregation are pastors and associate pastors. Assistant pastors are called by the Session, not the congregation, and therefore are not eligible to serve on a judicial commission of a local church.

<sup>39</sup> See proposed D.11-2A regarding temporary suspensions, which are not sanctions.

Current Chapter 6	Proposed Chapter 5	Rationale
<p><b>6-6 Decision</b> The court or commission shall render its decision in accordance with Chapter 11.</p>		

## Chapter 6 – Proposed Book of Discipline Revision

Current Chapter 3	Proposed Chapter 6	Rationale
<p>— 3 — PROCESSES APPLICABLE TO ALL ECCLESIASTICAL JUDICIAL PROCEDURES</p> <p><b>3-1 Ex parte Communications</b></p> <p>A. Once any ecclesiastical judicial procedure under this <i>Book of Discipline</i> is commenced, ex parte communications are prohibited.</p> <p>B. An ex parte communication is any form of communication to the presiding court or commission (Session, Presbytery, Judicial Commission, or Permanent Judicial Commission, including the Office of the Stated Clerk of the General Assembly) by one party to a proceeding in the absence of the other parties to that proceeding that relates to the merits of the proceeding. It includes but is not limited to verbal, written, electronic, or any other form of communication.</p> <p>C. This prohibition against ex parte communication does not include questions on procedural matters that may be addressed to the Clerk of the court or commission. <del>But otherwise the prohibition against ex parte communication on the merits of the proceeding applies to the Clerk of the court or commission.</del></p>	<p>— 6 — <i>EX PARTE</i> COMMUNICATIONS</p> <p><b>6-1 Definition of Ex Parte Communications</b></p> <p>A. An <i>ex parte</i> communication is any form of communication to the presiding court or commission or Officer of the presiding court by one party in an action for discipline in the absence of the other party to that action that relates to the merits of the action. It includes but is not limited to verbal, written, electronic, or any other form of communication.</p> <p>B. Once a court begins an action for discipline,<sup>40</sup> <i>ex parte</i> communications are prohibited.</p> <p>C. This prohibition against <i>ex parte</i> communication does not include questions on procedural matters that may be addressed to the Clerk of the court or Moderator of the commission.</p>	<p>Current chapter 3-1 moved here for better flow of thought. The Latin term <i>ex parte</i> has been kept as no concise substitute was found. The term is defined in 6-1A.</p> <p>Title changed to reflect the content. Current 3-1 A and B are reversed in proposed 6-1A and B for better flow of thought. Parenthetical expression in current 3-1B has been deleted as unnecessary. “Officer of the presiding court” is added for clarity. “Action” substituted for “proceeding” for internal consistency.</p> <p>First phrase has been substituted for clarity and consistency.</p> <p>“Moderator of the commission” added as necessary if the court chooses to try a case by a commission. Final sentence of current 3-1C deleted as unnecessary (see addition to proposed 6-1A).</p>

<sup>40</sup> See Proposed Chapter 5

Current Chapter 3	Proposed Chapter 6	Rationale
<p>D. <del>Therefore, the church courts, its officers, and judicial commissions shall act in accordance with the following:</del></p> <p>1. Any attempt at ex parte verbal communication shall be immediately interrupted by the member of the court to whom the communication is directed. The member of the court shall make a record of the attempted communication, place <del>it</del> in a separate file, and communicate to the other <del>side</del> the attempted ex parte communication. The record of the attempted communication shall include the name of the person(s) attempting to so communicate and the date of the attempted communication; under no circumstances shall the content of any ex parte communication be added to the case file of the subject <del>ecclesiastical judicial proceeding</del>;</p> <p>2. Any form of ex parte communication, including notes from a verbal communication, shall be placed in a separate file and communicated to the other <del>parties</del> and members of the presiding court or commission.</p> <p>3. If a party desires communication with a court or a judicial commission, that party shall request a <del>conference call</del> with the court or commission. The court or commission, or its designee, shall determine if the <del>conference call</del> is in order,</p>	<p><b>6-2 Actions in the event of ex parte communication</b></p> <p>A. Any attempt at <i>ex parte</i> verbal communication shall be immediately interrupted by the member of the court to whom the communication is directed.</p> <p>B. The member of the court shall</p> <ol style="list-style-type: none"> <li>1. Make a record of the attempted communication,</li> <li>2. Place <del>the record</del> in a separate file, and</li> <li>3. Communicate to the other <del>party</del> the attempted <i>ex parte</i> communication.</li> </ol> <p>C. The record of the attempted communication shall include</p> <ol style="list-style-type: none"> <li>1. The name of the person(s) attempting to so communicate,</li> <li>2. The date of the attempted communication.</li> </ol> <p>D. Under no circumstances shall the content of any <i>ex parte</i> communication be added to the case file of the subject of an <del>action for discipline</del>.</p> <p>E. Any form of <i>ex parte</i> communication, including notes from a verbal communication, shall be placed in a separate file and communicated to the other <del>party</del> and members of the presiding court or commission.</p> <p><b>6-3 Proper communication with a court, commission, or its officers</b></p> <p>If a party desires communication with a court or a judicial commission, that party shall request a meeting <del>in person or by audio or video conference</del> with the court or</p>	<p>For clarity, current 3-1D has been deleted and summarized as a heading in proposed 6-2.</p> <p>Sections have been enumerated for clarity.</p> <p>“Side” has been changed to “party” for internal consistency.</p> <p>“Action for discipline” has been substituted for “ecclesiastical judicial procedure” throughout for simplicity of language</p> <p>Heading added for clarity.</p> <p>“Conference call” has been updated to reflect current technology.</p>

Current Chapter 3	Proposed Chapter 6	Rationale
<p>and, if so, shall schedule the <del>conference call</del>. The party desiring communication shall be responsible for arranging the <del>call</del> and will bear the cost thereof.</p>	<p>commission. The Court or Commission, or its designee, shall determine if the <del>meeting</del> is in order, and, if so, shall schedule the <del>audio or video conference</del>. The party desiring communication shall be responsible for arranging the <del>meeting</del>.</p>	<p>The provision requiring the person requesting the meeting to bear the cost has been deleted as it is potentially discriminatory.</p>

## Chapter 7 – Proposed Book of Discipline Revision

Current Chapter 3-2	Proposed Chapter 7	Rationale
<p><b>3-2 Mediation</b></p> <p>A. <i>At the sole discretion of a court or commission (Session, Presbytery or General Assembly), an ecclesiastical judicial procedure brought under this Book of Discipline may be assigned to a mediator(s). A matter so assigned for mediation may only proceed with the written consent of all necessary individuals as determined by the court or commission referring the matter to mediation.</i></p> <p>B. <i>Upon the court's assignment of a church member(s) to serve as a mediator, he will not be eligible to serve as a member of the court should it prove necessary for the matter to be brought before the court or judicial commission.</i></p>	<p>— 7 — MEDIATION</p> <p><b>7-1 Assignment of mediation</b></p> <p>A. At the sole discretion of a court or judicial commission, an action for discipline once commenced may be assigned to a qualified mediator(s) agreed upon by both parties prior to the commencement of a trial. A matter so assigned may only proceed with the written consent of all necessary individuals as determined by the assigning court or commission. The court may assign all or part of the action for discipline allowing a portion of the charge(s) to go into mediation while remaining charges continue to trial.</p> <p>B. At least one voting member of the court or commission prosecuting the case shall represent the court or commission at mediation.<sup>41</sup> If the assigned mediator(s) are members of the Evangelical Presbyterian Church, the mediator(s) shall not be eligible to serve as a member of the court or judicial commission should it prove necessary for the matter to be brought to trial.</p>	<p>For clarity, current 3-2 has been placed in its own chapter (proposed chapter 7)</p> <p>Wording deleted for conciseness. “Discipline once commenced” was added to place a necessary condition on when the mediation process can be engaged. Proposed 7-1A gives the court or commission the discretion to use the services of qualified mediators outside of the membership of the EPC. There is no necessity to utilize only EPC members as mediators. The proposed revision clarifies that mediation, if used, happens before the trial begins. The final sentence has been added in response to a lack of clarity on this issue experienced by a presbytery.</p> <p>The prosecutor’s responsibility is to represent the court at trial and by virtue of that position cannot be a voting member of the court and does not carry the authority of the court to enter into an agreement. For that reason, a voting member of the court needs to be the mediator or one of the team of mediators.</p>

<sup>41</sup> The prosecutor is not a voting member of the judicial commission (proposed D.5-7C.4(f))

Current Chapter 3-2	Proposed Chapter 7	Rationale
<p>C. Prior to the commencement of mediation, the mediator(s) shall obtain the written agreement of all <del>participants in the mediation</del> to be bound by the following:</p> <ol style="list-style-type: none"> <li>1. All discussions are to be considered confidential unless <del>all parties and the mediator(s) agree otherwise.</del></li> <li>2. Any admissions <del>made</del> and settlement offers made <del>will</del> not be cited in any further proceeding concerning any other matter before the court should the matter not be resolved in mediation. No participant in the mediation will call a mediator(s) as a witness to the mediation in any subsequent hearing and/or in any other forum. Any person who violates the terms of this agreement may be subject to sanction for <del>rebellion under Book of Discipline 1-8.</del></li> <li>3. A mediator(s) may only report to the court or commission whether the matter has been settled, or not settled, or partially settled. If settled, the terms of any settlement will be disclosed to the court or judicial commission. However, no settlement can be entered into which conflicts <del>shall conflict</del> with any provision of the Constitution of the EPC. Any such settlement will be considered null and void <del>ab initio (from the beginning)</del>. Written settlements are to be sealed and kept by the Clerk of the court separate from <del>the court's or commission's regular minutes.</del></li> <li>4. No formal record of any settlement discussions <del>will</del> be made. This prohibition includes the use of any recording device or a stenographer.</li> </ol>	<p>C. Prior to the commencement of mediation, the mediator(s) shall obtain the written agreement of <del>both parties</del>, by which <del>both parties</del> shall be bound by the following:</p> <ol style="list-style-type: none"> <li>1. All discussions are considered confidential unless <del>both parties and the mediator(s) agree otherwise.</del></li> <li>2. Any admissions and settlement offers made <del>shall</del> not be cited in any further proceeding concerning any other matter before the court, should the matter not be resolved in mediation. No participant in the mediation will call a mediator(s) as a witness to the mediation in any subsequent hearing and/or in any other forum.</li> <li>3. Any person who violates the terms of this agreement may be charged with contempt and subject to sanction.</li> <li>4. A mediator(s) may only report to the court or Judicial Commission whether the matter has been settled, or not settled, or partially settled. If settled, the terms of any settlement shall be disclosed to the court or judicial commission. However, no settlement can be entered into which conflicts with any provision of the Constitution of the EPC.<sup>42</sup> Any such settlement will be considered null and void. Written settlements are to be sealed and kept by the Clerk of the court separate from the minutes of the court or judicial commission.</li> <li>5. No formal record of any settlement discussions <del>shall</del> be made. This prohibition includes the use of any recording device or a stenographer.</li> </ol>	<p>“In the mediation” deleted for conciseness.</p> <p>“Will” has been changed to “shall” throughout this chapter to be consistent with its usage in the Book Order indicating mandatory provisions.</p> <p>Wording changed in 7-1.3C for clarity and consistency. “Contempt” rather than “rebellion” is the proper terminology.</p> <p>“Shall” deleted as unnecessary.</p> <p>Latin term <i>ab initio</i> deleted for clarity.</p> <p>Wording changed for clarity.</p> <p>“Shall” is consistently used in the Book of Order for mandatory provisions.</p>

<sup>42</sup> The Constitution of the EPC consists of the **Westminster Confession of Faith, Westminster Larger Catechism, Westminster Shorter Catechism**, and the **Book of Order** in its three parts (*Book of Government, Book of Discipline, and Book of Worship*).

Current Chapter 3-2	Proposed Chapter 7	Rationale
<p>5. If <del>any</del> party to mediation desires to have legal counsel, the other party shall be afforded the same opportunity. <del>The provisions of D.10-3 shall apply to all counsel.</del></p>	<p><b>7-2 Legal counsel for mediation</b>            If either party to mediation desires to have legal counsel, the other party shall be afforded the same opportunity.<sup>43</sup></p>	<p>Heading added for clarity.            There are two parties, so “either” is correct.</p>

## Current Chapter 7 – Book of Discipline

Current Chapter 7		Rationale
<p>— 7 — PRE-HEARING PROCESS IN ECCLESIASTICAL JUDICIAL PROCEDURES INVOLVING DISCIPLINE</p> <p><b>7-1 Investigation of a Charge</b></p> <p>A. Care over the Church            It is the duty of all church courts to exercise care over those subject to their authority. They shall, with care and discretion, investigate reports concerning alleged offenses that require discipline. This duty is imperative when a person claiming to be aggrieved by an offense shall request an investigation in writing.</p> <p>B. Written Charges            No investigation against an accused offender shall be commenced unless some person files a written charge with the Clerk of the court, or unless the court finds it necessary under Book of Discipline 1-5 and 1-6 for itself to undertake an investigation.</p> <p>C. Judicial Investigative Committee            The court may appoint a judicial investigative committee to serve as a finder of fact, which shall report its findings to the court with its recommendations. The judicial investigative committee shall have no</p>		<p>Content of current Chapter 7 has been moved to proposed Chapter 5, rearranged, and condensed. Proposed chapter 5 now contains all the content related to the time frame of commencing a charge to appointing a prosecutor.</p>

<sup>43</sup> See provisions regarding learned counsel in Proposed D.10-3

Current Chapter 7		Rationale
<p>authority to act for the court other than as an investigative body.</p> <p><b>7-2 Appointment of a Prosecutor</b>            If an investigation should result in raising a strong presumption of guilt of the party accused, the court shall institute an ecclesiastical judicial procedure, and shall appoint a prosecutor to prepare an indictment and to prosecute the case. The prosecutor shall be a member of the court. In cases before the Session, however, he need not be a member of that court, but needs only to be a communing member of the church (as defined in D.1-7).</p> <p><b>7-3 Selection of Prosecutor</b>            Ordinarily, no offended person (or person knowing of an offense) shall become a prosecutor of personal offenses. A church court, however, may investigate personal offenses requiring discipline under D.6-1 when they become known to members of the court.</p> <p><b>7-4 Parties in a Case</b>            The original and only parties in a case of ecclesiastical judicial procedure are the accuser and the accused. The accuser is always the Evangelical Presbyterian Church, whose honor and purity are to be maintained. The prosecutor is always the representative of the church. On appeal the parties are known as appellant and appellee.</p> <p><b>7-5 Private Reconciliation</b>            When the prosecution is instituted by the court or commission the steps required by D.1-6 in the case of personal offenses are not necessary. There are many cases,</p>		

Current Chapter 7		Rationale
<p>however, in which it will be advisable to send a committee to converse in a private manner with the accused and endeavor to bring him to a sense of repentance, before instituting actual ecclesiastical judicial procedures. The committee may then make recommendations to the court or commission concerning further prosecution of the case.</p> <p><b>7-6 Biased Accusations and Testimony</b> Great caution should be exercised by the court or commission in receiving accusations and testimony from any person:</p> <ul style="list-style-type: none"> <li>A. Who is known to hold a malignant spirit against the accused;</li> <li>B. Who is not of good character;</li> <li>C. Who is under sanction or who is the subject of an action for ecclesiastical judicial procedures;</li> <li>D. Who is deeply interested in any respect in the conviction of the accused; or</li> <li>E. Who is known to be litigious, contentious, rash, or highly imprudent.</li> </ul> <p><b>7-7 Suspension of Official Functions</b> When an action for discipline has been commenced against a member of a court, any or all of his official functions may be suspended at the court's or commission's discretion, but this shall never be done in the way of sanction.</p>		

## Chapter 8 – Proposed Book of Discipline Revision

Current Chapter 8	Proposed Chapter 8	Rationale
<p>— 8 — HEARINGS IN ECCLESIASTICAL JUDICIAL PROCEDURES INVOLVING DISCIPLINE</p> <p><b>8-1 Warning to All</b></p>	<p>— 8 — HEARINGS IN ACTIONS FOR DISCIPLINE</p> <p><b>8-1 Warning to All</b></p>	<p>Title modified for conciseness and internal consistency.</p>

Current Chapter 8	Proposed Chapter 8	Rationale
<p>Every member of a court or commission engaged in an ecclesiastical judicial procedure shall bear in mind the command of Scripture: “Brothers, if someone is caught in a sin, you who are spiritual should restore him gently. But watch yourself, or you also may be tempted.” Galatians 6:1 (NIV).</p> <p><b>8-2 Processing a Charge</b></p> <p>A. Commencement</p> <p>When ecclesiastical judicial procedures are commenced in accordance with D.6-1, nothing shall be done at the first meeting of the court thereafter, unless by consent of the parties, except:</p> <ol style="list-style-type: none"> <li>1. To appoint a prosecutor in accordance with D.7-1 and D.7-3.</li> <li>2. To order the indictment drawn and a copy, including names of witnesses then known to support it, served on the accused, in person or by means requiring a written receipt.</li> <li>3. To set a date for trial.</li> </ol> <p>B. Commissions</p> <p>Ordinarily, the court shall decide at this time whether it shall try the case or refer the case for trial and decision to a judicial commission in accordance D.10-5 and G.21-1B. Commissioners shall be ordained Elders within the jurisdiction of the court involved.</p> <p>C. Moderator Pro-Tempore</p> <p>With the consent of the Moderator, and if the court so desires, it may elect one of its members to serve as Moderator Pro-Tempore for a particular case. The Moderator Pro-Tempore shall exercise the duties of a Moderator as described in G.18-2 or G.19-3 with respect to the particular judicial case only.</p>	<p>Every member of a court or commission engaged in an action for discipline shall bear in mind the command of Scripture: “Brothers and sisters, if someone is caught in a sin, you who live by the Sprit should restore that person gently. But watch yourselves, or you also may be tempted.”<sup>44</sup></p>	<p>“Action for discipline” has been substituted for internal consistency.</p> <p>Quotation from the NIV has been changed to the 2011 version. This is in keeping the revision’s attempt to remove gender-specific terminology when it is unnecessary. The EPC does not have a designated Bible translation for the <b>Book of Order</b>.</p> <p>Current 8-2, 8-3, 7-2 and 7-3 have been combined and rewritten for conciseness and clarity in <b>proposed 5-6 and 5-7</b>.</p>

<sup>44</sup> Galatians 6:1 (New International Version, 2011)

Current Chapter 8	Proposed Chapter 8	Rationale
<p><b>8-3 Indictment</b></p> <p>A. Heading of the Indictment Every indictment shall begin: “In the name of the Evangelical Presbyterian Church,” and shall conclude, “against the peace, unity, and purity of the church, and the honor and majesty of the Lord Jesus Christ, as the King and Head thereof.”</p> <p>B. Contents of the Indictment The indictment shall clearly state the times, places and circumstances as to the actions alleged to require disciplinary sanctions, so that the accused may have adequate notice of the charges and the opportunity to make his defense.</p> <p><b>8-4 Formal Summons</b></p> <p>A. Issuance of Formal Summons The Moderator or Clerk shall issue formal summons in the name of the court <del>or</del> to the accused and to such witnesses as either party shall nominate to appear on <del>his</del> behalf.</p> <p>B. Contents The formal summons shall identify the parties to the trial, shall state the time and place of the trial, and shall warn the parties and witnesses of the sanctions for refusal to obey a formal summons.</p> <p>C. Service of Summons and Indictment The Clerk of the court or commission shall deliver a copy of the summons and the indictment to the defendant in person or by form of delivery requiring a signed receipt. The Clerk shall further deliver a summons to necessary witnesses in person or by form of delivery requiring a signed receipt.</p> <p>D. Witness and Exhibits List</p>	<p><b>8-2 Formal Summons</b></p> <p>A. Issuance The Moderator or Clerk shall issue formal summons in the name of the court to the accused and to such witnesses as either party shall nominate to appear on <del>its</del> behalf.</p> <p>B. Contents The formal summons shall identify the parties to the trial, shall state the time and place of the trial, and shall warn the parties and witnesses of the sanctions for refusal to obey a formal summons.</p> <p>C. Service of Summons and Indictment The Clerk of the court or commission shall deliver a copy of the summons and the indictment to the defendant in person or by form of delivery requiring a signed receipt. The Clerk shall further deliver a summons to necessary witnesses in person or by form of delivery requiring a signed receipt.</p> <p>D. Witness and Exhibits List</p>	<p>“Or removed as a typographical error. Gender-specific pronoun is unnecessary in this context</p>

Current Chapter 8	Proposed Chapter 8	Rationale
<p><del>Each of the</del> parties shall provide the other with a list of expected witnesses and copies of all exhibits not later than 5 days before trial (excluding Saturdays, Sundays, and legal holidays) by personal delivery or by means requiring a written receipt.</p> <p><b>8-5 Refusal to Obey a Formal Summons</b></p> <p>A. Accused Person When an accused person <del>shall refuse to obey</del> a formal summons, <del>he</del> shall be served with a second formal summons.</p> <p>B. Second Summons A second formal summons shall be accompanied with a notice that if <del>he</del> does not appear at the time appointed (unless providentially hindered, which fact <del>he</del> must make known to the court), or that if <del>he</del> appears and refuses to plead, <del>he shall be dealt with for his rebellion.</del></p> <p>C. Sanctions for Failure to Appear When an accused person, having been twice formally summoned in accord with <del>D.8-5B</del> <del>shall fail</del> to appear, the court or commission shall enter this fact <del>upon</del> its records, together with a copy of the indictment, <del>and shall suspend the accused person from the sacraments for his rebellion in failing to appear.</del></p>	<p>Both parties shall provide the other with a list of expected witnesses and copies of all exhibits not later than 5 days before trial (excluding Saturdays, Sundays, and legal holidays) by personal delivery or by means requiring a written receipt.</p> <p><b>8-3 Refusal to Obey a Formal Summons</b></p> <p>A. Accused Person When an accused person <del>fails to respond to a</del> formal summons, <del>the accused</del> shall be served with a second formal summons.</p> <p>B. Second Summons A second formal summons shall be accompanied with a notice that if <del>the accused</del> does not appear at the time appointed (unless providentially hindered, which fact <del>the accused</del> shall make known to the court), or that if <del>the accused</del> appears and refuses to plead, the accused shall <del>be considered in contempt.</del><sup>45</sup></p> <p>C. <del>Sanctions for Failure to Appear</del> When an accused person, having been twice formally summoned <del>willfully fails to appear,</del> the court or commission shall enter this fact <del>into</del> its records, together with a copy of the indictment, and shall <del>treat the failure to appear as an act of contempt.</del></p> <ol style="list-style-type: none"> <li>1. For a member of the church, the court or commission shall suspend the accused person from the sacraments indefinitely. If the charge is of a serious nature, the court or commission may proceed to the sanction of excommunication.<sup>46</sup></li> <li>2. For a Teaching or Ruling Elder, the court or commission shall suspend the Officer</li> </ol>	<p>Changed for conciseness</p> <p>Fails to respond is a broader category and does not assume the worst. Gender-specific pronoun unnecessary in this context.</p> <p>“The accused” has been substituted for “he/his.”</p> <p>“Contempt” has been substituted for “rebellion” for internal consistency.</p> <p>Cross reference in current 8-5C deleted as unnecessary. “Willfully fails” seeks to capture the meaning of the traditional but not widely understood term “contumacy.” “Into” rather than “upon” its records is preferred. Failure to appear after being twice summoned is an act of contempt warranting sanctions.</p> <p>Proposed 8-3C.1 has been edited for clarity and conciseness. The proposed wording adds the specificity of an indefinite suspension with the possibility of excommunication if the situation warrants.</p>

<sup>45</sup> Proposed D.1-6A

<sup>46</sup> See Proposed 11-2 regarding sanctions.

