

Commission on Ministry

Response/Review/Commission Process	Amended 5-11-17
For addressing Conflict Situations	Amended 12-1-14
Within the Presbytery of Sheppards and Lapsley	Rev. BOO ref 10-14
Including churches seeking withdrawal	Rev. 6-23-10

The goal of this process will always be reconciliation and continued relationship for all persons and congregations within the presbytery. The following process outlines the steps we will use as a Presbytery to respond to conflict situations within our congregations or where our congregations, or leaders within, find themselves in conflict with their ordination vows to be governed by our church polity and to abide by its discipline. Inasmuch as this process is an exercise of the pastoral responsibilities of the Commission on Ministry (COM), it shall be initiated without undue delay prior to securing legal counsel. Background material and denominational policy and procedures as related to the situation involved should be secured from the Stated Clerk and studied in detail before meeting with any pastor/session/congregation.

Section One – Composition and Training

Ordinarily, a substantial number of persons shall be trained to be members of the appointed RESPONSE TEAMS, appointed REVIEW TEAMS and nominated ADMINISTRATIVE COMMISSIONS. The ideal situation would be insofar as possible to recruit from each of our six clusters to assure representative from the total presbytery, plus eliminating undue travel for some members. To the extent practicable, the group shall be balanced with an equal number of Teaching and Ruling Elders to facilitate balancing of RESPONSE TEAMS, REVIEW TEAMS and ADMINISTRATIVE COMMISSIONS. When it is necessary to ask Presbytery to appoint an ADMINISTRATIVE COMMISSION, the nomination of individuals from outside the group with special skills, training or experience in mediation and negotiation may be required. Nominations from the group for an ADMINISTRATIVE COMMISSION shall be in accordance with the composition outlined in (G-3.0109b). This composition requires an equal number of Teaching and Ruling Elders except when the commission consists of an odd number, in which case the additional member may be either.

Section Two – Process Outline

The process is based on the use of three delegations from the Presbytery: The RESPONSE TEAM, the REVIEW TEAM and the ADMINISTRATIVE COMMISSION. It may not be necessary in any particular situation to use all three delegations. What follows in this Section Two are general guidelines for these delegations.

- 2.A When the COM or other leadership of the Presbytery become aware, either through formal session or congregational action or through informal contacts with church leaders or members, that a conflict exists within the church or that a congregation is in serious disagreement with the governance of the denomination, the General Presbyter shall offer a pastoral visit by a RESPONSE TEAM. Team members will be selected by the Moderator of the COM, ordinarily, from a group of previously trained members. The

General Presbyter will be the team leader unless other circumstances intervene. A written progress report will be provided the Moderator of COM within three days of the initial visit and each visit thereafter.

- 2.B In the event the RESPONSE TEAM'S efforts are unsuccessful and it will take a deeper effort to handle the conflict, including that steps toward separation from the denomination appear to be in process, the Moderator of the COM will appoint a REVIEW TEAM to visit, study and recommend appropriate action. The decision to appoint a REVIEW TEAM shall be immediately communicated by letter to every member as appropriate in the situation and the team shall be appointed within 15 days of that notification. It shall complete its work within 45 days and thereafter submit a final report to the Presbytery through the COM within 15 days if the situation is urgent or at the next Stated Presbytery Meeting as warranted.
- 2.C If at any time in the process either the RESPONSE TEAM or REVIEW TEAM determine that the situation is such that a move toward separation/withdrawal is the work of a special interest group and not representative of the congregation, the team with notice through the Moderator of the COM shall immediately request that the Moderator of Presbytery nominate an ADMINISTRATIVE COMMISSION (AC), ordinarily, from the trained group as quickly as possible, to be elected by the Presbytery at either a special called meeting or a stated meeting. The REVIEW TEAM, if it meets the composition required by the Book of Order, may be nominated by COM to the Presbytery to become the ADMINISTRATIVE COMMISSION.
- 2.D In the event of a Pastor, Session and/or Congregation filing any civil action including a temporary restraining order (TRO), this process will be followed in as far as possible working through the COM. Legal action on the part of the Presbytery should not take place until the RESPONSE TEAM has had an opportunity to investigate and determine reason for the civil action or TRO and make an informed recommendation to Presbytery as to how to proceed.
 - 2.D.1 Any legal action or TRO shall be carefully read in its entirety before a decision is recommended.
 - 2.D.2 In the event the action contains a property issue, the deed will be secured and the wording carefully analyzed and previous Presbytery minutes will be searched for any property ownership determination before a decision is recommended.

