

***BCO* CHANGES APPROVED BY THE 37th GENERAL ASSEMBLY**

Included here are the following changes approved by the 37th PCA General Assembly:

- 1) The proposed ***Book of Church Order amendments*** sent down by the 37th GA to the presbyteries for voting;
- 2) Amendments to *BCO* 59. 1 & 6 that do not require the approval of the presbyteries;
- 3) Amendments to the *Rules of Assembly Operations (RAO)*;
- 4) Amendments to the SJC Manual.

The *BCO* Change Packet, as well as the 2009 *BCO* reprint will be available in print from the CEP Bookstore in mid-to-late-August. Visit the CEP Web site www.cepbookstore.com or call toll-free 800-283-1357.

Note regarding the SJC Manual: Other than major amendments to section 16, the changes relate to the allowance for electronic communications. Since these changes were numerous and widely dispersed, it seemed best to reprint the entire SJC Manual. For clarity, we have kept the underlining that indicates new wording in the text.

2009-2010
BCO AMENDMENTS SENT DOWN TO PRESBYTERIES
BY THE 37th GENERAL ASSEMBLY
FOR VOTING, and for ADVICE AND CONSENT

[NOTE: Additions indicated by underlining; deletions by ~~strike-through~~.

ITEM 1:

Amend *BCO 37-7* to read:

37-7. When a person under censure shall ~~remove to a part of the country remote from~~ reside at such a distance from the court by which he was sentenced ~~as to make the continued exercise of spiritual oversight impractical (cf. BCO 37-2), and shall desire to profess repentance and obtain restoration,~~ it shall be lawful for the court, ~~if it deems it expedient,~~ with the acquiescence of the offender and the concurrence of the receiving court, to transmit a certified copy of its proceedings to the ~~Session (or Presbytery)~~ court where the delinquent resides, which shall assume jurisdiction, take up the case, and proceed with it as though it had originated with itself.

so that as amended the provision reads (new language in underlined):

37-7. When a person under censure shall reside at such a distance from the court by which he was sentenced as to make the continued exercise of spiritual oversight impractical (cf. BCO 37-2), it shall be lawful for the court, with the acquiescence of the offender and the concurrence of the receiving court, to transmit a certified copy of its proceedings to the court where the delinquent resides, which shall assume jurisdiction, take up the case, and proceed with it as though it had originated with itself.

Grounds:

In addition to the problem noted by the overture (i.e., “part of the country”), this provision is in need of further clarification. Striking and adding as above (1) provides for a rationale for the action (i.e., the burden of oversight); (2) eliminates the requirement of desire for repentance and restoration (why should this condition be necessary? Are not the unrepentant in need of continued spiritual care as well?); (3) makes explicit that all parties (the offender and receiving court) must agree; and (4) makes explicit that this is a transfer of jurisdiction/ membership.

ITEM 2:

Amend *BCO 13-6* to add a new last sentence to the end of the paragraph to read as follows:

Presbyteries shall also require ordained ministers coming from other denominations to state the specific instances in which they may differ with the *Confession of Faith* and *Catechisms* in any of their statements and/or propositions, which differences the court shall judge in accordance with *BCO 21-4* (see para. 7).

FOR INFORMATION ONLY

***BCO* AMENDMENTS**

APPROVED BY THE THIRTY-SEVENTH GENERAL ASSEMBLY

Editorial Note: The original version of Overture 6 contained a provision to begin the process of granting *BCO* 59 full constitutional authority. The amended form of Overture 6 as adopted by the General Assembly did **not** contain that provision. (See Commissioner Handbook, pp. 143.)

[Additions indicated by underlining; deletions by ~~strike-through~~]

59-1. Marriage is a divine institution though not a sacrament, nor peculiar to the Church of Christ. It is proper that every commonwealth, for the good of society, make laws to regulate marriage, which all citizens are bound to obey, insofar as they do not transgress the laws of God (Acts 5:29).

59-6. Marriage is of a public nature. The welfare of society, the happiness of families, and the credit of Christianity, are deeply interested in it. Therefore, the purpose of marriage should be sufficiently published a proper time previously to the solemnization to it. It is enjoined on all ministers to be careful that, in this matter, they ~~transgress neither the laws of God, nor the laws of the community~~ obey the laws of the community to the extent that those laws do not transgress the laws of God as interpreted by the Constitution of the Presbyterian Church in America; and that they may not destroy the peace and comfort of families, ministers should be assured that, with respect to the parties applying to them, no just objections lie against their marriage.

FOR INFORMATION ONLY

RAO AMENDMENTS

APPROVED BY THE THIRTY-SEVENTH GENERAL ASSEMBLY

[Additions indicated by underlining]

ITEM 1

Amend RAO 19-4.d to read:

- d. Unless otherwise provided, debate on the main motion shall be limited to ten (10) minutes unless extended. When a main motion has been debated for ten (10) minutes, the Moderator shall put the question to the Assembly: "Does the Assembly desire to extend the time an additional five (5) minutes?" A simple majority will decide the question. If the majority decides not to extend debate, the Moderator will call the question. If an amendment of a substitution is on the floor, the question of extending time on the main motion shall be repeated after the vote on the amendment or substitute. If time is extended, the question of extension will again be put every succeeding five (5) minutes until the motion is concluded. Unless otherwise provided, each commissioner shall be limited to three (3) minutes on the same question unless the court by a simple majority grants additional time.

Rationale: Language added to make 19-4 consistent with proposals set forth below.

Amend RAO 14-9.h by adding a (3) to read:

- 3). Debate on the main motion and the substitute shall be limited to a total of sixty (60) minutes unless extended. When the allotted time has elapsed the Moderator shall put the question to the Assembly: "Will the Assembly extend the time on the question ten (10) minutes?" A simple majority shall extend the time; otherwise the Moderator shall put the question or questions as the case may be. If time is extended, the question of extension shall again be put every succeeding ten (10) minutes until the matter is concluded. Each Commissioner shall be limited to five (5) minutes on the same question unless the Court by a simple majority grants additional time.

Rationale: The ten-minute limit on the consideration of a question is not sufficient for a full and fair debate in the case of a minority report, nor is the 3-minute limit on a commissioner sufficient for the full and fair expression of argument or counter-argument in this case.

Amend 15-8.g by adding a (3) to read:

(3) Debate on the main motion and the substitute shall be limited to a total of sixty (60) minutes unless extended. When the allotted time has elapsed the Moderator shall put the question to the Assembly: "Will the Assembly extend the time on the question ten (10) minutes?" A simple majority shall extend the time; otherwise the Moderator shall put the question or questions as the case may be. If time is extended, the question of extension shall again be put every succeeding ten (10) minutes until the matter is concluded. Each Commissioner shall be limited to five (5) minutes on the same question unless the Court by a simple majority grants additional time.

Rationale: See rationale above

Rationale for the three *RAO* amendments above:

When a minority report from a committee of commissioners is to be considered by the Assembly, the current limitations on time restrict the opportunity for full debate and effectively allow a simple majority to cut off debate (contrary to the wisdom of requiring a super-majority to carry a motion for the *Previous Question*). Since the efficiency fostered by the new rules of procedure has considerably relieved the pressure of time upon the Assembly, principle and prudence suggest increasing the time allotted for debate in this infrequent but important procedure.

**FOR INFORMATION ONLY
CHANGES APPROVED BY THE 37TH GENERAL ASSEMBLY**

**OPERATING MANUAL FOR
STANDING JUDICIAL COMMISSION**

PREFACE

This Manual is subordinate to the Constitution of the Presbyterian Church in America and to the Rules of Assembly Operation. If there is any conflict between the provisions of this Manual and the Constitution or Rules of Assembly Operation, the Constitution or Rules of Assembly Operation shall take precedence.

GENERAL RULES

1. MEMBERSHIP

1.1 Membership shall be determined by the General Assembly in accordance with *BCO* 15-4.

2. OFFICERS AND THEIR DUTIES

2.1 Officers of the Commission shall be elected from its membership and shall be a Chairman, Vice-Chairman, Secretary and Assistant Secretary.