Current Chapter 8	Proposed Chapter 8	Rationale
<p>In the event the accused person shall be an officer, the court or commission shall remove him from office and suspend or excommunicate him from the church.</p> <p>In the event the accused person shall be a member but not an officer and the charge be one of a serious nature as described in D.1-2, the court may proceed to removal of the accused person from the membership and fellowship of the church.</p> <p>D. Failure of a Witness to Appear In the event a duly summoned officer or member of the church willfully fails to appear or refuses to testify, the court may treat the refusal of the witness to appear as rebellion, and may proceed to admonish, suspend, remove from office, and/or expel him from the membership and fellowship of the church without need for further action.</p> <p><b>8-6 Time Periods</b> The time which must elapse between the serving of the first formal summons on the accused person, and the meeting of the court at which he is to appear shall be at least ten days. The time allotted for his appearance on the subsequent summons shall be left to the discretion of the court, provided that it is quite sufficient for a reasonable and convenient compliance with the summons.</p>	<p>both from office and the sacraments indefinitely. If the charge is of a serious nature, the court or commission may proceed to the sanctions of removal from office or excommunication.<sup>47</sup></p> <p>D. Failure of a Witness to Appear In the event a duly summoned officer or member of the church willfully fails to appear or refuses to testify, the court may treat the refusal of the witness as contempt and proceed to prosecution of the witness.</p> <p><b>8-4 Time Periods</b> At least ten days must elapse between service of the first formal summons on the accused person, and the meeting of the court at which the accused is to appear. The time allotted for appearance following the second summons shall be left to the discretion of the court or commission, provided that it is sufficient for reasonable compliance.</p>	<p>In the proposed revision “removal” is permanent. Indefinite suspension, which carries the possibility of restoration, is the appropriate sanction at this point. The last sentence reflects the escalation of sanctions described in proposed chapter 11.</p> <p>“Contempt” has replaced “rebellion” for internal consistency. The last phrase has been condensed for clarity and conciseness. Sanctions should not be imposed without trial.</p> <p>The first sentence has been condensed for for conciseness</p> <p>Gender-specific pronoun unnecessary in this context.</p>

<sup>47</sup> Ibid.

## Chapter 9 – Proposed Book of Discipline Revision

Current Chapter 9	Proposed Chapter 9	Rationale
<p align="center">— 9 — EVIDENCE</p>	<p align="center">— 9 — RULES FOR TESTIMONY</p>	
<p><b>9-1 Competency of Witnesses</b> Competency means ability to testify. All persons, including the parties, who have sufficient intelligence to understand the obligation of an oath or affirmation, are competent witnesses.</p>	<p><b>9-1 Competency of Witnesses</b> Competency means ability to testify. All persons, including both parties, who have sufficient ability to understand the obligation of a solemn promise,<sup>48</sup> are competent witnesses.</p>	<p>Title has been changed to better reflect the content of the chapter.</p> <p>“Intelligence” has been changed to “ability” to avoid any unintended negativity. See rationale for “solemn promise” in proposed D.9-7.</p>
<p><b>9-2 Testimony of the Accused</b> The accused party may be allowed but not compelled to testify. No inference of guilt may be drawn from his failure to testify. The person or persons who filed the charges under D.6-1A shall be required to testify on the demand of the accused.</p>	<p><b>9-2 Testimony of the Accused</b> The accused party cannot be required to testify.<sup>49</sup> No inference of guilt may be drawn from failure to testify. The person or persons who filed the charges shall be required to testify on the demand of the accused.</p>	<p>Edited for conciseness.</p> <p>“His” has been deleted as unnecessary.</p>
<p><b>9-3 Families</b> Husbands and wives, parents and children, shall not be required to testify against each other.</p>	<p><b>9-3 Family Members</b> Husbands and wives, parents and children, shall not be required to testify against each other.</p>	<p>“Family members” is more limiting than “families.”</p>
<p><b>9-4 Exclusion of Witnesses</b> Any witness to be examined, other than the accused or a member of the court, may be excluded from the examination of any other witness in the same case if any party objects.</p>	<p><b>9-4 Dismissing Witnesses</b> The court or commission<sup>50</sup> shall have broad discretion as justice may require to dismiss any witness (other than the accused or accuser) from the room while another witness is testifying.</p>	<p>“Dismissing” is more descriptive of the content of this section than “exclusion.” Proposed 9-4 has been rewritten for clarity and, following the input of the Permanent Judicial Commission, to give the court broad discretion in this matter.</p>
<p><b>9-5 Disqualification of Witnesses</b> A member of the court who has given testimony in a case becomes disqualified for sitting as a judge if either party objects.</p>	<p><b>9-5 Disqualification of Witnesses</b> A member of the court or commission who has given testimony in a case shall be ineligible to vote on the case if either party objects.</p>	<p>“Or commission” was added for internal consistency. “Shall be ineligible...” has been substituted for clarity.</p>

<sup>48</sup> See proposed D.9-7.

<sup>49</sup> See proposed D.2-1.

<sup>50</sup> “Commission” means judicial commission throughout this chapter.

Current Chapter 9	Proposed Chapter 9	Rationale
<p><b>9-8 Credibility</b>  <i>Credibility means the degree of credit which may be given to the testimony of a witness. In assessing the credibility of a witness, the court may consider <del>any matter that bears on the</del> credibility of the witness, including, but not limited to, the witness's relationship to <del>the</del> <del>parties</del> or other witnesses, <del>his</del> interest in the result, <del>his</del> weakness of understanding, <del>his</del> demeanor while testifying, <del>his</del> character for honesty or truthfulness, and <del>his</del> belief in the existence of God and a future state of rewards and punishments.</i></p>	<p><b>9-6 Credibility of Witnesses</b>  Credibility means the degree of credit which may be given to the testimony of a witness. In assessing the credibility of a witness, the court may consider <b>relevant matters</b> that bear on the credibility of the witness, including, but not limited to, the witness's</p> <ul style="list-style-type: none"> <li>A. Relationship to <b>either party</b> or other witnesses,</li> <li>B. <b>Personal</b> interest in the result,</li> <li>C. Weakness of understanding,</li> <li>D. Demeanor while testifying,</li> <li>E. Character for honesty or truthfulness,</li> <li>F. Belief in the existence of God and a future state of rewards and punishments.</li> </ul>	<p>Current D.9-8 has been moved to proposed 9-6 for better flow of thought.</p> <p>“Relevant matters” replaces “any matter” for clarity.</p> <p>Relevant matters bearing on the credibility of a witness have been enumerated for clarity. Gender-specific pronouns are unnecessary in this context.</p>
<p><b>9-6 Oath or Affirmation</b>  The oath or affirmation to a witness shall be administered by the Moderator in the following or like terms: “Do you solemnly promise, in the presence of God, that you will declare the truth, the whole truth, and nothing but the truth, according to the best of your knowledge in the matter in which you are called to witness, <del>as you shall answer it to the great Judge of the living and the dead?” If, however, at any time a witness should present himself before a court and for conscientious reasons prefers to swear or affirm in any other manner, he should be allowed to do so.</del></p>	<p><b>9-7 The Solemn Promise of the Witness</b>  The Moderator (or Temporary Moderator) shall administer a solemn promise to a witness in the following or like terms:</p> <p>“Do you solemnly promise, in the presence of God, that you will declare the truth, the whole truth, and nothing but the truth, according to the best of your knowledge in the matter in which you are called to witness?”</p>	<p>Title of proposed 9-7 has been changed and the section rewritten to remove potential objections of conscience to taking an “oath.”</p>
<p><b>9-7 Examination of Witnesses</b></p> <ul style="list-style-type: none"> <li>A. Examination and Cross-Examination  Witnesses shall be examined first by the party introducing them; then cross-examined by the opposite party, after which <del>any</del> party or member of the court may ask additional questions. No question shall be asked or answered except by permission of the Moderator subject to an appeal to the court or</li> </ul>	<p><b>9-8 Examination of Witnesses</b></p> <ul style="list-style-type: none"> <li>A. Examination and Cross-Examination  Witnesses shall be examined first by the party introducing them; then cross-examined by the opposite party, after which <b>either party</b> or <b>any</b> member of the court may ask additional questions. No question shall be asked or answered except by permission of the Moderator subject to an appeal to the court or</li> </ul>	<p>There are two partes, so “either” is the proper word.</p>

Current Chapter 9	Proposed Chapter 9	Rationale
<p>commission. The court or commission shall not permit <del>cumulative or</del> repetitive questions or questions which are frivolous or irrelevant to the charge at issue.</p> <p>B. Witness Inconvenience When the alleged offense took place at a distance, and it is inconvenient for the witnesses to appear before the court having jurisdiction, that court may either appoint a judicial investigative committee or request the <del>coordinate court contiguous to the place where</del> the facts occurred to take the testimony for it.</p> <p>Due notice of the time and place of the taking of testimony by the judicial investigative committee or the coordinate court shall be given to the opposite party. Testimony may be taken by questions asked to the witness with answers recorded in writing or recorded by electronic or other means. <del>All</del> parties shall have the right to examine the witness.</p> <p><b>[Current D.9-8 has been moved to proposed D.9-6]</b></p> <p><b>9-10 Burden of Proof</b> The testimony of more than one witness shall be necessary in order to prove an allegation of the indictment. However, if in addition to the testimony of one witness, other supporting evidence is proved, the allegation may be considered to be proved.</p>	<p>commission. The court or commission shall not permit repetitive questions or questions which are frivolous or irrelevant to the charge at issue.</p> <p>B. Witness Inconvenience</p> <ol style="list-style-type: none"> <li>1. When the alleged offense took place at a distance, and it is inconvenient for the witnesses to appear before the court having jurisdiction, that court may either <ol style="list-style-type: none"> <li>a) appoint a judicial investigative committee to take the testimony, or</li> <li>b) request the court within whose <del>bounds</del> the facts occurred to take the testimony on behalf of the court of original jurisdiction</li> </ol> </li> <li>2. Due notice of the time and place of the taking of testimony by the judicial investigative committee or the coordinate court shall be given to the opposite party. Testimony may be taken by questions asked to the witness with answers recorded in writing or recorded by electronic or other means. <del>Both</del> parties shall have the right to examine the witness.</li> </ol> <p><b>9-9 Burden of Proof</b> The testimony of more than one witness shall be necessary in order to prove an allegation of the indictment. However, if in addition to the testimony of one witness, other supporting evidence is proved, the allegation may be considered to be proved.</p>	<p>“Cumulative” was deleted as redundant and to simplify language.</p> <p>9-7B has been enumerated for clarity.</p> <p>Rewritten for clarity and simplicity.</p>

## Chapter 10 - Proposed Book of Discipline Revision

Current Chapter 10	Proposed Chapter 10	Rationale
<p>— 10 — THE TRIAL</p> <p><b>10-1 Trial Proceedings</b>  <del>When a court or commission proceeds to trial of a case, the following order shall be observed:</del></p> <p>A. <del>The Charge to the Court or Commission</del>  <del>The Moderator (or Moderator Pro-Tempore)</del> shall exhort the members to remember and consider their high character as judges of a court of Jesus Christ and the solemn duty in which they are about to participate.</p> <p>B. <del>Indictment</del>  <del>The Moderator (or Moderator Pro-Tempore)</del> shall read the indictment, and the accused shall be called upon to <del>declare whether he is</del> guilty or not. If the accused pleads guilty, the court or commission <del>may deal with him</del> according to its discretion. If he pleads not guilty the trial shall proceed. Accused parties may plead in writing when they cannot be personally present. <del>Accused parties necessarily absent shall have counsel assigned to them.</del></p> <p>C. <del>Service of Summons</del>  <del>Before proceeding to trial, the court or commission shall ascertain that its summons has been duly served.</del></p> <p>D. <del>Opening Statements</del>  <del>Each party shall be permitted to make a brief opening statement not longer than 15 minutes unless a longer time shall be granted by the court or commission. The prosecutor shall</del></p>	<p>— 10 — TRIAL PROCEEDINGS</p> <p><b>10-1 Order of the trial</b></p> <p>A. Charge to the court or commission  The Moderator (or Temporary Moderator) shall exhort the members of the court or commission to remember and consider their high character as judges of a court of Jesus Christ and the solemn duty in which they are about to participate.</p> <p>B. Indictment  The Moderator (or Temporary Moderator) shall read the indictment, and the accused shall be called upon to plead either “guilty” or “not guilty.” If the accused pleads “guilty,” the court or commission shall act according to its discretion. If the accused pleads “not guilty,” the trial shall proceed. The accused party may plead in writing when unable to be personally present. If the accused party is necessarily absent, the court or commission may postpone the trial or allow the accused to name an active member of the church as a representative.</p> <p>C. Service of Summons  Before proceeding to trial, the court or commission shall ascertain that its summons has been duly served.</p> <p>D. Opening Statements  Each party shall be permitted to make a brief opening statement not longer than 15 minutes unless a longer time shall be granted by the court or commission. The prosecutor shall proceed, followed by the accused.</p>	<p>Title changed for clarity.</p> <p>Heading changed to avoid redundancy with the title. First sentence of current 10-1 deleted as unnecessary.</p> <p>“Pro-tem” has been changed to “Temporary Moderator” throughout for simplicity of language. “Of the court or commission” clarifies “members.”</p> <p>“Temporary Moderator” substituted for internal consistency (Proposed D5-7.C2). Edited for clarity substituting “plead” for “declare” for internal consistency. The tone of “shall act” is preferred to “may deal with him”</p> <p>The final sentence has been rewritten for clarity. The practice of the court assigning counsel should not be carried over from the secular to ecclesiastical court.</p>

Current Chapter 10	Proposed Chapter 10	Rationale
<p>proceed, followed by the accused <del>party or parties</del>.</p> <p>E. Testimony The witnesses for the prosecution and then those for the accused shall be <del>examined in accordance with Chapter 9</del>:</p> <p>F. Exclusion of Prosecutor and the Accused Person</p> <p>On all questions arising in the progress of a trial, the discussion shall first be between the prosecutor and the accused persons. When they have been heard, they may be required to withdraw from the court until the members deliberate upon and decide the question. The Moderator shall announce the court's or commission's decision upon return of prosecutor and accused <del>parties</del> to the courtroom.</p> <p>G. Closing Argument Each party shall be permitted to make a brief closing argument not longer than 15 minutes unless a longer time shall be granted by the court. The prosecutor shall proceed, followed by the accused <del>party or parties</del>. The prosecutor shall be permitted to close, but total amount of time allocated to each party shall be equal.</p> <p>H. Deliberations The roll shall be called, and the members may express their opinions in the case. The prosecutor and the accused <del>persons</del> may be required to withdraw from the court until the members deliberate upon and decide the question.</p> <p>I. The Vote</p>	<p>E. Testimony The witnesses for the prosecution and then those for the accused shall be examined.</p> <p>F. Exclusion of Prosecutor and the Accused Person</p> <p>On all questions arising in the progress of a trial, the discussion shall first be between the prosecutor and the accused persons. When they have been heard, they may be required to withdraw from the court until the members deliberate upon and decide the question. The Moderator (or Temporary Moderator) shall announce the court's or commission's decision upon return of <del>the</del> prosecutor and <del>the</del> accused to the courtroom.</p> <p>G. Closing Argument Each party shall be permitted to make a brief closing argument not longer than 15 minutes unless a longer time shall be granted by the court. The prosecutor shall proceed, followed by the accused. The prosecutor shall be permitted to close, but total amount of time allocated to each party shall be equal.</p> <p>H. Deliberations The roll shall be called, and the members may express their opinions in the case. The prosecutor and the accused may be required to withdraw from the court until the members deliberate upon and decide the question.</p> <p>I. The Vote The vote shall be by secret ballot, and all members of the court or commission shall</p>	<p>Cross reference has been deleted as unnecessary.</p>

Current Chapter 10	Proposed Chapter 10	Rationale
<p>The vote shall be by secret ballot, and all members of the court or commission shall vote “Guilty” or “Not Guilty” on each charge of the indictment. A verdict of guilty shall be rendered only upon a two-thirds majority of the votes cast. The Moderator (or Moderator Pro-Tempore) shall announce the court’s decision upon return of prosecutor and accused parties to the courtroom.</p> <p>J. Imposition of Sanctions Before sanctions are determined, the prosecutor and accused person found guilty shall be given the opportunity to present evidence or argument bearing on the administration of sanctions only.</p> <p>Thereupon, the court or commission shall proceed to a determination of sanctions pursuant to Chapter 11. The prosecutor and the accused persons may be required to withdraw from the court until the members deliberate upon and determine sanctions. Sanctions may be rendered upon a simple majority of the votes cast. The Moderator shall announce the court’s determination of sanctions, which shall be entered upon the records, upon return of prosecutor and accused parties to the courtroom.</p> <p>K. Motion for New Trial If after trial before any court, new testimony is discovered which the accused believes is important, he shall have the right to ask for a new trial. The court shall have the power to grant his request.</p> <p><b>10-2 Challenges to the Court</b></p>	<p>vote “Guilty” or “Not Guilty” on each charge of the indictment. A verdict of guilty shall be rendered only upon a two-thirds majority of the votes cast. The Moderator (or Temporary Moderator) shall announce the court’s decision upon return of the prosecutor and the accused to the courtroom.</p> <p>J. Imposition of Sanctions Before sanctions are determined, the prosecutor and the accused found guilty shall be given the opportunity to present evidence or argument bearing on the administration of sanctions only.</p> <p>Thereupon, the court or commission shall proceed to a determination of sanctions.<sup>51</sup> The prosecutor and the accused may be required to withdraw from the court until the members deliberate and determine sanctions. Sanctions may be rendered upon a simple majority of the votes cast. The Moderator shall announce the court’s determination of sanctions, which shall be entered upon the records, upon return of prosecutor and the accused to the courtroom.</p> <p>K. Motion for New Trial If after the trial new testimony is discovered which the accused believes is important, the accused shall have the right to ask for a new trial. The court shall have the power to grant the request.</p> <p><b>10-2 Challenges to the Court</b></p>	<p>“Temporary Moderator” substituted for internal consistency (Proposed D5-7.C2).</p> <p>Typographical error (“count”) has been corrected.</p> <p>“Pursuant to Chapter 11” has been deleted as unnecessary.</p> <p>“Upon” has been deleted as unnecessary.</p> <p>Gender-specific pronouns are unnecessary in this context.</p>

<sup>51</sup> See Proposed chapter 11-2 regarding sanctions.

Current Chapter 10	Proposed Chapter 10	Rationale
<p>Any party may, for cause hereinafter described, challenge the right of any member to sit in the trial of the case. The question shall be decided by other members of the court. A challenge for cause against a member of the court shall be granted when:</p> <p>A. <del>Disclosure of Opinion:</del> The member of the court expresses his opinion of the guilt of any party to any person not a member of the court before the conclusion of the trial.</p> <p>B. <del>Absence:</del> The member of the court shall absent himself from any sitting of the trial without the permission of the court, or satisfactory reasons rendered.</p> <p>C. <del>Conflict of Interest:</del> The member of the court appears to the court to be related to the parties or other witnesses, to have an interest in the result, or to have similar impediment or conflict of interest.</p> <p><b>10-3 Professional or Learned Counsel</b></p> <p>A. No Paid Counsel No person serving as counsel shall be permitted to receive compensation for services rendered to any party. However, parties may reimburse counsel for their reasonable expenses.</p> <p>B. Professional or Learned Counsel In the event any party shall be represented by a person who is a graduate of an accredited school of law, the other parties shall be likewise permitted to be represented by learned or professional counsel. However, learned or professional counsel must be a member of the church as church as defined in</p>	<p>Either party may, for cause hereinafter described, challenge the right of any member to sit in the trial of the case. The question shall be decided by other members of the court. A challenge for cause against a member of the court shall be granted when</p> <p>A. A member of the court expresses an opinion about the guilt of either party to any person not a member of the court before the conclusion of the trial.</p> <p>B. A member of the court is absent from any sitting of the trial without the permission of the court, or satisfactory reasons rendered.</p> <p>C. A member of the court is found</p> <ol style="list-style-type: none"> <li>1. To be related to the accused or other witnesses,</li> <li>2. To have a personal interest in the result, or</li> <li>3. To have similar impediment or conflict of interest.</li> </ol> <p><b>10-3 Professional or Learned Counsel</b></p> <p>A. No Paid Counsel No person serving as counsel shall be permitted to receive compensation for services rendered to either party. However, parties may reimburse counsel for reasonable expenses.</p> <p>B. Professional or Learned Counsel In the event either party shall be represented by a person who is a graduate of an accredited school of law, the other party shall be likewise permitted to be represented by learned or professional counsel. However, learned or professional counsel must be a member of the church.<sup>52</sup> A member of the court serving as</p>	<p>“Any” changed to “either” because there are only two parties in the case.</p> <p>The indefinite pronoun is better for this section. Gender-specific pronoun is unnecessary in this context. Headings of current A, B, and C have been deleted as unnecessary.</p> <p>The indefinite pronoun is better for this section. “Shall absent himself” has been changed to “is absent” for simplicity of language.</p> <p>A challenge must be made regarding an actual, not apparent, conflict of interest. The section has been enumerated for clarity. “Personal” is needed to specify the “interest”. All members of the court should have interest in a just verdict.</p> <p>There are only two parties, so “either” is correct.</p> <p>There are only two parties, so “either” and “party” are the correct terms</p>

<sup>52</sup> Proposed D.1-2; G.8-3

Current Chapter 10	Proposed Chapter 10	Rationale
<p data-bbox="180 136 699 224"><del>D.1-7.</del> A member of the court serving as counsel in the case shall not be allowed to sit in judgment on the case.</p> <p data-bbox="109 266 317 289"><b>10-4 The Record</b></p> <p data-bbox="138 526 317 548">A. The Record The Clerk or other person designated by the court or commission shall, within thirty days after the trial, make and maintain as part of the permanent records of the court or commission, a complete record of the proceedings, including the charges, the indictment, the answer (if any), all the testimony, whether transcribed or prepared in summary form, and all such acts, orders, and decisions of the court or commission relating to the case including the written ballots evidencing the decision and the determination of sanctions. These documents shall constitute the Record of the Case and should ordinarily be maintained separately from the Minutes of the court or commission.</p> <p data-bbox="138 1110 699 1328">B. <del>Expenses</del> of the Record: The court or commission shall make and maintain a transcript or record of the proceedings by written or electronic means. <del>The parties shall be permitted to make copies (by transcript or electronic recording) of the whole proceedings at their own expense.</del></p> <p data-bbox="138 1370 657 1455">C. Appeals When a case is appealed <del>or removed to a higher court by complaint</del>, the lower court</p>	<p data-bbox="814 136 1333 191">counsel in the case shall not be allowed to sit in judgment on the case.</p> <p data-bbox="743 266 1094 289"><b>10-4 The Record of the Case</b></p> <p data-bbox="772 298 1333 483">A. Importance of the Record Keeping accurate records of actions for discipline is incumbent upon the Moderator and Clerk of the court or commission both for the history of the case and in the event of an appeal.</p> <p data-bbox="772 526 1348 1068">B. <b>Contents</b> of the Record The Clerk or other person designated by the court or commission shall, within thirty days after the trial, make and maintain as part of the permanent records of the court or commission, a complete record of the proceedings, including the charges, the indictment, the answer (if any), all the testimony, whether transcribed or prepared in summary form, and all such acts, orders, and decisions of the court or commission relating to the case including the written ballots evidencing the decision and the determination of sanctions. These documents shall constitute the Record of the Case and should ordinarily be maintained separately from the Minutes of the court or commission.</p> <p data-bbox="772 1110 1348 1328">C. <b>Copies</b> of the Record: The court or commission shall make and maintain a transcript or record of the proceedings by written or electronic means. Both parties shall be permitted to make copies (by transcript or electronic recording) of the whole proceedings.</p> <p data-bbox="772 1370 1213 1393">D. <b>Transmitting the Record on Appeal</b></p>	<p data-bbox="1377 266 1858 321">“Of the Case” has been added for internal consistency</p> <p data-bbox="1377 526 1955 581">Heading of the section has been changed to better reflect the main topic.</p> <p data-bbox="1377 1110 1974 1166">“Copies” better describes the content of the revised section.</p> <p data-bbox="1377 1273 1875 1328">“At their own expense” has been deleted as potentially discriminatory.</p> <p data-bbox="1377 1370 1969 1393">Title has been changed to better reflect the content.</p>

Current Chapter 10	Proposed Chapter 10	Rationale
<p>shall transmit the Record of the Case to the higher court with the addition of the notice of appeal <del>or complaint</del>. The higher court shall render its decision based only on that which is contained in the Record. On the final decision of a case by a higher court the decision shall be communicated to all lower courts.</p> <p><b>9-9 The Record</b></p> <p>A. <i>Authentication</i>  <i>The records of a court or commission, or any part of them, whether original or transcribed, if regularly authenticated by the Moderator and Clerk, or by either of them, shall be deemed good and sufficient evidence in any other court. Authentication shall be in writing in the following or similar form:</i></p> <p style="padding-left: 40px;"><i>I, _____ Clerk [or Moderator] of the _____ [name of court] do hereby certify that the foregoing are true, correct, and complete copies of the Record in the Case of _____.</i></p> <p>Signed: _____ Date: _____</p> <p>B. <i>Testimony</i>  <i>The testimony taken by one court or commission and regularly authenticated shall be received by every other court as no less valid than if it had been taken by itself.</i></p> <p><b>10-5 Judicial Commissions</b></p> <p>A. <i>Rights and Duties</i>  A judicial commission created in accordance with D.8-2 B, shall have all the rights, privileges, duties, and obligations of the court in the matter assigned to it.</p>	<p>When a case is appealed,<sup>53</sup> the lower court shall transmit the Record of the Case to the higher court with the addition of the notice of appeal. The higher court <del>does not re-try the case but</del> shall render its decision based only on that which is contained in the Record. On the final decision of a case by a higher court the decision shall be communicated to all lower courts.</p> <p>1. <b>Authentication of the Record</b>  The records of a court or commission, or any part of them, whether original or transcribed, if regularly authenticated by the Moderator and Clerk, or by either of them, shall be deemed good and sufficient evidence in any other court. Authentication shall be in writing in the following or similar form:</p> <p style="padding-left: 40px;">I, _____ Clerk [or Moderator] of the _____ [name of court] do hereby certify that the foregoing are true, correct, and complete copies of the Record in the Case of _____.</p> <p>Signed: _____ Date: _____</p> <p>2. <b>Authentication of Testimony</b>  The testimony taken by one court or commission and regularly authenticated shall be received by every other court as no less valid than if it had been taken by itself.</p>	<p>References to “complaint” have been removed as it is not the topic of this section.  “Does not re-try the case” has been added for clarity.</p> <p>Current 9-9 has been moved to proposed 10-4D.1 for better flow of thought, bringing content related to the Record of the Case in one place.</p> <p>Title has been changed to better reflect the content of the section</p> <p>Current 10-5 has been moved to proposed 5-5 for better flow of thought, moving rules for judicial commissions into one place..</p>

<sup>53</sup> See Book of Discipline chapter 13 on the process of appeal.

