

# Proposed Amendments to the Constitution—Part 2 of 2

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Amendments to the *Book of Order*

**Approved by the 220th General Assembly (2012) and  
recommended to the presbyteries for their vote.**



## NOTE FROM THE STATED CLERK

The 220th General Assembly (2012) of the Presbyterian Church (U.S.A.) approved and recommended to the presbyteries for their affirmative or negative votes proposed changes in the language of the *Book of Order* that, if approved, will amend the Constitution. Please be sure that a separate vote is taken on each proposed amendment. A presbytery may vote on the amendments, upon the recommendation of a presbytery committee, by putting some, or even all, in a consent agenda or omnibus motion, that identifies each amendment separately.

You will note that reference is made to item numbers that indicate the assembly committee reports related to each proposed amendment. These item numbers also indicate where to find background information from various entities that was available electronically to the assembly commissioners prior to the General Assembly. That information may be accessed at [pcusa.org/amendments2012](http://pcusa.org/amendments2012). The item number references are the same as will be found in the *Minutes of the 220th General Assembly (2012)*, which are expected to be available to the presbyteries by the time they consider the amendments. The full advice of the Advisory Committee on the Constitution (ACC) and any other advisory entities can be found immediately following the item in the *Minutes* for which the advice is given.

Unless otherwise indicated, new language to be added to the *Book of Order* is in italics and any language to be stricken will have a line through it. In providing background material, we have attempted wherever possible to use quotations from the various groups that presented or commented on these materials as they went to the General Assembly. Within those quotations, bracketed material [ ] has been inserted editorially. If there are no numbers recorded for votes made by the General Assembly, those motions were approved voice vote, which would not have been counted.

This year there is one other document with a proposed new translation of The Heidelberg Catechism as an amendment to *The Book of Confessions*. That document is entitled, “Proposed Amendments to the Constitution—Part 1 of 2: The Heidelberg Catechism.”

Thank you for your time and careful attention as you prepare to vote on these proposed amendments.

Gradye Parsons  
*Stated Clerk of the General Assembly*

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## **12-A. Business Proper to Congregational Meetings**

### **On Amending G-1.0503 (Item 06-10)**

The 220th General Assembly (2012) directed the Stated Clerk to send the following proposed amendment to the presbyteries for their affirmative or negative votes:

**Shall G-1.0503 be amended by adding a new item f.: [Text to be added is shown as italic.]**

***“f. Approving a plan for the creation of a joint congregational witness, or amending or dissolving the joint congregational witness (G-5.05).”***

#### **Background and Rationale**

This amendment originated from the Presbytery of Plains and Peaks as Item 06-10. The presbytery provided this rationale:

The adoption of the revised Form of Government in 2011 was intended to create greater flexibility in governance to meet the mission needs of congregations. However, in the revision of former G-7.0304, language was removed that had provided congregations the power to conduct business necessary for the governance of the church.

#### **Advice from the Advisory Committee on the Constitution**

The Advisory Committee on the Constitution (ACC) advised:

... Section G-5.05b requires a 2/3 vote by the congregation to approve a plan for the creation of a joint witness at a duly called meeting of the congregation. ...

The absence within the list in G-1.0503 concerning joint congregational witness would raise valid questions about a meeting to approve a plan for creating a joint congregational witness can be duly called. While some parts of such a plan might relate to matters listed in current G-1.0503a to e., approving such a plan is not related to any of the existing matters on the list in G-1.0503. The proposed addition of an item on the list in G-1.0503 would be necessary in order to call a meeting of a PC(USA) congregation to approve the plan for the joint witness...

If the 220th General Assembly (2012) believes that the intent of Item 06-10 is appropriate with respect to the creation of a joint congregational witness, the Advisory Committee on the Constitution advises that the proposed language can be made clearer and more consistent with that intent by being revised to propose only the addition of a new section “f.”, “*approving a plan for the creation of a joint congregational witness, or amending or dissolving the joint congregational witness,*” and eliminating the other proposed insertions.

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The vote of the Assembly Committee on Church Polity (06) on the proposed amendment was 34/6/2. The 220th General Assembly (2012) approved the committee’s recommendation by voice vote.

For the full report of Item 06-10 go to [pcusa.org/amendments2012](http://pcusa.org/amendments2012).

**12-B. Gifts and Qualifications**  
**On Amending G-2.0104a (Item 07-05)**

The 220th General Assembly (2012) directed the Stated Clerk to send the following proposed amendment to the presbyteries for their affirmative or negative votes:

**Shall G-2.0104a of the *Book of Order* be amended as follows: [Text to be added is shown as italic.]**

**“a. To those called to exercise special functions in the church—deacons, ruling elders, and teaching elders—God gives suitable gifts for their various duties. In addition to possessing the necessary gifts and abilities, those who undertake particular ministries should be persons of strong faith, dedicated discipleship, and love of Jesus Christ as Savior and Lord. Their manner of life should be a demonstration of the Christian gospel in the church and in the world. *This includes repentance of sin and diligent use of the means of grace.* They must have the approval of God’s people and the concurring judgment of a council of the church.”**

**Background and Rationale**

This amendment originated from the Presbytery of San Jose as Item 07-05 and concurrence was received from one other presbytery.

In the overture rationale, the presbytery stated:

The Westminster Larger Catechism, 7.305 states:

Q. 195. What do we pray for in the sixth petition?

A. In the sixth petition (which is, “And lead us not into temptation, but deliver us from evil”), acknowledging that the most wise, righteous, and gracious God, for divers holy and just ends, may so order things that we may be assaulted, foiled, and for a time led captive by temptations; that Satan, the world, and the flesh, are ready powerfully to draw us aside and ensnare us; and that we, even after the pardon of our sins, by reason of our corruption, weakness, and want of watchfulness, are not only subject to be tempted, and forward to expose ourselves unto temptations, but also of ourselves unable and unwilling to resist them, to recover out of them, and to improve them; and worthy to be left under the power of them; we pray: that God would so overrule the world and all in it, subdue the flesh, and restrain Satan, order all things, bestow and bless all means of grace, and quicken us to watchfulness in the use of them, that we and all his people may by his providence be kept from being tempted to sin; or, if tempted, that by his Spirit we may be powerfully supported and enabled to stand in the hour of temptation; or, when fallen, raised again and recovered out of it, and have a sanctified use and improvement thereof; that our sanctification and salvation may be perfected, Satan trodden under our feet, and we fully freed from sin, temptation, and all evil forever. (*The Book of Confessions*, The Larger Catechism, 7.305)

When a church member is found guilty of an offense because of acting contrary to the Scriptures and/or the Constitution of the Presbyterian Church (U.S.A.), that person is censured and the following is part of the public rebuke:

“We urge you to use diligently the means of grace to the end that you may be more obedient to our Lord Jesus Christ” (*Book of Order*, D-12.0102).

**Advice from the Advisory Committee on the Constitution**

The overture would amend G-2.0104a by inserting as the fourth sentence the following: “This includes repentance of sin and diligent use of the means of grace.” The effect of the insertion of this sentence is to define the requirement of the third sentence that those called to the church’s ordered ministry exhibit a manner of life that is “a

demonstration of the Christian gospel in the church and in the world” by requiring repentance and diligent use of the means of grace.

The Advisory Committee on the Constitution notes that G-2.0104a bears the title “Gifts and Qualifications.” While the titles are not, of themselves, constitutional, they do provide important clues in the interpretation of the content of the text. In this paragraph, the Constitution affirms that God gives “suitable gifts” for the various duties of ordered ministry. In addition to these gifts, those who undertake these ministries should be persons possessed of certain qualifications. There is, therefore, a relationship between the “suitable gifts” and the qualifications of those who serve in the church’s ordered ministry. This relationship should stand as a caution to the church against quantifying behaviors that demonstrate the qualifications for ordered ministry, and against devising metrics or arbitrary standards by which the presence or absence of these qualifications should be measured.

The additional qualifications envisioned in this overture bear comment. “Repentance of sin” is a broad phrase that may be open to considerable interpretation, especially when it is seen as a qualification for ordered ministry. Renunciation of evil is a part of the profession of faith made by all active members of the church (*Book of Order*, W-3.3603b). Moreover, since “... all have sinned and fall short of the glory of God” (Rom. 3.23), the commitment to renounce sin and rely on God’s grace is a continuing one applicable to all believers, candidates included. Neither the language of profession nor that proposed here lifts one sin above others as especially requiring repentance (e.g., sexual behavior), nor does it differentiate between sins as to their magnitude or implication for service in the church’s ordered ministries. Care must be taken not to use the proposed sentence as the basis for establishing minimum standards of sins to be repented. The question is not “Has one repented of a particular sin?” but “Does the life of this individual show evidence of the humility required for repentance?”