2.2 These officers shall be elected annually at the March stated meeting and shall take office at the adjournment of the General Assembly.

2.3 After a member has served in the same office for three consecutive years, he is not eligible for election to the same office in the fourth year, but later may be elected to serve in the same office.

2.4 The Chairman shall preside at meetings and perform other duties assigned by the Commission.

2.5 The Vice-Chairman shall assist the Chairman and in his absence or incapacity shall fulfill his duties.

2.6 The Secretary shall record the minutes of the meetings and the votes of SJC and maintain the records of the Commission and perform other duties specified in this Manual and/or assigned by the Commission.

2.7 The Assistant Secretary shall assist the Secretary and in his absence or incapacity shall fulfill his duties.

2.8 Under the supervision of the Chairman and Secretary, the Stated Clerk of the General Assembly shall be the Clerk of the Commission. The Clerk of the Commission shall perform the following functions on behalf of the Commission:

- (a) keep the records of the Commission;
- (b) perform the administrative functions required under the Manual;
- (c) keep the records of and process all the regular correspondence and notices required by this Manual;
- (d) as requested by the SJC Officers or by the Clerks of the Presbyteries, advise the Stated Clerks of Presbyteries on matters of proper form and procedures in the preparation of the Record of the Case;
- (e) on behalf of the Officers, initially review the Record of the Case for each case before the Commission and make inquiries of the lower court in relation to any obvious technical errors or corrections; and
- (f) perform such other functions as directed by this Manual or the Officers of the Commission.

2.9 The Clerk shall send a copy of the Manual to each new member of the Commission elected by the General Assembly; and he shall also send copies of any pending cases and papers presently before the Commission.

2.10 The Minutes of the Officers' Meetings are to be reported for review to each meeting of the full Commission.

3. MEETINGS

3.1 The annual stated meeting of the Commission shall be set for the first Thursday, Friday and Saturday of the month of March in each year. The annual meeting may be held by telephone conference call if in the unanimous judgment of the officers, there is insufficient business to warrant a face-to-face meeting. A second stated meeting of the Commission shall be set for the third Thursday, Friday and Saturday of October in each year. Ordinarily these stated meetings shall be scheduled to begin at 1 p.m. on Thursday and to conclude no later than noon on Saturday. The second stated meeting may be canceled if a majority of the Officers determine there is insufficient business

to justify the meeting. Other business to be considered shall be governed by the procedure set out in Section 3.2 of this Manual.

3.2 In addition to the stated meetings specified in 3.1, the Commission may hold special meetings, provided such special meetings shall be called by one of the following methods, to-wit:

- (a) The Officers of the Commission may call a special meeting at any time upon at least 30 days' notice.
- (b) The Commission, at any stated meeting, may announce a call of a special meeting, provided the time and place is specified in the call. A notice of the call of the special meeting shall be sent immediately by the Stated Clerk to all absent Commission members.
- (c) If at least six Commission members request, in writing, a special called meeting, the Chairman and Secretary shall issue a call within 10 days from receipt of the request.

The call of a special meeting shall specify the business to be considered at the meeting, and no other business may be considered except by an affirmative vote of three-fourths of those members present and voting, which in no case shall be less than 13 affirmative votes of members of the Commission. Further, no action may be taken on any case not specified in the call. The Officers may amend the call for the consideration of additional business if notice thereof is sent my mail or electronic means to the Commission members no less than 14 days before the date of the meeting.

No special meeting of the SJC shall be scheduled less than 30 days after the date on which the call is issued.

Any special called meeting under this Section 3.2 may be held by telephone conference call.

3.3 If under the Rules of this Manual a review or rehearing by the full Commission of a proposed decision by a Judicial Panel is required, the Officers shall place it on the docket at the next stated meeting.

4. EXPENSES

4.1 The expenses incurred by the Commission, its panels, and its members shall be borne by the Administrative Committee of General Assembly. All expenses (including travel expenses) incurred by a party or by the witnesses called by that party shall be borne by that party.

4.2 The parties shall be responsible for the notification and expenses of their own witnesses.

5. QUORUM

5.1 A quorum for the transaction of business at any meeting of the Commission shall be 13 qualified members, composed of at least 5 teaching elders and at least 5 ruling elders.

5.2 A quorum for the transaction of business at any meeting of a Judicial Panel appointed hereunder shall be the number of the members of the Judicial Panel appointed as principals.

6. ELIGIBILITY FOR VOTING

6.1 All members of the Commission including Officers, shall be entitled to vote on any matter before the Commission unless disqualified under Section 6.2. When the Commission is voting on a judicial case, only those qualified members may vote who heard the presentation of any oral arguments and were present during the substantive discussion of the judgment. If the eligibility of a member is questioned, the chairman shall rule on the member's eligibility. By majority vote the Commission may reverse the ruling of the chairman on the member's eligibility

6.2 A "qualified" member under these Rules is any member of the Commission who is not disqualified by virtue of any of the following:

- (a) Being a party to the case, or having been a representative of a party at any stage of the proceedings of the case.
- (b) Being a relative of a party, in first and second degrees of consanguinity by blood or marriage.
- (c) Having expressed an opinion on the merits of the particular case. However, a member is not disqualified merely because he has previously expressed opinions on theological issues or matters of church doctrine or government involved in the case. Nor is a member disqualified if he expresses an opinion on the Case to another member of the Commission or Judicial Panel after the Record of the Case has been completed. After the Record of the Case has been completed, all the facts in the Case have been determined. Forming an opinion is one of the functions of the Commission or Judicial Panel. A member's opinion should not be conclusive

until he hears the oral arguments; but it is not improper for members of the Commission or Judicial Panel to discuss the merits of a Case with another Commission Member to get his wisdom and insight. (*BCO* 32.17)

- (d) Being a member of a Court which is a party to the case or being a member of a church which was in the bounds of the Presbytery that was a party of the case.
- (e) Having recused himself for any reason.
- (f) Any member, who at a hearing of a Judicial Panel or the full Commission, is not able to certify affirmatively to the inquiries set out Section 17.2(a) for a Judicial Panel and in Section 19.8(b) for a hearing before the full Commission.

7. CONDUCT OF MEMBERS

7.1 A member of the Standing Judicial Commission should refrain from consulting or advising in any judicial matters that might conceivably come before this Commission, except in a case where such member is a party.

7.2 It is not appropriate for any member of the Commission to discuss the merits of the case with any party in the case or any person other than a Commission member, except as otherwise provided in the Manual or in the *BCO*.

7.3 It is appropriate for a member of the Commission to fully participate in a judicial case before the Presbytery or Session of which he is a member and to advise his Presbytery or Session in judicial matters.

7.4 It is not appropriate for a member of the Commission to represent himself or any other party before the Commission.

8. THE RECORD OF THE CASE

8.1 The Record of the Case shall be prepared by the Clerk of the lower court and shall be submitted to the Office of the Stated Clerk.

8.2 A. The Record of the Case in an Appeal shall be prepared in accordance with *BCO* 32-18 and 42-5 which shall include:

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- (1) a copy of all proceedings in connection with the case, such as the Minutes of the trial before the lower court, the charges, answers, citations and returns;
- (2) the notice of appeal and reasons therefor;
- (3) all transcribed testimony actually taken before the lower court (*BCO* 35-7). Audio and/or video recordings shall not be admissible or be made a part of the Record of the Case unless the same have been transcribed and authenticated by the Moderator and Stated Clerk of the lower court (*BCO* 35-8);
- (4) the response of the lower court in its actions, orders, decisions and judgment;
- (5) any papers bearing on the case.

B. The Record of the Case in a Complaint shall be prepared in accordance with *BCO* 32-18 and 43-6 which shall include:

- (1) a copy of all the lower court's proceedings in connection with the complaint, including the notice of complaint and supporting reasons and Minutes of any hearing;
- (2) the response of the lower court, its acts, orders, decisions and judgment;
- (3) all transcribed testimony actually taken before the lower court (*BCO* 35-7). Audio and/or video recordings shall not be admissible or be made a part of the Record of the Case unless the same have been transcribed and authenticated by the Moderator and Stated Clerk of the lower court (*BCO* 35-8);
- (4) any papers bearing on the complaint.