Current Chapter 10	Proposed Chapter 10	Rationale
<p>B. Composition Judicial commissions shall be composed of no less than three or more than seven members elected by the court.</p> <p>C. Membership Judicial commissions of Presbytery shall be composed of Teaching Elders and Ruling Elders in proportion as near to two Ruling Elders to one Minister as possible in accordance with Book of Government G.21-1C.</p>		

## Chapter 11 – Proposed Book of Discipline Revision

Current Chapter 11	Proposed Chapter 11	Rationale
<p>— 11 — DISCIPLINARY SANCTIONS</p> <p><b>11-1 Exhortation to Meekness</b> When any person shall be found guilty of an offense, the court shall proceed with all tenderness and shall deal with its offending brother or sister in the spirit of meekness. The members are exhorted to watch themselves, so that they may avoid temptation.</p> <p><b>11-2 Disciplinary Sanctions</b> Disciplinary sanctions which may be administered by church courts or commissions are admonition, suspension, removal from church office, and excommunication. <i>When a milder sanction fails to reclaim the offender, it may become the duty of the court to proceed to the administration of a more severe sanction.</i> <b>[Last sentence moved to proposed 11-2C.4]</b></p>	<p>-- 11 -- DECISIONS FROM A TRIAL – DISCIPLINARY SANCTIONS</p> <p><b>11-1 Exhortation to Meekness</b> When any person shall be found guilty of an offense, the court shall proceed with all tenderness and shall deal with its offending brother or sister in the spirit of meekness. The members are exhorted to watch themselves, so that they may avoid temptation.</p> <p><b>11-2 Disciplinary Sanctions</b> A. Disciplinary sanctions which may be administered by church courts or commissions are, in order of severity:  <ol style="list-style-type: none"> <li>1. Reprimand<sup>54</sup></li> <li>2. Suspension</li> <li>3. Removal from church office</li> <li>4. Excommunication.</li> </ol></p>	<p>Title change to better reflect content of the chapter</p> <p>Sanctions enumerated for clarity in proposed 11-2</p> <p>“In order of severity” added for clarity and internal consistency. <b>Admonition</b> is a word used broadly within the scripture and our tradition outside of formal disciplinary actions. <b>Reprimand</b> has been substituted in the proposed revision as a category for the mildest sanction of a formal action of discipline.</p>

<sup>54</sup> This category was formerly “admonition.” Scripture directs us to admonish one another. In this *Book of Discipline*, “reprimand” is used for the situation in which admonishment has not been successful and the issue rises to the level of trial and sanction.

Current Chapter 11	Proposed Chapter 11	Rationale
<p>If the court finds on trial that the matter complained of amounts to no more than such acts of infirmity as may be amended, so that little or nothing remains to hinder the person's ministry, it shall take all prudent measures to see that the infirmity is amended.</p> <p><b>11-7 Principles for the Administration of Sanctions</b>  <i>The administration of church sanctions shall be suited to the nature of the offense. For private offenses, sanctions should be administered in the presence of the court or commission alone, or in private by one or more members of the court or commission. In the case of public offenses, the degree of sanction and mode of administering it shall be within the discretion of the court or commission, acting in accordance with paragraphs below which deal with particular sanctions.</i></p> <p>If the charge is one of serious immorality or heresy and the accused person persists in his rebellion, the court or commission may proceed to inflict the highest sanction.</p> <p><b>11-3 Definition of Admonition</b>  Admonition is the formal reproof of an offender by a church court, warning of his guilt and</p>	<p>B. If the court finds on trial that the offender is guilty, but the offense may be remedied without hindering the person's ministry, the Court shall take all prudent measures to remedy the offense and administer at least the sanction of Reprimand and record the remedy.</p> <p>C. Principles for the Administration of Sanctions  The administration of church sanctions shall be suited to the nature of the offense.</p> <ol style="list-style-type: none"> <li>1. Private offenses  Sanctions for private offenses should be administered in the presence of the court or commission alone, or in private by one or more members of the court or commission.</li> <li>2. Public offenses  The court or commission has sole discretion regarding the degree of sanction and mode of administration for public offenses.</li> <li>3. Escalation of offenses  When a milder sanction fails to reclaim the offender, it may become the duty of the court to proceed to the administration of a more severe sanction.</li> <li>4. Severity of offenses  If the charge is one of serious immorality or heresy and the offender persists in rebellion, the court or commission may proceed to administer a higher sanction.</li> </ol> <p><b>11-3 Sanction of Reprimand</b>  A. Reprimand is the formal reproof of an offender by a church court, warning of the offender's</p>	<p>"Reprimand" is more broadly understood than "admonition."</p> <p>It is not appropriate to find a person guilty with no sanction. If the offender is guilty, a sanction should be recorded with the remedy also recorded. "Acts of infirmity" has been retained and explained in proposed D.1-6.</p> <p>Portions of current 11-7 moved to proposed 11-2C for better flow of thought. Sections enumerated for clarity.</p> <p>Proposed 11-2C.3 edited for conciseness.</p> <p>Gender-specific pronoun unnecessary in this context. "Inflict" changed to "administer" for internal consistency. The comparative "higher" is correct in this context</p> <p>Proposed 11-3 brings references to admonition scattered through current chapter 11 together in one section.</p>

Current Chapter 11	Proposed Chapter 11	Rationale
<p data-bbox="226 136 688 191">danger, and encouraging <del>him</del> to be more careful and watchful in the future.</p> <p data-bbox="109 360 512 386"><b>11-8 The Sanction of Admonition</b></p> <p data-bbox="109 393 705 613"><i>The sanction of admonition may be administered in private by one or more members of the court if the offense is known only to a few and is not aggravated in character. If the offense is public, the admonition shall be administered by the Moderator <del>or Chair</del> in presence of the court and may also be announced in public should the court deem it appropriate.</i></p> <p data-bbox="109 685 478 711"><b>11-4 Definition of Suspension</b></p> <p data-bbox="180 717 697 808">Suspension is the temporary exclusion of church members from the sacraments and/or from other church ministries or activities.</p> <p data-bbox="109 847 357 873"><i>11-10 (first paragraph)</i></p> <p data-bbox="109 880 693 971"><i>The goal of suspension is to impress the offender of the evil of <del>his sin</del> and, under God’s blessing, to lead <del>him</del> to repentance.</i></p> <p data-bbox="109 1042 357 1068"><i>11-4 (third paragraph)</i></p> <p data-bbox="109 1075 714 1295"><i>Suspension should generally be indefinite in its duration, continuing until the person suspended gives such evidence of repentance as may warrant its <del>repeat</del>. The good of the offender and/or the church may require that the offender be suspended for a definite length of time, even though <del>he</del> confesses his sin and gives evidence of repentance.</i></p>	<p data-bbox="819 136 1352 191">guilt and danger, and encouraging the offender to be more careful and watchful in the future.</p> <p data-bbox="772 360 1331 646">B. The sanction of reprimand may be administered in private by one or more members of the court if the offense is known only to a few and is not aggravated in character. If the offense is public, the reprimand shall be administered by the Moderator in the presence of the court and may also be announced in public should the court deem it appropriate.</p> <p data-bbox="743 685 1100 711"><b>11-4 Sanction of Suspension</b></p> <p data-bbox="772 717 1344 1425"> A. Suspension is the temporary exclusion of church members from the sacraments and/or from other church ministries or activities.   B. The goal of suspension is to impress upon the offender the evil of the offense and, under God’s blessing, to lead the offender to repentance.   C. Suspension may be either indefinite or definite in duration. <ol style="list-style-type: none"> <li>1. Suspension should generally be indefinite in duration, continuing until the person suspended gives such evidence of repentance as may warrant its removal.</li> <li>2. The good of the offender and/or the church may require that the offender be suspended for a definite length of time, even though the person confesses his/her sin and gives evidence of repentance.</li> </ol> D. Regarding church members </p>	<p data-bbox="1377 136 1986 354">“Sanction” has replaced “Definition” for consistency and because the proposed new 11-3 ranges beyond “definition.” See note on proposed 11-2 for rationale on “reprimand.” Gender specific pronouns are unnecessary in this context. Sections are enumerated for clarity in proposed 11-3.</p> <p data-bbox="1377 717 1818 743">See note on 11-3 regarding “sanction.”</p> <p data-bbox="1377 847 1965 971">First paragraph of current 11-10 moved to proposed 11-4B for better flow of thought. The sentence has been smoothed out and gender specific pronouns have been replaced.</p> <p data-bbox="1377 1010 1957 1036">Title of proposed 11-4C has been added for clarity.</p> <p data-bbox="1377 1172 1923 1263">“Repeal” in current 11-4 has been changed to “removal” in proposed 11-4C for consistency in terminology (see proposed chapter 12).</p> <p data-bbox="1377 1302 1894 1360">Gender-specific pronoun unnecessary in this context.</p> <p data-bbox="1377 1399 1957 1458">The impact of suspension differs from members to Ruling Elders/Deacons and Teaching Elders. A</p>

Current Chapter 11	Proposed Chapter 11	Rationale
<p>11-4 (second paragraph)  <i>With respect to church officers, suspension may include the exclusion of the officer from office and the sacraments. It may be either definite or indefinite as to its duration.</i></p> <p>11-7 <del>When a Teaching Elder is removed from office, his pastoral relationship shall be dissolved; but when he is suspended, it shall be left to the discretion of the Presbytery whether the sanction shall include the dissolution of the pastoral relationship</del></p> <p>11-10 (second paragraph)  <i>Definite suspension shall be administered in the presence of the court or commission alone or in open session of the court, as it may deem best, and public announcement thereof shall be at the court's or commission's discretion.</i></p> <p>11-11 Indefinite suspension  <i>Indefinite suspension shall be administered in the presence of the court or commission alone or in open session of the court, as it may deem best, and public</i></p>	<p>Suspension is the temporary exclusion of church members from the sacraments and/or from other church ministries or activities.</p> <p>E. Regarding Church Officers<sup>55</sup>  Suspension includes exclusion from office and may include exclusion from the sacraments.</p> <p>F. Regarding Teaching Elders</p> <ol style="list-style-type: none"> <li>1. Definite or indefinite suspension shall bar the Teaching Elder from all functions of office and places the Teaching Elder on inactive status with the Presbytery.</li> <li>2. When a Presbytery suspends a Teaching Elder, the Presbytery has sole discretion as to whether the sanction will include the dissolution of the pastoral relationship.</li> <li>3. The Presbytery may suspend the Teaching Elder from all ministerial functions without dissolving the pastoral relationship if the court anticipates restoring the offender a time that does not unduly bring harm to the congregation. In such a case, the court should assist the congregation in supplying a temporary pastor in order to maintain the regular worship of the congregation.</li> </ol> <p>G. Administration of the sanction of suspension</p> <ol style="list-style-type: none"> <li>1. The sanction of suspension shall be administered in the presence of the court or commission alone or in open session of the court, as it may deem best, and public announcement thereof shall be at the discretion of the court or commission.</li> </ol>	<p>section relating specifically to church members was added for clarity.</p> <p>Footnote added to clarify “church officers.” “May” has been deleted as exclusion from office is necessarily included in suspension. The final sentence of the second paragraph of current 11-4 is unnecessary in this context (see proposed 11-4C).</p> <p>Past experience has shown the need for the addition of proposed 11-4F.  Before trial, suspension is temporary (D.5-7C.6) and the court has discretion regarding its extent. Following trial with a verdict of guilty, suspension is from all functions of office.</p> <p>Text from current 11-7 (underscored portion) has been utilized here for better flow of thought and condensed for clarity.</p> <p>Language has been added to bring clarity to the role of the presbytery in caring for the congregation when a pastor has been suspended and the pastoral relationship has not been dissolved.</p> <p>“The sanction” inserted for consistency of terminology.  Language from current 11-10 and 11-11 has been incorporated in proposed 11-4H for better flow of thought and condensed for clarity.</p>

<sup>55</sup> Church officers are Teaching Elders, Ruling Elders, and Deacons

Current Chapter 11	Proposed Chapter 11	Rationale
<p><i>announcement thereof shall be at the court's or commission's discretion.</i></p> <p><del>When the court or commission has resolved to pass the sentence, the Moderator shall address the offending brother to the following purpose:</del></p> <p>“Whereas you, [here describe the person as a Teaching Elder, Ruling Elder, Deacon, or member of the Church] are convicted by sufficient proof (or are guilty by your own confession) of the sin [here insert the offense], we the Presbytery (or Church Session) of [here insert name of the presbytery or church] in the name and by the authority of the Lord Jesus Christ, do now declare you suspended from the Sacraments of the Church (and from the exercise of your office), until you give satisfactory evidence of repentance.”</p> <p><b>11-5 Definition of Removal from Office</b> Removal from office is the sanction by which the offender's ordination <del>and election are set aside, and the offender is removed from all church offices</del> without excommunication. Removal from office may or may not be accompanied by the administration of other sanctions.</p>	<p>2. The sanction of definite or indefinite suspension shall be administered by the Moderator of the court or commission in the following or similar words:</p> <p>“Whereas you, _____ [a Teaching Elder / Ruling Elder / Deacon, / member of the Church] are convicted by sufficient proof [or are guilty by your own confession] of the sin of [name the offense], we the Presbytery [or Session] of [name of the Presbytery or church] in the name and by the authority of the Lord Jesus Christ, do now declare you suspended from the Sacraments of the Church [and from the exercise of your office], until you give satisfactory evidence of repentance.”</p> <p>To this shall be added such advice or admonition as may be judged necessary, and the whole shall be concluded with prayer that the offender would be restored.</p> <p><b>11-5 Sanction of Removal from Office</b> A. Removal from office is the sanction by which the offender's ordination is permanently revoked, thus removing the offender from the office of Teaching Elder, Ruling Elder, or Deacon without excommunication. Removal from office may or may not be accompanied by the administration of other sanctions.</p>	<p>See note on proposed 11-3 regarding “sanction.” Sections of current 11-5, 7, and 12 have been combined in proposed 11-5 for better flow of thought and enumerated for clarity.</p> <p>“Election” has been deleted in proposed 11-5A for clarity. Removal from office changes the effect but not the fact of election to office. Removing the word also takes any possibility of interpreting “election” in its theological sense.</p> <p>Removal from office is defined as “permanently revoked,” rather than “set aside” (current 11-5). If there is a possibility of restoration, the sanction should be that of “indefinite suspension,” mpt “removal from office.” “Removal” in the proposed revision is reserved for the most serious situations where restoration to office is not possible.</p>

Current Chapter 11	Proposed Chapter 11	Rationale
<p>11-7 (final 2 paragraphs)  <i>When a Teaching Elder is removed from office, his pastoral relationship shall be dissolved; [the following has been moved to proposed 11-4F] but when he is suspended, it shall be left to the discretion of the Presbytery whether the sanction shall include the dissolution of the pastoral relationship</i></p> <p><i>When a Presbytery shall remove a Teaching Elder from his office without excommunication, it shall assign him to membership at some local church subject to the approval of the Session of that local church.</i></p> <p>11-12 Removal from Office  <i>The sanction of removal from office shall be administered by the Moderator or Chair in the words following:</i></p> <p><i>“Whereas [here insert name], a Teaching Elder of this Presbytery (or a Ruling Elder or Deacon of this Church), has been proved by sufficient evidence to be guilty of the sin of [insert the offense], we, the Presbytery (or Church Session) of [here insert name of the presbytery or local church] do adjudge him disqualified for the office of Minister (or Ruling Elder or Deacon), and therefore we do hereby, in the name and by the authority of the Lord Jesus Christ, remove him from the office of Teaching Elder (or Ruling Elder or Deacon) of the said and do prohibit him from exercising any of the functions thereof.”</i></p>	<p>B. When a Presbytery or General Assembly, if it has assumed jurisdiction,<sup>56</sup> removes a Teaching Elder from office, the pastoral relationship shall be dissolved.</p> <p>C. When a Presbytery removes a Teaching Elder from office without excommunication, it shall assign the offender to membership at some local church subject to the approval of the Session of that local church.</p> <p>D. Administration of the Sanction of Removal from Office  The Moderator of the court or commission shall administer the sanction of removal from office in the following or similar words:</p> <p><i>“Whereas [name], a Teaching Elder of this Presbytery (or a Ruling Elder or Deacon of this Church), has been proved by sufficient evidence to be guilty of the sin of [offense], we, [name of the presbytery or local church] do adjudge you disqualified for the office of Teaching Elder (or Ruling Elder or Deacon), and therefore we do hereby, in the name and by the authority of the Lord Jesus Christ, remove you from the office of Teaching Elder (or Ruling Elder or Deacon) of the church and do prohibit you from exercising any of the functions thereof.”</i></p>	<p>“Teaching or Ruling Elder” in proposed 11-5A replaces “all church offices” for clarity.</p> <p>Text from 11-7 incorporated in proposed 11-5B and C for better flow of thought. Active voice replaces passive voice and gender-specific pronouns have been replaced.  The additional wording envisions a situation in which the General has assumed jurisdiction of a case due to a presbytery’s inability or unwillingness to act.</p> <p>“Shall” removed for conciseness.</p> <p>Gender specific pronoun unnecessary in this context.</p> <p>Text from current 11-12 moved here for better flow of thought.  Active voice replaces passive voice and the sentence reworded accordingly.  “Or similar” has been added to give the Moderator discretion. The wording below is a template but not mandatory.</p> <p>Gender specific pronouns are unnecessary in this context.  “Minister” has been changed to “Teaching Elder” for internal consistency,</p>

<sup>56</sup> See proposed D.3-4 and 3-5.

Current Chapter 11	Proposed Chapter 11	Rationale
<p><i>If the sanction includes suspension or excommunication, the Moderator or Chair shall proceed to say: “We do, moreover, by the same authority, suspend the said _____ from the Sacraments, and cut him off from the membership and fellowship of the Church.”</i></p> <p><i>The sentence of removal from office ought to be accompanied by solemnities similar to those already prescribed in the case of excommunication.</i></p> <p><b>11-6 Definition of Excommunication</b> Excommunication is the removal of an offender from the membership and fellowship of the church. Excommunication shall be administered only in cases of offenses aggravated by a continuing refusal to repent.</p> <p>The purpose of this sanction is to <del>reclaim the offender, to deliver the church from the disgrace and injury of his offense, and to motivate the church with fear by the example of his discipline.</del></p> <p><b>11-13 Excommunication</b> Excommunication may be administered according to one or other of the two modes laid down for indefinite suspension, or it may be inflicted in public as the</p>	<p>If the sanction includes suspension or excommunication, the Moderator or Chair shall proceed to say <del>the following or similar words:</del></p> <p>“We do, moreover, by the same authority, suspend you from the Sacraments, and cut you off from the membership and fellowship of the Church.”</p> <p><b>11-6 Sanction of Excommunication</b></p> <p>A. Excommunication is the removal of an offender from the membership and fellowship of the church. Excommunication shall be administered only in cases of offenses aggravated by a continuing refusal to repent.</p> <p>B. The purpose of <del>excommunication</del> is to maintain the honor of God, to restore the sinner, to remove offense from the church and to remind the church to “not regard lightly the discipline of the Lord” (Hebrews 12:5b).</p> <p>C. <del>When a Presbytery or General Assembly</del><sup>57</sup> removes a Teaching Elder from office with excommunication, it should request the Session of a local church to minister to the offender as it would an unbeliever in hope of leading the offender to repentance and eventual admission to membership in the church and the Lord’s table.</p> <p>D. <del>Administration of the Sanction of</del> Excommunication Excommunication may be administered privately or publicly as the court decides. The Moderator of the court or commission shall</p>	<p>See note above.</p> <p>See note on proposed 11-3 regarding “sanction.”</p> <p>Wording of proposed 11-6B makes this section consistent with Proposed 1-3.</p> <p>Proposed 11-6 C added for clarity. Restoration is always the goal of discipline, even if the sanction is excommunication. Any restoration to office following excommunication begins with membership in a local church.</p> <p>Text of current 11-13 incorporated here for better flow of thought.</p>

<sup>57</sup> The General Assembly only has authority to remove a Teaching Elder from office if it has assumed jurisdiction under the authority given in proposed D.3-4 and 3-5.