The “means of grace” are well-defined in our confessional tradition as the “outward and ordinary means whereby Christ communicateth to us the benefits of redemption . . .” Those means are “especially the Word, sacraments, and prayer, all of which are made effectual to the elect for salvation” (*The Book of Confessions*, 7.088; see also 7.264). A manner of life that demonstrates the Christian gospel in the church and the world would, under this sentence, show evidence of regular participation in the proclamation and hearing of the word, regular participation in the church’s observation of the sacraments, and regular participation in worship (“prayer”). Whether a particular candidate’s participation in the means of grace is sufficiently “diligent” might be a matter for discussion within a congregational nominating committee or presbytery committee charged with care of candidates, and might also be a subject to be addressed in the candidate’s examination. It might also be subject to nuanced consideration in light of the candidate’s physical limitations, family circumstances, or employment requirements.

Although it is not clear from the rationale, the intent of this overture may be to restore in substance, if not in precise wording, the prohibition from ordination and/or installation for those sexually active outside heterosexual marriage. The phrase “repentance of sin” is reminiscent of the phrase, “repent of any self-acknowledged practice the confessions call sin” that was removed from the *Book of Order* by action of the assembly and presbyteries in 2010–2011. The Advisory Committee on the Constitution advises the 220th General Assembly (2012) that the insertion of the phrase “repentance of sin” will not have the effect of restoring the recently removed prohibition. Whether a candidate’s manner of life demonstrates the Christian gospel in the church and the world ultimately remains a matter for the council responsible for the ordination and/or installation to determine, under the provisions of G-2.0104b.

Finally, the advisory committee notes the similarity between the qualifications to be added to this paragraph and the commitments undertaken at profession of faith and/or Baptism (see *Book of Order*, W-4.2003, especially b and c). The committee suggests that any active member of the church, having made or reaffirmed such commitments, might reasonably be deemed to have met the qualifications proposed for addition by this overture. Since active membership in the church is a prerequisite for ordination and/or installation to the church’s ordered ministries (*Book of Order*, G-1.0402), the inclusion of these items in G-2.0104a is consistent and appropriate, if perhaps redundant.

If the 220th General Assembly (2012) agrees with the intent of Item 07-05, the Advisory Committee on the Constitution advises that the proposed language is consistent with the church’s Constitution.

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The vote of the Assembly Committee on Church Orders and Ministry (07) on the proposed amendment was 28/20/5. The 220th General Assembly (2012) approved the committee’s recommendation 329/275/9.

For the full report of Item 07-05 go to [pcusa.org/amendments2012](http://pcusa.org/amendments2012).

## 12-C. Presbytery Registers

### On Amending G-3.0104 and G-3.0305 (Item 06-19)

The 220th General Assembly (2012) directed the Stated Clerk to send the following proposed amendment to the presbyteries for their affirmative or negative votes:

**Shall G-3.0104 be amended as follows: [Text to be deleted is shown with a strike-through; text to be added is shown as italic.]**

#### **“G-3.0104 Officers**

**“[First three paragraphs remain unchanged.]**

**“Each council shall elect a clerk who shall record the transactions of the council, keep its rolls of membership and attendance, *maintain any required registers, including the rolls of all Certified Christian Educators and Certified Associate Christian Educators and all Ruling Elders commissioned to particular pastoral service,* preserve its records, and furnish extracts from them when required by another council of the church. [The rest of the text of G-3.0104 remains the same.]”**

**And shall G-3.0305 be amended as follows: [Text to be added is shown as italic.]**

#### **“G-3.0305 Minutes and Records**

**“Minutes and other official records of the presbytery are the property of the presbytery, and are subject to the review specified in G-3.0108. The stated clerk is responsible for the preservation of the presbytery’s minutes and records. *These records shall include the rolls of the presbytery’s membership and registers of all Certified Christian Educators, Certified Associate Christian Educators, and ruling elders commissioned to particular pastoral service.*”**

### **Background and Rationale**

This amendment began as an editorial correction request from the manager of Polity and Guidance in the Office of the General Assembly.

The 219th General Assembly (2010) recommended and presbyteries approved amendment to G-11.0407 as follows:

**“The stated clerk shall maintain four rolls, one listing the names of all of the ministers of the Word and Sacrament who are continuing members of the presbytery and who are active members, one listing the names of all of the ministers of the Word and Sacrament who are continuing members of the presbytery and who are members-at-large, one listing the names of all of the ministers of the Word and Sacrament who are continuing members of the presbytery and who are inactive members, ~~and one listing all Certified Christian Educators and Certified Associate Christian Educators within the bounds of the presbytery who are entitled to the privilege of the floor with voice at all presbytery meetings during the term of service in an educational ministry under the jurisdiction of the presbytery, and a fifth~~ roll listing those who have been deleted from the other rolls. On or before December 31 of each year, the presbytery shall determine the category of membership of each continuing member in accordance with the relevant sections of this chapter and cause appropriate record of such determination to be made. *The stated clerk shall also maintain two registers, one listing all Certified Christian Educators and Certified Associate Christian Educators within the bounds of the presbytery who are entitled to the privilege of the floor with voice at all presbytery meetings during the term of service in an educational ministry under the jurisdiction of the presbytery, and one listing all Commissioned Lay Pastors within the bounds of the presbytery who are entitled to the privilege of the floor with voice and vote at all presbytery meetings during the term of service in a church or other validated ministry.*”**

The editorial adaptation of this amendment to the newly adopted Form of Government inserted a version of this amendment into G-3.0104 which currently reads as follows:

Each council shall elect a clerk who shall record the transactions of the council, keep its rolls of membership and attendance, maintain any required registers, including the rolls of all Certified Christian Educators and Certified Associate Christian Educators and all Ruling Elders commissioned to particular pastoral service, preserve its records, and furnish extracts from them when required by another council of the church.

The manager of Polity Guidance and Training recommended editorial changes, including replacing the word “roll” with “registers,” that would more faithfully align with the wording of the originally approved overture.

### **Advice from the Advisory Committee on the Constitution**

In review of the request for editorial correction, the Advisory Committee on the Constitution (ACC) advised:

... that the current text of G-3.0104 contains a mixture of elements that would properly be separated into different provisions. Section G-3.0104 pertains to the office of the clerk, clerk of session, and stated clerk of higher councils and is not properly the place for enumerating the rolls and registers a clerk or stated clerk is required to keep. Moreover, the inclusion of the requirement to keep “rolls of all Certified Christian Educators and Certified Associate Christian Educators and all ruling elders commissioned to particular pastoral service” is improperly placed in a sentence governing the function of all clerks, including clerks of session. These functions are appropriate only to the stated clerk of the presbytery, and not to any other clerk or stated clerk. This material is most appropriate in the section of Chapter Three pertaining to the presbytery (G-3.03) and specifically in G-3.0305, Minutes and Records, where its application is limited to the work of the stated clerk of the presbytery.

The Advisory Committee on the Constitution therefore advises the 220th General Assembly (2012) that the intent of this editorial correction may best be accomplished by amending both G-3.0104 and G-3.0305 as indicated above.

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The vote of the Assembly Committee on Church Polity (06) on the proposed amendment was 42/0/0. The 220th General Assembly (2012) approved the committee’s recommendation by voice vote.

For the full report of Item 06-19 go to [pcusa.org/amendments2012](http://pcusa.org/amendments2012).

## 12-D. Shared Synod Permanent Judicial Commission (Item 05-13)

### Background and Rationale

These nine amendments (Item 05-13) came as response to a referral from the 219th General Assembly (2010) to the Committee on the Office of the General Assembly to develop and report constitutional amendments to provide for two or more synods sharing common boundaries to form a shared permanent judicial commission. (*Minutes*, 2010, Part I, pp. 28, 29, 207). The full report of the referral (Item 04-01) can be read at [pcusa.org/amendments2012](http://pcusa.org/amendments2012).

The General Assembly Committee on Mid Council Review (05) approved Recommendations 1–7 of the response to referral, and following the advice of the Advisory Committee on the Constitution, approved amended wording for Recommendations 8 and 9.

### **Advice from the Advisory Committee on the Constitution**

The recommendation upon referral proposes changes to nine different sections of the current Form of Government.

If the 220th General Assembly (2012) believes that the intent of Item 05-13 is appropriate, the Advisory Committee on the Constitution advises that the recommendation identifies the necessary passages in the Form of Government and the Rules of Discipline to amend in order to accomplish the intent of the referral.

Specific ACC Advice regarding Recommendations 1–9 can be found under each corresponding proposed amendment.

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The vote of the Assembly Committee on Mid Councils Review (05) on the proposed amendment was 52/0/0. The 220th General Assembly (2012) approved the committee's recommendation by voice vote.

For the full report of Item 05-13 go to [pcusa.org/amendments2012](http://pcusa.org/amendments2012).