- 8.3 The Stated Clerk shall send a copy of the Record of the Case to
- (a) the members of the Commission if the case is to be heard by the Commission, or to the members of the Judicial Panel and to the alternate members of the Judicial Panel if the case is to be heard by a Judicial Panel; and
 - (b) the parties to the case. The Stated Clerk shall notify the parties that the *SJC Manual* is printed as an appendix to the *Book of Church Order*.

8.4 The parties shall have the right to examine the Record of the Case. Corrections to the Record of the Case may be submitted as follows:

- (a) If a party objects to the record as being incorrect or defective, such party shall notify the Stated Clerk by mail or electronic means within 15 days of the date of

receiving of such Record of the Case from the Stated Clerk. Any party so objecting shall specify, in writing, the alleged defects and suggestions for the corrections that should be made. Such party shall send a copy of the objections by mail or electronic means and suggested corrections to the other party to the case. Failure to lodge a timely objection to the record of the case will constitute acceptance of the record of the case by the parties.

- (b) If the other party shall agree to the suggested corrections, such corrections shall be reduced to writing, stipulated to by the parties and made a part of the Record of the Case. Such stipulation shall be filed by mail or electronic means with the Stated Clerk not more than 30 days after the date the last party received such Record of the Case from the Stated Clerk.
- (c) If the parties do not agree on the correction, the hearing will be postponed, and the Stated Clerk shall remit the Record of the Case to the Clerk of the lower court, together with the party's objections and suggested corrections. The Clerk or the Representative of the lower court shall reply promptly to these objections within 10 days of receipt of the notice of objections and corrections.
- (d) If the Clerk of the lower court fails to reply or refuses these objections or certifies to the correctness of the Record of the Case as submitted, the full Commission or the Judicial Panel may consider proof of the error as submitted by the party, hear arguments of the parties, and make a decision as to whether in fairness and justice the Record of the Case should be corrected.
- (e) The full Commission or the Judicial Panel may extend any of the deadline dates in this section if it determines that so doing is in the interest of justice.

9. BRIEFS

9.1 Preliminary Briefs

- (a) Once the Record of the Case is established only one primary brief may be submitted through the Stated Clerk before the initial hearing by a Panel or the Full Commission, whichever is hearing the case. Any primary brief from a Complainant or Appellant must be filed no

later than 14 days after his receipt of the Record of the Case. The Stated Clerk immediately shall mail a copy of this brief to the Respondent or Appellee. Any primary brief from a Respondent or Appellee must be filed no later than 14 days prior to the date set for the hearing of the case.

- (b) Such a primary brief should include the party's position with regard to the following:
 - (1) A summary of the facts.
 - (2) A summary of the proceedings in the lower court(s).
 - (3) A statement of the issues.
 - (4) The proposed judgment and relief.
 - (5) Argument in support of judgment and relief.

9.2 Supplemental Briefs

A supplemental brief may be filed only when the case initially has been heard by a panel. Within 14 days after a party has received a proposed and recommended decision of a Judicial Panel under Section 19.5 of this Manual, that party may file with the Stated Clerk a supplemental brief which shall be limited to setting forth errors the party believes were made in the proposed and recommended decision of the Panel or Commission in accordance with Section 19.9(a).

9.3 No brief of a party shall make any reference to any fact not a part of the Record of the Case. The Panel or Commission may, at its discretion, strike all or part of a brief that makes such reference.

- 9.4 (a) Any brief filed hereunder must be typewritten or printed on 8-1/2 x 11 inch paper, with no smaller than 10 point type, with 1 inch margin on all sides, and may be single spaced.
- (b) The primary brief filed by a party shall not exceed 10 pages in length. Any supplemental brief filed by a party shall not exceed 5 pages in length.
- (c) Any brief timely filed which does not meet these standards of form shall be returned to the sending party with reasons. In this case a revised brief may be submitted provided that such brief is filed with the Stated Clerk within 5 days of notification that the brief does not meet the standard of form.

9.5 Failure to file a brief by a party shall not be considered to be an abandonment of the case.

10. ADMINISTRATIVE PROCEDURE

10.1 When a judicial case is submitted to the Commission, the Chairman and the Secretary shall make an initial determination as to whether the case is administratively in order.

(a) A case is administratively in order if the relevant provisions of *BCO* 41, 42, and 43 have been followed. If the Chairman and Secretary cannot agree, it shall be submitted to the Officers. If a majority of the Officers cannot agree, then it shall be submitted to the full Commission at its next meeting.

(b) A case is judicially in order when a Panel or the Commission determine that the relevant provisions of *BCO* 41, 42, and 43 have been followed and the documents for the Record of the Case are in order in accordance with Section 8.2 above.

10.2 (a) If a case is initially found not to be administratively in order, the Stated Clerk shall contact the relevant parties or clerks and request that the case be put in order.

(b) If a case cannot be put in order within the Rules of Discipline of the *BCO* and the requirements of this Manual, or

(c) If the parties fail to put the case in order within 30 days after notification under this Section of the Manual,

(d) Then the Officers of the Commission may make a determination that the case not be found in order and take no further action in relation to the case other than to recommend to the next meeting of the Commission that the case be dismissed on the ground that the case was not found in order.

10.3 When the case is administratively in order, the Officers shall determine whether the case is of such significance that it should be heard by the full Commission or submitted to a Judicial Panel. Ordinarily, it will be submitted to such a Judicial Panel.

10.4 If it is determined that the case should be heard by the Full Commission, the parties shall be notified and a full copy of the Record of the Case shall be sent to each member of the Commission. When the Record of the Case has been perfected under Section 8 of this Manual, and when the parties have had opportunity to file briefs under Section 9.1 of this Manual, the

case shall be docketed for hearing by the Full Commission at its next stated meeting, or at a called meeting set to hear the case.

10.5 If it is determined that the case should be heard by a Judicial Panel, the Officers shall immediately appoint such a Judicial Panel in accordance with *RAO* 17.3.

11. JUDICIAL PANELS

11.1 Ordinarily, a Judicial Panel should consist of three qualified members of the Commission, which should include at least one teaching elder and one ruling elder. In more serious cases, larger panels may be appointed with an approximately equal balance between teaching and ruling elders.

11.2 At least one ruling elder and at least one teaching elder shall be named as alternates for each Judicial Panel. An alternate will not be expected to attend the meeting of the Judicial Panel unless he is needed to meet the quorum.

11.3 When a Judicial Panel is appointed, one member thereof shall be designated as "Convener." The Convener may make initial contact with the parties:

- (a) to obtain information for the initial meetings of the Panel;
- (b) to answer initial questions by the parties;
- (c) to answer questions of the parties concerning the preparation and submission of written briefs.

11.4 **CONSTITUTING MEETING.** Within 10 days of the date of the receipt of the Record of the Case from the Stated Clerk, the Convener shall call a meeting of the Judicial Panel members. This first meeting may be held by telephone conference call. At this first meeting, the Judicial Panel shall organize itself by:

- (a) the election of a Chairman;
- (b) the election of a Secretary;
- (c) the selection of a tentative time and place for hearing the case;
- (d) such other organizational matters as would speed the time of hearing without prejudicing the rights of any of the parties.

11.5 **INITIAL MEETING.** Not later than 30 days after the receipt of the Record of the Case under Section 8.3 above, and subject to the requirements of Section 8.4 above, the Chairman of the Panel may call a

second meeting of the Judicial Panel members, which meeting may also be held by a telephone conference call. This second meeting may form part of the first organizational meeting of the Judicial Panel referred to under Section 11.4 if the requirements of Section 8.4 have been met. The purpose of this second meeting shall be to determine if the case is judicially in order and ready for hearing. This review shall include:

- (a) that the case was timely filed as provided in *BCO* 42-3 and 43-2;
- (b) in the case of a complaint, that the complaint was first filed with the Court whose act or decision is alleged to be in error (*BCO* 43-2);
- (c) that a ground or reason has been specified as required by *BCO* 42-3 and 43-2;
- (d) that the parties have complied with the Rules of Discipline of the *BCO* and this Manual;
- (e) that the Record of the Case appears to be complete and sufficiently documented.