Current Chapter 11	Proposed Chapter 11	Rationale
<p>court may decide. In administering this sanction, the Moderator of the court or Chair of the commission shall make a statement of the several steps which have been taken with respect to the offending person, and of the decision to cut him off from the membership and fellowship of the church. <b>He</b> shall then show from Matthew 18:15-18 and 1 Corinthians 5:1-5 the authority of the church to cast out unworthy members, and shall explain the nature, use, and consequences of this sanction. <b>He</b> shall then administer the sanction in the words following:</p> <p><b>Whereas</b> _____ a member of this Church, has been by sufficient proof convicted of the sin of _____ and after much admonition and prayer, obstinately refuses to hear the Church and has manifested no evidence of repentance: Therefore, in the name and by the authority of the Lord Jesus Christ, we, the Session of the Church of _____ do pronounce <b>him</b> to be excluded from the Sacraments and <del>cut off from</del> the fellowship of the Church.”</p> <p><b>11-9 Confession and Restoration</b>  <b>[11-9A moved to proposed 5-2C]</b>  A. Confession  When any person shall come forward and make his offense known to the court or commission, a full statement of the facts shall be recorded, and judgment rendered without judicial procedures. When an officer, before judgment is entered, shall make a confession of a matter that is marked by outrageous or scandalous crime or vice, such as substance abuse, marital infidelity, embezzlement or the like, however penitent he may appear to the satisfaction of all, the court or commission shall without delay suspend or remove him from his office.</p>	<p>make a statement of the steps which have been taken with respect to the offender, and of the decision to cut the offender off from the membership and fellowship of the church. <b>The Moderator</b> shall then show from Matthew 18:15-18 and 1 Corinthians 5:1-5 the authority of the church to cast out unworthy members, and shall explain the nature, use, and consequences of this sanction. <b>The Moderator</b> shall then administer the sanction in the following or similar words:</p> <p>“ _____ a member of this Church, has been by sufficient proof convicted of the sin of _____ and after much admonition and prayer, obstinately refuses to hear the Church and has manifested no evidence of repentance. Therefore, in the name and by the authority of the Lord Jesus Christ, we, the Session of the Church of _____ do pronounce <b>you</b> to be excluded from the Sacraments and the fellowship of the Church.”</p>	<p>Gender-specific pronouns are not necessary in this context.</p> <p>“Or similar” has been added to give the Moderator discretion. What follows is a template, not words that are required.</p> <p>Gender-specific pronoun is unnecessary in this context.  “Cut off from” was deleted as unnecessary.  “Excluded” applies to both the Sacraments and fellowship.</p>

Current Chapter 11	Proposed Chapter 11	Rationale
<p><b>[11-9B moved to proposed 12]</b></p> <p>B. Restoration An officer suspended or removed from office for scandalous conduct shall not be restored, even on the deepest sorrow for his sin, until he has demonstrated an exemplary, humble, and edifying lifestyle for a considerable amount of time, which, in the case of removal from office, shall be for not less than one year. Any officer must present evidence that it is virtually certain that the conduct causing his suspension or removal from office will not occur again.</p> <p><del>C. Restoration of a Teaching Elder A Teaching Elder removed from office shall not be restored until it appears that the general sentiment of the church is strongly in his favor and demands his restoration. In that event restoration shall be pronounced only by the court imposing the sanction or with its consent. <i>When an application for restoration and a statement of support from the Session of the church to which the former Teaching Elder has been assigned is filed with the clerk of the Presbytery, the application will be forwarded to the Ministerial Committee for its review and recommendation. Consideration of the application will proceed as follows:</i></del></p> <ol style="list-style-type: none"> <li><del>1. Should the Ministerial Committee choose to recommend restoration to the Presbytery, the Presbytery shall consider the recommendation for restoration in executive session.</del></li> <li><del>2. The Teaching Elder seeking restoration and the Ministerial Committee will be provided the opportunity to address the Presbytery.</del></li> <li><del>3. Upon hearing from the Teaching Elder seeking restoration he shall be excused.</del></li> <li><del>4. A motion to restore or not restore may be brought before the Presbytery only by its Ministerial Committee.</del></li> </ol>		<p>Current 11-2C has been deleted because removal from office is defined in the proposed revision as permanent revocation of ordination, thereby nullifying "restoration." If a Teaching Elder is ordained again it is not by way of being "restored."</p>

Current Chapter 11	Proposed Chapter 11	Rationale
<p><del>5. All votes concerning Teaching Elder restoration are to be by secret ballot.</del></p> <p><del>6. A 4/5 affirmative vote shall be required for restoration to office.</del></p> <p>7. Restoration may be pronounced only by the court imposing the sanction, or with its consent.</p> <p><i>To this shall be added such advice or admonition as may be judged necessary, and the whole shall be concluded with prayer to almighty God that He would follow this act of discipline with His blessing.</i></p>		

## Chapter 12 – Proposed Book of Discipline Revision

Current Chapter 12	Proposed Chapter 12	Rationale
<p>— 12 — REMOVAL OF SANCTIONS</p> <p><b>12-1 Court Should Pray for the Offender</b> After any person has been suspended from the sacraments, it is proper that the Elders of the church should frequently converse with him as well as pray with him and for him, that it would please God to give him repentance.</p> <p><b>12-2 Restoration to the Sacraments</b> When the court shall be satisfied as to the reality of the repentance of a suspended offender, he shall be admitted to profess his repentance either in the presence of the court or commission alone or publicly, and be restored to the sacraments of the church, and to his office, if such be the judgment of the court or commission, which restoration shall be declared to the penitent in words of the following import:</p>	<p>— 12 — REMOVAL OF SANCTIONS</p> <p><b>12-1 Court Should Pray for the Offender</b> After any person has been suspended from the sacraments, it is proper that the Elders of the church should frequently converse with the person as well as pray with and for the person, that it would please God to grant repentance and restoration.</p> <p><b>12-2 Restoration to the Sacraments</b> When the court shall be satisfied as to the reality of the repentance of a suspended offender, that person shall profess repentance either in the presence of the court alone or publicly, and be restored to the sacraments of the church if such be the judgment of the court. Restoration shall be declared in the following or similar words:</p>	<p>Gender-specific pronouns are unnecessary in this context. “Restoration” was added because it is the ultimate goal of the disciplinary process.</p> <p>Gender-specific pronouns are unnecessary in this context. “Or office” has been deleted, as this section deals only with restoration to sacraments. Restoration to office is in proposed 12-4. The word “similar” is added to clarify that the declaration is mandatory, but not the specific wording, which may be modified to fit the specific situation.</p>

Current Chapter 12	Proposed Chapter 12	Rationale
<p>“Whereas, you, _____, have been suspended from the Sacraments of the Church (and from the office of Teaching Elder, or Ruling Elder, or Deacon) but have now demonstrated such repentance as satisfies the church, we, the Session (or Presbytery) of _____ do hereby, in the name and by the authority of the Lord Jesus Christ, restore you from the said sentence of suspension, and restore you to the full communion of the Church (and the exercise of your said office, and all the functions thereof).”</p> <p>After which there shall be prayer and thanksgiving.</p> <p><b>12-3 Restoration of an Excommunicated Person</b>  <del>Subject to the provisions of D.12-7, when an excommunicated person shall be so moved with his excommunication that he is brought to repentance and he desires to be readmitted to the membership and fellowship of the church, he may request that the Session restore him.</del></p> <p>The Session shall proceed to restore him if it finds sufficient evidence of his sincere repentance. This may be done in the presence of the court or commission or of the congregation as seems best to the Session.</p>	<p>“Whereas, you, _____, have been suspended from the Sacraments of the Church (and/or from the office of Teaching Elder, or Ruling Elder, or Deacon) but have now demonstrated such repentance as satisfies the church, we, the Session (or Presbytery) of _____ do hereby, in the name and by the authority of the Lord Jesus Christ, restore you from the said sentence of suspension, and restore you to the full communion of the Church (and the exercise of your said office, and all the functions thereof).”</p> <p>After which there shall be prayer and thanksgiving.</p> <p><b>12-3 Restoration of an Excommunicated Person</b></p> <p>A. When an excommunicated person comes to repentance and desires to be readmitted to the membership and fellowship of the church, that person may request restoration from the Session.</p> <p>B. The Session shall proceed to restore the excommunicated person if it finds sufficient evidence of sincere repentance. This may be done in the presence of the Session or the congregation as seems best to the Session.</p> <p>C. If the excommunicated person was a Teaching Elder, the Session may receive him/her into membership and fellowship of the church. The Session shall then report its action to the court that imposed the original sanction.</p>	<p>Proposed 12-3 edited for conciseness and to remove unnecessary gender-specific pronouns. Cross reference in current 12-3 is unnecessary in the proposed revision.</p> <p>Gender-specific pronoun unnecessary in this context.</p> <p>The word “commission” is unnecessary.</p> <p>Proposed 12-3C has been added for clarity. While the Presbytery alone (or a Commission thereof) may sanction a Teaching Elder with removal from office and excommunication, those sanctions end any membership in the Presbytery and, in the case of excommunication, a local church. The Session has authority to restore the former Teaching Elder to church membership and sacraments. Only the</p>

Current Chapter 12	Proposed Chapter 12	Rationale
<p>On the day appointed for his restoration, the Moderator <del>of the court or Chair of the commission</del> shall call upon the excommunicated person and propose to him the following questions:</p> <p>“Do you, from a deep sense of your great wickedness, freely confess your sins in thus rebelling against God and in refusing to hear His Church?” Answer, “I do.”</p> <p>“Do you acknowledge that you have been in justice and mercy cut off from the communion of the church?” Answer, “I do.”</p> <p>“Do you now voluntarily profess your sincere repentance and sorrow for your sin and rebellion: and do you humbly ask the forgiveness of God and His Church?” Answer, “I do.”</p> <p>“Do you sincerely promise, through divine grace, to live in all humility of mind and carefulness to avoid sin, and to attempt to live a lifestyle that will glorify God our Savior?” Answer, “I do.”</p> <p>Here the Moderator <del>or Chair</del> shall give the person being restored a suitable exhortation, encouraging and comforting him. Then <del>he</del> shall pronounce <del>the sentence of</del> restoration in the following words:</p> <p>“Whereas you, _____, have been shut out from the membership and fellowship of the Church, but now have demonstrated such repentance as satisfies the Church; in the name and by the authority of the Lord Jesus Christ we, the Session of this Church, do declare you restored from the sentence of</p>	<p>D. On the day appointed for restoration, the Moderator shall call upon the excommunicated person and propose the following questions:</p> <p>“Do you, from a deep sense of your great wickedness, freely confess your sins in thus rebelling against God and in refusing to hear His Church?” Answer, “I do.”</p> <p>“Do you acknowledge that you have been in justice and mercy cut off from the communion of the church?” Answer, “I do.”</p> <p>“Do you now voluntarily profess your sincere repentance and sorrow for your sin and rebellion: and do you humbly ask the forgiveness of God and His Church?” Answer, “I do.”</p> <p>“Do you sincerely promise, through divine grace, to live in all humility of mind and carefulness to avoid sin, and to attempt to live a lifestyle that will glorify God our Savior?” Answer, “I do.”</p> <p>Here the Moderator shall give the person being restored a suitable exhortation. Then <del>the Moderator</del> shall pronounce restoration in the following <del>or similar</del> words:</p> <p>“Whereas you, _____, have been shut out from the membership and fellowship of the Church, but now have demonstrated such repentance as satisfies the Church; in the name and by the authority of the Lord Jesus Christ we, the Session of this Church, do declare you restored from the sentence of</p>	<p>Presbytery that imposed the sanctions may consider possible restoration to office.</p> <p>Words deleted from current 12-3 are unnecessary.</p> <p>“Chair” is unnecessary. Gender-specific pronoun unnecessary in this context. See note on proposed 12-2 regarding addition of “similar.”</p>

Current Chapter 12	Proposed Chapter 12	Rationale
<p>excommunication formerly pronounced against you, and we do restore you to the membership and fellowship of the Church, that you may be a partaker of all the benefits of the Lord Jesus to your eternal salvation.”</p> <p>After which there shall be prayer and thanksgiving.</p> <p><b>[Current 11-9B]</b>  <i>An officer suspended or removed from office for scandalous conduct shall not be restored, even on the deepest sorrow for his sin, until he has demonstrated an exemplary, humble, and edifying lifestyle for a considerable amount of time, which, in the case of removal from office, shall be for not less than one year. Any officer must present evidence that it is virtually certain that the conduct causing his suspension or removal from office will not occur again.</i></p> <p><i>When an officer who has been removed from office makes public confession in a manner similar to that prescribed in the case of the restoration of an excommunicated person, he may be restored to office. His restoration to office shall be announced to him by the Moderator or Chair as follows:</i></p> <p><i>“Whereas, you, _____, formerly a Teaching of this Presbytery (or a Ruling Elder or Deacon of this Church), have been removed from your office, but have now demonstrated such repentance as satisfies the Church; in the name of the Lord Jesus Christ, and by His authority, we, the Presbytery of _____ (or the Session of this Church) do declare you restored from the said sentence of removal from office formerly pronounced against you;</i></p>	<p>excommunication formerly pronounced against you, and we do restore you to the membership and fellowship of the Church, that you may be a partaker of all the benefits of the Lord Jesus to your eternal salvation.”</p> <p>After which there shall be prayer and thanksgiving.</p> <p><b>12-4 Restoration to Office</b>  A. A Teaching Elder, Ruling Elder, or Deacon suspended from office for scandalous conduct shall not be restored, even on the deepest sorrow for sin, until the officer has demonstrated an exemplary, humble, and edifying lifestyle for a considerable amount of time, which shall be for not less than one year. Any officer suspended must present to the court compelling evidence that the conduct causing that suspension or removal will not occur again.</p>	<p>Current 11-9B moved to proposed 12-4A for better flow of thought.</p> <p>Sections of proposed 12-4 have been enumerated for clarity.</p> <p>“Officers” have been listed in the opening sentence for clarity.</p> <p>Gender-specific pronouns deleted as unnecessary.</p> <p>“Removed” has been deleted for internal consistency. In this proposed revision, restoration only takes place from suspension, not from removal from office (see rationale for proposed D.11-5)</p> <p>“Compelling evidence” has replaced “virtually certain” as the latter is an impossible standard.</p> <p>The section of current 11-9B regarding restoration following removal from office has been deleted for internal consistency. In this proposed revision, restoration only takes place from suspension, not from removal from office (see rationale for proposed D.11-5). If there is a possibility that the officer could be restored, the sanction should be indefinite suspension, not removal from office.</p>

Current Chapter 12	Proposed Chapter 12	Rationale
<p><i>and we do furthermore restore you to your office, and to the exercise of all the functions thereof, whenever you may be duty called."</i></p> <p><i>After this there shall be prayer and thanksgiving, and the members of the court or commission shall extend to him the right hand of fellowship.</i></p> <p><b>12-5 Reelection Required for Exercise of Office</b> When a Ruling Elder or Deacon has been pardoned from the sanction of removal from office, he cannot be allowed to resume the exercise of his office in the church without reelection by the people.</p> <p><b>Current 11-9C</b> <del>C. Restoration of a Teaching Elder</del> A Teaching Elder removed from office shall not be restored until it appears that the general sentiment of the church is strongly in his favor and demands his restoration. In that event restoration shall be pronounced only by the court imposing the sanction or with its consent.</p> <p><b>12-6 Special Provisions for the Restoration of a Minister</b> In the restoration of a Teaching Elder who has been suspended or removed from office, it is the duty of the Presbytery to proceed with great caution. In conjunction with the Presbytery and the church to which he has been assigned, pursuant to D.11-7, Presbytery and the Session of that church should first admit him to the</p>	<p><b>12-5 Re-election Required for Exercise of Office</b> A Ruling Elder or Deacon restored to office shall not exercise that office in the church without re-election by the people.</p> <p><b>12-6 Restoration of a Suspended Teaching Elder</b> A. A Teaching Elder suspended indefinitely from office shall not be restored unless there is compelling evidence of repentance and growth to justify restoration. In that event restoration shall be pronounced only by the court imposing the sanction or with its consent.</p>	<p>Rewritten for conciseness.</p> <p>Current 11-9C moved to Proposed 12-6 for better flow of thought. "Suspended" has been added for internal consistency. Restoration to office is not possible for someone removed from office. Additional wording added for internal consistency, Sections of proposed 12-6 enumerated for clarity. "The church is strongly in favor..." has been removed because it is unnecessary and easily subject to misinterpretation. A Teaching Elder removed from office is assigned to a local church with the consent of the Session and is no longer a member of the Presbytery that removed him/her.</p> <p>Current 12-6 has been condensed and moved to proposed 12-6B. If the Teaching Elder was also excommunicated, the TE cannot be assigned to membership in a local church but only referred for the purpose of pastoral ministry intended to lead him/her to repentance.</p> <p>Teaching Elders always begin their path toward ordination with the endorsement of their local</p>

Current Chapter 12	Proposed Chapter 12	Rationale
<p>sacraments, if he has been suspended from them, and afterwards should grant him the privilege of preaching on probation for a time. The court shall oversee his lifestyle so as to test the sincerity of his repentance and the prospect of his usefulness. When the Presbytery is satisfied in these respects it shall restore him to his office.</p> <p>When an application for restoration and a statement of support from the Session of the church to which the former Teaching Elder has been assigned is filed with the clerk of the Presbytery, the application will be forwarded to the Ministerial Committee for its review and recommendation. Consideration of the application will proceed as follows:</p> <ol style="list-style-type: none"> <li>1. Should the Ministerial Committee choose to recommend restoration to the Presbytery, the Presbytery shall consider the recommendation for restoration in executive session.</li> <li>2. The Teaching Elder seeking restoration and the Ministerial Committee will be provided the opportunity to address the Presbytery.</li> <li>3. Upon hearing from the Teaching Elder seeking restoration he shall be excused.</li> <li>4. A motion to restore or not restore may be brought before the Presbytery only by its Ministerial Committee.</li> <li>5. All votes concerning Teaching Elder restoration are to be by secret ballot.</li> <li>6. A 4/5 affirmative vote shall be required for restoration to office.</li> </ol>	<p>B. When the Teaching Elder files an application for restoration with the Stated Clerk of the Presbytery, the application shall be forwarded to the Ministerial Committee for consideration.</p> <ol style="list-style-type: none"> <li>1. A motion to restore or not restore may be brought before the Presbytery only by its Ministerial Committee. Should the Ministerial Committee choose to recommend restoration, the Presbytery shall consider the recommendation in executive session.</li> <li>2. The Teaching Elder seeking restoration and the Ministerial Committee will be provided with the opportunity to address the Presbytery.</li> <li>3. After addressing the Presbytery, the Teaching Elder seeking restoration shall be excused.</li> <li>4. All votes concerning Teaching Elder restoration are to be by secret ballot.</li> <li>5. A 4/5 affirmative vote shall be required for restoration to Office.</li> </ol>	<p>church. Only when the Session deems the offender to be repentant and fit to serve may the Presbytery begin its deliberations on restoration to office.</p> <p>Current provisions 1 and 4 have been combined in proposed #1 for better flow of thought.</p> <p>Proposed 12-6D.3 added for clarity of procedure.</p> <p>Current #4 combined with proposed #1 above</p>

Current Chapter 12	Proposed Chapter 12	Rationale
<p>7. Restoration may be pronounced only by the court imposing the sanction, or with its consent.</p> <p>Current 12-6, last paragraph  <del>The case shall remain under judicial consideration until the sentence of restoration has been pronounced.</del></p> <p><b>12-7 Transfer of Case to More Convenient Forum</b>  When a person under sanction shall move to a place which is remote from the court by which he was sentenced, and shall desire to profess repentance and obtain restoration, the court may, if it deems it appropriate, transmit a certified copy of its proceedings to the Session (or Presbytery) where the person under sanction resides. The court of the person's residence shall then assume jurisdiction over the case and proceed with it as though it had original jurisdiction.</p>	<p>6. Restoration may be pronounced only by the court imposing the sanction, or with its consent.</p> <p><b>12-7 Transfer of Case to More Convenient Forum</b>  When a person under sanction moves to a place remote from the court issuing the sanction, and desires to profess repentance and obtain restoration, the court may, if it deems it appropriate, transmit a certified copy of its proceedings to the Session (or Presbytery) where the person under sanction resides. The court of the person's residence shall then assume jurisdiction over the case and proceed with it as though it had original jurisdiction.</p>	<p>Text from the last paragraph of current 12-6 has been deleted. "Judicial consideration" is nebulous.</p> <p>"Shall move" deleted for clarity.</p> <p>"Sentence" has been dropped because a sanction is not a "sentence."</p>

### Chapter 13 – Proposed Book of Discipline Revision

Current Chapter 13	Proposed Chapter 13	Rationale
<p>— 13 — APPEALS</p> <p><b>13-1 Definition</b>  An appeal is a request made to a higher court to review a judgment made by a lower court by and through the use of ecclesiastical judicial procedures (cases of heresy, immorality, and/or contempt). An appeal cannot be made to any court other than the next higher court, unless the higher court directs and authorizes that the appeal be heard in another court or by a commission created for the express purpose</p>	<p>— 13 — APPEALS</p> <p><b>13-1 Definition</b>  An appeal is a request made to a higher court to review a judgment made by a lower court in an action for discipline (cases of heresy, immorality, and/or contempt). An appeal cannot be made to any court other than the next higher court, unless the higher court directs and authorizes that the appeal be heard in another court or by a commission</p>	<p>Edited for clarity and internal consistency.</p>

Current Chapter 13	Proposed Chapter 13	Rationale
<p>of hearing the appeal and rendering a decision thereupon.</p> <p><b>13-2 Standing to Appeal; Parties to Appeal</b></p> <p>A. Only an accused party, found guilty and sanctioned by a lower court, has standing to appeal the lower court’s decision to a higher court.</p> <p>B. The party bringing the appeal shall be known as “Appellant.” The party against whom the appeal is taken shall be known as “Appellee.”</p> <p><b>13-3 Newly Discovered Evidence</b></p> <p>Newly discovered evidence is evidence that a party did not know, nor should have known, existed during the lower court proceedings.</p> <p>If, in the prosecution of an appeal, newly discovered evidence is sought to be introduced, a party seeking its introduction must file a motion with notice to all other parties demonstrating justification for its introduction. Upon approval of the motion, the appellate court may remand the case to the lower court for a new trial; or may receive the evidence and proceed with the case.</p> <p><b>13-4 Grounds for Appeal</b></p> <p>The grounds for appeal are:</p> <p>A. Any misapplication of the EPC Constitution;</p> <p>B. Any irregularity in the proceedings of the lower court;</p> <p>C. Receiving improper evidence or declining to receive proper evidence;</p> <p>D. Rendering a decision before all the testimony is reasonably heard;</p> <p>E. Manifestation of prejudice in the case; and</p> <p>F. Mistake or injustice in the judgment or sanction.</p>	<p>created for the express purpose of hearing the appeal and rendering a decision thereupon.</p> <p><b>13-2 The Right to Appeal</b></p> <p>A. Only an accused party, found guilty and sanctioned by a lower court, has the right to appeal the lower court’s decision to a higher court.</p> <p>B. The party bringing the appeal shall be known as “Appellant.” The party against whom the appeal is taken shall be known as “Appellee.”</p> <p><b>13-3 Newly Discovered Evidence</b></p> <p>A. Newly discovered evidence is evidence that a party did not know, nor should have known, existed during the lower court proceedings.</p> <p>B. In the prosecution of an appeal, the party seeking to introduce newly discovered evidence shall file a motion with notice to all other parties demonstrating justification for its introduction. Upon approval of the motion, the appellate court shall remand the case to the lower court for a new trial.</p> <p><b>13-4 Grounds for Appeal</b></p> <p>The grounds for appeal are</p> <p>A. Any misapplication of the EPC Constitution,</p> <p>B. Any irregularity in the proceedings of the lower court,</p> <p>C. Receiving improper evidence or declining to receive proper evidence,</p> <p>D. Rendering a decision before all the testimony is reasonably heard,</p> <p>E. Manifestation of prejudice in the case,</p> <p>F. Mistake or injustice in the judgment or sanction.</p>	<p>“Standing” has been changed“ to The right” to appeal for simplicity.</p> <p>Edited for conciseness.</p> <p>“May” has been changed to “shall,” as the Appellate court does not re-try the case. The last sentence has been deleted accordingly.</p>

Current Chapter 13	Proposed Chapter 13	Rationale
<p><b>13-5 Notice of Appeal</b> Written notice of appeal shall be filed no later than thirty <del>(30)</del> days after the entry of judgment of the lower court. The filing of the Notice of Appeal with the Clerk of the appellate court places the appeal before that court. A copy of the Notice of Appeal also shall be filed with the lower court from which the appeal is taken.</p> <p><b>13-6 Statement of Grounds for Appeal</b> Written statement of grounds for appeal shall be filed no later than fifteen <del>(15)</del> days after the Notice of Appeal is filed. The statement must state the factual or constitutional bases forming the issues on appeal.</p> <p><b>13-7 Filing the Record</b> Within thirty <del>(30)</del> days after receipt of a Notice of Appeal, it shall be the duty of the Clerk of the lower court to prepare and file with the Clerk of the higher court the Record of the Case <del>as defined in D.10-4.</del></p> <p><b>13-8 Stay Pending Appeal</b> The filing of a Notice of Appeal does not stay the judgment of the lower court. If, however, the sanction is suspension, excommunication, or removal from office, the sanctioned party may, for sufficient reasons provided in writing, petition the higher court to stay the sanction until the case is finally decided. The higher court in its discretion may stay the sanction or later modify the stay. In the case that a stay is imposed or later modified, the higher court will notify the lower court. The lower court will confirm receipt of the stay and its compliance with it.</p>	<p><b>13-5 Notice of Appeal</b> Written notice of appeal shall be filed no later than thirty days after the entry of judgment of the lower court. The filing of the Notice of Appeal with the Clerk of the appellate court places the appeal before that court. A copy of the Notice of Appeal also shall be filed with the lower court from which the appeal is taken.</p> <p><b>13-6 Statement of Grounds for Appeal</b> Written statement of grounds for appeal shall be filed no later than fifteen days after the Notice of Appeal is filed. The statement must state the factual or constitutional bases forming the issues on appeal.</p> <p><b>13-7 Filing the Record</b> Within thirty days after receipt of a Notice of Appeal, it shall be the duty of the Clerk of the lower court to prepare and file with the Clerk of the higher court the Record of the Case.<sup>58</sup></p> <p><b>13-8 Stay of Lower Court Action Pending Appeal</b> The filing of a Notice of Appeal does not stay the judgment of the lower court. If, however, the sanction is suspension, excommunication, or removal from office, The sanctioned party may, for sufficient reasons provided in writing, petition the higher court to stay the sanction until the case is finally decided. The higher court in its discretion may stay the sanction or later modify the stay. In the case that a stay is imposed or later modified, the higher court will notify the lower court. The lower court will confirm receipt of the stay and its compliance with it.</p>	<p>Deleting parenthetical numbers has been done throughout as unnecessary (Chicago Manual of Style Online).</p>

