Rules of Discipline Revision Summary

OVERVIEW OF CHANGES

The bulk of the proposed changes to the Rules of Discipline are offered to simplify the wording and organize this section of the Book of Order into processes that flow more smoothly and clearly. The changes include addition of language from various authoritative interpretations often cited by judicial commissions in their rulings. The proposed revision also includes several intentional changes to the current rules, which are summarized as follows:

THREE SECTIONS

The Rules of Discipline are divided into three sections in the revision.

The first section contains:

- Preamble revised to clarify that the Rules of Discipline are limited in scope to the internal discipline of the Presbyterian Church (U.S.A.), to hold individuals and councils accountable in order to build up the body of Christ so that the great ends of the Church can be achieved.
- Judicial process defined as the accountability of councils to the church through remedial process and the accountability of individuals to the church through disciplinary process. In both cases, the councils of the church decide on guilt or innocence, sessions conducting trials themselves and presbyteries, synods and the General Assembly conducting trials through elected permanent judicial commissions.
- Permanent Judicial Commissions are described as to their composition and powers. Attention is given to eligibility to serve and to the definition of quorum with more specificity than in the current Rules of Discipline. The minimum quorum is set at five members for deciding a case.

The second section deals with remedial process from the beginning of the process with the filing of a complaint against a council through to the determination of appeals.

The third section deals with disciplinary process from the filing of an allegation against an individual through the process to the final determination of appeals.

The revision is somewhat longer than the current Rules of Discipline because each process of accountability is dealt with separately in its entirety. This change is intended to assist sessions and permanent judicial commissions as well as all members of the church in understanding and following each judicial process step by step start to finish. The two processes are identical in their steps except when there are specific reasons for differences as noted below.

MAJOR CHANGES IN THE REVISED RULES OF DISCIPLINE

CHANGES THAT APPLY IN GENERAL
CLASSES AND VACANCIES A requirement has been added that permanent judicial commissions be divided into three classes as equal in number as possible, with vacancies, when filled, being election to specific classes in which a vacancy exists.

FORMER MEMBERS OF PERMANENT JUDICIAL COMMISSIONS In order to provide that permanent judicial commissions have enough eligible members to function adequately, former members may be appointed by the stated clerk of the council to provide for review of process, to determine the need for administrative leave in disciplinary process, and to provide a minimum quorum for trying a case.

ELIGIBILITY TO SERVE-Every member of a committee of council must be a member of the Presbyterian Church (U.S.A.). No member of the staff of a council hearing a case or eligible to hear the case on appeal may serve on a committee of counsel.

ELIGIBILITY TO FILE Eligibility to file a complaint in a remedial process or an allegation in a disciplinary process is limited to members of the Presbyterian Church (U.S.A.). Others including employees who believe themselves to have been harmed can be witnesses but cannot file; however, members of the Presbyterian Church (U.S.A.) can file on their behalf.

COMMITTEES OF COUNCIL All three members of any committee of council must be members of the Presbyterian Church (U.S.A.).

HEARSAY EVIDENCE- In remedial cases, witnesses must have firsthand knowledge; that hearsay evidence is not allowed. In disciplinary processes, hearsay evidence is specifically authorized, and a rationale for allowing it is provided. Hearsay evidence is not barred in either remedial or disciplinary processes in the current Rules of Discipline.

EXPERT WITNESSES Expert witnesses, regardless of their church membership, may no longer be required to appear at trials and subject to church discipline for failure to appear.

CITATIONS The requirement for second citations when a cited witness does not appear has been removed.

OUTLINE OF PROCESSES Throughout the rules, procedures for electronic meetings, testimony, notices, and filings are described with specific provision for confirmation of receipt of notices and filings with specific time limits for filings, notices and decisions.

USE OF TECHNOLOGY FOR MEETINGS AND WITNESSES The provision for depositions is replaced by the authorization for witnesses to appear electronically if they are unable to be present in person for a trial.

DECISIONS In remedial cases, decisions may now with certain restrictions be completed and published within ten days of the hearing or trial, and at an electronic meeting. Decisions in disciplinary cases are rendered in open meeting at the conclusion of a trial.

APPEALS A request to withdraw an appeal is now automatically granted unless the withdrawal is challenged by a member of the permanent judicial commission that would hear the appeal. The
General Assembly’s Permanent Judicial Commission is no longer obligated to accept appeals of procedural matters, provided the case has already been reviewed.

STANDARDS The definition of standards for judicial process, included in G-3.0102 and G-3.0105 are referred to in D-2.04.

CHANGES THAT APPLY IN REMEDIAL PROCESS

DEFINITION OF JURISDICTION LIMITS The revision specifies that remedial complaints can only be filed against councils below the General Assembly level and entities of the General Assembly.

PRELIMINARY QUESTIONS AND RELIEF IN REMEDIAL PROCESS An additional preliminary question has been added which specifies that the complaint alleges facts which if proved true would constitute a delinquency or irregularity. The final question (related to stating a claim on which relief can be granted) has been significantly expanded. Declaratory relief is defined and may be granted at the discretion of the council trying the case, but is not mandatory.

REMEDIAL APPEALS In order to avoid the filing of “counter appeals,” the appellee brief in a remedial appeal may raise additional issues for appellate review, in which case the appellant then has the opportunity to respond to the appellee’s brief.

CHANGES THAT APPLY IN DISCIPLINARY PROCESS

EXPANDED REFERENCE A request for reference in a disciplinary process may be for the investigation of an allegation, not just the trial.

OFFENCE The definition of an offence is spelled out.

REQUESTS FOR VINDICATION Requests for vindication are a part of the disciplinary process rather than being a separate chapter outside either process.

APPOINTMENT OF INVESTIGATING COMMITTEES All councils are required to provide by rule for the appointment of investigating committees.

RIGHTS AND RESPONSIBILITIES In a disciplinary process, the rights and responsibilities of all participants are spelled out.

MODIFICATION OF ALTERNATE FORM OF RESOLUTION The term “restorative justice” is introduced into the alternative resolution process and the principles of restorative justice are to be used in an alternative form of resolution when the accused acknowledges guilt and the accused, the person bringing allegation and the person(s) on whose behalf an allegation was brought all agree to find outcomes that repair damage and address reasons for the offence.

SPECIFIED CHARGES There is requirement that each charge in a disciplinary process state the specific provision(s) of Scripture and/or the Constitution of the Presbyterian Church (U.S.A.) which is alleged to have been violated.
STANDARD FOR FINDINGS OF GUILT In disciplinary processes, the standard for a finding of guilt is defined: “when a comparison and consideration of all the evidence compels an abiding conviction that the material facts necessary to prove the charge are true”.

NO STATUTE OF LIMITATIONS In disciplinary processes, there are no statutes of limitation for charges to be filed. A one-year time limit is set for investigating committees to do their work.

CENSURE STATEMENTS Each time censure is pronounced, the statement includes the phrase: “is given not with malice or vindictiveness but in Christian love”. This addition is intended to remind both the censured and the council that the purpose of church discipline is not to punish but to restore wholeness to the body and to call to repentance those who have erred. A censure is about the accountability of an individual to the church and should not include the names of persons who have been harmed.