11.6 If the Judicial Panel determines that a case is not judicially in order, the Panel through the Stated Clerk shall notify the parties and give them an opportunity to cure the defect, if it can be cured within the Rules of Discipline of the *BCO* and the requirements of this Manual. If the defect is cured within 30 days from receipt of such notice, the Panel shall proceed to hear and adjudicate the case. If significant defects are not cured within 30 days from the receipt of notice then the Panel may make a determination that the case not be found in order and take no further action in relation to the case other than to recommend to the next meeting of the Commission that the case be dismissed on the ground that the case was not found in order. If the decision of the Panel is not confirmed by the Commission, the Commission may return the case to the Panel, or may appoint a new Panel in accordance with *RAO* 17.3 to hear and adjudicate the case, or may decide to hear the case as the Full Commission.

11.7 When the Judicial Panel determines that the case is judicially in order, the Chairman of the Judicial Panel shall take the following actions:

- (a) Set a time and place for a hearing of the case, making every reasonable effort to obtain such time and place as may be agreeable to all parties. This hearing may be held by telephone conference call if all the parties and panel members agree.
- (b) Notify all parties of such time and place of hearing by letter with return receipt requested or by electronic means. If by letter, such notice shall be mailed not less than 40 days prior to the date of hearing. If by electronic means, such notice shall be sent not less

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than 40 days prior to the date of hearing and there must be a receipt of acknowledgement in the file from each party. Such 40 day period may be shortened if the parties to the case agree in writing.

- (c) Notify all parties of their right to submit written briefs, in accordance with Section 9 of this Manual. A written brief must comply with Section 9.3 and following of this Manual.
- (d) Notify all parties of their right to represent themselves or to be represented at the hearing in accordance with *BCO* 32-19, 42-10 or 43-5, as the case may be.

11.8 For initial procedures for hearings before a Judicial Panel see Section 17.1 and 17.2.

11.9 DURING THE HEARING:

(a) The arguments of the parties shall be heard in the following order:

- (1) the Appellant makes the opening arguments;
- (2) the Appellee then replies
- (3) The Appellant makes the closing argument.

(b) After the hearing shall have been opened and the initial requirements of *BCO* 42-8 met, but before any arguments of the parties have been presented, the members of the Panel or Commission shall have the opportunity to question the parties on any matter before the court.

(c) A party shall have a maximum of 30 minutes to argue his case before the Panel or Commission (and in the case of the Appellant, this 30 minutes is inclusive of both his opening and closing arguments.)

(d) At any time during which a party is presenting an argument to a Panel or the Commission, a member of the Panel or Commission may ask questions of that party; the time taken for such questions shall not form a part of the argument time of the party questioned.

11.10 AFTER THE ORAL ARGUMENTS. A Judicial Panel immediately after hearing the oral arguments of the parties, shall go into closed session and discuss the issues in the case. In that discussion, the Panel may (1) frame the issues, (2) vote on a judgment and (3) announce these to the parties. Or, the Panel may take all these matters under advisement and reconvene within the next 20 days, as often as necessary, to frame the issues and render a judgment. This "reconvening" may be held by telephone conference call. The Chairman of the Panel shall designate a Panel member voting with the majority to prepare a written decision. This decision shall be mailed or sent by electronic means to the Stated Clerk of the General Assembly within 40 days from the date the Panel heard the oral arguments. Any Panel member may file, within said 40 day period, a concurring or dissenting opinion which shall be appended to the decision.

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11.11 (a) When a Judicial Panel has reached a decision in a case, the Chairman or Secretary of the Judicial Panel shall prepare a full report of the case and mail or send by electronic means the same to the Stated Clerk, who shall forward, immediately, a copy of the full report to each member of the Commission. This report shall include the following:

- (1) The Record of the Case.
 - (2) The proposed and recommended decision in the following format:
 - I. A Summary of the Facts. (A presentation in chronological order of the relevant history and facts that bear on the case.)
 - II. A Statement of the Issues. (A concise framing by the Court of the specific issues being judged in the case.)
 - III. The Judgment. (A definite conclusion rendered on the specific issues being adjudged.)
 - IV. The Reasoning and Opinion of the Court. (The explanation by the court of the resolution of disputed facts and reasons for the judgment rendered.)
 - (3) Any timely filed written briefs of the parties meeting the requirements of Section 9.
 - (4) A copy of the minutes of the meetings of the Judicial Panel.
 - (5) Any concurring or dissenting opinion of a Panel member.
 - (6) Any dissenting Panel member's request for rehearing by the full Commission, appending reasons therefor which must be submitted to the Stated Clerk within 20 days after the Panel's decision.
 - (7) Any request for a rehearing by a party.
- (b) Any audio tape of the oral arguments of the parties is not a part of this report; but any Commission member may obtain a copy thereof from the Stated Clerk, if available. Any such tapes are for the sole use of SJC.

12. HEARING BY THE FULL COMMISSION

12.1 Where it is determined under Section 10.3 of this Manual that a judicial case should be heard by the full Commission, the officers of the Commission shall first determine whether the case is judicially in order and

ready for hearing. This review may be done by a telephone conference call and shall include:

- (a) that the case was timely filed as provided in *BCO* 42-3 and 43-2;
 - (b) in the case of a complaint, that the complaint was first filed with the Court whose act or decision is alleged to be in error (*BCO* 43-2);
 - (c) that a ground or reason has been specified as required by *BCO* 42-3 and 43-2;
 - (d) that the parties have complied with the Rules of Discipline of the *BCO* and this Manual;
 - (e) that the Record of the Case appears to be complete and sufficiently documented.
- 12.2
- (a) If the Officers of the Commission determine that a case is not judicially in order, they through the Stated Clerk shall notify the parties and give them an opportunity to cure the defect, if it can be cured within the Rules of Discipline of the *BCO* and the requirements of this Manual.
 - (b) If the defect is cured within 30 days from the receipt of such notice the Commission shall proceed to adjudicate the case.
 - (c) If significant defects cannot be cured within 30 days of receipt of such notice, then the Officers may make a determination that the case not be found in order and take no further action in relation to the case other than to recommend to the next meeting of the Commission that the case be dismissed on the ground that the case was not found in order.
 - (d) If the decision of the Officers in finding the case not in order is not confirmed by the Commission, the Commission shall proceed to adjudicate the case.

12.3 If it is determined that the appeal or complaint is judicially in order, the Chairman of the Commission shall take the following actions:

- (a) Set a time and place for a hearing of the appeal or complaint, making every reasonable effort to obtain such time and place as may be agreeable to both the parties.
- (b) Notify the parties of such time and place of hearing by letter with return receipt requested or by electronic means. If by letter, such notice shall be mailed not less than 30 days prior to the date of hearing. If by electronic means, such notice shall be sent not less than 30 days prior to the date of hearing and there must be a receipt of acknowledgement in the file from each party.

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- (c) Notify the parties of their right to submit written briefs, in accordance with Section 9 of this Manual. A written brief must comply with Section 9.3 and following of this Manual.
- (d) Notify all parties of their right to represent themselves or to be represented at the hearing in accordance with *BCO* 32-19 or 42-10, as the case may be.

12.4 For initial procedures for hearings before the Full Commission see Sections 17.1 and 17.2.

12.5 After the initial procedures have been followed, the Commission shall proceed with an appeal in accordance with Sections 14.3 and following, or if it is a complaint, it shall proceed in accordance with Sections 15.3 and following.

13. PROCEDURE FOR HEARING A JUDICIAL REFERENCE CASE
(*BCO* 41)

13.1 The only reference which the Commission may entertain is the reference of an appeal or a complaint received by the lower court and referred by that lower court to the Commission for final disposition, or of a reference of “a judicial case with request for its trial and decision by the higher court” (*BCO* 41-3).