<sup>58</sup> See Proposed D.10-4

Current Chapter 13	Proposed Chapter 13	Rationale
<p><b>13-9 Procedures on Appeal</b>  After a higher court has decided that an appeal is in order and should be considered, the following procedures shall be followed:</p> <p>A. The court shall read the complete Record of the Case as submitted by the lower court. The higher court shall provide the Record to the Appellant. Before sending the Record to the Appellant, the higher court may, at its discretion, redact the Record in order to protect confidential or sensitive information that is not relevant to the appeal.</p> <p>B. The Appellant shall file a written statement which sets forth the issues on appeal and the arguments in support thereof within thirty <del>(30)</del> days of the receipt of the Record of the Case by the higher court. In addition, a copy of the written statement shall be delivered to the appellee. Appellant shall also provide to the higher court a certificate of delivery of its written statement to the appellee.</p> <p>C. The Appellee may file a written response within fifteen <del>(15)</del> days of the receipt by the higher court of the appellant's written statement. In addition, a copy of the written response shall be delivered to the Appellant. Appellee shall also provide to the higher court a certificate of delivery of its written response to the appellant.</p> <p>D. The Appellant may file a written reply to the appellee's written response within fifteen (15) days of the receipt by the higher court of Appellee's written response, if any. In addition, a copy of the written reply shall be delivered to the appellee. Appellant shall also provide to the higher court a certificate of delivery of its written reply to the appellee.</p>	<p><b>13-9 Procedures on Appeal</b>  After a higher court has decided that an appeal is in order and should be considered, the following procedures shall be followed:</p> <p>A. The court shall read the complete Record of the Case as submitted by the lower court. The higher court shall provide the Record to the Appellant. Before sending the Record to the Appellant, the higher court may, at its discretion, redact the Record in order to protect confidential or sensitive information that is not relevant to the appeal.</p> <p>B. The Appellant shall file a written statement which sets forth the issues on appeal and the arguments in support thereof within thirty days of the receipt of the Record of the Case by the higher court. In addition, a copy of the written statement shall be delivered to the Appellee. Appellant shall also provide to the higher court a certificate of delivery of its written statement to the Appellee.</p> <p>C. The Appellee may file a written response within fifteen days of the receipt by the higher court of the Appellant's written statement. In addition, a copy of the written response shall be delivered to the Appellant. Appellee shall also provide to the higher court a certificate of delivery of its written response to the appellant.</p> <p>D. The Appellant may file a written reply to the appellee's written response within fifteen days of the receipt by the higher court of the Appellee's written response, if any. In addition, a copy of the written reply shall be delivered to the appellee. Appellant shall also provide to the higher court a certificate of delivery of its written reply to the Appellee.</p>	

Current Chapter 13	Proposed Chapter 13	Rationale
<p>E. The Appellant or appellee may file a written request for oral argument, explaining why it is necessary and should be permitted. In response to such a request, or at its own discretion, the higher court may allow oral argument. If oral argument is allowed, the court will advise <b>all parties</b> of the date, time and place of oral argument, and the time allotted to each party.</p> <p>In the alternative, the higher court may determine the issues on the appeal based solely on the Record of the Case, the written statements, responses, and replies.</p> <p>F. In every case in which oral argument is heard, a record of the oral argument shall be kept. The recording of the oral argument may be transcribed and the recording or copy of the transcription maintained by the Stated Clerk of the higher court. In the case of an appeal to the next higher court, a party may request a copy of the transcript. The cost of transcription shall be borne by the requesting party.</p> <p>G. The members of the higher court, in their deliberations, shall express their opinions, deliberate upon and vote on the issues raised.</p> <p>H. The vote shall be taken on each ground for appeal set forth in the statement filed <b>pursuant to D.13-6 above</b> in this form: “Shall this ground for appeal be sustained?”</p> <p><b>13-10 Decision on Appeal</b></p> <p>A. The higher court may:</p>	<p>E. The Appellant or Appellee may file a written request for oral argument, explaining why it is necessary and should be permitted. In response to such a request, or at its own discretion, the Higher Court may allow oral argument. If oral argument is allowed, the court will advise <b>both parties</b> of the date, time and place of oral argument, and the time allotted to each party.</p> <p>In the alternative, the higher court may determine the issues on the appeal based solely on the Record of the Case, the written statements, responses, and replies.</p> <p>F. In every case in which oral argument is heard, a record of the oral argument shall be kept. The recording of the oral argument may be transcribed and the recording or copy of the transcription maintained by the Stated Clerk of the higher court. In the case of an appeal to the next higher court, a party may request a copy of the transcript. The cost of transcription shall be borne by the requesting party.</p> <p>G. The members of the higher court, in their deliberations, shall express their opinions, deliberate upon and vote on the issues raised.</p> <p>H. The vote shall be taken on each ground for appeal set forth in the statement<sup>59</sup> filed in this form: “Shall this ground for appeal be sustained?”</p> <p><b>13-10 Decision on Appeal</b></p> <p>A. The higher court may</p>	<p>Punctuation of numbered lists has been edited throughout for consistency and to conform to a consensus of published style guides.</p>

<sup>59</sup> See Proposed D.13-6.

Current Chapter 13	Proposed Chapter 13	Rationale
<p>1. Confirm or reverse, in whole or in part, the judgment of the lower court; or</p> <p>2. Remand the case to the lower court for the purpose of amending the Record of the Case, should it appear incorrect or defective; or</p> <p>3. Remand the case to the lower court with instructions.</p> <p>B. If the higher court or <del>commission</del> deems it wise, it may also render a written opinion which shall become a part of the Record of the Case.</p> <p>C. Any and all persons, including members of the higher court who were involved with, have intimate knowledge of, or otherwise participated in the underlying judgment of the lower court, are precluded from involvement with the higher court in its determination of the issues on appeal.</p> <p><b>13-11 Counsel</b>  <del>All parties shall have the right of counsel consistent with D.10-3.</del></p> <p><b>13-12 Abandonment of Appeal</b>  Absent extenuating circumstances made known to the higher court beforehand, the appellant shall be deemed to have abandoned <del>his</del> appeal if <del>he</del> does not comply with the procedures set forth above. In such cases, the judgment of the lower court will stand, unless the higher court determines that the subject matter of the appeal is so serious that the peace and purity of the church is at stake. In such a case, the higher court, in its discretion, may nonetheless decide the appeal.</p>	<p>1. Confirm or reverse, in whole or in part, the judgment of the lower court,</p> <p>2. Remand the case to the lower court for the purpose of amending the Record of the Case, should it appear incorrect or defective,</p> <p>3. Remand the case to the lower court with instructions.</p> <p>B. If the higher court deems it wise, it may also render a written opinion which shall become a part of the Record of the Case.</p> <p>C. Any and all persons, including members of the higher court who were involved with, have intimate knowledge of, or otherwise participated in the underlying judgment of the lower court, are precluded from involvement with the higher court in its determination of the issues on appeal.</p> <p><b>13-11 Counsel</b>  Both parties shall have the right of counsel.<sup>60</sup></p> <p><b>13-12 Abandonment of Appeal</b>  Absent extenuating circumstances made known to the higher court beforehand, the Appellant shall be deemed to have abandoned the appeal if the Appellant does not comply with the procedures set forth above. In such cases, the judgment of the lower court will stand, unless the higher court determines that the subject matter of the appeal is so serious that the peace and purity of the church is at stake. In such a case, the higher court, in its discretion, may nonetheless decide the appeal.</p>	<p>“Commission” has been deleted as unnecessary in this context.</p> <p>There are only two parties, so “both” is correct.</p> <p>Gender-specific pronoun unnecessary in this context.</p>

<sup>60</sup> See Proposed D.10-3

Current Chapter 13	Proposed Chapter 13	Rationale
<p><b>13-13 Conduct of the Parties</b> If <b>any</b> party willfully fails to comply with these rules or demonstrates a litigious or otherwise unchristian attitude in the appeal process, <b>he</b> may be subject to appropriate discipline by the higher court.</p> <p><b>13-14 Failure to File the Record</b> If the Clerk of a lower court neglects or willfully fails to file the Record of the Case, or any part of it, the Clerk may be subject to appropriate discipline by the higher court. Until the complete Record of the Case is filed with the higher court, the judgment of the lower court may be stayed at the discretion of the higher court.</p> <p>If the lower court shall file a portion of the record by electronic means, the appellant shall have the right to prepare a written transcript of it at <b>his</b> own expense.</p>	<p><b>13-13 Conduct of the Parties</b> If a member of <b>either party</b> willfully fails to comply with these rules or demonstrates a litigious or otherwise unchristian attitude in the appeal process, <b>that person</b> may be subject to appropriate discipline by the higher court.</p> <p><b>13-14 Failure to File the Record</b> If the Clerk of a lower court neglects or willfully fails to file the Record of the Case, or any part of it, the Clerk may be subject to appropriate discipline by the higher court. Until the complete Record of the Case is filed with the higher court, the judgment of the lower court may be stayed at the discretion of the higher court.</p> <p>If the lower court shall file a portion of the record by electronic means, the Appellant shall have the right to prepare a written transcript of it at <b>the Appellant's</b> expense.</p>	<p>There are only two parties</p> <p>Gender-specific pronoun unnecessary in this context.</p> <p>A court is one of the parties and only a person can be disciplined.</p> <p>Gender-specific pronoun unnecessary in this context.</p>

## Chapter 14 – Proposed Book of Discipline Revision

Current Chapter 14	Proposed Chapter 14	Rationale
<p>— 14 — COMPLAINTS</p> <p><b>14-1 Complaint Defined</b> A complaint is a written contention <b>made</b> to a higher court challenging some act or decision of a lower court that seeks a remedy.</p>	<p>— 14 — COMPLAINTS</p> <p><b>14-1 Complaint Defined</b> A. A Complaint is a written contention <b>signed by an eligible member<sup>6162</sup></b> to a higher court</p>	<p>Wording changes clarify who may file a complaint and that a complaint may <b>not</b> be filed regarding a</p>

<sup>61</sup> See eligibility requirements in Proposed D.14-2.

<sup>62</sup> A person filing a complaint should use the appropriate “Form for Discipline.” A signed copy transmitted electronically is considered a “written contention.”

Current Chapter 14	Proposed Chapter 14	Rationale
<p><b>14-2 Standing to File a Complaint</b></p> <p>A. It is the right of any member of the church in good standing to make complaint against any action of a lower court to whose jurisdiction he is subject. <i>[Following sentence moved to proposed 14-2C]</i> A complaint shall not be made to any court other than the next higher court, except with the consent of the next higher court.</p> <p><del>B. Notwithstanding the above, a member of the church shall not have standing to file a complaint under this chapter in the following circumstances:</del></p> <p><del>1. When an ecclesiastical judicial proceeding has been appealed pursuant to Chapter 13 of this Book of Discipline and the member is a party to that ecclesiastical judicial proceeding; or</del></p> <p><del>2. When the member is a Teaching or Ruling Elder who was present at the meeting at which the challenged action was taken, unless a prompt written dissent or protest to the decision by the lower court or commission made the basis of the complaint has been submitted.</del></p> <p><b>14-3 Initiation of Chapter 14 Case</b></p>	<p>challenging some non-judicial<sup>63</sup> act or decision made by the lower court and seeking a remedy.</p> <p>B. A Complaint may be filed with the higher court only after attempts to obtain a remedy at the lower court have been unsuccessful.<sup>64</sup></p> <p><b>14-2 Eligibility to File a Complaint</b></p> <p>A. It is the right of any member on the active roll of the church to file a Complaint against any act or decision of a Session to whom the member is subject provided the Complainant is not under sanctions.</p> <p>B. It is the right of any Teaching or Ruling Elder to file a Complaint against an act or decision taken by a Presbytery provided that</p> <ol style="list-style-type: none"> <li>1. The Teaching Elder is an active or Associate member of the Presbytery,</li> <li>2. The Ruling Elder <ol style="list-style-type: none"> <li>a) Was a duly elected Commissioner at the meeting at which the action was taken or the decision was made, or</li> <li>b) Is in active service on the Session of a church in the Presbytery, provided the Ruling Elder, the Session, or the church was substantially impacted by the act or decision.</li> </ol> </li> </ol> <p>C. A Complaint shall only be made to the next higher court, except with the consent of that court.</p> <p><b>14-3 Initiation of Complaint</b></p>	<p>decision in an action for discipline. Remedies for judicial decisions come through Appeal (chapter 13).</p> <p>14-1B has been added to ensure that attempts have been made to resolve issues before escalating the matter to a higher court.</p> <p>“Eligibility” has been substituted for “standing” throughout for simplicity of language. The phrase “act or decision” has been incorporated throughout for internal consistency. “In good standing has been dropped and instead defined as on the active roll and not under sanctions.</p> <p>Experience has shown that the wording of current 14-2B is difficult to understand and apply. Proposed 14-2B includes input received from the Permanent Judicial Commission, broadening the eligibility requirements for filing a Complaint and making the boundaries for eligibility more clear. In the proposed revision, it is no longer necessary to file a dissent or protest to be eligible to file a complaint.</p> <p>Text from current 14-2A has been moved to proposed 14-2C.</p>

<sup>63</sup> Judicial decisions may be appealed following the processes in Proposed D.13.

<sup>64</sup> See proposed D.14-6.

Current Chapter 14	Proposed Chapter 14	Rationale
<p>A complaint initiates a case <del>under this Chapter 14</del> against a court in the following manner:</p> <p>A. A complaint shall only be made when the action or decision of the court is alleged to be procedurally irregular and/or in clear violation of the EPC Constitution.</p> <p>B. A complaint shall set forth with particularity all of the facts and reasons why the action or decision of the court is being challenged. This includes reference to the specific provisions of the EPC Constitution, or any applicable bylaws or rules alleged to have been violated.</p> <p><b>14-4 Designation of the Parties</b> The party filing the complaint shall be designated as the “Complainant.” The court shall be designated as the “Respondent,” even if the action or decision being challenged is the action or decision of a commission appointed by the court.</p> <p><b>14-5 Filing a Complaint</b> A. A complaint challenging an <del>action</del> or decision of a court or a commission appointed by the court shall be filed with the Clerk of the next higher court. 1. A complaint challenging an <del>action</del> or decision taken by a Session or by its duly appointed commission shall be</p>	<p>A Complaint initiates a case against a court in the following manner:</p> <p>A. A complaint shall only be made when the action or decision of the court is alleged to be procedurally irregular and/or in clear violation of the EPC Constitution.</p> <p>B. A complaint shall set forth with particularity all of the facts and reasons why the action or decision of the court is being challenged. This includes reference to the specific provisions of the EPC Constitution, or any applicable bylaws or rules alleged to have been violated.</p> <p>C. A complaint shall state the specific remedy being sought.</p> <p>D. Once a complaint has been filed, the provisions for <i>ex parte</i> communications apply<sup>65</sup></p> <p><b>14-4 Designation of the Parties</b> The party filing the complaint shall be designated as the “Complainant.” The court shall be designated as the “Respondent,” even if the action or decision being challenged is the action or decision of a commission appointed by the court.</p> <p><b>14-5 Filing a Complaint</b> A. A complaint challenging an <del>act</del> or decision of a court or a commission appointed by the court shall be filed with the Clerk of the next higher court. 1. A complaint challenging an <del>act</del> or decision taken by a Session or by its duly appointed commission shall be commenced by filing</p>	<p>“Complaint” has been substituted for “Chapter 14 Case” for clarity.</p> <p>Proposed 14-3C has been added for clarity and internal consistency. The definition of “complaint” (proposed 14-1) includes seeking a remedy to the effects of the decision in question.</p> <p>14-3D has been added in response to questions that have arisen about the Complaint process.</p> <p>“Act” has been substituted for “action” throughout.</p>

<sup>65</sup> See proposed chapter 6 for provisions regarding *ex parte* communications.

Current Chapter 14	Proposed Chapter 14	Rationale
<p>commenced by filing a complaint with the Presbytery in which the church is located or is otherwise aligned.</p> <p>2. A complaint challenging an <del>action</del> or decision <del>of the</del> Presbytery, or by its duly appointed commission, shall be commenced by filing a complaint with the General Assembly.</p> <p>B. A copy of the complaint shall be served upon the lower court by providing its Clerk with a copy thereof at the same time that the complaint is filed with the Clerk of the next higher court.</p> <p><b>14-6 Time Period for Filing a Complaint</b>  A complaint shall be filed with the next higher court no later than thirty <del>(30)</del> days after the date of the lower court <del>action</del> or decision made the basis of the complaint. Exceptions to this time period may be allowed in cases when:</p> <p>A. The Complainant legitimately had no knowledge of the lower court action or decision within the thirty <del>(30)</del> day period.</p> <p>B. The Complainant may otherwise petition the higher court to file an untimely complaint to avoid <del>manifest injustice</del>. The decision on such</p>	<p>a complaint with the Presbytery in which the church is located or is otherwise aligned.</p> <p>2. A complaint challenging an <del>act</del> or decision <del>taken by a</del> Presbytery, or by its duly appointed commission, shall be commenced by filing a complaint with the General Assembly.</p> <p>B. A copy of the complaint shall be served upon the lower court by providing its Clerk with a copy thereof at the same time that the complaint is filed with the Clerk of the next higher court.</p> <p><b>14-6 Time Period for Filing a Complaint</b>  A. A complaint may be filed with the next higher court only after the eligible member of the church or court<sup>66</sup> has attempted to resolve the issue forming the basis for the complaint with the lower court and</p> <ol style="list-style-type: none"> <li>1. The response of the lower court has not satisfied the concern of the member, or</li> <li>2. The lower court has failed to respond by the close of its next stated meeting.</li> </ol> <p>B. A Complaint shall be filed with the next higher court no later than thirty days after the lower court's response or failure to respond.</p> <p>C. Exceptions to this time period may be allowed in cases when</p> <ol style="list-style-type: none"> <li>1. The Complainant legitimately had no knowledge of the lower court action or decision within the thirty-day period, or</li> <li>2. The Complainant petitions the higher court to file an untimely complaint to avoid a <del>miscarriage of justice</del>.</li> </ol>	<p>The added stipulation in D.14-6 ensures that there is an attempt to resolve the issue at the lower court before escalating the matter to a higher court.</p> <p>Parentetical number is unnecessary (Chicago Manual of Style Online).</p> <p>"Miscarriage of justice" has been substituted for "manifest injustice" for simplicity of language.</p>

<sup>66</sup> See proposed D.14-2B for eligibility requirements

Current Chapter 14	Proposed Chapter 14	Rationale
<p>a petition is solely within the discretion of the higher court.</p> <p><b>14-7 Stay Pending Hearing on the Complaint</b></p> <p>A. <del>When a complaint is properly filed regarding a judgment made in a disciplinary action, rather than an appeal under D.13, notice of filing of the complaint shall have the effect of suspending the judgment of the lower court until the case has been finally decided in the higher court.</del> If, however, the matter concerns the purity or peace of the church, the court may, either on its own motion or in response to an application filed by a party to the action and for sufficient reasons duly recorded, stay the action of the lower court until the case is finally decided.</p> <p><del>B. When a complaint is properly filed challenging the action or decision of a lower court in a non-disciplinary proceeding, notice of filing the complaint shall not automatically stay the action or decision of the lower court. However, the higher court, in which the complaint is filed, may, either on its own motion or in response to an application filed by a party to the action and for sufficient reasons duly recorded, stay the action of the lower court until the case is finally decided.</del></p> <p><b>14-8 Court Procedures upon the Filing of a Complaint</b></p> <p>A. When a complaint is filed with the higher court, the court shall determine whether the complaint <del>states</del> grounds on which relief may be granted. If the court determines the</p>	<p>3. <del>Decisions on such exceptions are solely within the discretion of the higher court.</del></p> <p><b>14-7 Stay Pending Hearing on the Complaint</b></p> <p>A. Reception of the complaint by the higher court temporarily stays the action of the lower court. If the higher court determines that the complaint is properly filed, the stay continues until the matter is finally decided.</p> <p>B. If the higher court determines that the complaint is not properly filed, the stay will ordinarily be lifted. If the matter concerns the purity or peace of the church, the court may, either on its own motion or in response to an application filed by a party to the action and for sufficient reasons duly recorded, stay the action of the lower court until the case is finally decided.</p> <p><b>14-8 Court Procedures upon the Filing of a Complaint</b></p> <p>A. When a Complaint is filed with the higher court, the court shall determine whether the Complaint <del>cites constitutional or procedural</del> grounds<sup>67</sup> on which relief may be granted. If</p>	<p>Proposed D.14-6C.3 has been added for clarity in the process.</p> <p>The text of current 14-7 A has been enumerated for clarity. Proposed 14-7A and B clarify what happens to the action of a lower court during the Complaint process. Much of current D.14-7A has been deleted because in the proposed Revision, Complaints may only be filed regarding non-judicial actions (proposed D.14-1A). Filing a Complaint temporarily stays the action of the lower court upon reception of the complaint. If the Complaint is not in order, the action of the lower court will ordinarily resume, but the higher court has discretion to continue the temporary stay if the situation warrants. If the Complaint is in order, the action remains stayed until there is a decision in the case. See current 14-13.</p> <p>Current 14-7 B has been deleted as unnecessary due to proposed 14-7A.</p> <p>“Constitutional or procedural” has been added throughout for clarity in the process of the Higher</p>

<sup>67</sup> See proposed D.14-3A



Current Chapter 14	Proposed Chapter 14	Rationale
<p>against which the complaint has been made or send the matter back to the lower court with instructions for further consideration or action.</p> <p>2. To direct the lower court to appoint one or more representatives to defend the complaint against it, and further direct the appointed representative to file an answer to the complaint no later than thirty (30) days from the order of the higher court. The lower court may request a one-time extension of fifteen (15) days to file its answer. The answer shall respond to each allegation in the complaint and shall set forth with specificity all defenses on which the lower court relies.</p> <p>C. The Record of the Case The lower court shall file the record of the case concurrently with its answer to the complaint pursuant to B.2 above. The Record of the Case shall consist of any and all documents in the lower court's possession relating to the complaint made against it. In every case a full record shall be made, and a copy of it shall be sent to the Complainant. If the Complainant, on motion duly filed, contends that the record is incomplete or incorrect, the Complainant may file a proposed supplement to the Record of the Case within fifteen (15) days of the filing of the Record of the Case.</p> <p>D. Reviewing the Record Upon receipt of the full and complete record of the case as determined by the higher court, the higher court shall then review the record in its entirety, except any part of it that may be</p>	<ol style="list-style-type: none"> <li>1. To void the whole or any part of the lower court action against which the complaint has been made,</li> <li>2. To send the matter back to the lower court with instructions for further consideration or action,</li> <li>3. To direct the lower court to appoint one or more representatives to answer the Complaint against it,</li> <li>4. To direct the appointed representative(s) to file an answer to the Complaint no later than thirty days from the order of the higher court. <ol style="list-style-type: none"> <li>a) The lower court may request a one-time extension of fifteen days to file its answer.</li> <li>b) The answer shall respond to each allegation in the Complaint and shall set forth with specificity all defenses on which the lower court relies.</li> </ol> </li> </ol> <p>D. The Record of the Case The lower court shall file the record of the case concurrently with its answer to the complaint. The Record of the Case shall consist of any and all documents in the lower court's possession relating to the complaint made against it. In every case a full record shall be made, and a copy of it shall be sent to the Complainant. If the Complainant, on motion duly filed, contends that the Record is incomplete or incorrect, the Complainant may file a proposed supplement to the Record of the Case within fifteen days of the filing of the Record of the Case.</p> <p>E. Reviewing the Record Upon receipt of the full and complete record of the case as determined by the higher court, the higher court shall then review the Record in its entirety, except any part of it that may be</p>	<p>“Answer” is more descriptive than “defend” and is internally consistent.</p> <p>Current 14-8B.2 has been split into proposed 14-8C.3 and 4 for clarity. Parenthetical numbers are unnecessary (Chicago Manual of Style Online).</p> <p>Phrase deleted as unnecessary.</p>

