

## CHAPTER VIII. GLOSSARY OF TERMS AND ABBREVIATIONS

### Glossary of Terms

**Accusation:** A written term sometimes used synonymously with "allegation."

**Accused:** The person against whom an allegation has been submitted. The allegation (accusation) is always considered by the governing body having jurisdiction over the accused.

**Accuser:** The person who submits an accusation. This person must be under jurisdiction of the Presbyterian Church (U.S.A.). This person may claim to be a victim or a third party. Any member of the church may make an accusation based on credible information from any source. (D-10.0102a, b, c).

**Administrative Leave:** A term used in the *Book of Order* and some Sexual Misconduct Policies to indicate removing an installed pastor from pastoral duties during the course of an investigation and trial. This type of leave is normally only voluntary. It may not be imposed against the pastor's will except in a situation in which sexual abuse is alleged involving a person under the age of 18 or who lacked the mental capacity to consent, in which case it may be imposed by order of the permanent judicial commission.

**Allegation:** The written statement alleging that a person under the jurisdiction of the Presbyterian Church (U.S.A.) committed an offense. The statement should give a clear narrative and allege facts supporting the allegation (D-10.0101). The allegation is submitted to the clerk of session or stated clerk of the presbytery, depending on jurisdiction.

**Alternative Forms of Resolution (AFR):** Alternative Forms of Resolution are methods of resolving disputes that are based on the obligation "to conciliate, mediate, and adjust differences" as noted in D-1.0103, and to avoid some of the adversarial flavor of trials. There are provisions in both remedial cases (D-6.0309) and disciplinary cases (D-2.0103, D-10.0202h) for AFR.

**Appeal:** The transfer to the next higher governing body of a case for the purpose of obtaining a review of the proceedings and decision to correct, modify, set aside, or reverse the decision. (D-8.0101 and D-13.0101)

**Appellant:** The party seeking the review of a trial decision, either remedial or disciplinary, or the decision of an appeal at a lower court level. Either party may appeal the decision in both remedial and disciplinary cases. (D-8.0102, D-13.0102-.0103)

**Appellee:** The party defending the decision rendered by a lower court in the trial or hearing on appeal. PJs are never parties to an appeal.

**Beyond a Reasonable Doubt:** A compelling and abiding conviction that the material facts necessary for proof are true and supported by evidence. The level of proof required for a determination of guilt in a disciplinary case. (D-11.0403a) See also "Reasonable Doubt."

**Brief:** A formal listing of the legal contentions along with supporting evidence and arguments.

**Censure:** The consequences imposed by a session or the PJC of a presbytery when a member is found guilty of one or more offenses. There are four degrees of censure. ("Rules of Discipline," Chapter XII)

**Charge(s):** The formal statement of the offense(s) that the investigating committee believes can reasonably be proved to have been committed by the accused.

**Clerk (Clerk of Session, Stated Clerk, Clerk of PJC):** A clerk in Presbyterian polity is charged with keeping the minutes and records of a governing body or a governing body's commission. The clerk of a presbytery, synod, or the General Assembly is a Stated Clerk. Official correspondence is transmitted between clerks. Each PJC elects a clerk as well as a moderator.

**Committee of Counsel:** One to three persons designated by a governing body to represent it in a remedial case. This committee represents the governing body from the beginning of the process through the highest level to which it is appealed. (D-6.0302)

**Committee on Ministry (COM):** The presbytery committee charged with being pastor and counselor to minister members of the presbytery, with being a facilitator to the relations between congregations, ministers, and the presbytery, and with settling difficulties on behalf of presbytery when possible and expedient.

**Complainant:** The person, persons, or governing body that files a remedial complaint.

**Complaint:** The written statement alleging an irregularity in a governing body or GA agency decision or action, or alleging a delinquency by a governing body or GA agency. The person filing a complaint must have standing to do so. (D-6.0202)

**Constitution:** *The Constitution of the Presbyterian Church (U.S.A.)* is composed of the *Book of Order*, which has three sections (Form of Government, Directory for Worship, and Rules of Discipline), and *The Book of Confessions*, which contains eleven confessional documents.

**Counsel:** A person chosen to represent the interests of a party in judicial process. No person may act as counsel who is not a member of the Presbyterian Church (U.S.A.). Counsel need not be a paid representative or attorney-at-law. (D-7.0301, D-11.0301-D-11.0302)

**Delinquency:** An omission or failure to act (as required by the *Constitution*) by a governing body (D-2.0202b)

**Deposition:** Testimony under oath written down for possible later use during a trial. (D-14.0304)

**Disciplinary Case:** A case which begins with an accusation against a church member or officer. (D-2.0203)

**Ex parte:** A legal term which means "from one side only."

**Governing Body:** The governing bodies are the session, presbytery, synod, and the General Assembly. Higher governing bodies review the actions of lower governing bodies ("higher"/"lower" is the language used in the "Rules of Discipline").

**Grounds for Appeal:** The basis or reason why a review of the proceedings and decision is being requested. The recognized grounds for appeal in a remedial case are found in D-8.0105. The recognized grounds for appeal by a person found guilty in a disciplinary case are found in D-13.0106a. The recognized grounds for appeal by a prosecuting committee in a disciplinary case are found in D-13.0106b.

**Hearsay:** A term used to describe testimony given by a person who does not have direct knowledge of the events or words about which he/she gives testimony. Such testimony is based upon the report of another person. The "Rules of Discipline" do not prohibit consideration of hearsay testimony.