### **12.D.1. Judicial Commissions**

#### **On Amending G-3.0109a (Item 05-13, Recommendation 1.)**

The 220th General Assembly (2012) directed the Stated Clerk to send the following proposed amendment to the presbyteries for their affirmative or negative votes:

**Shall G-3.0109a be amended as follows: [Text to be added is shown as italic.]**

#### **“a. Judicial Commissions**

**“Judicial commissions shall consider and decide cases of process for the council *or councils* according to the Rules of Discipline. Sessions shall perform the function of a judicial commission for the congregation; each council higher than the session shall elect a permanent judicial commission (see D-5.0000). *Cooperating synods may elect a joint permanent judicial commission pursuant to G-3.0404 and D-5.0101.*”**

### **Advice from the Advisory Committee on the Constitution**

If the 220th General Assembly (2012) believes that the intent of Item 05-13 is appropriate, the Advisory Committee on the Constitution advises that the language of Recommendations 1 through 7 is clear and consistent, and proposes the necessary amendments to accomplish the intent in those sections of the *Book of Order*.

## 12.D.2. Administrative Commissions

### On Amending G-3.0109b(6) (Item 05-13, Recommendation 2.)

The 220th General Assembly (2012) directed the Stated Clerk to send the following proposed amendment to the presbyteries for their affirmative or negative votes:

**Shall G-3.0109b(6) be amended as follows: [Text to be added is shown as italic.]**

**“(6) (by all councils) making pastoral inquiry into persons accused of sexual abuse of another person (D-10.0401c) when jurisdiction in a judicial proceeding against such persons has ended due to death or renunciation of the accused; such inquiries shall not be understood as judicial proceedings but shall seek to reach a determination of truth related to the accusation and to make appropriate recommendations to the designating council.**

**“A commission of presbytery, synod, or General Assembly shall be composed of ruling elders and teaching elders in numbers as nearly equal as possible and sufficient to accomplish their work. A quorum of any commission shall be established by the designating council *or councils* but in no case shall be less than a majority of its members (except as limited by D-5.0204).**

**“A commission of a session shall be composed of at least two ruling elders, and a teaching elder in an installed or temporary relationship with the congregation governed by that session or a ruling elder commissioned to pastoral service.**

**“A commission shall keep a full record of its proceedings and shall submit that record to the council *or councils* for incorporation into its records. Actions of a commission shall be regarded as actions of the council *or councils* that created it. A commission may be assigned additional duties as a committee, which duties shall be reported and handled as the report of a committee. [The last two paragraphs remain unchanged.]”**

### Advice from the Advisory Committee on the Constitution

If the 220th General Assembly (2012) believes that the intent of Item 05-13 is appropriate, the Advisory Committee on the Constitution advises that the language of Recommendations 1 through 7 is clear and consistent, and proposes the necessary amendments to accomplish the intent in those sections of the *Book of Order*.

## 12-D.3. Reduced Function

### On Amending G-3.0404 (Item 05-13, Recommendation 3.)

The 220th General Assembly (2012) directed the Stated Clerk to send the following proposed amendment to the presbyteries for their affirmative or negative votes:

**Shall G-3.0404 be amended as follows: [Text to be added is shown as italic.]**

**“A synod may decide, with the approval of a two-thirds majority of its presbyteries, to reduce its function. In no case shall synod function be less than the provision of judicial process and administrative review of the work of the presbyteries (G-3.0401c). Such a synod shall meet at least every two years for the purposes of setting budget, electing members to its permanent judicial commission, and admitting to record the actions of its permanent judicial and administrative commissions. Presbyteries of such a synod shall assume for themselves, by mutual agreement, such other synod functions as may be deemed necessary by the presbyteries and the synod.**

**“Two or more synods sharing common boundaries, with the approval of a two-thirds majority of the presbyteries in each of the synods, may share administrative services *and form a shared permanent judicial commission, with the membership of the commission being proportional, insofar***

*as possible, to the number of presbyteries within each participating synod. Each synod shall pay the costs for processing a judicial case arising within its bounds.”*

#### **Advice from the Advisory Committee on the Constitution**

If the 220th General Assembly (2012) believes that the intent of Item 05-13 is appropriate, the Advisory Committee on the Constitution advises that the language of Recommendations 1 through 7 is clear and consistent, and proposes the necessary amendments to accomplish the intent in those sections of the *Book of Order*.

#### **12-D.4. Permanent Judicial Commissions**

##### **On Amending D-5.0101 (Item 05-13, Recommendation 4.)**

The 220th General Assembly (2012) directed the Stated Clerk to send the following proposed amendment to the presbyteries for their affirmative or negative votes:

**Shall D-5.0101 be amended as follows: [Text to be added is shown as italic]**

**“The General Assembly, each synod *or cooperating synods*, and each presbytery shall elect a permanent judicial commission from the teaching elders and ruling elders subject to its jurisdiction. Each commission shall be composed of teaching elders and ruling elders in numbers as nearly equal as possible. When the commission consists of an odd number of members, the additional member may be either a teaching elder or a ruling elder. The General Assembly commission shall be composed of one member from each of its constituent synods. The synod commission shall be composed of no fewer than eleven members distributed equally, insofar as possible, among the constituent presbyteries. In those synods with fewer than eleven presbyteries, each presbytery shall have at least one member. *When two or more synods form a shared permanent judicial commission, the commission shall be composed of no fewer than twelve members, with each synod electing members proportional to the number of the presbyteries in each synod, insofar as possible. The cooperating synods shall designate between them one stated clerk to process the cases filed with the shared permanent judicial commission.* The presbytery commission shall be composed of no fewer than seven members, with no more than one of its ruling elder members from any one of its constituent churches. Two of the members of the presbytery commission shall be designated to review any petition for review of the procedures of the investigating committee while the investigation in a disciplinary case is in process (D-10.0204) and to review any petition for review of the decision not to file charges (D-10.0303). These two members shall not take part in any subsequent trial. A session shall refer either form of petition to the presbytery commission.”**

#### **Advice from the Advisory Committee on the Constitution**

If the 220th General Assembly (2012) believes that the intent of Item 05-13 is appropriate, the Advisory Committee on the Constitution advises that the language of Recommendations 1 through 7 is clear and consistent, and proposes the necessary amendments to accomplish the intent in those sections of the *Book of Order*.

#### **12-D.5. Permanent Judicial Commission Expenses**

##### **On Amending D-5.0106 (Item 05-13, Recommendation 5.)**

The 220th General Assembly (2012) directed the Stated Clerk to send the following proposed amendment to the presbyteries for their affirmative or negative votes:

**Shall D-5.0106 be amended as follows: [Text to be added is shown as italic.]**

**“All necessary expenses of a permanent judicial commission shall be paid by the electing council or councils. *Cooperating synods shall pay the necessary expenses of a shared permanent judicial***

*commission equally; however, each synod shall pay the necessary expenses for processing a particular judicial case arising within its bounds.”*

### **Advice from the Advisory Committee on the Constitution**

If the 220th General Assembly (2012) believes that the intent of Item 05-13 is appropriate, the Advisory Committee on the Constitution advises that the language of Recommendations 1 through 7 is clear and consistent, and proposes the necessary amendments to accomplish the intent in those sections of the *Book of Order*.

#### **12-D.6. Permanent Judicial Commission Meetings**

##### **On Amending D-5.0203 (Item 05-13, Recommendation 6.)**

The 220th General Assembly (2012) directed the Stated Clerk to send the following proposed amendment to the presbyteries for their affirmative or negative votes:

**Shall D-5.0203 be amended as follows: [Text to be added is shown as italic.]**

**“The meetings of the permanent judicial commission shall be held at such times and places as the electing council *or councils* shall direct, or, if no directions are given, at such times and places as the commission shall determine.”**

### **Advice from the Advisory Committee on the Constitution**

If the 220th General Assembly (2012) believes that the intent of Item 05-13 is appropriate, the Advisory Committee on the Constitution advises that the language of Recommendations 1 through 7 is clear and consistent, and proposes the necessary amendments to accomplish the intent in those sections of the *Book of Order*.

#### **12-D.7. Permanent Judicial Commissions Quorum**

##### **On Amending D-5.0206 (Item 05-13, Recommendation 7.)**

The 220th General Assembly (2012) directed the Stated Clerk to send the following proposed amendment to the presbyteries for their affirmative or negative votes:

**Shall D-5.0206 be amended as follows: [Text to be deleted is shown with strike-through; text to be added is shown as italic.]**

**“If, through absence, disqualification, or disability, a sufficient number of the members of a permanent judicial commission are not present to constitute a quorum, the permanent judicial commission shall recess until a quorum can be obtained.**

**“a. The permanent judicial commission shall report its inability to reach a quorum to the stated clerk ~~of the council that elected it~~ *designated for processing the cases.***

**“b. The *designated* stated clerk ~~of the council~~ shall keep a current roster of those members of the permanent judicial commission whose terms have expired within the past six years. The names shall be arranged alphabetically within classes beginning with the most recent class. Whenever the permanent judicial commission reports its inability to obtain a quorum, the stated clerk shall immediately select, by rotation from that roster, a sufficient number of former members of the permanent judicial commission to constitute a quorum. The stated clerk shall report the roster annually to the council *or councils.***

**“c. If a permanent judicial commission is unable to try a case for lack of a quorum, the council *in whose geographic boundary the case arose* shall reimburse the expenses reasonably incurred by those persons required to be present.”**

## Advice from the Advisory Committee on the Constitution

If the 220th General Assembly (2012) believes that the intent of Item 05-13 is appropriate, the Advisory Committee on the Constitution advises that the language of Recommendations 1 through 7 is clear and consistent, and proposes the necessary amendments to accomplish the intent in those sections of the *Book of Order*.