- (a) Where such a reference is received by the Stated Clerk, a determination shall be made under Section 10.1 of this Manual as to whether or not the case is administratively in order.
- (b) If the case is found to be administratively in order, the Officers of the Commission shall determine whether or not the Commission should accede to the request of the lower court (*BCO* 41-5), remembering the admonition of *BCO* 41-5 that “in general it is better that every court should discharge the duty assigned to it under the law of the church.”
- (c) Where the Officers decide that the Commission should not accede to the request of the lower court to hear the case, the question shall be placed on the docket of the next stated or called meeting of the Commission for final determination.

13.2 Where a judicial case referred to and accepted by the Commission under Section 13.1 above is an appeal under *BCO* 42, that appeal shall be heard by a Panel or the Full Commission in accordance with the provisions of Section 14, and where such a case is a complaint under *BCO* 43, that complaint shall be heard by a Panel or by the Full Commission in accordance with the provisions of Section 15, and where it is an initial

trial of an issue or charges, such a case shall be heard *de novo* by a Panel or the Full Commission in accordance with the provisions of Section 14.2 or 15.2 and following as the case may be.

13.3 The Clerk of the lower court making the reference shall submit to this Commission all documents through the Stated Clerk which should become a part of the Record of the Case.

13.4 The lower court making the reference shall assist this Commission as provided in *BCO* 41-6.

13.5 The Commission shall be organized as in any other case, except the trial of such a case shall be conducted under the "General Provisions Applicable To All Cases Of Process" as set out in *BCO* 32, and in accordance with rules of evidence as set out in *BCO* 35.

13.6 The testimony of the witnesses in any case so referred and accepted shall be taken and transcribed as part of the Record of the Case. (Note the provisions of *BCO* 41-6)

13.7 The parties shall be responsible for the notification and expenses of their own witnesses. When a party requests that a witness be cited to testify, the Chairman of the Commission shall promptly cite, by personal service or by certified mail, the witness to appear and testify as provided in *BCO* 32-4.

13.8 When the trial hearing is convened the following procedures will apply:

- (a) The initial proceedings set out in Section 17.1 and 17.2 of this Manual shall be followed, and at the close of the proceedings prayer shall be offered in accordance with Section 20.1 of this Manual.
- (b) The requirements of *BCO* 32 shall apply.
- (c) The procedures of *BCO* 32-15 shall be followed, namely:
 - (1) The Chairman shall charge the court.
 - (2) The indictment shall be read, and the answer of the accused shall be heard.
 - (3) The witnesses for the prosecutor and then those for the accused shall be examined.
 - (4) The arguments of the parties shall be heard:
 - (A) the Prosecutor; then
 - (B) the Accused; and
 - (C) the Prosecutor shall close.

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- (5) The Commission shall go into closed session and the roll shall be called and the members of the Commission may express their opinion in the case. After discussion:
 - (A) the vote shall be taken; and
 - (B) the preliminary verdict shall be determined.
 - (6) The Commission shall rise from closed session and announce the preliminary verdict. Since there is no higher court of appeal to which written briefs may be submitted, each party (or the minister in a trial arising from *BCO 34-1*) may submit a written supplemental brief in accordance with Section 9.2. If the parties state to the court that they all waive their right to submit written briefs, the judgment shall be entered on the record.
- (d) The Record of the Case and the report of the Commission shall be prepared in accordance with the relevant provisions of this Manual.

13.9 Unless the parties waive their rights to submit a written brief, no decision shall be made until the time periods specified in Section 9.1 have expired. If briefs are filed, copies shall be sent to all members of the Panel or Commission as the case requires. Then the Chairman shall convene the Panel or Commission where further discussion of the case may take place. This may be done by telephone conference call. After discussion, the vote shall be taken on each issue.

After a decision has been reached, the decision shall be processed in accordance with Section 19.

13.10 After a decision has been reached by the full Commission, any member may file by mail or electronic means, within 20 days after the day the decision is reached, a concurring or dissenting opinion which if it is couched in temperate language (See 20.12) shall be appended to the decision. •

14. PROCEDURE FOR HEARING AN APPEAL (*BCO 42*)

14.1 At the hearing of an appeal the procedures outlined in *BCO 42-8* will apply whether heard by a Judicial Panel or by the full Commission.

14.2 At the time and place set for a hearing of the case, the Chairman shall call the Judicial Panel to order and proceed in accordance with the initial procedures set forth in Sections 17.1 and 17.2.

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14.3 DURING THE HEARING

- (a) The arguments of the parties shall be heard in the following order:
 - (A) the Appellant makes the opening argument;
 - (B) the Appellee then replies;
 - (C) the Appellant makes the closing argument.
- (b) After the hearing shall have been opened and the initial requirements of *BCO* 42-8 met, but before any arguments of the parties have been presented the members of the Panel or Commission shall have the opportunity to question the parties on any matter before the court.
- (c) A party shall have a maximum of 30 minutes to argue his case before the Panel or Commission (and in the case of the Appellant, this 30 minutes is inclusive of both his opening and closing arguments).
- (d) At any time during which a party is presenting an argument to a Panel or the Commission, a member of the Panel or Commission may ask questions of that party; the time taken for such questions shall not form a part of the argument time of the party questioned.

14.4 AFTER THE ORAL ARGUMENTS

- (a) After the oral arguments have been completed and if the appeal is being heard by a Judicial Panel, the Panel shall proceed under Section 11.10 of this Manual.
- (b) After the oral arguments have been completed and if the appeal is being heard by the full Commission rather than by a Judicial Panel, the Commission shall go into closed session to discuss the case and consider its merits.
- (c) When the Judicial Panel acting under Section 11.10 of this Manual is ready to vote or when the full Commission has completed its discussion under Section 14.4(b), above, and is ready to vote, the vote shall then be taken without further debate, on each specification, in this form:

"Shall this specification of error be sustained?"

The decision may be to affirm the lower court's decision, in whole or in part. If the lower court's decision is not sustained, the decision will be to:

- (1) reverse the lower court's decision, in whole or in part; or,

- (2) render the decision that should have been rendered; or,
- (3) remand the case to the lower court for a new trial.

14.5 As soon as the judgment is thus rendered, when the appeal is heard by a Judicial Panel, the Judicial Panel shall proceed under Section 11.11 of this Manual.

14.6 As soon as the judgment is thus rendered, when the appeal is heard by the full Commission rather than by a Judicial Panel, the Chairman shall designate a member or committee of members voting with the majority to prepare a proposed written decision.

14.7 After a decision has been reached by the full Commission, any member may file by mail or electronic means, within 20 days after the day the decision is reached, a concurring or dissenting opinion which if it is couched in temperate language (See 20.12) shall be appended to the decision.

15. PROCEDURE FOR HEARING A COMPLAINT (*BCO 43*)

15.1 At the hearing of a Complaint the following procedures will apply whether the Complaint be heard by a Judicial Panel or by the full Commission.

15.2 At the time and place set for a hearing of the case, the Chairman shall call the Judicial Panel to order and proceed in accordance with the initial procedures set forth in Sections 17.1 and 17.2.

15.3 DURING THE HEARING

- (a) The arguments of the parties shall be heard in the following order:
 - (1) the Complainant makes the opening argument;
 - (2) the Respondent then replies;
 - (3) the Complainant makes the closing argument.
- (b) After the hearing shall have been opened and the initial requirements of *BCO 43-9* met, but before any arguments of the parties have been presented, the members of the Panel or Commission shall have the opportunity to question the parties on any matter before the court.

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- (c) A party shall have a maximum of 30 minutes to argue his case before the Panel or Commission (and in the case of the Complainant, this 30 minutes is inclusive of both his opening and closing arguments).
- (d) At any time during which a party is presenting an argument to a Panel or the Commission, a member of the Panel or Commission may ask questions of that party; the time taken for such questions shall not form a part of the argument time of the party questioned.