**Investigating Committee (IC):** The committee (of three to five members) appointed by a session or presbytery to conduct an investigation to determine whether charges should be filed against the person accused of an offense. Initially, the IC should make no presumption of guilt or innocence; it should, instead, follow the requirements of D-10.0202. After its investigation, however, it makes an assessment whether probable cause exists to believe an offense has been committed by the accused.

**Irregularity:** An erroneous decision or action (D-2.0202a). An irregularity may involve violation of provisions of the Book of Order, procedures adopted by the governing body (as in bylaws or manuals), or of decisions previously made.

**Jurisdiction:** Authority to exercise governance and judgment.

**Neutral setting, neutral place:** A neutral setting is one that would have no real or perceived advantage or disadvantage to any party in a case.

**Notice of Appeal:** The written statement that, if properly filed, begins the appeal process. (D-8.0202, D-13.0202)

**Offense:** Any act or omission by a member or officer of the church that is contrary to the Scriptures or *The Constitution of the Presbyterian Church (U.S.A.)*. (D-2.0203b)

**Original Jurisdiction:** The term used to describe where a judicial case starts. Sessions and presbyteries have original jurisdiction in disciplinary cases. Presbyteries, synods, and the General Assembly have original jurisdiction in remedial cases filed against the next lower governing body.

**Paid Administrative Leave:** Removal of an installed pastor from pastoral duties during the course of an investigation and trial and continuing to pay salary and other benefits. In a situation in which sexual abuse is alleged involving a person under the age of 18 or who lacked the mental capacity to consent, it may be imposed by order of the permanent judicial commission.

**Permanent Judicial Commission (PJC):** A specialized commission of the governing body for the conduct of judicial business. The session of a local church handles judicial matters at that level, but each governing body above the session has a PJC to act as the governing body for judicial matters. The membership of PJCs at each level is specified in D-5.0000.

**Polity:** The practice of governance of the Presbyterian Church (U.S.A.) as stated in the Book of Order.

**Preliminary Questions:** The term used to indicate the criteria that must be met for a case to be accepted. These criteria are described in D-6.0305 for a remedial case, D-8.0301 for a remedial appeal, and D-13.0301 for a disciplinary appeal.

**Preponderance of Evidence:** The evidence has more convincing force and the greater probability of truth than that weighed against it. The level of proof required to sustain a complaint in a remedial case. (D-7.0402a)

**Probable Cause (probable grounds):** Sufficient indications to warrant the belief that an offense was committed by the accused. (D-10.0202f) This is related to, but is somewhat distinct from the question of whether a charge can reasonably be proved. (D-10.0202g)

**Prosecuting Committee (PC):** One or more of the members of an IC designated to prosecute the case when charges have been filed in a disciplinary case.

**Reasonable Doubt:** A session or PJC must find the pertinent facts have been proven beyond a reasonable doubt to find the Accused guilty in a disciplinary case. Proof beyond a reasonable doubt occurs when the comparison and consideration of all the evidence compels an abiding conviction that the material facts necessary to prove the charge are true. (D-11.0403a)

**Rebuke:** The lowest degree of censure. Rebuke is a statement that publicly sets forth the character of the offense, together with entreaty to be more watchful and avoid such offense in the future. (D-12.0102)

**Rebuke with Supervised Rehabilitation:** The second degree of censure. In addition to the rebuke, this censure mandates a period of supervised rehabilitation. (D-12.0103)

**Record on Appeal:** The record of the proceedings of a case that is now being appealed. The materials and transcripts of the lower court proceedings. The content of the record that should be available from a remedial case is described in D-7.0601d, and that for a disciplinary case is described in D-11.0601d.

**Remedial Case:** A case that begins with the filing of a complaint against a governing body, or an agency of a governing body, for an irregularity or delinquency.

**Removal from Office or Membership:** The highest degree of censure. Sets aside ordination and election and may also remove a person from membership. (D-12.0105)

**Respondent:** The governing body or GA agency against which a complaint has been filed.

**Roster of Former Members:** Each year, the stated clerk must keep and report to the governing body annually a list of the members of the PJC whose terms have expired within the past six years. This roster is used to guarantee a quorum for trials for hearings, to provide members to handle petitions for review, and to consider paid administrative leave in cases of sexual abuse of a minor or person incapable of consent.

**Sexual Misconduct Policy:** A policy adopted by a governing body that states the expectations for conduct by members, officers, and volunteers, the procedures for processing accusations of misconduct, and the processes for providing care to affected persons and institutions.

**Sexual Misconduct Response Team:** A team whose duties are designated in the Sexual Misconduct Policy of the governing body.

**Specification of Error:** A statement of the error allegedly made at trial or earlier appeal that form the grounds or basis for the appeal.

**Standing:** Meets the eligibility requirements.

**Stay of Enforcement:** The provision for preventing the implementation of a decision pending resolution of a remedial complaint or appeal. (D-6.0103)

**Temporary Exclusion:** Short for the degree of censure "temporary exclusion from the exercise of ordained office or membership." Temporary is defined as either a period of time or the completion of specified supervised rehabilitation. (D-12.0104)

**Threshold Issues:** A term sometimes used synonymously with "preliminary questions" to indicate the criteria that must be met for a case to be accepted. These criteria are described in D-6.0305 for a remedial case, D-8.0301 for a remedial appeal, and D-13.0301 for a disciplinary appeal.

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