### 12-D.8. Initiating a Remedial Case

#### On Amending D-6.0101 (Item 05-13, Recommendation 8.)

The 220th General Assembly (2012) directed the Stated Clerk to send the following proposed amendment to the presbyteries for their affirmative or negative votes:

**Shall D-6.0101 be amended as follows: [Text to be added is shown as italic.]**

**“A remedial case is initiated by the filing of a complaint with the stated clerk of the council having jurisdiction. *If a different clerk has been designated to process judicial cases for a shared judicial commission, the stated clerk having jurisdiction shall immediately transmit the complaint to the clerk.*”**

## Advice from the Advisory Committee on the Constitution

The Advisory Committee on the Constitution advised that the language of Recommendation 8 was unclear and recommended the following amendments to the recommendation, which were approved by the Assembly Committee on Mid-Council Review (05):

The ACC advises that Recommendation 8 be amended as follows: [Text to be deleted is shown with brackets and with a strike-through; text to be added or inserted is shown with brackets and an underline.]

“8. Shall D-6.0101 be amended as follows: [Text to be added or inserted is shown as italic]”

“A remedial case is initiated by the filing of a complaint with the stated clerk of the council [~~or shared council~~]having jurisdiction. [*If a different clerk has been designated to process judicial cases for a shared judicial commission, the stated clerk having jurisdiction shall immediately transmit the complaint to that clerk.*]”

The Advisory Committee on the Constitution advises that the designation of a single clerk to process judicial cases may be expedient, but it does not supersede the role of the elected stated clerk as the recipient of initial complaints in remedial cases. This is warranted by the role of the stated clerk as an elected officer of the council, and the unnecessary and possibly confusing complication presented a complainant by having multiple clerks with jurisdiction.

### 12-D.9. Filing a Complaint in a Remedial Case

#### On Amending D-6.0202a(6) (Item 05-13, Recommendation 9.)

The 220th General Assembly (2012) directed the Stated Clerk to send the following proposed amendment to the presbyteries for their affirmative or negative votes:

**Shall D-6.0202a(6) be amended as follows: [Text to be added is shown as italic.]**

**“(6) a person who is an employee of a presbytery, a synod *or cooperating synod*, or an entity of a presbytery or synod, claiming to have sustained injury or damage to person or property by the council or entity, against the presbytery, with the synod, or against the synod *or cooperating synod*, with the General Assembly.”**

## Advice from the Advisory Committee on the Constitution

The Advisory Committee on the Constitution advises the assembly that the amendments proposed in the recommendation [recommendation 9] on referral are unnecessary and potentially confusing. When cooperating synods share administrative and/or judicial functions, the exercise of jurisdiction remains in the province of the synod of membership. It should not expose the cooperating synod to complaints arising in presbyteries not under its jurisdiction. However, if a person is employed jointly by cooperating synods, then the right to complain against any or all of the cooperating synods should be preserved.

The ACC advice, approved by the Assembly Committee on Mid-Council Review (05) and approved by the assembly, retained the proposed amendment to D-6.0202a(6):

Shall D-6.0202a(6) be amended as follows: [Text to be added or inserted is shown as italic.]

“(6) a person who is an employee of a presbytery, a synod *or cooperating synod*, or an entity of a presbytery or synod, claiming to have sustained injury or damage to person or property by the council or entity, against the presbytery, with the synod, or against the synod *or cooperating synod*, with the General Assembly.”

## 12-E. Enrolling Ruling Elders as Members of Presbytery

### On Amending G-3.0301 (Item 06-04)

The 220th General Assembly (2012) directed the Stated Clerk to send the following proposed amendment to the presbyteries for their affirmative or negative votes:

**Shall the first paragraph of G-3.0301 of the *Book of Order* be amended as follows: [Text to be deleted is shown with a strike-through; text to be added is shown as italic.]**

#### ***G-3.0301* Composition and Responsibilities**

**“The presbytery is the council serving as a corporate expression of the church within a certain district and is composed of all the congregations and teaching elders within that district. The presbytery shall adopt and communicate to the sessions a plan for determining how many ruling elders each session should elect as commissioners to presbytery, with a goal of numerical parity of teaching elders and ruling elders. This plan shall require each session to elect at least one commissioner and shall take into consideration the size of congregations as well as a method to fulfill the principles of participation and representation found in F-1.0403 and G-3.0103. Ruling elders elected as officers of the presbytery shall be enrolled as members during the period of their service. A presbytery may *enroll, or may provide by its own rule for the enrollment of, ruling elders serving as moderators of committees or commissions during terms of elected service to the presbytery or its congregations.*”**

#### **Background and Rationale**

This amendment originated from the Presbytery of St. Andrew as Item 06-04. The presbytery provided the following rationale:

The 2009–2011 *Book of Order* contained an explicit provision that commissioned lay pastors (now commissioned ruling elders) could be granted voice and vote at meetings of the presbytery (former G-14.0562e). The current *Book of Order* omits that explicit provision, while continuing to include it for both certified Christian educators who are ordained ruling elders under certain circumstances (G-2.1103b) and for the presbytery’s officers and moderators of its committees or commissions (G-3.0301).

The Presbyterian Church (U.S.A.)’s parliamentary authority, *Robert’s Rules of Order Newly Revised, 11th Edition* (RONR), states as one of the general rules for the interpretation of bylaws (or constitutions) that “if the bylaws authorize certain things specifically, other things of the same class are thereby prohibited” (RONR pg. 589, ll. 33–34). At the very least, this principle draws into question whether or not presbyteries may continue to grant voice and vote to commissioned ruling elders.

While one solution would be to simply add commissioned ruling elders to the list of those who may, by rule, be enrolled as members of a presbytery, it seems more in keeping with the spirit of the new Form of Government to remove the specific permission to enroll moderators of committees or commissions, and replace that permission with a more general statement that any ruling elders elected by the presbytery to positions of leadership may be enrolled as members. This approach would seem to give presbyteries the most flexibility in determining their membership (a particular goal of the new Form of Government), within the constraints of our historic principle that “the election of the persons to the exercise of ... authority, in any particular society, is in that society” (F-3.0106).

#### **Advice from the Advisory Committee on the Constitution**

The Advisory Committee on the Constitution advised approval of this amendment noting that it “identifies a helpful improvement in the language of the first paragraph of G-3.0301.”

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The vote of the Assembly Committee on Church Polity (06) on the proposed amendment was 38/5/1. The 220th General Assembly (2012) approved the committee’s recommendation by voice vote.

For the full report of Item 06-04 go to [pcusa.org/amendments2012](http://pcusa.org/amendments2012).

## 12-F. Concurrences for Overtures

### On Amending G-3.0302d (Item 04-01, Recommendation 3.)

The 220th General Assembly (2012) directed the Stated Clerk to send the following proposed amendment to the presbyteries for their affirmative or negative votes:

**Shall G-3.0302d be amended as follows: [Text to be deleted is shown with a strike-through; text to be added is shown as italic.]**

**~~“d. proposing to synod or General Assembly such measures as may be of common concern to the mission of the church, and/or proposing to General Assembly overtures that have received a concurrence from at least one other presbytery, and”~~**

#### Background and Rationale

This amendment originated as Recommendation 3 from the Committee to Review Biennial Assemblies Report to the 220th General Assembly (2012), Item 04-01.

The Committee to Review Biennial Assemblies was established by action of two previous assemblies. The 214th General Assembly (2002), in recommending biennial General Assemblies to the PC(USA), requested a review of the biennial concept following the 219th General Assembly (2010). A committee was to be appointed by the Stated Clerk of the General Assembly and the Executive Director of the General Assembly Mission Council. *Overture 049* (Item 03-18) to the 219th General Assembly (2010) from the Presbytery of Giddings-Lovejoy requested an expansion of the scope of the review committee to include all matters related to the form and function of the meeting of the General Assembly.

One of the original recommendations from the Committee to Review Biennial Assemblies, in response to these referrals, was as follows:

That in order to improve collaboration among presbyteries, assure that the business before it is both of common concern to the mission of the church (G-3.0302(d)) and about key issues facing the church and society, and to encourage well-considered, significant overtures and resolutions of church-wide significance:

a. Direct the Stated Clerk to send the following proposed amendment to the presbyteries for their affirmative or negative vote:

Shall G-3.0502 be amended by adding a new section “f.” to read as follows:

*“f. present to meetings of the General Assembly such overtures from presbyteries and synods that have received concurrences from at least 10 percent of the presbyteries or, in the case of overtures from a synod, concurrence by 10 percent of the synods.”*

The rationale offered by the Committee to Review Biennial Assemblies was as follows:

A consistent theme of the reflection and feedback we received is the need to focus the business considered by an assembly. Overtures from presbyteries represent a significant source of assembly business. At the 219th General Assembly (2010) 124 overtures were received from presbyteries; only 25 percent of these overtures had concurrences from other presbyteries.

