

Association  
Of  
Stated Clerks

Handbook  
For  
Judicial Process

Presbyterian Church (U.S.A.)

Fourth Edition, Revised, October, 2005

# **PREAMBLE TO THE RULES OF DISCIPLINE**

## **D-1.0101 Church Discipline**

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

## **D-1.0102 Power Vested in Christ's Church**

The power that Jesus Christ has vested in His Church, a power manifested in the exercise of Church discipline, is one for building up the body of Christ, not for destroying it, for redeeming, not for punishing. It should be exercised as a dispensation of mercy and not of wrath so that the great ends of the Church may be achieved, that all children of God may be presented faultless in the day of Christ.

## **D-1.0103 Conciliate and Mediate**

The traditional biblical obligation to conciliate, mediate, and adjust differences without strife is not diminished by these Rules of Discipline. Although the Rules of Discipline describe the way in which judicial process within the church, when necessary, shall be conducted, it is not their intent or purpose to encourage judicial process of any kind or to make it more expensive or difficult. The biblical duty of church people to "come to terms quickly with your accuser while you are on the way to court . . ." (Matthew 5:25) is not abated or diminished. It remains the duty of every church member to try (prayerfully and seriously) to bring about an adjustment or settlement of the quarrel, complaint, delinquency, or irregularity asserted, and to avoid formal proceedings under the Rules of Discipline unless, after prayerful deliberation, they are determined to be necessary to preserve the purity and purposes of the Church.

## FOREWARD

The Handbook for Judicial Process has been created by the Association of Stated Clerks to assist clerks in the Presbyterian Church (U.S.A.) in providing guidance to their governing bodies and individuals within them regarding the judicial process.

The Handbook was first distributed in 1998 and used citations from the 1998-1999 *Book of Order*. **This fourth edition has been revised and expanded, and uses citations from the 2005-2007 *Book of Order*.**

Those involved in the preparation of the first edition as well as those involved with the preparation of this fourth edition wish to express their thanks to the General Assembly Stated Clerk and his staff in the Office of the General Assembly, Department of Constitutional Services for their invaluable, insightful contributions and support.

## HOW TO USE THIS RESOURCE

The clerk at each governing body level usually oversees the functioning of the judicial process for that governing body. As a result, the clerk is usually seen as the "manager of judicial process" for that governing body. This Handbook, therefore, is designed primarily as a resource for clerks to use in managing and assisting judicial process.

Almost all the paperwork involved in judicial process passes through the clerk's hands. So part of the Handbook's goal is to help clerks track their role in the process. Almost all the chapters begin with a section dealing with the role of the clerk in that particular aspect of judicial process. In addition, other sections of Chapter I, Introduction, are intended to provide clerks with ideas and suggestions on fulfilling the clerk's responsibilities for judicial process.

The other goal of this Handbook is to provide resources for clerks to use in training and coaching other participants in judicial process. Although the writing team found it very helpful to work with each chapter of this Handbook on a different color paper, it is distributed on white paper to facilitate photocopying. **Clerks should feel free to copy and distribute portions of the handbook that may be helpful to the participants in a particular part of judicial process.**

The chapters on remedial process, disciplinary process and the appeal process all contain an "Overview," an "Outline" and a "Flowchart" of that process. These three sections will assist the various participants in each of the judicial procedures understand their part and responsibilities in the process. The three sections contain the same basic information presented in three different formats recognizing that people learn in different ways. The "Outlines" or Flowcharts" may also serve as a quick reference for the clerks involved to ensure the timely handling of their responsibilities.

The "Guide for the Accuser," page III-13, and the "Guide for the Accused," page III-17, were designed specifically to enable those participants in a disciplinary process to understand the steps in that process. There are also sample decisions, sample transmittal certifications and suggested room set ups.

"Paid Administrative Leave" and "Statement of the Investigating Committee's Procedures" are new additions to the disciplinary process. Chapter III, Disciplinary Process, now contains a separate section dealing with paid Administrative leave, and a sample statement of the investigation committee's procedure that can be modified to meet the specifics of the particular situation.

Because the disciplinary process for a church member (handled at the session level) and for a minister of Word and Sacrament (handled at the presbytery level) are much the same, most of the information about the disciplinary process is in Chapter III, Disciplinary Process. When seeking resources for disciplinary process at the local church level, review both Chapter III and Chapter VI of this Handbook.

The "Table of Contents" provides a good listing of the resources included in this Handbook. Clerks can pick the materials under each type of judicial process that might be helpful for training or for general information for the various participants in the process.

Please remember that the "Handbook for Judicial Process" is intended to be a tool to supplement the "Rules of Discipline" (ROD). The ROD contain the Constitutional provisions for judicial process in the Presbyterian Church (U.S.A.). The Handbook attempts to assist clerks in using and applying the ROD.