Current Chapter 14	Proposed Chapter 14	Rationale
<p>omitted with the mutual consent of <del>the</del> parties and the higher court.</p> <p>E. The higher court may seek clarification of matters or direct questions to the Complainant and/or Respondent in writing.</p> <p>F. Oral Argument and Notice of Hearing The higher court may permit oral argument. If the higher court determines oral argument will be allowed, it shall provide <del>at</del> parties with reasonable notice of the time and place of the hearing on the complaint. This notice may be provided in person or by other means establishing proof of service.</p> <p>G. If oral argument is allowed, either party may file a written summary of their argument with the higher court no later than fifteen (<del>15</del>) days before the date of the hearing. The Complainant shall have the right of opening and closing the argument.</p> <p>H. Deliberations of the Court: Upon conclusion of the arguments, the members of the higher court shall convene in private and each member shall be given an opportunity to express <del>his</del> opinions, deliberate upon, and vote on the question.</p>	<p>omitted with the mutual consent of <del>both</del> parties and the higher court.</p> <p>F. The higher court may seek clarification of matters or direct questions to the Complainant and/or Respondent in writing.</p> <p>G. Oral Argument and Notice of Hearing The higher court may permit oral argument. If the higher court determines oral argument will be allowed, it shall provide <del>both</del> parties with reasonable notice of the time and place of the hearing on the complaint. This notice may be provided in person or by other means establishing proof of service.</p> <p>H. If Oral Argument is allowed, either party may file a written summary of their Argument with the higher court no later than fifteen days before the date of the hearing. The Complainant shall have the right of opening and closing the argument.</p> <p>I. Deliberations of the Court Upon conclusion of the arguments, the members of the higher court shall convene in private, <del>all members</del> shall be given an opportunity to express <del>their</del> opinions, deliberate upon, and vote on the question.</p>	<p>“Both” has been used throughout as there are only 2 parties in a complaint.</p> <p>Gender-specific pronoun deleted as unnecessary in this context.</p>
<p><b>14-9 Voting upon a Complaint</b></p> <p>A. Specification of the vote In voting upon a complaint, the vote shall be either to sustain, to sustain in part, or not to sustain.</p> <p>B. Effect of a vote to sustain or not to sustain A vote to sustain shall be to sustain each and all of the items or counts of the complaint. A vote not to sustain shall be to deny the relief sought by each count of the complaint.</p>	<p><b>14-9 Voting upon a Complaint</b></p> <p>A. Specification of the vote In voting upon a complaint, the vote shall be either to sustain, to sustain in part, or not to sustain.</p> <p>B. Effect of a vote to sustain or not to sustain 1. A vote to sustain shall be to sustain each and all of the items or counts of the complaint. A vote not to sustain shall be to</p>	<p>Current 14-9B has been enumerated for clarity.</p>

Current Chapter 14	Proposed Chapter 14	Rationale
<p>A vote to sustain in part shall be to sustain one or more specific items or counts of the complaint.</p> <p>C. A majority vote of those members of the court present is required to sustain, not to sustain, or to sustain in part the counts of the complaint.</p> <p>D. Written opinion. The court may issue a written opinion explaining its decision, which shall become part of the Record of the Case.</p> <p>E. Right to Vote No member of the lower court who participated in the action or decision made the basis of the complaint shall hear, deliberate upon, or vote on the allegations of the complaint being heard by the next higher court.</p> <p><del>14-10 Counsel</del> <del>All parties shall have the right of counsel as described in D.9-3.</del></p> <p><b>14-11 Abandonment of Complaint</b> <del>A Complainant shall be considered to have abandoned his complaint if he does not appear before the higher court in person or by counsel at the time set for the hearing.</del> In such cases the act or decision of the lower court will stand, unless the complainant can provide the court with a satisfactory explanation for his failure to appear or the higher court, in its discretion, chooses to act upon the complaint in the interests of the Church.</p> <p><b>14-12 Unchristian Attitude</b></p>	<p>deny the relief sought by each count of the complaint.</p> <p>2. A vote to sustain in part shall be to sustain one or more specific items or counts of the complaint.</p> <p>C. Majority vote requiredA majority vote of those members of the court present is required to sustain, not to sustain, or to sustain in part the counts of the complaint.</p> <p>D. Written opinion The court may issue a written opinion explaining its decision, which shall become part of the Record of the Case in the lower court.</p> <p>E. Right to Vote No member of the lower court who participated in the action or decision made the basis of the complaint shall hear, deliberate upon, or vote on the allegations of the complaint being heard by the next higher court.</p> <p><b>14-10 Abandonment of Complaint</b> If a Complainant does not appear before the higher court in person at the time set for the hearing, the complaint shall be considered abandoned. In such cases the act or decision of the lower court will stand, unless the Complainant can provide the court with a satisfactory explanation for failure to appear or the higher court chooses to act upon the complaint in the interests of the Church.</p>	<p>“In the lower court” has been added for clarity in the process.</p> <p>Counsel is not needed in the non-judicial situations that give rise to a Complaint.</p> <p>First sentence edited for clarity.</p> <p>“His” deleted as unnecessary. “In its discretion” deleted as unnecessary.</p>

Current Chapter 14	Proposed Chapter 14	Rationale
<p>If any party willfully fails to comply with these rules or demonstrates a litigious or otherwise unchristian attitude, <del>he</del> may be subject to appropriate discipline by the higher court.</p> <p><b>14-13 Failure to File the Record</b>            If a lower court <del>shall</del> neglect to file the Record of the Case or any part of it, to the harm of the complainant, it may receive a proper rebuke from the higher court. <del>Thereupon, the act or decision upon which the complaint is based shall be suspended until the record is produced upon which the issue can be fairly heard.</del></p> <p>If the lower court shall file a portion of the record by electronic means, the complainant shall have the right to prepare a written transcript of it at <del>his own</del> expense.</p>	<p><b>14-12 Unchristian Attitude</b>            If any party willfully fails to comply with these rules or demonstrates a litigious or otherwise unchristian attitude, <del>that party</del> may be subject to appropriate discipline by the higher court.</p> <p><b>14-13 Failure to File the Record</b></p> <p>A. If a lower court neglects to file the Record of the Case or any part of it, to the harm of the Complainant, it may receive a proper rebuke from the higher court.</p> <p>B. If the lower court files a portion of the record by electronic means, the Complainant shall have the right to prepare a written transcript of it at the Complainant's expense.</p>	<p>Gender-specific pronoun not necessary.</p> <p>“Shall” deleted as unnecessary.</p> <p>Final sentence of the first paragraph current 14-13 unnecessary due to proposed 14-7A. When a complaint is received with clear and proper grounds, the act or decision of the Lower Court is paused.</p>

## Chapter 15 – Proposed Book of Discipline Revision

Current Chapter 15	Proposed Chapter 15	Rationale
<p data-bbox="107 191 474 215">— 15 — DISSENT AND PROTEST</p> <p data-bbox="107 256 275 280"><b>15-1 Dissent</b></p> <p data-bbox="180 289 695 475">A dissent is a statement on the record by members of a minority objecting to what they believe to be an ill-advised or erroneous judgment. Any expression of dissent shall be accompanied by a statement of the reasons for dissent.</p> <p data-bbox="107 646 268 670"><b>15-2 Protest</b></p> <p data-bbox="180 678 695 865">A protest is a more solemn and formal statement on the record by members of a minority, strenuously objecting to what they believe to be an ill-advised or erroneous judgment. Any protest shall be accompanied by a statement of the reasons for protest.</p> <p data-bbox="107 1003 520 1027"><b>15-3 Record of Protest or Dissent</b></p> <p data-bbox="180 1036 716 1255">If a protest or dissent contains temperate language, and is respectful to the court, it shall be placed in the Record of the Case. The court may, if it believes it is necessary, respond to the protest or dissent. The matter shall be ended unless the persons protesting obtain permission to withdraw or amend their protest.</p> <p data-bbox="107 1295 449 1320"><b>15-4 Right to Vote Required</b></p> <p data-bbox="180 1328 695 1417">None can join in a dissent or protest against a decision of any court except those who had a right to vote in the case.</p>	<p data-bbox="741 191 1108 215">— 15 — DISSENT AND PROTEST</p> <p data-bbox="741 256 909 280"><b>15-1 Dissent</b></p> <p data-bbox="814 289 1329 540">A dissent is a statement on the record by members of a minority of a court objecting to what they believe to be an ill-advised or erroneous act or decision of a court. Any expression of dissent shall be made before adjournment of the meeting and a written statement for the reasons should be sent to the Clerk of the court within 30 days</p> <p data-bbox="741 646 903 670"><b>15-2 Protest</b></p> <p data-bbox="814 678 1329 963">A protest is a more solemn and formal statement on the record by members of a minority of a court, strenuously objecting to what they believe to be an ill-advised or erroneous act or decision of a court. Any expression of protest shall be made before adjournment of the meeting and a written statement for the reasons should be sent to the clerk of the court within 30 days.</p> <p data-bbox="741 1003 1155 1027"><b>15-3 Record of Protest or Dissent</b></p> <p data-bbox="814 1036 1350 1255">If a protest or dissent contains temperate language and is respectful to the court, it shall be placed in the Record of the court. If the court believes it is necessary, it may respond to the protest or the dissent. The matter shall be ended unless the persons protesting obtain permission to withdraw or amend their protest.</p> <p data-bbox="741 1295 1083 1320"><b>15-4 Right to Vote Required</b></p> <p data-bbox="814 1328 1329 1417">None can join in a dissent or protest against a decision of any court except those who had a right to vote in the case.</p>	<p data-bbox="1377 321 1955 378">“Of a court” added for clarity. “Act or” added throughout for internal consistency</p> <p data-bbox="1377 418 1980 638">The additional language clarifies the process of registering a dissent. The dissent must be expressed before the meeting adjourns and a written statement must be sent to the Clerk within 30 days. It is not reasonable to require a written statement at the meeting itself, especially if the action prompting dissent occurs near the end of the meeting.</p> <p data-bbox="1377 743 1713 768">“Of a court” added for clarity.</p> <p data-bbox="1377 808 1934 898">The additional language clarifies the process of registering a protest. The process for dissent and protest are the same</p> <p data-bbox="1377 1101 1913 1157">A protest or a dissent is not a “case,” but it is necessary to have a record of it in the minutes.</p>

# Proposed Revision to the Book of Discipline (Clean Copy)

## — 1 — DISCIPLINE: ITS NATURE, PURPOSE, AND SUBJECTS

### 1-1 Definition of Church Discipline

- A. There are two kinds of authority vested in the church:
  1. The Responsibility of Order<sup>68</sup>
  2. The Authority of Jurisdiction<sup>69</sup>
- B. Both kinds of authority are given the church by the Lord Jesus Christ to instruct and guide her members and to promote her purity and welfare. Discipline is the exercise of the Responsibility of Order, particularly regarding “reproving the erring.”<sup>70</sup> As the exercise of such authority may adversely affect the membership rights<sup>71</sup> of an individual who has been accused of an offense, the authority may require utilizing actions for discipline.
- C. The word “discipline,” when used in this *Book of Discipline* refers to actions for discipline.<sup>72</sup>
- D. Church discipline does not supersede or negate the legal responsibility to report cases of suspected abuse to civil authorities according to local and state requirements.

### 1-2 Definition of “Church”:

As used in this *Book of Discipline*, the word “church” shall refer to the Evangelical Presbyterian Church, including her General Assembly, Presbyteries (including mission churches), and local churches.

### 1-3 Purpose of Discipline

The purpose of discipline is to

- A. Maintain the honor of God,
- B. Restore the sinner,
- C. Protect those harmed by the sin of others,
- D. Remove offense from the church.

Teaching Elders must instruct the officers and congregation in the use of discipline and jointly practice it in the context of the congregation and courts of the church.

### 1-4 Basis of Discipline

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<sup>68</sup> **G.3-2** “The officers’ Responsibility of Order includes especially the sharing of the gospel, reproving the erring, visiting the sick, and otherwise exhibiting to the world the fruit of the Spirit.” See G.3-2 for the full reference.

<sup>69</sup> **G.3-3** “The Authority of Jurisdiction is the authority to rule and is exercised jointly in ascending Church courts.” See G.3-3 for the full reference.

<sup>70</sup> **G.3-2**

<sup>71</sup> Active members (**G.8-3B**) have the right to vote in congregational meetings (**G.7-7**), the right to receive the sacraments in a worthy manner (**W3-3**, **W3-3**), the right to hold office if elected and approved for ordination (**G.10**), and the benefits of discipline (**D.1-5A**). These rights could be removed by properly imposed sanctions (**D.11**).

<sup>72</sup> See *Book of Discipline* Chapter 5.

- A. As the revelation of God’s holy will, Scriptural law is the basis of all discipline. Therefore, proper disciplinary principles as set forth in the Scriptures must be followed before any charge alleging a personal offense can be brought before a court of the church.
- B. When a charge of personal offense<sup>73</sup> is brought before any court of the church, the party bringing the charge must ordinarily include a statement detailing how the principles outlined in Matthew 18:15 and Galatians 6:1 have been met. The court may waive this requirement if it deems that confronting the offender would be inappropriate or otherwise inadvisable.<sup>74</sup>
- C. If anyone has evidence to suggest that a Teaching Elder may be guilty of a private offense,<sup>75</sup> the Teaching Elder should be warned privately. But if the offense persists, or becomes public, the matter should be brought to another Teaching Elder of the Presbytery or the Ministerial Committee.

**1-5 Persons Subject to Discipline**

- A. All active and inactive members of the church, confirmed, baptized, and affiliate, are entitled and subject to the benefits of discipline.
- B. All Teaching Elders are subject to discipline. Teaching Elders should not be shielded from discipline or lightly sanctioned on account of their office. Neither should serious charges be received against a Teaching Elder on insubstantial grounds.

**1-6 Grounds for Discipline**

Not everything displeasing to God is a ground for discipline. Additionally, all Christians are prone to acts of infirmity which should be amended but do not require discipline. The offenses that require discipline and are subject to actions for discipline are as follows:

- A. **Heresy:** the expressed or implied denial, openly taught and obstinately maintained, of one or more of the essential doctrines of Christianity.
- B. **Immorality:** conduct inconsistent with the biblical standards for conduct, including but not limited to bickering, brawling, debauchery, drunkenness, gossiping,<sup>76</sup> hatred, abuse, idolatry, impurity, slander, and sexual immorality such as adultery, fornication, homosexual practice, and bestiality.
  - 1. Abuse is the sinful use of power to harm, intimidate, exploit, or dominate another person.<sup>77</sup>
  - 2. In cases charging possible abuse, a court may make reasonable accommodations to protect vulnerable parties from possible harm or distress provided that such accommodations do not interfere with the rights of the accused to present an unhindered defense. Any such accommodations may not be used as evidence of abuse in any trial, mediation, implementation of sanctions, or other action of the court.
- C. **Contempt:** willful conduct done in deliberate disrespect of a court of the church, the constitutional documents of the church, or the officers of the church acting in their official capacities.

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<sup>73</sup> Proposed D.4-2A

<sup>74</sup> Waiving these requirements has in view a situation where a one-on-one meeting of the accuser with the accused may carry a high potential of physical harm, intimidation, or coercion of the accused or be otherwise inadvisable. The Court may make that determination as it sees fit.

<sup>75</sup> Proposed D.4-3A

<sup>76</sup> The terms “bickering and “gossiping” as used herein are intended to deal with those acts that are disruptive to the peace and unity of the church.

<sup>77</sup> See **Westminster Larger Catechism** questions 129, 130 & 151.

### **1-7 Church Members Who Are Also Employees**

The employer/employee relationship is not within the scope of the Book of Discipline. Church members who are also employees of the church shall be subject to discipline as an employee under whatever procedures may be established by the church for employees. They may also be subject to discipline as a member under the *Book of Discipline*.

## **— 2 — SPIRITUAL POWERS OF THE CHURCH**

### **2-1 The Spiritual Power of the Church**

The power of the Church is moral and spiritual, thus distinguishing the government of the Church from civil government. The Evangelical Presbyterian Church does not have civil authority.<sup>78</sup>

### **2-2 Spiritual Nurture of Members**

Among other duties, it is the duty of the church to provide for the nurture of its members and their families.<sup>79</sup>

### **2-3 Retention of Authority over Church Property**

While possessing no civil authority over any person, the church does retain authority over its property and ministries. In providing a secure and nurturing atmosphere for worship and spiritual growth, the church retains the right to exclude anyone from its property, services, or ministries on such terms and conditions as it may desire. Thus, for example, a local church may require certain standards before permitting adults to teach, lead ministries, or otherwise participate in the life and ministry of the church.

## **— 3 — JURISDICTION OF CHURCH COURTS**

### **3-1 The Right of Private Judgment**

Since “God alone is Lord of the conscience,”<sup>80</sup> we consider the right of private judgment in religious matters to be universal and unalienable.<sup>81</sup> Therefore, the church in disciplinary cases has jurisdiction only over her members.<sup>82</sup>

### **3-2 Definition of Jurisdiction**

Jurisdiction is the authority of a church court to render a decision in a case requiring discipline. This is the exercise of the Responsibility of Order.<sup>83</sup> A court must have jurisdiction over both the individual accused and the subject matter of the charge before it can issue an indictment or render a decision. This definition is not to be confused with the Authority of Jurisdiction. The Authority of Jurisdiction is the power to rule and is a joint power to be exercised in church courts in ascending order.<sup>84</sup> The exercise of such power shall always reflect the essential unity of the church. The exercise of the Authority of Jurisdiction provides the court with the authority to decide issues of government, administration, or law as it pertains to the rule of the church.

### **3-3 Original Jurisdiction**

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<sup>78</sup> G.3-1

<sup>79</sup> G.4-4B

<sup>80</sup> *Westminster Confession of Faith* 20.2

<sup>81</sup> G.25-2A

<sup>82</sup> Proposed D.1-5

<sup>83</sup> G.3-2

<sup>84</sup> “Ascending order” is the same as “regular gradation” in G.2-1A, G.3-3, and G.9-10.

In cases of original jurisdiction, the following rules apply:

- A. The Session  
The Session has original jurisdiction in every disciplinary case involving members of that local church.
- B. The Presbytery  
The Presbytery has original jurisdiction in every disciplinary case involving Teaching Elders of the Presbytery, appeals from actions for discipline decided by sessions,<sup>85</sup> and complaints<sup>86</sup> regarding actions or decisions of sessions within its designated area.<sup>87</sup>
- C. The General Assembly  
The General Assembly has original jurisdiction over complaints<sup>88</sup> regarding actions or decisions of Presbyteries and judicial cases referred to it by a lower court.<sup>89</sup>
- D. Dissolved Churches  
The Presbytery shall immediately assume jurisdiction in cases of discipline in process but interrupted by the dissolution of a local church or mission church.
- E. Transfer of Membership  
A member of a local church or Presbytery whose membership is being transferred shall remain under the jurisdiction of the original court until received by the receiving court.

### **3-4 Assumption of Jurisdiction**

In the event a court shall be unable or unwilling to try a person or persons accused, the next higher court may assume jurisdiction after giving thirty days' written notice to the lower court of its intention to assume jurisdiction.

### **3-5 Failure to Act**

When a court of original jurisdiction fails to act in an action for discipline within ninety days after receiving a written charge or notice of offense, upon request from

- A. Any active member of the Evangelical Presbyterian Church from within the same Presbytery,
- B. A member of the court of original jurisdiction, or
- C. An accused or accuser in an out of bounds offense,<sup>90</sup>

the next higher court may either instruct the lower court to act or assume jurisdiction to conclude the case itself.

### **3-6 Termination of Jurisdiction by Renunciation**

Jurisdiction in judicial cases ends upon receipt from the accused of written notice of renunciation by the Clerk or Stated Clerk of the court of original jurisdiction. In the event an individual orally renounces jurisdiction, this fact shall be confirmed by letter from the court verifying the individual's intention to renounce jurisdiction. The letter shall be delivered in person or by form of mail requiring a written receipt. If the court receives no written response within ten days, the acknowledgement of renunciation

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<sup>85</sup> See Proposed **D.13**, on "Appeals" and Proposed **D.3-4** and **3-5** on assumption of jurisdiction due to unwillingness or failure to act.

<sup>86</sup> See Proposed **D.14**, "Complaints."

<sup>87</sup> **G.19-1**

<sup>88</sup> Proposed **D.14**

<sup>89</sup> **G.22-3**

<sup>90</sup> See proposed **D.4-5** regarding "Out of Bounds Offenses."

of jurisdiction shall be deemed final. In such instances, a case already begun may be concluded only with the signed permission of the accused.<sup>91</sup>

## — 4 — OFFENSES

### 4-1 Offenses

Three kinds of offenses require discipline: Heresy, Immorality, and Contempt.<sup>92</sup> Nothing ought to be considered by any court as an offense, or admitted as a matter of accusation, which cannot be proved to be such from Scripture. **The Westminster Confession of Faith**, with the **Larger and Shorter Catechisms**, **The Essentials of Our Faith**, and the **Book of Order**, are the standards adopted by the church as expositions of the teachings of Scripture in relation to faith and practice.

### 4-2 Personal and General Offenses

- A. A personal offense is a wrong done to a person or persons, including one's own self.
- B. A general offense is a wrong that is not directed against any particular person.

### 4-3 Private and Public Offenses

- A. Private offenses are those known only to an individual or to a few persons.
- B. Public offenses are those that are known to more than a few persons.

### 4-4 Temporary Suspensions

When an action against an accused church member, the Session may, if it thinks the peace and purity<sup>93</sup> of the church requires it, temporarily suspend the accused from the sacraments and/or bar the accused from church property<sup>94</sup> until the action for discipline has been concluded.

### 4-5 Out-of-Bounds Offenses

When an offense is alleged to have taken place in a manner or location unknown to and/or outside the bounds of the court of original jurisdiction, it shall be the duty of the court within whose bounds the alleged offense occurred, after satisfying itself there is compelling evidence warranting a trial, to send notice of pending charge(s) to the court having jurisdiction, which shall at once proceed against the accused; or the whole case may be transferred for trial and imposition of sanctions, if any, to the coordinate court within whose bounds the offense is alleged to have been committed.

## — 5 — COMMENCING ACTIONS FOR DISCIPLINE

### 5-1 Care over the Church

It is the duty of all church courts to exercise care over those subject to their authority. They shall, with care and discretion, investigate reports concerning alleged offenses that require discipline. This duty is imperative when a person claiming to be aggrieved files a written charge with the court.<sup>95</sup>

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<sup>91</sup> See G.14-2B.3 and 14-4C for the effect of renunciation of jurisdiction.

<sup>92</sup> Proposed **D.1-6**

<sup>93</sup> See **G.4-1**, 5-5A, 5-6A, D.8-3A and vows taken by members and officers.

<sup>94</sup> Proposed **D.2-3**

<sup>95</sup> The aggrieved party should use the appropriate Form for Discipline.

## **5-2 Commencement of Actions for Discipline**

Actions for discipline are commenced by one of three means:

- A. By a Person or Persons  
When a person or persons file a written charge with the Clerk of the court of original jurisdiction.<sup>96</sup>
- B. By the Court  
When the court having jurisdiction<sup>97</sup> determines that a charge is in order.
- C. By Confession  
When any person comes forward and makes his or her offense known to the court or commission of original jurisdiction,<sup>98</sup> a statement of the facts shall be recorded, and judgment may be rendered and sanctions may be imposed with or without further actions for discipline, formal trial, or mediation.

## **5-3 Cautions Against Biased Accusations and Testimony**

Great caution should be exercised by the court or commission in receiving accusations and testimony from any person

- A. Who is known to hold a malignant spirit towards the accused,
- B. Who is not of good character,
- C. Who is under sanction or who is the subject of an action for discipline,
- D. Who is deeply interested in any respect in the conviction of the accused,
- E. Who is known to be litigious, contentious, rash, or highly imprudent,
- F. Who is offering a confession for an offense which may be incomplete or not fully accurate.

## **5-4 Limitation on Actions**

An action for discipline must commence within three years after the acts constituting the offense were committed, with certain exceptions:

- A. The acts were unknown and were not reasonably knowable by the offended person or court.
- B. The offended person is under the age of 18, in which case the action for discipline must commence before that person's twenty-first birthday unless the offense includes abuse.<sup>99</sup>

## **5-5 Private Reconciliation**

There are cases of personal offenses in which it will be advisable for the court to send a committee to converse in a private manner with the accused and endeavor to bring the accused to a sense of repentance before instituting actions for discipline. The committee may then make recommendations to the court or commission concerning further prosecution of the case.

## **5-6 Investigation of a Charge**

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<sup>96</sup> Proposed D.3-3

<sup>97</sup> *Ibid.*

<sup>98</sup> *Ibid.*

<sup>99</sup> See D.1-1D regarding reporting to civil authorities..

- A After an action for discipline is commenced by a person (persons) and when private reconciliation is either not advisable or has been unsuccessful
  1. The Clerk of the court, or a duly appointed body, shall determine if the action for discipline is in order.
  2. If the action for discipline is determined to be out of order, the Clerk or a duly appointed body shall advise the accusers of the decision and its grounds. The decision shall be reported to the court, which shall sustain or not sustain the decision.
  