15.4 AFTER THE ORAL ARGUMENTS

- (a) After the oral arguments have been completed and if the complaint is being heard by a Judicial Panel, the Panel shall proceed under Section 11.10 of this Manual.
- (b) After the oral arguments have been heard and if the complaint is being heard by the full Commission rather than by a Judicial Panel the Commission shall go into closed session to discuss the complaint and consider its merits.
- (c) When the Judicial Panel acting under Section 11.10 of this Manual is ready to vote or when the full Commission has completed its discussion under 15.4 (b), above, the vote shall be taken, without further debate, as to what disposition should be made of the complaint. The decision may be to affirm the lower court's decision, in whole or in part. If the lower court's decision is not sustained the decision will be to:
 - (1) annul the whole or any part of the action of the lower court against which the complaint has been made; or,
 - (2) send the matter back to the lower court with instructions for a new hearing.

15.5 As soon as the judgment has been rendered when the complaint is heard by a Judicial Panel, the Judicial Panel shall proceed under Section 11.11 of this Manual.

15.6 As soon as the judgment is rendered, when the complaint is heard by the full Commission rather than by a Judicial Panel, the Chairman shall designate a member or committee of members voting with the majority to prepare a proposed written decision.

15.7 After a decision has been reached by the full Commission, any member may file by mail or electronic means, within 20 days after the day the decision is reached, a concurring or dissenting opinion, which if it is couched in temperate language (See 20.12.) shall be appended to the decision.

16. PROCEDURE FOR HEARING A REPORT ARISING OUT OF GENERAL REVIEW AND CONTROL (BCO 40-5;-RAO 16-10.c)

16.1 A Report arising out of General Review and Control is one which purports to demonstrate an important delinquency or grossly unconstitutional proceeding of a lower court (BCO 40-5). When such a Report is submitted to the Commission, it shall be first handled according to Section 10 of this Manual, as applicable.

16.2 If the Report is found administratively in order, any representative of the Report (cf. RAO 16-10.c) and court alleged to have offended shall be cited to appear by representative or in writing, providing such documents as bear on the alleged important delinquency or grossly unconstitutional proceedings (BCO 40-5). The Stated Clerk shall collate these documents which shall be deemed equivalent to a Record of the Case and dealt with according to Section 8 of this Manual as applicable.

16.3 At the time and place set for a hearing of the Report, the Chairman shall call the Judicial Panel or Commission to order and proceed in accordance with the initial procedures set forth in Section 11.8 as applicable.

16.4 The hearing shall be conducted as follows:

- (a) The members of the Panel or Commission shall have the opportunity to question the representatives present on any matter before the court.
- (b) The Panel or Commission shall then proceed to hear oral arguments, if there be any, in the following order:
 - (1) the representative of the Report shall make the opening argument;
 - (2) the representative of the court alleged to have offended shall reply;
 - (3) the representative of the Report shall make the closing argument.
- (c) A representative shall have a maximum of 30 minutes to argue his case before the Panel or Commission. With respect to the representative of the Report, this 30 minutes is inclusive of both the opening and closing arguments.
- (d) At any time during which a representative is presenting an argument to a Panel or the Commission, a member of the Panel or Commission may ask questions of that representative; the time taken for such questions shall not form a part of the argument time of the representative questioned.

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16.5 After arguments have been heard, the Panel or Commission shall go into closed session to discuss the Report and consider its merits.

16.6 If heard by a Panel, the Panel shall then make a full report to the Commission including such recommendations as

- (a) to reverse or redress the proceedings of the court below in other than judicial cases; or
- (b) to censure the delinquent court; or
- (c) to remit the whole matter to the delinquent court with an injunction to take it up and dispose of it in a constitutional manner; or
- (d) to stay all further proceedings and declare that all matters relating to the Report, presently or previously pending before the General Assembly, are ended, concluded and terminated.

16.7 When the full Commission has completed its discussion and is ready to vote, the vote shall be taken on each recommendation. The report as a whole shall then be voted on by roll call without change or amendment. All qualified members present shall participate in the vote.

16.8 If heard by the full Commission, the Commission shall proceed to deliberate the merits of the matter and make a determination as provided in Section 16.9 (a), (b), (c), or (d). A vote shall be taken on the decision(s). The report as a whole shall then be voted on by roll call. All qualified members present shall participate in the vote.

16.9 After a decision has been reached by the Full Commission, any member may file, within 20 days after the day the decision is reached, a concurring or dissenting opinion, which shall be appended to the decision.

16.10 When a report with its recommendations on the Report has been adopted, a copy thereof shall immediately be sent by mail or electronic means to the Representatives and shall be included in the final report of the SJC to the General Assembly.

17. INITIAL PROCEDURES FOR HEARINGS BEFORE A JUDICIAL PANEL OR FULL COMMISSION

17.1 At the time and place set for a hearing of the case, the Chairman shall call the Judicial Panel or the Full Commission to order and proceed as follows:

- (a) Prayer should be offered by a member of the Judicial Panel.
- (b) A quorum shall be certified.

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- (c) A determination of the fact that all Judicial Panel members have fully read the Record of the Case and all briefs timely filed. No further action shall be taken until it has been determined that all the Panel members have fully read the Record of the Case and such briefs.
- (d) The Chairman shall enjoin the members to recollect and regard their high character as judges of a court of Jesus Christ and the solemn duty in which they are about to engage (*BCO 32-12*).

17.2 Furthermore, the Chairman shall

- (a) Remind all Panel members or Commission members that they cannot participate unless each can certify that he has read the Record of the Case and all briefs timely filed and that the hearing cannot proceed unless a quorum of panel members can so certify.
- (b) Remind the Panel or Commission Members that they should disregard all evidence not in the Record of the Case (*BCO 32-18*); even though such evidence may be found in the briefs of the parties or in oral argument.
- (c) Read to the Panel Member the 4 principles adopted as standards of Review in *BCO 39-3*.
- (d) Read to the Panel Member the vows each has taken when elected to the Standing Judicial Commission (*RAO 17-1*)

18. PROCEDURES FOR ASSUMING ORIGINAL JURISDICTION OVER A MINISTER (*BCO 34-1*)

18.1 Upon proper receipt of a case filed against a minister under *BCO 34-1*, the SJC shall in accordance with the provisions set out below:

- a) Appoint a panel in accordance with *RAO 17.3* to investigate the matter and determine whether or not that the case is in order, i.e., that the provisions of *BCO 34-1* have been followed.
- b) If the case is determined to be in order, the panel shall conduct an investigation of allegations against the minister under the provisions of *BCO 31-2*.
- c) The panel's findings and recommendation shall be mailed to the full SJC, said minister and the stated clerks of the

involved presbyteries that instituted this action under *BCO* 34-1. The matter shall be scheduled for review at the SJC's next stated meeting or a meeting called under the provisions of SJC Manual 3.2.

- d) Within 14 days of receipt of the panel's findings and recommendation said minister and the stated clerks of the involved presbyteries may submit a brief citing reasons as to whether the panel's recommendations should be approved or rejected. Such brief must comply with the requirement of Section 9 of this Manual.
- e) Briefs under these paragraphs shall comply with the requirements for briefs in SJC Manual 9.4, but shall not exceed 5 pages.

18.2 At its next stated meeting or meeting called to hear the matter under the provision of Manual 3.2, the SJC in closed session shall discuss the panel's findings and recommendation. The SJC shall vote to accept or reject the panel's findings and recommendation.

18.3 The SJC decision shall be mailed to said minister and stated clerks of the involved presbyteries. Within 14 days of receipt of the decision a party may request a reconsideration of the decision by filing a supplemental brief as set forth in Section 9.2. This supplemental brief shall state the reasons for requesting reconsideration of the decision. Copies of the supplemental brief and the SJC decision shall be mailed to members of the SJC. Reconsideration of the judgment shall be granted only by majority vote of the full Commission either by mail or by conference call, as determined by the officers

If reconsideration is granted, the Officers shall call a special meeting, under Manual 3.2 (a) and (b), to discuss the case, consider its merits, and render a final judgment. If reconsideration is not granted, the previous judgment shall become final in accordance with *BCO* 15.5 (a).

18.4 If the SJC's final judgment is that the above investigation does not raise "a strong presumption of the guilt of the party involved," (*BCO* 31-2) the SJC shall dismiss the case and advise the parties to the case.