The intent of this recommendation is not to control the business of the General Assembly; it is to help focus the business coming to any meeting of the General Assembly. Requiring the concurrence of at least 10 percent of presbyteries with any overture—and that commissioners’ resolutions require signatures from at least 10 percent of the presbyteries—will indicate that the significance of and interest in a particular issue have been tested across the church. Such concurrences will encourage and increase collaboration, education, and conversation within and among presbyteries about key issues.

The Assembly Committee on Review of Biennial Assemblies (04), Committee to Review Biennial Assemblies Report to the 220th General Assembly (2012), received advice and comment on the report

from the Advisory Committee on the Constitution (ACC), the Advisory Committee on Social Witness Policy (ACSWP), and the General Assembly Committee on Representation (GACOR) (see below).

The committee amended the report recommendation by amending G-3.0302 rather than G-3.0502 and decreasing the concurrences from 10 percent to “at least one other presbytery.” The committee’s amended recommendation was approved by the 220th General Assembly (2012).

### **Advice from the Advisory Committee on the Constitution**

The Advisory Committee on the Constitution (ACC) advised the following:

Recommendation 3.a. proposes that a new section “f” be added to G-3.0502, reading as follows:

*“f. present to meetings of the General Assembly such overtures from presbyteries and synods that have received concurrences from at least 10 percent of the presbyteries or, in the case of overtures from a synod, concurrence by 10 percent of the synods.”*

Recommendation 3.a. proposes that a new section “f.” be added to G-3.0502. Section G-3.0502 currently consists of a series of lettered sentence fragments, each completing a sentence that begins, “The General Assembly has responsibility to maintain relationships with presbyteries and synods by . . .”

The meaning of existing sections a. through e. is clear in the context of the entire paragraph. The proposed addition of section f. would have a different structure and would read as follows:

“The General Assembly has responsibility to maintain relationships with presbyteries and synods by present [sic] to meetings of the General Assembly such overtures from presbyteries and synods that have received concurrences from at least 10 percent of the presbyteries or, in the case of overtures from a synod, concurrence by 10 percent of the synods.”

The meaning of this sentence is not obvious, and a reasonable reader might ask whether the new section f. was intended to complete a different sentence, perhaps in a different constitutional provision, or even in the Standing Rules. Even if the grammar is corrected, the sentence would still present the reader with a provision in which the subject (“The General Assembly”) is also the indirect object of “present” or “presenting.”

Lacking clarity as to the precise text and intention of the proposed constitutional amendment, the ACC advises the assembly that the rationale for the proposed amendment raises constitutional issues.

#### *a. Right of Appeal*

It appears that the amendment is aimed at limiting the business before the assembly. This could be seen as limiting the historic right of appeal, which is restated in F-3.02 (see footnote 6), and specifically implied in F-3.0206.

Other constitutional provisions address this issue. Each of the councils of the church has a responsibility to maintain relation with the other councils. “It is of particular importance that sessions . . . propose to the presbytery, or through it to the synod and General Assembly, such measures as may be of common concern to the mission of the church” (*Book of Order*, G-3.0202e). “The presbytery has a responsibility to maintain regular and continuing relationship to synod and General Assembly by . . . proposing to synod or General Assembly such measures as may be of common concern to the mission of the church” (*Book of Order*, G-3.0302d). “The synod has responsibility to maintain regular and continuing relationship with the General Assembly . . . by proposing to the General Assembly such measures as may be of common concern to the mission of the whole church” (*Book of Order*, G-3.0402). These responsibilities in the session, presbytery, and synod presume a corresponding responsibility of the General Assembly to receive and consider the communications from them.

#### *b. Business That Possibly Should Not Require Many Concurrences*

There are many types of business that may not require substantial debate, but that are important to a small number of presbyteries. One example would be transferring a congregation from one presbytery to another. This is a matter typically brought to the assembly by overture from one presbytery with a concurrence from the other presbytery. For reasons we state in other advice before this assembly, the whole church does have a stake in such business, but it is difficult to explain why the two presbyteries at the heart of the matter would need to lobby sixteen other presbyteries for concurrence.

#### *c. Shifting of Power*

A restriction on the handling of overtures from presbyteries and synods would work against the ability of those councils to place business before the assembly, while leaving untouched the ability of entities of the General Assembly to present business. This shift could disturb the relationships expressed in G-3.0101:

... All councils of the church are united by the nature of the church and share with one another responsibilities, rights, and powers as provided in this Constitution. The councils are distinct, but have such mutual relations that the act of one of them is the act of the whole church. The jurisdiction of each council is limited by the express provisions of the Constitution, with the acts of each subject to review by the next higher council.

d. *Creation of Parties*

The emphasis on synods and presbyteries collaborating on overtures could have the effect of fragmenting the church by privileging conversations between the like-minded over the broad discernment and conversations that are intended to take place in the council of the whole church—the General Assembly.

The General Assembly constitutes the bond of union, community, and mission among all its congregations and councils, to the end that the whole church becomes a community of faith, hope, love, and witness. As it leads and guides the witness of the whole church, it shall keep before it the Marks of the Church (F-1.0302), the Notes by which Presbyterian and Reformed communities have identified themselves through history (F-1.0303), and the six Great Ends of the Church (F-1.0304).

e. *The Protection of Minority Voices*

The Presbyterian Church (U.S.A.) protects the voice of the one from being silenced by the many. Our church protects the rights of dissent and protest for those who disagree with decisions made in councils (*Book of Order*, G-3.0105).

Even as the Presbyterian Church (U.S.A.) affirms the principle that a majority shall govern (F-3.0205), it also “seeks a new openness to the sovereign activity of God, ... in its own membership, ... to see both the possibilities and perils of its institutional forms, ... to God’s continuing reformation of the Church ecumenical” (*Book of Order*, F-1.0404). Frequently, the possibility of this new openness is carried by the same prophetic voices who are repeatedly outvoted in meetings of our councils.

f. *Other Options*

The assembly has a number of other options available to focus its discernment on which matters are important enough to warrant sustained consideration.

A restriction such as proposed in Recommendation 3 might more appropriately be stated within the *Manual of the General Assembly* than in a constitutional amendment, so long as the assembly approves its policy consistent with its constitutional role and obligations, described above.

The assembly, being required to operate in accord with *Robert’s Rules of Order, Newly Revised* (see G-3.0105), can control the best use of its time by its response to motions to approve the docket, by motions to limit debate, by motions to refer worthy but ill-prepared ideas for further study, or to disapprove business that does not convince the assembly of its merits. In addition, our parliamentary standard approves of the use of various additional tools of discernment and ways of crystallizing opinion.

The ACC advises the assembly that the above tools may be more helpful than merely counting concurrences, to the commissioners’ efforts to seek to find and represent the will of Christ (*Book of Order*, F-3.0204).

### **Advice from the Advisory Committee on Social Witness Policy**

The Advisory Committee on Social Witness Policy (ACSWP) advised that the recommendation from the Committee to Review Biennial Assemblies be amended as follows: [Text to be deleted is shown with brackets and with a strike-through; text to be added or inserted is shown with brackets and with an underline.]

“a. Direct the Stated Clerk to send the following proposed amendment to the presbyteries for their affirmative or negative vote:

“Shall G-3.0502 be amended by adding a new section “f.” to read as follows:

“f. present to meetings of the General Assembly such overtures from presbyteries and synods that have received concurrences from at least ~~[10 percent]~~ [two] of the presbyteries or, in the case of overtures from a synod, concurrence by 10 percent of the synods.”

The Advisory Committee on Social Witness Policy pondered this:

We believe that imposing a 10 percent concurrence rule for overtures would have a seriously negative impact. The quality of overtures simply does not correspond to the number of concurrences. Concern for the prophetic imagination makes the ability of a single presbytery to overture the whole assembly seem an important virtue of our democratic system. Requiring one or two concurrences would seem sufficient to ensure broader importance while encouraging the church's creativity. The process of seeking concurrences through collaboration, however, requires mechanisms and resources for consultation among presbyteries that they may not have and do not have equally. This could result in more "politicking" and "lobbying" by special-interest groups. Such processes are not necessarily bad, provided self-reporting General Assembly rules still apply to the special-interest "affinity" groups often involved. A further concern is diversity; seeking concurrence has the danger of "diluting" distinctive concerns of presbyteries facing particular issues. Due to the likely reduced number or eliminated role of synods, we do not see a necessary need for concurrence for any synod overtures.