- B. If the action for discipline is determined to be in order or if the court has initiated the action for discipline, the court shall form a judicial investigative committee to conduct an investigation into charges filed. The judicial investigative committee shall have no authority to act for the court other than as an investigative body. The judicial investigative committee shall report its findings and recommendations to the court.
  
- C. After the investigation is concluded, the court shall decide whether there is compelling evidence to warrant a trial.
  
- D. If the court does not find compelling evidence of guilt to warrant a trial, the charge will be dismissed.

**5-7 Proceedings upon a Determination of Compelling Evidence Warranting a Trial**

- A. The court shall appoint a prosecutor.
  1. In actions before the Presbytery, the prosecutor shall be a Teaching Elder who is a member of the Presbytery or a Ruling Elder who is an active member in a local church of the Presbytery.
  
  2. In actions before the Session, the prosecutor need not be a Ruling Elder of that congregation but shall be an active member of that church.<sup>100 101</sup>
  
  3. In the case of a personal offense, no offended person or a potential witness having personal knowledge of an offense shall become a prosecutor.
  
- B. The prosecutor shall prepare an indictment and proceed to trial.
  1. The parties in actions for discipline are the accuser and the accused. The accuser is always the Evangelical Presbyterian Church, whose honor and purity are to be maintained. The prosecutor is always the representative of the church.
  
  2. Every indictment shall begin: “In the name of the Evangelical Presbyterian Church,” and shall conclude, “against the peace, unity, and purity of the church, and the honor and majesty of the Lord Jesus Christ, as the King and Head thereof.”
  
  3. The indictment shall clearly state the times, places, circumstances, and names of witnesses of the actions alleged to require an action for discipline, including the names of witnesses then known to support it so that the accused will be given adequate notice of the charges and the opportunity to make a defense.
  
  4. The prosecutor shall serve a copy of the indictment either in person or by means requiring a written receipt.
  
- C. Actions of the Court upon appointment of a prosecutor

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<sup>100</sup> G.8-3B

<sup>101</sup> See D.3-4 and D.3-5 in the event a local church is unwilling, unable, or fails to act on a action for discipline.

1. The court shall decide whether it will try the case or refer the case for trial and decision to a judicial commission<sup>102</sup> appointed by the court.
2. If the court tries the case, it may elect one of its members to serve as Temporary Moderator for the case with the consent of the Moderator. The Temporary Moderator shall exercise the duties of a Moderator<sup>103</sup> only with respect to the particular action for discipline. Neither the Moderator nor the Temporary Moderator may serve if they have a conflict of interest in the case.
3. If the case is referred to a judicial commission, the commission has the full authority of the court to act on the matter referred. Ordinarily the Judicial Commission will be dissolved at the stated meeting of the court following the conclusion of the trial.
4. Composition of judicial commissions
  - a. Judicial commissions of the shall be composed of no fewer than three and no more than seven members elected by the court.
  - b. Judicial commissions of the Presbytery shall be composed of a ratio of one Teaching Elders to two Ruling Elders to the extent possible unless the court appoints the Ministerial Committee as the judicial commission.
  - c. Judicial commissions of the Session shall be composed of Ruling Elders of the congregation and may include the Teaching Elders of the congregation.<sup>104</sup> At least one member of the Commission must be a Ruling Elder actively serving on the Session.
  - d. Members of a judicial investigative committee should ordinarily not serve on a judicial commission to avoid any appearance of bias.
  - e. The court shall appoint the Moderator of the judicial commission. The Moderator is a member of the judicial commission with voice and vote.
  - f. The prosecutor is not eligible to be a member of the judicial commission.
5. Ordinarily the court will set a date for trial upon the appointment of the prosecutor.
6. If the accused is a member of the court, the court may temporarily suspend any or all the official functions of the accused. This shall not be considered a sanction.<sup>105</sup>

## — 6 — *EX PARTE* COMMUNICATIONS

### 6-1 Definition of *Ex Parte* Communications

- A. An *ex parte* communication is any form of communication to the presiding court or commission or Officer of the presiding court by one party in an action for discipline in the absence of the other party to that action that relates to the merits of the action. It includes but is not limited to verbal, written, electronic, or any other form of communication.

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<sup>102</sup> G.21-1A, B

<sup>103</sup> G.18-2A; G.19-3A

<sup>104</sup> Teaching Elders of the congregation are pastors and associate pastors. Assistant pastors are called by the Session, not the congregation, and therefore are not eligible to serve on a judicial commission of a local church.

<sup>105</sup> See proposed D.11-2A regarding temporary suspensions, which are not sanctions.

- B. Once a court begins an action for discipline,<sup>106</sup> *ex parte* communications are prohibited.
- C. This prohibition against *ex parte* communication does not include questions on procedural matters that may be addressed to the Clerk of the court or Moderator of the commission.

#### **6-2 Actions in the event of *ex parte* communication**

- A. Any attempt at *ex parte* verbal communication shall be immediately interrupted by the member of the court to whom the communication is directed.
- B. The member of the court shall
  - 1. Make a record of the attempted communication,
  - 2. Place the record in a separate file,
  - 3. Communicate to the other party the attempted *ex parte* communication.
- C. The record of the attempted communication shall include
  - 1. The name of the person(s) attempting to so communicate,
  - 2. The date of the attempted communication.
- D. Under no circumstances shall the content of any *ex parte* communication be added to the case file of the subject of an action for discipline.
- E. Any form of *ex parte* communication, including notes from a verbal communication, shall be placed in a separate file and communicated to the other party and members of the presiding court or commission.

#### **6-3 Proper communication with a court, commission, or its officers**

If a party desires communication with a court or a judicial commission, that party shall request a meeting in person or by audio or video conference with the court or commission. The Court or Commission, or its designee, shall determine if the meeting is in order, and, if so, shall schedule the audio or video conference. The party desiring communication shall be responsible for arranging the meeting.

## — 7 — MEDIATION

#### **7-1 Assignment of mediation**

- A. At the sole discretion of a court or judicial commission, an action for discipline once commenced may be assigned to a qualified mediator(s) agreed upon by both parties prior to the commencement of a trial. A matter so assigned may only proceed with the written consent of all necessary individuals as determined by the assigning court or commission. The court may assign all or part of the action for discipline allowing a portion of the charge(s) to go into mediation while remaining charges continue to trial.

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<sup>106</sup> See Proposed Chapter 5

- B. At least one voting member of the court or commission prosecuting the case shall represent the court or commission at mediation.<sup>107</sup> If the assigned mediator(s) are members of the Evangelical Presbyterian Church, the mediator(s) shall not be eligible to serve as a member of the court or judicial commission should it prove necessary for the matter to be brought to trial.
- C. Prior to the commencement of mediation, the mediator(s) shall obtain the written agreement of both parties, by which both parties shall be bound by the following:
  - 1. All discussions are considered confidential unless both parties and the mediator(s) agree otherwise.
  - 2. Any admissions and settlement offers made shall not be cited in any further proceeding concerning any other matter before the court, should the matter not be resolved in mediation. No participant in the mediation will call a mediator(s) as a witness to the mediation in any subsequent hearing and/or in any other forum.
  - 3. Any person who violates the terms of this agreement may be charged with contempt and subject to sanction.
  - 4. A mediator(s) may only report to the court or Judicial Commission whether the matter has been settled, or not settled, or partially settled. If settled, the terms of any settlement shall be disclosed to the court or judicial commission. However, no settlement can be entered into which conflicts with any provision of the Constitution of the EPC.<sup>108</sup> Any such settlement will be considered null and void. Written settlements are to be sealed and kept by the Clerk of the court separate from the minutes of the court or judicial commission.
  - 5. No formal record of any settlement discussions shall be made. This prohibition includes the use of any recording device or a stenographer.

**7-2 Legal counsel for mediation**

If either party to mediation desires to have legal counsel, the other party shall be afforded the same opportunity.<sup>109</sup>

## — 8 — HEARINGS IN ACTIONS FOR DISCIPLINE

**8-1 Warning to All**

Every member of a court or commission engaged in an action for discipline shall bear in mind the command of Scripture: “Brothers and sisters, if someone is caught in a sin, you who live by the Spirit should restore that person gently. But watch yourselves, or you also may be tempted.”<sup>110</sup>

**8-2 Formal Summons**

- A. Issuance
 

The Moderator or Clerk shall issue formal summons in the name of the court to the accused and to such witnesses as either party shall nominate to appear on its behalf.
- B. Contents

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<sup>107</sup> The prosecutor is not a voting member of the judicial commission (proposed **D.5-7C.4(f)**)

<sup>108</sup> The Constitution of the EPC consists of the **Westminster Confession of Faith**, **Westminster Larger Catechism**, **Westminster Shorter Catechism**, and the **Book of Order** in its three parts (*Book of Government*, *Book of Discipline*, and *Book of Worship*).

<sup>109</sup> See provisions regarding learned counsel in Proposed D.10-3

<sup>110</sup> Galatians 6:1 (New International Version, 2011)

The formal summons shall identify the parties to the trial, shall state the time and place of the trial, and shall warn the parties and witnesses of the sanctions for refusal to obey a formal summons.

C. Service of Summons and Indictment

The Clerk of the court or commission shall deliver a copy of the summons and the indictment to the defendant in person or by form of delivery requiring a signed receipt. The Clerk shall further deliver a summons to necessary witnesses in person or by form of delivery requiring a signed receipt.

D. Witness and Exhibits List

Both parties shall provide the other with a list of expected witnesses and copies of all exhibits not later than 5 days before trial (excluding Saturdays, Sundays, and legal holidays) by personal delivery or by means requiring a written receipt.

### 8-3 Refusal to Obey a Formal Summons

A. Accused Person

When an accused person fails to respond to a formal summons, the accused shall be served with a second formal summons.

B. Second Summons

A second formal summons shall be accompanied with a notice that if the accused does not appear at the time appointed (unless providentially hindered, which fact the accused shall make known to the court), or that if the accused appears and refuses to plead, the accused shall be considered in contempt.<sup>111</sup>

C. Sanctions for Failure to Appear

When an accused person, having been twice formally summoned willfully fails to appear, the court or commission shall enter this fact into its records, together with a copy of the indictment, and shall treat the failure to appear as an act of contempt.

1. For a member of the church, the court or commission shall suspend the accused person from the sacraments indefinitely. If the charge is of a serious nature, the court or commission may proceed to the sanction of excommunication.<sup>112</sup>
2. For a Teaching or Ruling Elder, the court or commission shall suspend the Officer both from office and the sacraments indefinitely. If the charge is of a serious nature, the court or commission may proceed to the sanctions of removal from office or excommunication.<sup>113</sup>

D. Failure of a Witness to Appear

In the event a duly summoned officer or member of the church willfully fails to appear or refuses to testify, the court may treat the refusal of the witness as contempt and proceed to prosecution of the witness.

### 8-4 Time Periods

At least ten days must elapse between service of the first formal summons on the accused person, and the meeting of the court at which the accused is to appear. The time allotted for appearance following the second summons shall be left to the discretion of the court or commission, provided that it is sufficient for reasonable compliance.

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<sup>111</sup> Proposed D.1-6A

<sup>112</sup> See Proposed 11-2 regarding sanctions.

<sup>113</sup> *Ibid.*

## — 9 — RULES FOR TESTIMONY

### 9-1 Competency of Witnesses

Competency means ability to testify. All persons, including both parties, who have sufficient ability to understand the obligation of a solemn promise,<sup>114</sup> are competent witnesses.

### 9-2 Testimony of the Accused

The accused party cannot be required to testify.<sup>115</sup> No inference of guilt may be drawn from failure to testify. The person or persons who filed the charges shall be required to testify on the demand of the accused.

### 9-3 Family Members

Husbands and wives, parents and children, shall not be required to testify against each other.

### 9-4 Dismissing Witnesses

The court or commission<sup>116</sup> shall have broad discretion as justice may require to dismiss any witness (other than the accused or accuser) from the room while another witness is testifying.

### 9-5 Disqualification of Witnesses

A member of the court or commission who has given testimony in a case shall be ineligible to vote on the case if either party objects.

### 9-6 Credibility of Witnesses

Credibility means the degree of credit which may be given to the testimony of a witness. In assessing the credibility of a witness, the court may consider relevant matters that bear on the credibility of the witness, including, but not limited to, the witness's

- A. Relationship to either party or other witnesses,
- B. Personal interest in the result,
- C. Weakness of understanding,
- D. Demeanor while testifying,
- E. Character for honesty or truthfulness,
- F. Belief in the existence of God and a future state of rewards and punishments.

### 9-7 The Solemn Promise of the Witness

The Moderator (or Temporary Moderator) shall administer a solemn promise to a witness in the following or like terms:

"Do you solemnly promise, in the presence of God, that you will declare the truth, the whole truth, and nothing but the truth, according to the best of your knowledge in the matter in which you are called to witness?"

### 9-8 Examination of Witnesses

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<sup>114</sup> See proposed D.9-7.

<sup>115</sup> See proposed D.2-1.

<sup>116</sup> "Commission" means judicial commission throughout this chapter.

A. Examination and Cross-Examination

Witnesses shall be examined first by the party introducing them; then cross-examined by the opposite party, after which either party or any member of the court may ask additional questions. No question shall be asked or answered except by permission of the Moderator subject to an appeal to the court or commission. The court or commission shall not permit repetitive questions or questions which are frivolous or irrelevant to the charge at issue.

B. Witness Inconvenience

1. When the alleged offense took place at a distance, and it is inconvenient for the witnesses to appear before the court having jurisdiction, that court may either
  - a) Appoint a judicial investigative committee to take the testimony, or
  - b) Request the court within whose bounds the facts occurred to take the testimony on behalf of the court of original jurisdiction
2. Due notice of the time and place of the taking of testimony by the judicial investigative committee or the coordinate court shall be given to the opposite party. Testimony may be taken by questions asked to the witness with answers recorded in writing or recorded by electronic or other means. Both parties shall have the right to examine the witness.

**9-9 Burden of Proof**

The testimony of more than one witness shall be necessary in order to prove an allegation of the indictment. However, if in addition to the testimony of one witness, other supporting evidence is proved, the allegation may be considered to be proved.

## — 10 — TRIAL PROCEEDINGS

**10-1 Order of the trial**

A. Charge to the court or commission

The Moderator (or Temporary Moderator) shall exhort the members of the court or commission to remember and consider their high character as judges of a court of Jesus Christ and the solemn duty in which they are about to participate.

B. Indictment

The Moderator (or Temporary Moderator) shall read the indictment, and the accused shall be called upon to plead either “guilty” or “not guilty.” If the accused pleads “guilty,” the court or commission shall act according to its discretion. If the accused pleads “not guilty,” the trial shall proceed. The accused party may plead in writing when unable to be personally present. If the accused party is necessarily absent, the court or commission may postpone the trial or allow the accused to name an active member of the church as a representative.

C. Service of Summons

Before proceeding to trial, the court or commission shall ascertain that its summons has been duly served.

D. Opening Statements

Each party shall be permitted to make a brief opening statement not longer than 15 minutes unless a longer time shall be granted by the court or commission. The prosecutor shall proceed, followed by the accused.

E. Testimony

The witnesses for the prosecution and then those for the accused shall be examined.

- F. **Exclusion of Prosecutor and the Accused Person**  
On all questions arising in the progress of a trial, the discussion shall first be between the prosecutor and the accused persons. When they have been heard, they may be required to withdraw from the court until the members deliberate upon and decide the question. The Moderator (or Temporary Moderator) shall announce the court's or commission's decision upon return of the prosecutor and the accused to the courtroom.
- G. **Closing Argument**  
Each party shall be permitted to make a brief closing argument not longer than 15 minutes unless a longer time shall be granted by the court. The prosecutor shall proceed, followed by the accused. The prosecutor shall be permitted to close, but total amount of time allocated to each party shall be equal.
- H. **Deliberations**  
The roll shall be called, and the members may express their opinions in the case. The prosecutor and the accused may be required to withdraw from the court until the members deliberate upon and decide the question.
- I. **The Vote**  
The vote shall be by secret ballot, and all members of the court or commission shall vote "Guilty" or "Not Guilty" on each charge of the indictment. A verdict of guilty shall be rendered only upon a two-thirds majority of the votes cast. The Moderator (or Temporary Moderator) shall announce the court's decision upon return of the prosecutor and the accused to the courtroom.
- J. **Imposition of Sanctions**  
Before sanctions are determined, the prosecutor and the accused found guilty shall be given the opportunity to present evidence or argument bearing on the administration of sanctions only.  
  
Thereupon, the court or commission shall proceed to a determination of sanctions.<sup>117</sup> The prosecutor and the accused may be required to withdraw from the court until the members deliberate and determine sanctions. Sanctions may be rendered upon a simple majority of the votes cast. The Moderator shall announce the court's determination of sanctions, which shall be entered upon the records, upon return of prosecutor and the accused to the courtroom.
- K. **Motion for New Trial**  
If after the trial new testimony is discovered which the accused believes is important, the accused shall have the right to ask for a new trial. The court shall have the power to grant the request.

## **10-2 Challenges to the Court**

Either party may, for cause hereinafter described, challenge the right of any member to sit in the trial of the case. The question shall be decided by other members of the court. A challenge for cause against a member of the court shall be granted when

- A. A member of the court expresses an opinion about the guilt of either party to any person not a member of the court before the conclusion of the trial,
- B. A member of the court is absent from any sitting of the trial without the permission of the court, or satisfactory reasons rendered,
- C. A member of the court is found

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<sup>117</sup> See Proposed chapter 11-2 regarding sanctions.

1. To be related to the accused or other witnesses,
2. To have a personal interest in the result, or
3. To have similar impediment or conflict of interest.

**10-3 Professional or Learned Counsel**

A. No Paid Counsel

No person serving as counsel shall be permitted to receive compensation for services rendered to either party. However, parties may reimburse counsel for reasonable expenses.

B. Professional or Learned Counsel

In the event either party shall be represented by a person who is a graduate of an accredited school of law, the other party shall be likewise permitted to be represented by learned or professional counsel. However, learned or professional counsel must be a member of the church.<sup>118</sup> A member of the court serving as counsel in the case shall not be allowed to sit in judgment on the case.

**10-4 The Record of the Case**

A. Importance of the Record

Keeping accurate records of actions for discipline is incumbent upon the Moderator and Clerk of the court or commission both for the history of the case and in the event of an appeal.

B. Contents of the Record

The Clerk or other person designated by the court or commission shall, within thirty days after the trial, make and maintain as part of the permanent records of the court or commission, a complete record of the proceedings, including the charges, the indictment, the answer (if any), all the testimony, whether transcribed or prepared in summary form, and all such acts, orders, and decisions of the court or commission relating to the case including the written ballots evidencing the decision and the determination of sanctions. These documents shall constitute the Record of the Case and should ordinarily be maintained separately from the Minutes of the court or commission.

C. Copies of the Record:

The court or commission shall make and maintain a transcript or record of the proceedings by written or electronic means. Both parties shall be permitted to make copies (by transcript or electronic recording) of the whole proceedings.

D. Transmitting the Record on Appeal

When a case is appealed,<sup>119</sup> the lower court shall transmit the Record of the Case to the higher court with the addition of the notice of appeal. The higher court does not re-try the case but shall render its decision based only on that which is contained in the Record. On the final decision of a case by a higher court the decision shall be communicated to all lower courts.

1. Authentication of the Record

The records of a court or commission, or any part of them, whether original or transcribed, if regularly authenticated by the Moderator and Clerk, or by either of them, shall be deemed good and sufficient evidence in any other court. Authentication shall be in writing in the following or similar form:

I, \_\_\_\_\_ Clerk [or Moderator] of the \_\_\_\_\_

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<sup>118</sup> Proposed D.1-2; G.8-3

<sup>119</sup> See Book of Discipline chapter 13 on the process of appeal.

[name of court] do hereby certify that the foregoing are true, correct, and complete copies of the Record in the Case of \_\_\_\_\_.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

2. Authentication of Testimony

The testimony taken by one court or commission and regularly authenticated shall be received by every other court as no less valid than if it had been taken by itself.

## -- 11 -- DECISIONS FROM A TRIAL – DISCIPLINARY SANCTIONS

### 11-1 Exhortation to Meekness

When any person shall be found guilty of an offense, the court shall proceed with all tenderness and shall deal with its offending brother or sister in the spirit of meekness. The members are exhorted to watch themselves, so that they may avoid temptation.

### 11-2 Disciplinary Sanctions

A. Disciplinary sanctions which may be administered by church courts or commissions are, in order of severity:

1. Reprimand<sup>120</sup>
2. Suspension
3. Removal from church office
4. Excommunication.

B. If the court finds on trial that the offender is guilty, but the offense may be remedied without hindering the person’s ministry, the Court shall take all prudent measures to remedy the offense and administer at least the sanction of Reprimand and record the remedy.

C. Principles for the Administration of Sanctions

The administration of church sanctions shall be suited to the nature of the offense.

1. Private offenses

Sanctions for private offenses should be administered in the presence of the court or commission alone, or in private by one or more members of the court or commission.

2. Public offenses

The court or commission has sole discretion regarding the degree of sanction and mode of administration for public offenses.

3. Escalation of offenses

When a milder sanction fails to reclaim the offender, it may become the duty of the court to proceed to the administration of a more severe sanction.

4. Severity of offenses

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<sup>120</sup> This category was formerly “admonition.” Scripture directs us to admonish one another. In this *Book of Discipline*, “reprimand” is used for the situation in which admonishment has not been successful and the issue rises to the level of trial and sanction.

If the charge is one of serious immorality or heresy and the offender persists in rebellion, the court or commission may proceed to administer a higher sanction.

**11-3 Sanction of Reprimand**

- A. Reprimand is the formal reproof of an offender by a church court, warning of the offender's guilt and danger, and encouraging the offender to be more careful and watchful in the future.
- B. The sanction of reprimand may be administered in private by one or more members of the court if the offense is known only to a few and is not aggravated in character. If the offense is public, the reprimand shall be administered by the Moderator in the presence of the court and may also be announced in public should the court deem it appropriate.

**11-4 Sanction of Suspension**

- A. Suspension is the temporary exclusion of church members from the sacraments and/or from other church ministries or activities.
- B. The goal of suspension is to impress upon the offender the evil of the offense and, under God's blessing, to lead the offender to repentance.
- C. Suspension may be either indefinite or definite in duration.
  - 1. Suspension should generally be indefinite in duration, continuing until the person suspended gives such evidence of repentance as may warrant its removal.
  - 2. The good of the offender and/or the church may require that the offender be suspended for a definite length of time, even though the person confesses his/her sin and gives evidence of repentance.
- D. Regarding church members  
Suspension is the temporary exclusion of church members from the sacraments and/or from other church ministries or activities.
- E. Regarding Church Officers<sup>121</sup>  
Suspension includes exclusion from office and may include exclusion from the sacraments.
- F. Regarding Teaching Elders
  - 1. Definite or indefinite suspension shall bar the Teaching Elder from all functions of office and places the Teaching Elder on inactive status with the Presbytery.
  - 2. When a Presbytery suspends a Teaching Elder, the Presbytery has sole discretion as to whether the sanction will include the dissolution of the pastoral relationship.
  - 3. The Presbytery may suspend the Teaching Elder from all ministerial functions without dissolving the pastoral relationship if the court anticipates restoring the offender a time that does not unduly bring harm to the congregation. In such a case, the court should assist the congregation in supplying a temporary pastor in order to maintain the regular worship of the congregation.
- G. Administration of the sanction of suspension
  - 1. The sanction of suspension shall be administered in the presence of the court or commission alone or in open session of the court, as it may deem best, and public announcement thereof shall be at the discretion of the court or commission.

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<sup>121</sup> Church officers are Teaching Elders, Ruling Elders, and Deacons

2. The sanction of definite or indefinite suspension shall be administered by the Moderator of the court or commission in the following or similar words:

“Whereas you, \_\_\_\_\_ [a Teaching Elder / Ruling Elder / Deacon, / member of the Church] are convicted by sufficient proof [or are guilty by your own confession] of the sin of [name the offense], we the Presbytery [or Session] of [name of the Presbytery or church] in the name and by the authority of the Lord Jesus Christ, do now declare you suspended from the Sacraments of the Church [and from the exercise of your office], until you give satisfactory evidence of repentance.”

To this shall be added such advice or admonition as may be judged necessary, and the whole shall be concluded with prayer that the offender would be restored.