18.5 If, however, the SJC's final judgment is that the above investigation raises "a strong presumption of the guilt of the party involved," (*BCO* 31-2) it shall institute process under *BCO* 31. In such event, the SJC shall conduct a trial in accordance with the provisions of *BCO* 32, *BCO* 35 and SJC Manual 13.5 through 13.10.

19. DECISIONS, REVIEW AND REHEARING THEREOF

19.1 Each decision shall be in the following format:

- (a) A summary of the facts. (A presentation in chronological order of the relevant history and facts that bear on the case.)
- (b) A statement of the issues. (A concise framing by the Court of the specific issues being judged in the case.)
- (c) The judgment. (A definite conclusion rendered on the specific issues being adjudged.)
- (d) The reasoning and opinion of the court. (The explanation by the court of the resolution of disputed facts and reasons for the judgment rendered.)

19.2 A judgment of the Standing Judicial Commission shall be effective from the time of its announcement to the parties in accordance with *BCO* 15-5(b), except in the case of a minority report in accordance with *BCO* 15-5(c).

19.3 Judicial decisions shall be binding and conclusive on the parties. Judicial decisions are to be given due and serious consideration by the Church and its lower courts when deliberating matters related to such action, and may be appealed to in subsequent, similar cases as to any principle which may have been decided (*BCO* 14-7).

19.4 Each decision of the Commission and a Judicial Panel shall show the name of the member(s) who wrote the opinion, together with the names of all members as to their concurrence, dissent, abstention or disqualification.

19.5 Proposed and recommended judgments of a Judicial Panel are not binding on the parties, but the Stated Clerk shall mail the parties a copy of the panel's proposed decision and inform the parties of their right to request a rehearing before the full Standing Judicial Commission. If any party desires a rehearing by the full Commission, such request must be filed with the Stated Clerk within 14 days after receipt of said Panel's proposed and recommended decision. Said party filing such a request for rehearing may attach a supplemental brief giving such party's reasons and arguments for this request. Such supplemental brief must comply with the requirement of Sections 9 of this Manual as it relates to supplemental briefs.

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19.6 If no member of the Judicial Panel shall request a rehearing but a party shall have timely requested under Section 19.5 a rehearing by the full Commission, the Stated Clerk shall mail or send by electronic means a ballot to each Commission member which shall have a place for each member to indicate his vote in favor of or against such party's request. Each member shall complete and file such ballot with the Stated Clerk within 15 days of the receipt of the mailing or electronic notice. If any member fails to file such ballot by mail or electronic means within said 15 days, or shall file the ballot without completing it, that member's vote shall be recorded as a vote against the request for such a rehearing.

19.7 A rehearing of the case by the full Standing Judicial Commission shall be had only in the following circumstances:

- (a) Where, within 15 days of the receipt of the Secretary's mailing under Section 19.6 at least 4 qualified members of the full Commission shall request by mail or electronic means, by ballot or by separate written notice to the Secretary of the Commission, that the case be reheard by the full Commission; or
- (b) Where a voting member of the Judicial Panel hearing the case shall so request under Section 11.11(a); or
- (c) Where any member of the Standing Judicial Commission shall file by mail or electronic means written request for such rehearing within 15 days of the receipt of the Stated Clerk's mailing under Section 19.6, and the officers of the Standing Judicial Commission shall thereafter, by majority vote, approve such request.

- 19.8
- (a) Every Judicial Panel's proposed and recommended decision shall be reviewed by the full Commission. In addition, those cases approved under Section 19.7 shall be reheard. A "review" means that the full Commission shall consider, discuss and debate each decision. A "rehearing" means that in addition to a "review", the full Commission shall hear the oral arguments of the parties.
 - (b) After hearing the oral arguments in a case where a rehearing is granted under Section 19.7, or immediately when a case is called for review if there is no rehearing, the presiding officer of the full Commission shall poll each member present as to whether or not they have read the following:
 - (1) the Judicial Panel's proposed and recommended decision;
 - (2) all briefs timely filed by the parties;

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- (3) those portions of the Record of the Case such member feels is necessary to understand the issues of the case.

Any member who is not able to certify affirmatively to these inquiries shall not be eligible to participate in discussion or vote on this case.

- (c) After the completion of (b) above, the Court shall go into closed session but may permit the Stated Clerk and his assistant(s) to remain to assist with the taking of the minutes.
- (d) Then the consideration and discussion of the proposed and recommended decision of the Panel shall begin with members of the Panel briefing the full Commission on the facts of the case, the Panel's statement of the issues, the Panel's proposed judgment and the Panel's Reasoning and Opinion. Any dissenting member of the Panel may then present his reasons for dissent. The full Commission will then enter upon a regular parliamentary procedure to perfect, revise, change or approve any part of the Panel's proposed and recommended decision.
- (e) In this procedure, each of the 4 parts of the proposed and recommended decision shall be perfected.
 - (1) The Summary of the Facts
 - (2) The Statement of the Issues
 - (3) The Judgment
 - (4) The Reasoning and Opinion of the Court.
- (f) After all 4 parts have been approved individually then the decision as a whole shall be voted on by roll call without change or amendment.
- (g) All qualified members present should participate in the vote and the vote of each member shall be included in the written decision.
- (h) After the vote on the decision on the whole, the Chairman of the Commission will communicate the judgment to the parties; and the Stated Clerk shall mail a copy of the decision to the parties.
- (i) Upon such review, if parts 1, 2 and 3 of the decision have been perfected but part 4 - the Reasoning and Opinion of the Court -- needs to be rewritten and cannot be done at that meeting of the Commission,

the Chairman of the Commission shall designate a member or a committee of members voting with the majority on the other 3 parts to write the proposed reasoning and opinion based on the decisions on the other 3 parts. The Chairman, upon consulting with the members of the Commission present, shall:

- (1) set a date and time for a telephone conference call for the perfecting and voting on the “Reasoning and Opinion” part of the decision;
- (2) this date shall be at least 30 days in advance and not more than 45 days in advance;
- (3) the members or committee of members appointed to write “The Reasoning and Opinion” shall agree to have a proposal in the hands of the Stated Clerk of the General Assembly within 15 days;
- (4) the Stated Clerk shall mail the proposal to each member of the Commission at least 10 days before the date set for such telephone conference call;
- (5) the Stated Clerk shall in the same mail send to each Commission member a written ballot;
- (6) if any Commissioner cannot participate in the telephone conference call, his vote on the decision as a whole will be counted so as to be consistent with his vote on the other parts. If he wishes to change his vote, he may fax a copy of his signed written ballot to the Stated Clerk at or before the time of the telephone conference call;
- (7) when “The Reasoning and Opinion” part of the decision has been perfected, then the Chairman shall call for a roll call vote on the decision as a whole and announce the decision;
- (8) the other 3 portions of the decision previously approved may not be altered or revised on this telephone conference call.
- (9) After all 4 parts have been approved individually, then the decision as a whole shall be voted on by roll call without change or amendment.

- (j) When a decision has been approved under this Manual by the Full Commission, a copy thereof shall be mailed immediately to the parties and shall then be public.
 - (k) After a decision has been reached by the Full Commission, any member may file, within 20 days after the day the decision is reached, a concurring or dissenting opinion, which if it is couched in temperate language (See 20.12) shall be appended to the decision.
- 19.9
- (a) In the event of a hearing by the Full Commission where the case was not heard by a judicial panel, the Commission shall issue to the parties a preliminary judgment. Within 14 days after receiving the preliminary judgment, a party may request reconsideration of the judgment by filing a supplemental brief as set forth in Section 9.2. This supplemental brief shall state the reasons for requesting reconsideration of the preliminary judgment. The commission at its next meeting shall consider the request for reconsideration. Reconsideration of the preliminary judgment shall be granted only by majority vote of the Full Commission.
 - (b) If reconsideration is granted, the Commission shall immediately go into closed session to discuss the case, consider its merits, and render a final judgment. If reconsideration is not granted, the preliminary judgment shall become final in accordance with *BCO 15-5(a)*.