### **Advice from the General Assembly Committee on Representation**

The General Assembly Committee on Representation (GACOR) advised disapproval Item 04-01, Recommendation 3, with the following comment:

Regarding *Concurrences for Overtures and Commissioners' Resolutions*, Recommendation 3 would dramatically increase the barriers to submitting items of business (overtures and commissioners resolutions) to an assembly. Commissioners have rarely had difficulty in discerning what are the weighty matters before them and what items require less of their time. The proposed changes would prevent all items of business from being heard at the 220th General Assembly (2012) as no overture has reached the level of having 10 percent of presbyteries (or synods) concurring—for presbyteries it would require 18. The most concurrences received, as of May 15, according to PC-biz.org, was four presbyteries on a single overture (while related families of overtures do garner a few more, none receive 18 with agreement on an issue). The GACOR views this recommendation as absolutely contrary to the principles of representation and participation in the PC(USA). A great strength of Presbyterian polity is allowing space for the Holy Spirit to move within a congregation who may take it to larger councils for further discernment. It provides for voices of dissent to be heard and access for commissioners in the minority on issues of concern to raise questions for the consideration of the wider church. Requiring this level of concurrences goes against the experience of inclusiveness and representation and promotes greater politicization of the assembly meeting, encouraging the stronger lobbying activities of affinity and advocacy groups within our communion in order to get concerns raised for consideration. No longer would the single congregation be able to suggest an issue of discussion, having been heard and approved by its presbytery. This recommendation would significantly alter access and provide a significant barrier to congregations wishing to bring concerns before the body for discussion and discernment of the will of God for the Church. Participation would be diminished in drastic ways.

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The vote of the Assembly Committee on Review of Biennial Assemblies (04) on the proposed amendment was 24/2/0. The 220th General Assembly (2012) approved the committee's recommendation by voice vote.

For the full report of Item 04-01 go to [pcusa.org/amendments2012](http://pcusa.org/amendments2012).

## 12-G. Service of Ordination, Installation, or Commissioning

### On Amending W-4.4002 (Item 17-02)

The 220th General Assembly (2012) directed the Stated Clerk to send the following proposed amendment to the presbyteries for their affirmative or negative votes:

**Shall W-4.4002 be amended as follows: [Text to be deleted is shown with a strike-through; text to be added is shown as italic.]**

**“The service of ordination and installation, or commissioning, may take place during the Service for the Lord’s Day as a response to the proclamation of the Word. (W-3.3503). Ordination and installation, or commissioning, may also take place in a special service that focuses upon Jesus Christ and the mission and ministry of the church and which includes the proclamation of the Word. The service of *ordination or installation of a ~~pastor or associate pastor~~ teaching elder shall be conducted at a convenient time to enable the substantial participation of the presbytery.*”**

### Background and Rationale

This amendment originated from the Presbytery of New Castle as Item 17-02. The original overture proposed two changes to W-4.4002. The Advisory Committee on the Constitution (ACC) noted, “The effect of the first change is to limit the application of the first sentence to the ordination and installation of deacons, ruling elders, ruling elders commissioned to pastoral service, and other commissioned church workers. The effect of the second is to include in the final sentence the requirement that services of ordination (as well as those of installation) of teaching elders be conducted at convenient times to enable the substantial participation of the presbytery.”

The presbytery provided this rationale:

The current wording of W-4.4002 does not clearly explain that the ordination service of a teaching elder (formerly “minister of Word and Sacrament”) should take place at a time that is convenient to enable the substantial participation of the presbytery. Sadly, this has sometimes resulted in these presbytery services occurring on Sunday mornings when pastors and elders from other churches cannot participate. The result is that what should be a presbytery worship service becomes a congregation’s worship service with only a handful from the presbytery present.

The presbytery went on to say:

Pastors and elders need more opportunities to worship when they are not responsible for leading in worship in their own churches. Recent insights in spiritual formation and the care of/self-care for pastors have lifted up the importance of church leaders finding opportunities to worship when they have no responsibilities for the worship service so they can focus on worship alone. Presbytery worship services help nurture the spirits of the presbytery’s members when all have the opportunity to worship together.

Beyond the benefits to the presbytery and its members when all can attend presbytery worship services not on Sunday mornings, there are also benefits to those being ordained and installed as well as benefits for the congregation hosting the presbytery worship service. They have the opportunity to see more people from presbytery supporting them by their ability to be present in the service; for example, the tradition in many presbyteries of ministers wearing robes and red stoles and processing in together makes a very positive, powerful impression and lasting memory. The increased participation by presbytery members reminds all that the service is truly a presbytery worship service and it is the presbytery that has the authority to ordain and install. The teaching elder is a member of presbytery and the service of ordination and installation with a good participation by the presbytery members builds affirming ties; these ties will help the teaching elder in the years to come as he or she is encouraged to faithfully live out the ordination vow to participate in the governing bodies of the church (thus benefiting the teaching elder and the presbytery).

Taking the advice of the ACC (see below), the Assembly Committee on Theological Issues, Institutions, and Christian Education approved an alternate resolution that was approved by the 220th General Assembly (2012) to be sent to the presbyteries for their affirmative or negative votes.

### **Advice from the Advisory Committee on the Constitution**

The Advisory Committee on the Constitution advised:

In its present form, W-4.4002 permits the setting of services of ordination and installation, as well as commissioning, as part of the Service for the Lord's Day, but it also provides that they may also be part of a special service. This statement, in its present form, applies to the ordination and/or installation of all candidates for ordered ministry. The final sentence of the section is limited in scope to the ordination and/or installations of pastors or associate pastors, and requires that they be conducted at such times as may permit the substantial participation of the presbytery. The intent of the overture, as stated in the accompanying rationale, is to ensure that ordination and installation services of teaching elders are conducted at times that allow for greater presbytery participation.

The Advisory Committee on the Constitution advises the assembly that the amended language of W-4.4002 does not substantially broaden the present wording of the paragraph. Differentiating between the commissioning of ruling elders to pastoral service and that of other church workers appears unnecessary; both are commissioning services, albeit to different service. Limiting the scope of the first sentence to deacons, ruling elders, ruling elders commissioned to pastoral service, and other commissioned servants, does not preclude the celebration of the ordination or installation of a teaching elder at a Service of the Lord's Day. In both the present and the proposed amended versions, ordination and installation services of pastors and associate pastors are under the mandate of convenience to the participation of the presbytery.

The advisory committee notes, however, that the use of the term "teaching elder" in place of "pastors and associate pastors" in the final sentence does include within the reach of this provision services of ordination and/or installation of those teaching elders who serve in validated ministries other than installed pastoral relationships, such as the staff of higher councils. Whether the inclusion of these persons is significant enough reason to propose amendment to the Constitution, as opposed to entrusting the matter to the discretion of the presbytery itself, is a matter the assembly should consider in weighing the benefits of this overture. The advisory committee notes that many presbyteries have policies governing the scheduling of ordination and installation to permit maximum participation on the part of the presbytery. The assembly may wish to encourage the development of such policies as an alternative to amending W-4.4002.

If the 220th General Assembly (2012) agrees with the intent of Item 17-02, the Advisory Committee on the Constitution advises that this intent can better be accomplished with the following alternate language:

"The service of ordination and installation, or commissioning, may take place during the Service for the Lord's Day as a response to the proclamation of the Word. (W-3.3503). Ordination and installation, or commissioning, may also take place in a special service that focuses upon Jesus Christ and the mission and ministry of the church and which includes the proclamation of the Word. The service of *ordination or* installation of a ~~pastor or associate pastor~~ *teaching elder* shall be conducted at a convenient time to enable the substantial participation of the presbytery."

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The vote of the Assembly Committee on Theological Issues, Institutions, and Christian Education (17) on the proposed amendment was 21/6/2. The 220th General Assembly (2012) approved the committee's recommendation by voice vote.

For the full report of Item 17-02 go to [pcusa.org/amendments2012](http://pcusa.org/amendments2012).

**12-H. Jurisdiction in Judicial Process**  
**On Amending D-3.0101b(2) (Item 06-18)**

The 220th General Assembly (2012) directed the Stated Clerk to send the following proposed amendment to the presbyteries for their affirmative or negative votes:

**Shall D-3.0101b(2) be amended as follows: [Text to be deleted is shown with a strike-through; text to be added is shown in italic.]**

**“(2) A teaching elder engaged in work within the *geographic* bounds of a presbytery other than the presbytery of membership, whether that work is under the jurisdiction of the presbytery or not, does, by engaging in that work, submit to the jurisdiction of that presbytery for the purposes of discipline. Should disciplinary process be initiated against a teaching elder under this provision, the presbytery of membership shall be notified. *The presbytery within whose bounds the teaching elder is engaged in work may, alternatively, chose to cede jurisdiction to the presbytery of membership, or choose to cooperate with the presbytery of membership in any disciplinary inquiry, alternative form of resolution, or trial. This paragraph shall apply even if the provisions of G-3.0306 concerning permission to labor outside or within the bounds have not been followed. This paragraph shall not apply if the teaching elder is working in a validated ministry under the provisions of G-2.0502 and G-2.0503a in other service of this church such as a staff member of a council beyond the session, or of an organization related to one of these councils; or in an organization sponsored by two or more denominations, one of which is this church, such as a joint congregational witness church, a specialized ministry, an administrative office, an interdenominational agency; or as a partner in mission in connection with a church outside the United States of America.*”**

**Background and Rationale**

This amendment originated from the Committee on the Office of the General Assembly, Item 06-18.