Section Three – The Response Team

A RESPONSE TEAM shall be appointed by the Moderator of the COM, ordinarily, from the trained group. The General Presbyter shall lead the team unless other circumstances intervene.

- 3.A The purpose of this RESPONSE TEAM is to engage either the leaders of the congregation, or the congregation as a whole (as circumstances dictate), in a time of prayer and conversation aimed at understanding the conflict and identifying steps toward

reconciliation. Team size shall be dictated by the anticipated scope of effort, e.g. meeting with several small groups will require a bigger team than meeting with a session only. If during the initial visit, the RESPONSE TEAM determines that progress can be made toward reconciliation through continued dialogue, the RESPONSE TEAM will continue that dialogue as needed.

- 3.B A written progress report will be provided the Moderator of the COM within three days of the initial visit and each visit thereafter.

Section Four – The Review Team

A REVIEW TEAM shall be appointed by the Moderator of the COM, ordinarily, from the trained group when all efforts of the RESPONSE TEAM toward a satisfactory solution to the situation or reconciliation efforts seem to have stalemated.

- 4.A PURPOSE AND AUTHORITIES: The REVIEW TEAM is appointed to study the situation, to gather facts, and to recommend appropriate action to the Presbytery through the COM.
- 4.A.1 To request records of the session. (G-3.0108b) “If a higher governing body learns at any time of any irregularity or delinquency by a lower governing body, it may require the governing body to produce any records and take appropriate action.”
 - 4.A.2 To look at whatever records may be relevant (i.e., how money is held, title to property, insurance documents, mortgages, endowments, or any loan documents, corporate officers, corporate articles, bylaws, charters—especially changes in any of these). The REVIEW TEAM will be careful to look for recent changes or modifications to articles of incorporation, bylaws, or deeds. The Presbytery shall be entitled to see such changes in legal documents (G3.0108b).
 - 4.A.3 To determine, after reviewing the proceedings of the lower governing body or from any other information as may come to its attention, whether (a) the proceedings have been faithful to the mission of the whole Presbyterian Church (U.S.A.) (G-3.0108a) and/or (b) the lawful injunctions of a higher governing body have been obeyed (G-3.0108a).
 - 4.A.4 To give directives on behalf of the Presbytery.
 - 4.A.4.a “It is ordinarily sufficient for the higher governing body to record in its own proceedings, and in those under review, its approval, disapproval, or correction. If necessary, the higher governing body may direct the lower governing body to reconsider and correct an irregularity or cure a delinquency.” (G-3.0108c)

- 4.A.4.b The type of directive will depend on the issues (examples: don't call a congregational meeting, don't transfer assets, don't encumber property, don't elect new officers, etc.).
- 4.A.5 To recommend whether an ADMINISTRATIVE COMMISSION should be nominated and elected (G-3.0109b).
- 4.B COMPOSITION: The REVIEW TEAM shall consist of five to seven members, ordinarily, selected from the trained group and balanced as evenly as may be practicable between Teaching and Ruling Elders.
- 4.C COMMUNICATION: The REVIEW TEAM shall keep all concerned parties informed. This list is not all inclusive but may include such as those listed below.
 - 4.C.1 Send a letter to the session using measured but firm wording outlining task and process.
 - 4.C.2 Send a non-threatening, explanatory letter outlining task and process to all members of the congregation as warranted by the situation being investigated.
 - 4.C.3 The team shall have "one-on-one" conversation with the pastor.
 - 4.C.4 Keep in communication with the COM.
 - 4.C.5 Before any recommendation is made regarding disposal of property, the Presbytery Trustees will be consulted.
- 4.D The functions of this Team shall be reviewed and changed as necessary by the COM when legal action is involved.
- 4.E DURATION OF WORK: It is expected that the REVIEW TEAM shall move as quickly as practical and shall complete its work with 45 days.