#### **11-5 Sanction of Removal from Office**

- A. Removal from office is the sanction by which the offender’s ordination is permanently revoked, thus removing the offender from the office of Teaching Elder, Ruling Elder, or Deacon without excommunication. Removal from office may or may not be accompanied by the administration of other sanctions.
- B. When a Presbytery or General Assembly, if it has assumed jurisdiction,<sup>122</sup> removes a Teaching Elder from office, the pastoral relationship shall be dissolved.
- C. When a Presbytery removes a Teaching Elder from office without excommunication, it shall assign the offender to membership at some local church subject to the approval of the Session of that local church.
- D. Administration of the Sanction of Removal from Office  
The Moderator of the court or commission shall administer the sanction of removal from office in the following or similar words:

“Whereas [name], a Teaching Elder of this Presbytery (or a Ruling Elder or Deacon of this Church), has been proved by sufficient evidence to be guilty of the sin of [offense], we, [name of the presbytery or local church] do adjudge you disqualified for the office of Teaching Elder (or Ruling Elder or Deacon), and therefore we do hereby, in the name and by the authority of the Lord Jesus Christ, remove you from the office of Teaching Elder (or Ruling Elder or Deacon) of the church and do prohibit you from exercising any of the functions thereof.”

If the sanction includes suspension or excommunication, the Moderator or Chair shall proceed to say the following or similar words:

“We do, moreover, by the same authority, suspend you from the Sacraments, and cut you off from the membership and fellowship of the Church.”

#### **11-6 Sanction of Excommunication**

- A. Excommunication is the removal of an offender from the membership and fellowship of the church. Excommunication shall be administered only in cases of offenses aggravated by a continuing refusal to repent.

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<sup>122</sup> See proposed D.3-4 and 3-5.

- B. The purpose of excommunication is to maintain the honor of God, to restore the sinner, to remove offense from the church and to remind the church to “not regard lightly the discipline of the Lord” (Hebrews 12:5b).
- C. When a Presbytery or General Assembly<sup>123</sup> removes a Teaching Elder from office with excommunication, it should request the Session of a local church to minister to the offender as it would an unbeliever in hope of leading the offender to repentance and eventual admission to membership in the church and the Lord’s table.
- D. Administration of the Sanction of Excommunication  
Excommunication may be administered privately or publicly as the court decides. The Moderator of the court or commission shall make a statement of the steps which have been taken with respect to the offender, and of the decision to cut the offender off from the membership and fellowship of the church. The Moderator shall then show from Matthew 18:15-18 and 1 Corinthians 5:1-5 the authority of the church to cast out unworthy members, and shall explain the nature, use, and consequences of this sanction. The Moderator shall then administer the sanction in the following or similar words:

“ \_\_\_\_\_ a member of this Church, has been by sufficient proof convicted of the sin of \_\_\_\_\_ and after much admonition and prayer, obstinately refuses to hear the Church and has manifested no evidence of repentance. Therefore, in the name and by the authority of the Lord Jesus Christ, we, the Session of the Church of \_\_\_\_\_ do pronounce you to be excluded from the Sacraments and the fellowship of the Church.”

## — 12 — REMOVAL OF SANCTIONS

### 12-1 Court Should Pray for the Offender

After any person has been suspended from the sacraments, it is proper that the Elders of the church should frequently converse with the person as well as pray with and for the person, that it would please God to grant repentance and restoration.

### 12-2 Restoration to the Sacraments

When the court shall be satisfied as to the reality of the repentance of a suspended offender, that person shall profess repentance either in the presence of the court alone or publicly, and be restored to the sacraments of the church if such be the judgment of the court. Restoration shall be declared in the following or similar words:

“Whereas, you, \_\_\_\_\_, have been suspended from the Sacraments of the Church (and/or from the office of Teaching Elder, or Ruling Elder, or Deacon) but have now demonstrated such repentance as satisfies the church, we, the Session (or Presbytery) of \_\_\_\_\_ do hereby, in the name and by the authority of the Lord Jesus Christ, restore you from the said sentence of suspension, and restore you to the full communion of the Church (and the exercise of your said office, and all the functions thereof).”

After which there shall be prayer and thanksgiving.

### 12-3 Restoration of an Excommunicated Person

- A. When an excommunicated person comes to repentance and desires to be readmitted to the membership and fellowship of the church, that person may request restoration from the Session.

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<sup>123</sup> The General Assembly only has authority to remove a Teaching Elder from office if it has assumed jurisdiction under the authority given in proposed D.3-4 and 3-5.

- B. The Session shall proceed to restore the excommunicated person if it finds sufficient evidence of sincere repentance. This may be done in the presence of the Session or the congregation as seems best to the Session.
- C. If the excommunicated person was a Teaching Elder, the Session may receive him/her into membership and fellowship of the church. The Session shall then report its action to the court that imposed the original sanction.
- D. On the day appointed for restoration, the Moderator shall call upon the excommunicated person and propose the following questions:

“Do you, from a deep sense of your great wickedness, freely confess your sins in thus rebelling against God and in refusing to hear His Church?” Answer, “I do.”

“Do you acknowledge that you have been in justice and mercy cut off from the communion of the church?” Answer, “I do.”

“Do you now voluntarily profess your sincere repentance and sorrow for your sin and rebellion: and do you humbly ask the forgiveness of God and His Church?” Answer, “I do.”

“Do you sincerely promise, through divine grace, to live in all humility of mind and carefulness to avoid sin, and to attempt to live a lifestyle that will glorify God our Savior?” Answer, “I do.”

Here the Moderator shall give the person being restored a suitable exhortation. Then the Moderator shall pronounce restoration in the following or similar words:

“Whereas you, \_\_\_\_\_, have been shut out from the membership and fellowship of the Church, but now have demonstrated such repentance as satisfies the Church; in the name and by the authority of the Lord Jesus Christ we, the Session of this Church, do declare you restored from the sentence of excommunication formerly pronounced against you, and we do restore you to the membership and fellowship of the Church, that you may be a partaker of all the benefits of the Lord Jesus to your eternal salvation.”

After which there shall be prayer and thanksgiving.

#### **12-4 Restoration to Office**

- A. A Teaching Elder, Ruling Elder, or Deacon suspended from office for scandalous conduct shall not be restored, even on the deepest sorrow for sin, until the officer has demonstrated an exemplary, humble, and edifying lifestyle for a considerable amount of time, which shall be for not less than one year. Any officer suspended must present to the court compelling evidence that the conduct causing that suspension or removal will not occur again.

#### **12-5 Re-election Required for Exercise of Office**

A Ruling Elder or Deacon restored to office shall not exercise that office in the church without re-election by the people.

#### **12-6 Restoration of a Suspended Teaching Elder**

- A. A Teaching Elder suspended indefinitely from office shall not be restored unless there is compelling evidence of repentance and growth to justify restoration. In that event restoration shall be pronounced only by the court imposing the sanction or with its consent.
- B. When the Teaching Elder files an application for restoration with the Stated Clerk of the Presbytery, the application shall be forwarded to the Ministerial Committee for consideration.

1. A motion to restore or not restore may be brought before the Presbytery only by its Ministerial Committee. Should the Ministerial Committee choose to recommend restoration, the Presbytery shall consider the recommendation in executive session.
2. The Teaching Elder seeking restoration and the Ministerial Committee will be provided with the opportunity to address the Presbytery.
3. After addressing the Presbytery, the Teaching Elder seeking restoration shall be excused.
4. All votes concerning Teaching Elder restoration are to be by secret ballot.
5. A 4/5 affirmative vote shall be required for restoration to Office.
6. Restoration may be pronounced only by the court imposing the sanction, or with its consent.

**12-7 Transfer of Case to More Convenient Forum**

When a person under sanction moves to a place remote from the court issuing the sanction, and desires to profess repentance and obtain restoration, the court may, if it deems it appropriate, transmit a certified copy of its proceedings to the Session (or Presbytery) where the person under sanction resides. The court of the person's residence shall then assume jurisdiction over the case and proceed with it as though it had original jurisdiction.

## — 13 — APPEALS

**13-1 Definition**

An appeal is a request made to a higher court to review a judgment made by a lower court in an action for discipline (cases of heresy, immorality, and/or contempt). An appeal cannot be made to any court other than the next higher court, unless the higher court directs and authorizes that the appeal be heard in another court or by a commission created for the express purpose of hearing the appeal and rendering a decision thereupon.

**13-2 The Right to Appeal**

- A. Only an accused party, found guilty and sanctioned by a lower court, has the right to appeal the lower court's decision to a higher court.
- B. The party bringing the appeal shall be known as "Appellant." The party against whom the appeal is taken shall be known as "Appellee."

**13-3 Newly Discovered Evidence**

- A. Newly discovered evidence is evidence that a party did not know, nor should have known, existed during the lower court proceedings.
- B. In the prosecution of an appeal, the party seeking to introduce newly discovered evidence shall file a motion with notice to all other parties demonstrating justification for its introduction. Upon approval of the motion, the appellate court shall remand the case to the lower court for a new trial.

**13-4 Grounds for Appeal**

The grounds for appeal are

- A. Any misapplication of the EPC Constitution,
- B. Any irregularity in the proceedings of the lower court,

- C. Receiving improper evidence or declining to receive proper evidence,
- D. Rendering a decision before all the testimony is reasonably heard,
- E. Manifestation of prejudice in the case,
- F. Mistake or injustice in the judgment or sanction.

**13-5 Notice of Appeal**

Written notice of appeal shall be filed no later than thirty days after the entry of judgment of the lower court. The filing of the Notice of Appeal with the Clerk of the appellate court places the appeal before that court. A copy of the Notice of Appeal also shall be filed with the lower court from which the appeal is taken.

**13-6 Statement of Grounds for Appeal**

Written statement of grounds for appeal shall be filed no later than fifteen days after the Notice of Appeal is filed. The statement must state the factual or constitutional bases forming the issues on appeal.

**13-7 Filing the Record**

Within thirty days after receipt of a Notice of Appeal, it shall be the duty of the Clerk of the lower court to prepare and file with the Clerk of the higher court the Record of the Case.<sup>124</sup>

**13-8 Stay of Lower Court Action Pending Appeal**

The filing of a Notice of Appeal does not stay the judgment of the lower court. If, however, the sanction is suspension, excommunication, or removal from office, The sanctioned party may, for sufficient reasons provided in writing, petition the higher court to stay the sanction until the case is finally decided. The higher court in its discretion may stay the sanction or later modify the stay. In the case that a stay is imposed or later modified, the higher court will notify the lower court. The lower court will confirm receipt of the stay and its compliance with it.

**13-9 Procedures on Appeal**

After a higher court has decided that an appeal is in order and should be considered, the following procedures shall be followed:

- A. The court shall read the complete Record of the Case as submitted by the lower court. The higher court shall provide the Record to the Appellant. Before sending the Record to the Appellant, the higher court may, at its discretion, redact the Record in order to protect confidential or sensitive information that is not relevant to the appeal.
- B. The Appellant shall file a written statement which sets forth the issues on appeal and the arguments in support thereof within thirty days of the receipt of the Record of the Case by the higher court. In addition, a copy of the written statement shall be delivered to the Appellee. Appellant shall also provide to the higher court a certificate of delivery of its written statement to the Appellee.
- C. The Appellee may file a written response within fifteen days of the receipt by the higher court of the Appellant's written statement. In addition, a copy of the written response shall be delivered to the Appellant. Appellee shall also provide to the higher court a certificate of delivery of its written response to the appellant.

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<sup>124</sup> See Proposed D.10-4

- D. The Appellant may file a written reply to the appellee’s written response within fifteen days of the receipt by the higher court of the Appellee’s written response, if any. In addition, a copy of the written reply shall be delivered to the appellee. Appellant shall also provide to the higher court a certificate of delivery of its written reply to the Appellee.
- E. The Appellant or Appellee may file a written request for oral argument, explaining why it is necessary and should be permitted. In response to such a request, or at its own discretion, the Higher Court may allow oral argument. If oral argument is allowed, the court will advise both parties of the date, time and place of oral argument, and the time allotted to each party.

In the alternative, the higher court may determine the issues on the appeal based solely on the Record of the Case, the written statements, responses, and replies.

- F. In every case in which oral argument is heard, a record of the oral argument shall be kept. The recording of the oral argument may be transcribed and the recording or copy of the transcription maintained by the Stated Clerk of the higher court. In the case of an appeal to the next higher court, a party may request a copy of the transcript. The cost of transcription shall be borne by the requesting party.
- G. The members of the higher court, in their deliberations, shall express their opinions, deliberate upon and vote on the issues raised.
- H. The vote shall be taken on each ground for appeal set forth in the statement<sup>125</sup> filed in this form: “Shall this ground for appeal be sustained?”

**13-10 Decision on Appeal**

- A. The higher court may
  - 1. Confirm or reverse, in whole or in part, the judgment of the lower court,
  - 2. Remand the case to the lower court for the purpose of amending the Record of the Case, should it appear incorrect or defective,
  - 3. Remand the case to the lower court with instructions.
- B. If the higher court deems it wise, it may also render a written opinion which shall become a part of the Record of the Case.
- C. Any and all persons, including members of the higher court who were involved with, have intimate knowledge of, or otherwise participated in the underlying judgment of the lower court, are precluded from involvement with the higher court in its determination of the issues on appeal.

**13-11 Counsel**

Both parties shall have the right of counsel.<sup>126</sup>

**13-12 Abandonment of Appeal**

Absent extenuating circumstances made known to the higher court beforehand, the Appellant shall be deemed to have abandoned the appeal if the Appellant does not comply with the procedures set forth above. In such cases, the judgment of the lower court will stand, unless the higher court determines that the subject matter of the appeal is so serious that the peace and purity of the church is at stake. In such a case, the higher court, in its discretion, may nonetheless decide the appeal.

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<sup>125</sup> See Proposed D.13-6.

<sup>126</sup> See Proposed D.10-3

### **13-13 Conduct of the Parties**

If a member of either party willfully fails to comply with these rules or demonstrates a litigious or otherwise unchristian attitude in the appeal process, that person may be subject to appropriate discipline by the higher court.

### **13-14 Failure to File the Record**

If the Clerk of a lower court neglects or willfully fails to file the Record of the Case, or any part of it, the Clerk may be subject to appropriate discipline by the higher court. Until the complete Record of the Case is filed with the higher court, the judgment of the lower court may be stayed at the discretion of the higher court.

If the lower court shall file a portion of the record by electronic means, the Appellant shall have the right to prepare a written transcript of it at the Appellant's expense.

## **— 14 — COMPLAINTS**

### **14-1 Complaint Defined**

- A. A Complaint is a written contention signed by an eligible member<sup>127 128</sup> to a higher court challenging some non-judicial<sup>129</sup> act or decision made by the lower court and seeking a remedy.
- B. A Complaint may be filed with the higher court only after attempts to obtain a remedy at the lower court have been unsuccessful.<sup>130</sup>

### **14-2 Eligibility to File a Complaint**

- A. It is the right of any member on the active roll of the church to file a Complaint against any act or decision of a Session to whom the member is subject provided the Complainant is not under sanctions.
- B. It is the right of any Teaching or Ruling Elder to file a Complaint against an act or decision taken by a Presbytery provided that
  1. The Teaching Elder is an active or Associate member of the Presbytery,
  2. The Ruling Elder
    - a) Was a duly elected Commissioner at the meeting at which the action was taken or the decision was made, or
    - b) Is in active service on the Session of a church in the Presbytery, provided the Ruling Elder, the Session, or the church was substantially impacted by the act or decision
- C. A Complaint shall only be made to the next higher court, except with the consent of that court.

### **14-3 Initiation of Complaint**

A Complaint initiates a case against a court in the following manner:

- A. A complaint shall only be made when the action or decision of the court is alleged to be procedurally irregular and/or in clear violation of the EPC Constitution.

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<sup>127</sup> See eligibility requirements in Proposed D.14-2.

<sup>128</sup> A person filing a complaint should use the appropriate "Form for Discipline." A signed copy transmitted electronically is considered a "written contention."

<sup>129</sup> Judicial decisions may be appealed following the processes in Proposed D.13.

<sup>130</sup> See proposed D.14-6.

- B. A complaint shall set forth with particularity all of the facts and reasons why the action or decision of the court is being challenged. This includes reference to the specific provisions of the EPC Constitution, or any applicable bylaws or rules alleged to have been violated.
- C. A complaint shall state the specific remedy being sought.
- D. Once a complaint has been filed, the provisions for *ex parte* communications apply<sup>131</sup>

**14-4 Designation of the Parties**

The party filing the complaint shall be designated as the “Complainant.” The court shall be designated as the “Respondent,” even if the action or decision being challenged is the action or decision of a commission appointed by the court.

**14-5 Filing a Complaint**

- A. A complaint challenging an act or decision of a court or a commission appointed by the court shall be filed with the Clerk of the next higher court.
  - 1. A complaint challenging an act or decision taken by a Session or by its duly appointed commission shall be commenced by filing a complaint with the Presbytery in which the church is located or is otherwise aligned.
  - 2. A complaint challenging an act or decision taken by a Presbytery, or by its duly appointed commission, shall be commenced by filing a complaint with the General Assembly.
- B. A copy of the complaint shall be served upon the lower court by providing its Clerk with a copy thereof at the same time that the complaint is filed with the Clerk of the next higher court.

**14-6 Time Period for Filing a Complaint**

- A. A complaint may be filed with the next higher court only after the eligible member of the church or court<sup>132</sup> has attempted to resolve the issue forming the basis for the complaint with the lower court and
  - 1. The response of the lower court has not satisfied the concern of the member, or
  - 2. The lower court has failed to respond by the close of its next stated meeting.
- B. A Complaint shall be filed with the next higher court no later than thirty days after the lower court’s response or failure to respond.
- C. Exceptions to this time period may be allowed in cases when
  - 1. The Complainant legitimately had no knowledge of the lower court action or decision within the thirty-day period, or
  - 2. The Complainant petitions the higher court to file an untimely complaint to avoid a miscarriage of justice.
  - 3. Decisions on such exceptions are solely within the discretion of the higher court.

**14-7 Stay Pending Hearing on the Complaint**

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<sup>131</sup> See proposed chapter 6 for provisions regarding *ex parte* communications.

<sup>132</sup> See proposed D.14-2B for eligibility requirements

- A. Reception of the complaint by the higher court temporarily stays the action of the lower court. If the higher court determines that the complaint is properly filed, the stay continues until the matter is finally decided.
- B. If the higher court determines that the complaint is not properly filed, the stay will ordinarily be lifted. If the matter concerns the purity or peace of the church, the court may, either on its own motion or in response to an application filed by a party to the action and for sufficient reasons duly recorded, stay the action of the lower court until the case is finally decided.

**14-8 Court Procedures upon the Filing of a Complaint**

- A. When a Complaint is filed with the higher court, the court shall determine whether the Complaint cites constitutional or procedural grounds<sup>133</sup> on which relief may be granted. If the court determines the Complaint does not cite such grounds on which relief may be granted, it may
  - 1. Dismiss the Complaint in its entirety,
  - 2. Strike portions of the Complaint and proceed forward, or
  - 3. Order the Complainant to provide a more specific statement of the grounds on which relief may be granted.
- B. Abuse of Process
 

If the court determines in good faith that the filing of a complaint is a clear abuse of process, the court may dismiss the complaint. To constitute a clear abuse of process, the complaint must be

  - 1. Frivolous on its face,
  - 2. Substantially duplicates a prior complaint that has been finally decided,
  - 3. Part of a demonstrated pattern of repetitive, unmeritorious filings; or
  - 4. Primarily filed for a purpose other than obtaining the relief requested.

The court shall state the specific ground(s) for its determination, including the basis on which the complaint constitutes a clear abuse of process. Any such dismissal shall itself be subject to complaint to the next higher court, where applicable.

- C. When a Complaint is filed with the next higher court and it is determined by the court that the Complaint cites constitutional or procedural grounds on which relief may be granted, the higher court has authority
  - 1. To void the whole or any part of the lower court action against which the complaint has been made,
  - 2. To send the matter back to the lower court with instructions for further consideration or action,
  - 3. To direct the lower court to appoint one or more representatives to answer the Complaint against it, or
  - 4. To direct the appointed representative(s) to file an answer to the Complaint no later than thirty days from the order of the higher court.
    - a) The lower court may request a one-time extension of fifteen days to file its answer.
    - b) The answer shall respond to each allegation in the Complaint and shall set forth with specificity all defenses on which the lower court relies.

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<sup>133</sup> See proposed D.14-3A

- D. **The Record of the Case**  
The lower court shall file the record of the case concurrently with its answer to the complaint. The Record of the Case shall consist of any and all documents in the lower court's possession relating to the complaint made against it. In every case a full record shall be made, and a copy of it shall be sent to the Complainant. If the Complainant, on motion duly filed, contends that the Record is incomplete or incorrect, the Complainant may file a proposed supplement to the Record of the Case within fifteen days of the filing of the Record of the Case.
- E. **Reviewing the Record**  
Upon receipt of the full and complete record of the case as determined by the higher court, the higher court shall then review the Record in its entirety, except any part of it that may be omitted with the mutual consent of both parties and the higher court.
- F. **The higher court may seek clarification of matters or direct questions to the Complainant and/or Respondent in writing.**
- G. **Oral Argument and Notice of Hearing**  
The higher court may permit oral argument. If the higher court determines oral argument will be allowed, it shall provide both parties with reasonable notice of the time and place of the hearing on the complaint. This notice may be provided in person or by other means establishing proof of service.
- H. **If Oral Argument is allowed, either party may file a written summary of their Argument with the higher court no later than fifteen days before the date of the hearing. The Complainant shall have the right of opening and closing the argument.**
- I. **Deliberations of the Court**  
Upon conclusion of the arguments, the members of the higher court shall convene in private, all members shall be given an opportunity to express their opinions, deliberate upon, and vote on the question.

#### **14-9 Voting upon a Complaint**

- A. **Specification of the vote**  
In voting upon a complaint, the vote shall be either to sustain, to sustain in part, or not to sustain.
- B. **Effect of a vote to sustain or not to sustain**
  - 1. A vote to sustain shall be to sustain each and all of the items or counts of the complaint. A vote not to sustain shall be to deny the relief sought by each count of the complaint.
  - 2. A vote to sustain in part shall be to sustain one or more specific items or counts of the complaint.
- C. **A majority vote of those members of the court present is required to sustain, not to sustain, or to sustain in part the counts of the complaint.**
- D. **Written opinion**  
The court may issue a written opinion explaining its decision, which shall become part of the Record of the Case in the lower court.
- E. **Right to Vote**

No member of the lower court who participated in the action or decision made the basis of the complaint shall hear, deliberate upon, or vote on the allegations of the complaint being heard by the next higher court.

**14-10 Abandonment of Complaint**

If a Complainant does not appear before the higher court in person at the time set for the hearing, the complaint shall be considered abandoned. In such cases the act or decision of the lower court will stand, unless the Complainant can provide the court with a satisfactory explanation for failure to appear or the higher court chooses to act upon the complaint in the interests of the Church.

**14-12 Unchristian Attitude**

If any party willfully fails to comply with these rules or demonstrates a litigious or otherwise unchristian attitude, that party may be subject to appropriate discipline by the higher court.

**14-13 Failure to File the Record**

- A. If a lower court neglects to file the Record of the Case or any part of it, to the harm of the Complainant, it may receive a proper rebuke from the higher court.
- B. If the lower court files a portion of the record by electronic means, the Complainant shall have the right to prepare a written transcript of it at the Complainant's expense.

**— 15 — DISSENT AND PROTEST**

**15-1 Dissent**

A dissent is a statement on the record by members of a minority of a court objecting to what they believe to be an ill-advised or erroneous act or decision of a court. Any expression of dissent shall be made before adjournment of the meeting and a written statement for the reasons should be sent to the Clerk of the court within 30 days

**15-2 Protest**

A protest is a more solemn and formal statement on the record by members of a minority of a court, strenuously objecting to what they believe to be an ill-advised or erroneous act or decision of a court. Any expression of protest shall be made before adjournment of the meeting and a written statement for the reasons should be sent to the clerk of the court within 30 days.

**15-3 Record of Protest or Dissent**

If a protest or dissent contains temperate language and is respectful to the court, it shall be placed in the Record of the court. If the court believes it is necessary, it may respond to the protest or the dissent. The matter shall be ended unless the persons protesting obtain permission to withdraw or amend their protest.

**15-4 Right to Vote Required**

None can join in a dissent or protest against a decision of any court except those who had a right to vote in the case.