*The Book of Order*, D-3.0101b(2), was editorially revised in July 2011 as a result of the new Form of Government from:

(2) A minister engaged in work within the bounds of a presbytery other than the presbytery of membership, whether that work is under the jurisdiction of the presbytery or not, does, by engaging in that work, submit to the jurisdiction of that presbytery for the purposes of discipline. Should disciplinary process be initiated against a minister under this provision, the presbytery of membership shall be notified. This paragraph shall apply even if the provisions of G-11.0401b concerning permission to labor outside or within the bounds have not been followed. This paragraph shall not apply if the minister is working in a validated ministry under the provisions of G-11.0410.

to:

(2) A ~~minister~~ *teaching elder* engaged in work within the bounds of a presbytery other than the presbytery of membership, whether that work is under the jurisdiction of the presbytery or not, does, by engaging in that work, submit to the jurisdiction of that presbytery for the purposes of discipline. Should disciplinary process be initiated against a ~~minister~~ *teaching elder* under this provision, the presbytery of membership shall be notified. This paragraph shall apply even if the provisions of ~~G-11.0401b~~ *G-3.0306* concerning permission to labor outside or within the bounds have not been followed. This paragraph shall not apply if the ~~minister~~ *teaching elder* is working in a validated ministry under the provisions of ~~G-11.0410~~ *G-2.0502 and G-2.0503a*.

Issue: The last two sentences of this paragraph refer to a situation that is not found in the current Form of Government, namely the “labor outside or within the bounds” requirement found in the former Form of Government as a requirement for a particular validated ministry. The last sentence refers to an exception to that particular validated ministry the “labor outside or within the bounds” requirement that exempted persons who were engaged in a validated ministry “in other service of this church” so that they were not required to have approval to “labor outside or within the bounds.” Since there is no longer a category anymore of “labor outside or within the bounds” the third sentence edit is erroneous but moot (not harmful). The final sentence, which was the disciplinary exception to the exception to the labor outside the bounds requirement, now, unfortunately, incorporates the entire validated ministry category as exempt from the requirement of the first part of the paragraph. So that it reads as though the first part of

the paragraph does not apply to all persons engaged in a validated ministry as opposed to a Rules of Discipline exception that mirrors the exception to the “labor outside or within the bounds” requirement (excepting persons in other service of this church from getting permission to labor outside or within the bounds) that was a subset of the validated ministry category. This has the effect of making the entire paragraph moot, which does not seem to be the intent of the editors.

### **Advice from the Advisory Committee on the Constitution**

The Advisory Committee on the Constitution (ACC) advised the changes in the proposed amendment serially:

1. The insertion of “*geographic*” before the word “bounds”:

The ACC advises that this is a helpful modification as it removes ambiguity in the assignment of jurisdiction where a non-geographic presbytery may also have a presence in a particular community. It also clarifies that it applies to ministers engaged in service in validated ministries beyond the congregation.

2. The replacement of the sentence, “This paragraph shall apply even if the provisions of G-3.0306 concerning permission to labor outside or within the bounds have not been followed” with the sentence, “*The presbytery within whose bounds the teaching elder is engaged in work may, at its discretion, either cede jurisdiction to the presbytery of membership, or choose to cooperate with the presbytery of membership in any disciplinary inquiry, alternative form of resolution or trial.*”:

The ACC regards the intent of this change as a helpful clarification of process to fulfill the responsibility of jurisdiction for the purpose of discipline. However, it advises that the use of the phrase, “may, at its discretion, either” could be understood to imply that these are the only options available to the presbytery in whose bounds the teaching elder is serving. The ACC advises that this may be remedied by replacing the phrase with the words, “may, alternatively, choose to” (with the sentence continuing as proposed), so that the sentence reads, “*The presbytery within whose bounds the teaching elder is engaged in work may, alternatively, choose to cede jurisdiction to the presbytery of membership, or choose to cooperate with the presbytery of membership in any disciplinary inquiry, alternative form of resolution or trial.*”

3. The replacement of the sentence, “This paragraph shall not apply if the teaching elder is working in a validated ministry under the provisions of G-2.0502 and G-2.0503a.” with the sentence, “This paragraph shall not apply if the teaching elder is working in an approved, validated ministry under the provisions of G-2.0502 and G-2.0503a. *in other service of this church such as a staff member of a mid or higher council, or of an organization related to one of these councils; or in an organization sponsored by two or more denominations, one of which is this church, such as a joint congregational witness church, a specialized ministry, an administrative office, an interdenominational agency; or as a partner in mission in connection with a church outside the United States of America.*”:

The Advisory Committee on the Constitution (ACC) advises this to be a helpful amendment to restore the clarifying language present in the previous Form of Government. The ACC advises that such clarification is necessary for the order of the mission of the graduated councils of the church, so that those serving these councils may be accountable to the councils, agencies, and partnerships which for which the service is rendered, and to the presbytery of membership for the purpose of discipline.

However, the Advisory Committee on the Constitution notes that the terms “mid council” and “higher council” do not appear elsewhere in the Constitution. We believe the language of the proposed amendment would be clearer and more consistent if the phrase “mid or higher council” were changed to “council beyond the session,” so that the sentence would read,

*This paragraph shall not apply if the teaching elder is working in a validated ministry under the provisions of G-2.0502 and G-2.0503a. in other service of the church such as a staff member of a council beyond the session, or of an organization related to one of these councils; or in an organization sponsored by two or more denominations, one of which is this church, such as a joint congregational witness church, a specialized ministry, an administrative office, an interdenominational agency; or as a partner in mission in connection with a church outside the United States of America.*

If the assembly agrees with the intent of Item 06-18, the Advisory Committee on the Constitution advises that, with the exceptions noted under (2) and (3) above, the language of the amendment is clear and consistent to accomplish its intent.

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The vote of the Assembly Committee on Church Polity (06) on the proposed amendment was 43/0/0. The 220th General Assembly (2012) approved the committee’s recommendation by voice vote.

For the full report of Item 06-18 go to [pcusa.org/amendments2012](http://pcusa.org/amendments2012).

**12-I. Administrative Leave**  
**On Amending D-10.0106 (Item 06-09)**

The 220th General Assembly (2012) directed the Stated Clerk to send the following proposed amendment to the presbyteries for their affirmative or negative votes:

**Shall D-10.0106 be amended as follows: [Text to be deleted is shown with a strike-through]**

~~“When a written statement of an alleged offense of sexual abuse toward any person under the age of eighteen, or who it is alleged lacked the mental capacity to consent, has been received against a teaching elder, the stated clerk receiving the allegation shall immediately communicate the allegation to the permanent judicial commission. [The rest of the paragraph remains unchanged.]”~~

**Background and Rationale**

This amendment originated as an overture from the Presbytery of Baltimore as Item 06-09. The original overture asked to amend two sections of *Book of Order*, D-10.0106 and G-2.0904, and provided the following rationale:

Sexual abuse is devastating to a congregation. Past PC(USA) conversations in this regard have demonstrated the tension between the protections afforded the accused, that they are innocent until proven guilty, and the protection of a congregation, the putative victims and potential victims from additional abuse.

Presently the *Book of Order*, Rules of Discipline, provides three ways the teaching elder may be placed on administrative leave:

1. the accused teaching elder may volunteer for a leave of absence;
2. one of the victim/ survivors of the alleged sexual abuse is under the age of eighteen;
3. or it is alleged that the victim lacked the mental capacity to consent.

The conditions currently found in D-10.0401c(1) are included in D-10.0106. The conditions cited in D-10.0401c.(2) are not included in D-10.0106. This amendment proposes to include those conditions as well. Essentially mandatory administrative leave would be able to be imposed upon any teaching elder if sufficient evidence of sexual abuse as defined in D-10.0401c exists as judged by the two persons appointed by the PJC chair.

In summary, the presbytery stated:

The proposed changes preserve the existing rights of the accused and extend protection to the congregation, the putative victim(s), and potential victims by expanding the range of consideration to all persons, not just those who are under eighteen or who, it is alleged, lacked the mental capacity to consent. These changes make it possible to impose a leave of absence on any teaching elder accused of sexual abuse with any other person based upon the evidence available at that time. These changes leave intact the current process of consideration as defined in D-10.0106. It does not automatically impose the administrative leave but continues to leave it to the judgment of the two persons appointed by the chair of the permanent judicial commission to consider the evidence of sexual abuse.

The Assembly Committee on Church Polity approved amending D-10.0106 but not G-2.0904 and also approved the following comment:

Every presbytery needs to adopt an adequate comprehensive administrative leave policy with a list of types of allegations that trigger an immediate leave as an explicit agreement between the teaching elder, congregation, and presbytery.