Section Five – The Administrative Commission

- 5.A DUTIES AND AUTHORITIES: When circumstances so require, the Moderator of the COM shall nominate and the Presbytery elect an ADMINISTRATIVE COMMISSION to work with any congregation that has not been able to resolve issues using the first two phases of the above process. The primary task of the ADMINISTRATIVE COMMISSION is to attempt to "settle the difficulties (G-3.0109b; G-3.0303d3)) and it is understood that the COMMISSION may be given authority to assume original jurisdiction of the session (G-3.0303e).

The COMMISSION shall be guided by the specific duties and authorities given it by Presbytery for this particular situation and shall keep written records of its activities. The COMMISSION shall keep the Presbytery informed of actions taken **at each presbytery**

meeting and shall make recommendations directly to Presbytery for any actions that require Presbytery approval, **within six months of the formation of the AC.**

- 5.B ELECTION: The proposed membership and commission (i.e., charter) of this group shall be reported to the Presbytery by the Moderator of the COM in the form of a written motion for approval and election. This may be the current membership of the Review Team if a Teaching or Ruling Elder.
- 5.C STAFF SUPPORT: The ADMINISTRATIVE COMMISSION shall be staffed by the Stated Clerk of the Presbytery. All contacts with General Assembly Staff will be handled by the Stated Clerk and/or the General Presbyter.
- 5.D FINAL REPORT: The Presbytery shall receive the final report of the ADMINISTRATIVE COMMISSION (or REVIEW TEAM), act on any remaining recommendations, and dismiss the COMMISSION at the completion of its work. The final report shall be filed with the Stated Clerk.
- 5.E General Rules: The following general rules apply to the selection and election of an ADMINISTRATIVE COMMISSION:
 - 5.E.1 The COMMISSION elected for this purpose shall not include these persons: the Stated Clerk, General Presbyter, Moderator or Moderator elect of Presbytery, the Moderator of the COM or any member of the PJC.
 - 5.E.2 The Presbytery may delegate to the COM the authority to add, remove or replace members of the COMMISSION when it is apparent that some member(s) need relief or in order to bring in persons with new skills or gifts to the process. Such a replacement shall be reported to the Presbytery. The Presbytery may delegate to the Moderator of the COM authority to grant permission to the COMMISSION (or REVIEW TEAM) to contact legal counsel or other professional authorities for temporary consultation on specific matters.
 - 5.E.3 A quorum of the COMMISSION shall be a majority of its elected members unless the Presbytery fixes the quorum at a higher number.
 - 5.E.4 The powers of the COMMISSION are determined by the Presbytery at the time of the election or at a later date if deemed necessary by the body. After election, the COMMISSION has full authority of the Presbytery to execute the limited powers granted it. (G-3.0109b). Those limited powers may include:
 - 5.E.4.a To determine whether a schism exists within the congregation (G-4.0207).
 - 5.E.4.b To determine which members represent the true church (G-4.0207).
 - 5.E.4.c To confront the advocates for schism.

- 5.E.4.d To make recommendations to the presbytery to dissolve pastoral relationships, or when requisite authority is given by the Presbytery, to dissolve pastoral relationships (G-3.0109b5).
- 5.E.4.e To assume original jurisdiction in any situation it determines the session is unable or unwilling to manage wisely the affairs of its church (G-3.0303e). See attached document “Original Jurisdiction by the Presbytery”.
- 5.E.4.f To freeze the assets of the church (real and liquid).
- 5.E.4.g To secure the building, grounds and other property of the church for the use and benefit of the Presbyterian Church (U.S.A.).
- 5.E.4.h To determine if and when a meeting of the congregation is appropriate for the purpose of voting to withdraw from the Presbyterian Church (U.S.A.).
- 5.E.4.i To call that congregational meeting, and provide the moderator and clerk for that meeting.
- 5.E.4.j To report results of congregational vote to the Presbytery.
- 5.E.4.k To authorize oversight of the church, its ministry, its property, assets and records to a viable faction of the congregation that has been identified as the true church within the Presbyterian Church (U.S.A.).
- 5.E.4.l To propose to the Presbytery the recommendation for the disposition of the property held by or for the church and the assumption of the liabilities of the church in the event there is no viable faction of the congregation that has been identified as the true church within the Presbyterian Church (U.S.A.).

5.E.5 Following the work of, and at the recommendation of the Administrative Commission a mutually agreed upon mediator, hopefully a Christian mediator, be chosen to mediate the terms of departure (1 Corinthians 6: 1-6).

5.E.6 If the Administrative Commission is unable to engage a congregation in mediation then the Presbytery, acting upon the recommendation of the Administrative Commission, has the right to pursue legal action.

ORIGINAL JURISDICTION BY THE PRESBYTERY

Section G-3.0303e of the *Book of Order* gives the presbytery authority to take jurisdiction from the session of a congregation and act in its place. This is a procedure of last resort that the presbytery may use when all other conflict-resolution efforts have failed. In a Christian community, hearing one another out with forbearance and persuasion is the better way.

There are times when quarreling elders may need to be reminded that the price of obstinacy is that presbytery may take original jurisdiction for a time. This reminder may help to persuade them to accept sound advice and less intrusive Interventions.

The following outline will guide stated clerks in understanding how to advise the presbytery when taking original jurisdiction is proposed.

1. **INVESTIGATION NECESSARY.** There must be a thorough investigation of the circumstances. See the decision in Jose A. Cao, et al., v. The Presbytery of New York City, Remedial Case 191-12 (Minutes, 1979, Part I, pp. 116-117), in which the judicial commission found that the presbytery action to take the place of the session was invalid.
2. **OPPORTUNITY FOR HEARING.** Presbytery must give a session full opportunity to be heard before removing it as a session. In the case of Stuart H. Merriam, et al., v. The Synod of New York, Administrative Case No.2 (Minutes, 1963, pp. 305-312), the decision emphasizes the serious character of an action to take the powers of session and the importance of the opportunity to be heard.
3. **PRESBYTERY DOES NOT DELEGATE HEARING.** Session must be heard by the presbytery, not its administrative commission. In a deliverance in response to a request asking for clarification of the limits of the authority of presbytery to delegate its powers to committees or commissions, the 207th GA (1995) said at Section 21.130: "This drastic step is sometimes required by a serious crisis in the life of a congregation. Such an action, affecting the lives of many people and often causing confusion and resentment, should always be approved by the whole presbytery."
4. **OWNERSHIP OF BUILDING AND AUTHORITY TO DISPLACE.** Presbytery's ownership of the building does not carry with it the authority to displace the session of the congregation using the property. Protection of the authority of the session extends to small and weak churches that may in some ways be dependent upon the presbytery's help. In *The Church of the Covenant v. The Presbytery of New York City*, Remedial Case No. 3 (Minutes, 1974, pp. 310-313), the judicial commission found that the presbytery had exceeded its authority when it authorized its administrative commission to make management decisions that are within the discretion of the session without following the procedure set out in the Form of Government.

5. RE PER CAPITA, Refusal of a session to pay the per capita assessment is not in itself grounds for presbytery to remove the pastor and dismiss the session. This was the holding in Westminster Church v. Presbytery of Detroit, Remedial Case No.5 (Minutes, 1976, pp. 228-231). The judicial commission held in Session of Central Church v. Presbytery of Long Island (Minutes, 1992, pp. 179-180): "A church may neither be compelled to pay nor punished for failure to pay any amounts pursuant to" a per capita system for financing the operations of a governing body.