**Advice from the Advisory Committee on the Constitution**

The Advisory Committee on the Constitution (ACC) advised disapproval for the reasons given in the ACC’s advice on Item 06-03, excerpts which follow:

The Advisory Committee on the Constitution advises the General Assembly that presbyteries that have adopted an adequate administrative leave policy and that have required an explicit agreement of compliance with that policy as part of the minimum terms of call to be agreed upon by the teaching elder and the congregation do have the authority to insti-

tute administrative leave in the situations envisioned in these items. An adequate administrative leave policy would address the following six issues (identified by the ACC in 2004) in the face of alleged misconduct:

1. What process is due the accused before a leave of absence is imposed?
2. Who should implement the process?
3. What other parties, if any, should be involved in the process?
4. What types of allegations should trigger the process of determining whether to place a pastor on a leave of absence?
5. What timeline should apply to determining whether to place the pastor on a leave of absence?
6. Whether a pastor placed on leave should be compensated, and if so, by whom?

The administrative leave provisions in D-10.0106 were added to the Rules of Discipline as part of a response to the work of the Independent Committee of Inquiry, which was raising particular concerns about the protection of children in mission settings. The adopted language protects both persons under the age of 18 and those over the age of 18 who lack the mental capacity to consent.

In answer to question 4, D-10.0106 is currently limited to allegations of sexual abuse toward any person under the age of 18, or who it is alleged lacked the mental capacity to consent. A presbytery could identify in its administrative leave policy other alleged offenses that would expose a teaching elder to the possibility of administrative leave, but the presbytery would also need to provide answers to questions 1, 2, 3, 5, and 6 for those additional offenses because of the limitation in D-10.0106.

This proposed amendment to D-10.0106 would give a new answer to question 4. It would enlarge the scope of those alleged offenses that would mandate a judicial procedure that could lead to administrative leave pending the final outcome of the investigation or trial. The larger set of alleged offenses would encompass allegations of any form of sexual abuse as defined in D-10.0401c.

The Advisory Committee on the Constitution advises the General Assembly that the clear identification of alleged offenses that could mandate the D-10.0106 procedure is important. The current language is appropriately clear and specific, and the proposed amendment to D-10.0106 is also appropriately clear and specific.

One problem that this item and Item 06-09 point out is that D-10.0106 does not fully describe the process to be followed, who negotiates with whom about any payment for the costs of administrative leave, or how the administrative leave is to be imposed. These questions are left to presbyteries to answer in a way that is appropriate to their individual contexts. Section D-10.0106 merely identifies the process by which a decision is to be made that there should be administrative leave or restrictions on ministry. A presbytery administrative leave policy is needed in order to explain in advance the procedures the presbytery will follow to implement any administrative leave or restrictions.

The existence of a presbytery administrative leave policy and the inclusion in advance within the terms of call of an agreement by the congregation and the teaching elder to follow the administrative leave policy of the presbytery would mean that imposing administrative leave under that policy would involve merely doing what was already agreed, not amending the call. This procedure would eliminate the problem of needing to consult with the congregation to impose administrative leave in the initial stages of dealing with dire but unproven allegations. In the absence of such a provision within the call, both the session and the congregation should be consulted.

If the General Assembly believes that D-10.0106 should be amended to address all situations of sexual abuse by a teaching elder, the ACC advises the 220th General Assembly (2012) that this item's proposed amendment to D-10.0106 is clear and consistent with the Constitution, but that D-10.0106 still requires presbyteries to determine many details in how they will implement administrative leave.

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The vote of the Assembly Committee on Church Polity (06) on the proposed amendment was 41/0/3. The 220th General Assembly (2012) approved the committee's recommendation by voice vote.

For the full report of Item 06-09 go to [pcusa.org/amendments2012](http://pcusa.org/amendments2012).

## 12-J. Investigating Committee Responsibilities

### On Amending D-10.0202 (Item 06-02)

The 220th General Assembly (2012) directed the Stated Clerk to send the following proposed amendment to the presbyteries for their affirmative or negative votes:

**Shall D-10.0202 be amended by inserting a new “a” and renumbering the remaining paragraphs “a–k” as “b–l”? The new section “a” shall read as follows: [Text to be added is shown as italic.]**

***“a. review the statement of alleged offense to determine whether it alleges any facts that, if true, constitute an offense as defined in D-2.0203b. If no offense as defined in D-2.0203b is alleged, the investigating committee shall end its inquiry and report that to the clerk of the body. If an offense as defined in D-2.0203 is alleged, it shall proceed to the steps below.”***

### **Background and Rationale**

This amendment originated from the Presbytery of Detroit as Item 06-02. The original overture asked to amend two sections of *Book of Order*, D-10.0101 and D-10.0202, and provided the following rationale:

In 1991, the General Assembly Permanent Judicial Commission ruled in *Hoy and McGlamery, Jr. v. Pby of Tropical Florida, Remedial Case 203-1*, that “a stated clerk has no constitutional authority to refuse to transmit to a permanent judicial commission a filing which on its face purports to be a complaint” (*Minutes*, 1991, Part I, p. 173). This means that a clerk receiving a statement containing allegations must refer it to an investigating committee whether or not a violation of the Constitution is alleged. Section D-10.0202d requires that investigating committee to investigate the facts, even if there is nothing alleged that could go to trial. ...

Because of the *Hoy and McGlamery* decision, the initial intent of the Rules of Discipline that allegations against members be screened by the clerk to ensure that the allegations against a member are in fact violations has been removed, and no other provision has been made for this initial step. The result is that a person can write allegations against another Presbyterian that cannot be tried even if true, but nonetheless an investigating committee must conduct a thorough inquiry into the facts. This amendment allows an investigating committee to review the allegations as a first item of business, and, if the allegations even if true do not constitute a violation, can close the investigation.

The Assembly Committee on Church Polity, taking the advice of the ACC (see below), approved an alternate resolution recommending the ACC suggested language to amend D-10.0202 and making no amendments to D-10.0101.

### **Advice from the Advisory Committee on the Constitution**

Regarding amendment to D-10.0101, the ACC recommended disapproval with the following rationale:

The rationale of this overture points out an apparent conflict between the language of D-10.0101 and the General Assembly PJC decision in *Hoy and McGlamery v. Presbytery of Tropical Florida (Minutes, 1991, Part I, Case No 203-1)*. This assessment, however, appears to misunderstand the context of the case in question. *Hoy and McGlamery* addresses the procedure in a remedial case, while D-10.0101 concerns the preliminary procedure in a disciplinary case. If there is to be an analogy to disciplinary cases, *Hoy and McGlamery* would address the refusal of a clerk to transmit to a permanent judicial commission a filing by an investigating committee that on its face purports to be charges.

Section D-10.0101 is silent concerning the matter of who is empowered to make the assessment of whether the alleged offense rises to the level of likely disciplinary action. However, D-10.0103 would appear to resolve the question: “Upon receipt of a written statement of an alleged offense, the clerk of session or the stated clerk of presbytery, without undertaking further inquiry, shall then report to the council only that an offense has been alleged ....” The proposed amendment, while consistent with Constitution, is unnecessary.

Regarding amendment to 10-10.202, the ACC advised as follows:

The Advisory Committee on the Constitution advises that the insertion of this provision clarifies the responsibility for assessment of whether an offense is alleged by specifically assigning it to the investigating committee. Neither D-10.0101 nor D-10.0103 are clear about ownership of this responsibility; D-10.0101 simply provides information concerning the required threshold of the contents of a statement of alleged offense, and D-10.0103 is clear that making further inquiry beyond receipt of the statement lies outside the purview of the clerk of session or stated clerk. ...

The Advisory Committee on the Constitution advises the 220th General Assembly (2012) that, if it agrees with the intent of the overture, the language of the section proposing amendment of D-10.0202 could be made clearer and more consistent with the Constitution by inserting a new section “a.” to read as follows:

*“a. review the statement of alleged offense to determine whether it alleges any facts that, if true, constitute an offense as defined in D-2.0203b. If no offense as defined in D-2.0203b is alleged, the investigating committee shall end its inquiry and report that to the clerk of the body. If an offense as defined in D-2.0203 is alleged, it shall proceed to the steps below.”*

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The vote of the Assembly Committee on Church Polity (06) on the proposed amendment was 42/0/1. The 220th General Assembly (2012) approved the committee’s recommendation by voice vote.

For the full report of Item 06-02 go to [pcusa.org/amendments2012](http://pcusa.org/amendments2012).

**LIST OF PROPOSED AMENDMENTS IN PART 2 OF 2**

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**The Proposed Amendments to the Constitution of the Presbyterian Church (U.S.A.), sent by the 220th General Assembly (2012) for vote by the presbyteries consist of two documents:**

**Amendment 12-1, Part 1 of 2, amending the Heidelberg Catechism in *The Book of Confessions*.**

**Amendments 12-A through 12-J, Part 2 of 2, amending various portions of the current *Book of Order*, found here.**