20. MISCELLANEOUS

20.1 Any meeting of the Commission or a Judicial Panel shall be opened and closed with prayer.

20.2 All oral arguments by the parties before the Commission or a Judicial Panel thereof shall be tape recorded. Such tape recordings shall be kept by the Stated Clerk for the sole use of the SJC until the case has been finally determined, and then such tape recordings may be destroyed.

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- 20.3 (a) Multiple complaints against the same act or decision of a lower court may be combined into one case but each complainant shall receive individual notices issued under this Manual. However, such multiple complainants may designate one of their number to be representative of the multiple complainants, and in such a case notices issued under this Manual shall be sent to that complainant.
- (b) A single complaint signed by more than one person against the same act or decision of a lower court shall be treated as a single complaint and all notices issued under this Manual shall be sent to the first named complainant.
- (c) In either of the cases under paragraph 13.8 (1) or (2) where a hearing is held under this Manual the multiple complainants shall be treated as one complainant and:
- (1) be granted the same total amount of time to present oral arguments as would have been given to a single complainant to present oral arguments; and
 - (2) be permitted to present one combined brief and supplemental brief (if the circumstances permit a supplemental brief) and such brief or supplemental brief shall meet the same requirements as would be imposed upon a single complainant presenting a brief or supplemental brief.
- 20.4 (a) If at any time up to 15 days prior to the date set for a Judicial Panel or the Commission to hear a judicial reference, appeal or complaint, a party asserts that new evidence has been obtained, which was not available or was not made available because of justifiable circumstances at the time the Record of the Case was put together, said new evidence shall be put in writing and sent within 5 days to the Stated Clerk and shall be received as part of the Record of the Case only when all the parties stipulate in writing agreeing to the new evidence. If the parties do not agree to this stipulation, and the party presenting the new evidence insists that it is material to the case, the proceedings shall be suspended and the matter

docketed at the next meeting of the Panel or the Commission to make a determination as to whether the new evidence to be offered has an important bearing on the case. At that next meeting, the Panel or Commission may decide:

- (1) that the new evidence does not have an important bearing on the case and proceed with the case; or
 - (2) that the new evidence does have an important bearing on the case and refer the case to the lower court for a new trial (*BCO 35-14*).
- (b) If at any time during the 15 days immediately prior to the date set for a Judicial Panel or the Commission to hear the case, a party asserts that new evidence has been obtained, which was not available or was not made available because of justifiable circumstances, at the time the Record of the Case was put together, said new evidence shall be put in writing and be presented to the Panel or Commission before any oral arguments are presented on the substance of the case. Under these circumstances, the Panel or Commission before proceeding to hear oral arguments, shall receive the new evidence into the Record of the Case only if all parties stipulate in writing agreeing to such new evidence. If the parties cannot agree to this stipulation, and the party presenting the new evidence insists that it is material to the case, the Panel or Commission shall make a determination as to whether the new evidence to be offered has an important bearing on the case. The Panel or Commission may then decide:
- (1) that the new evidence does not have an important bearing on the case and proceed with the case; or
 - (2) that the new evidence does have an important bearing on the case and refer the case to the lower court for a new trial (*BCO 35-14*).

20.5 All issues before the Standing Judicial Commission, or a Judicial Panel thereof, shall be decided by a majority vote of those qualified members voting. There shall be no proxy voting.

20.6 The minutes of the meetings of the SJC must be approved by mail or electronic ballot within 20 days after receipt of such minutes. If any member fails to file with the Stated Clerk the ballot within 20 days, that member's vote shall be recorded as approval of the minutes.

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20.7 ABANDONMENT

If an appellant, complainant or party initiating a case referred to the Commission fails to appear, in person or by a qualified representative, after receiving proper notice, at any meeting of the Standing Judicial Commission, or a Judicial Panel thereof, such party shall be deemed to have abandoned the case. The Stated Clerk shall immediately notify the party that the case has been dismissed because of the failure to appear, and the party shall have 10 days from the receipt of such notice to present, in writing, a satisfactory explanation of the failure to appear and prosecute the case. If the explanation is deemed sufficient by the Officers of the Commission, or members of the Judicial Panel, the case shall be reinstated and reset for another hearing; otherwise, it shall stand abandoned and dismissed.

20.8 WAIVER OF RIGHTS TO APPEAR

- (a) Any party may upon a showing of good cause waive his right to appear before the higher court and present oral argument. This waiver shall be accomplished by a written notice to the higher court, mailed not less than 14 days prior to the scheduled hearing, stating the reasons for the waiver. A party's waiver has no effect upon the other party's right of appearance.
- (b) The higher court, if it fails to find good cause for the waiver, may refuse to accept a waiver of appearance. If the requested waiver is rejected by the higher court, it shall promptly notify the party who requested the waiver. The party shall then be required to appear before the higher court at the scheduled time and place.
- (c) Failure to so appear shall constitute an abandonment of the case by that party, unless within 10 days after the date of the scheduled hearing that party provides satisfactory explanation of the failure to appear. If this explanation is deemed sufficient by the higher court and if the higher court believes the interests of justice will be served thereby, the case shall be reset for another hearing. If no further hearing is required, the case may be decided forthwith. If the party's explanation for not appearing is not deemed sufficient by the higher court, the case shall stand abandoned and dismissed.

20.9 In computing any period of time prescribed by this Manual, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period shall be included, unless it is a Saturday, Sunday or postal holiday, in which event the period extends until the end of the next day which is not a Saturday, Sunday or postal holiday.

20.10 When a provision of the Manual requires a computation of time under 20.9, above, such period of time shall be computed with the following construction of certain terms used herein, to-wit:

- (a) A mailing by the Commission or Panel shall be computed from the day after the document is posted or delivered to an overnight carrier.
- (b) Documents required or permitted to be filed by a party shall be filed with the Stated Clerk. Such filing shall not be timely unless the documents are received in the office of the Stated Clerk within the time fixed for such filing, except that papers shall be deemed filed on the day of mailing if certified, registered or express mail of the United States Postal Service or any private service where verifying receipt is utilized. Neither facsimiles nor E-mail will be allowed for purposes of filing. Interested parties should be aware that responsibility for such filings rests with them and that delays in delivery or non-delivery are the sole responsibility of the filing party.
- (c) "Notice," "notification," "from receipt," "after the receipt" shall be when the papers are actually delivered to the party. For all papers requiring such, the Commission shall be responsible for obtaining verification of date of delivery. However, compliance with such requirements shall be deemed to have been fulfilled in any of the following instances, to wit:
 - (1) If a party changes his/her address without notifying the Office of the Stated Clerk.
 - (2) If a party cannot be located after diligent inquiry.
 - (3) If a party refuses to accept delivery of materials or notice.
 - (4) If materials or notice are returned by the carrier with a notation that delivery could not be accomplished.

20.11 The Record of the Case, Briefs, Arguments, and all proceedings before a Panel or the Commission shall be presented in the English language.

20.12 All concurring opinions and all dissenting opinions, which do not qualify as minority decisions under terms of *BCO*, shall be reviewed by the full commission to determine whether or not such opinions are couched in temperate language.

If the concurring or dissenting opinion is attached to a panel's recommendation, the determination of temperate language may be made during the full commission's review of the case. If the opinion is timely filed under *SJC Man.* 19.8 (k), it shall be sent to members of the commission along with a ballot. The ballot should offer the choices of "language approved" or "language disapproved for this reason _____." The ballots must be returned to the Stated Clerk within ten (10) days by mail, fax, or e-mail. Any non-responses will be recorded as approval votes. If a majority of voting members approve, the opinion will be appended to the decision.

If a majority disapproves, the author and/or signers will be notified of the disapproval of the language and be given 15 days in which to submit a revision for review.

No unreviewed or unapproved concurring or dissenting opinion to an SJC decision may be communicated outside the commission.

21. REPORTS

21.1 The Standing Judicial Commission shall prepare a report to the General Assembly each year.

21.2 The Standing Judicial Commission shall make a full report of each case directed to the General Assembly, which report shall consist of the following:

- (a) A summary of the facts.
- (b) A statement of the issues.
- (c) The judgment of the Standing Judicial Commission
- (d) The reasoning and opinion of the Standing Judicial Commission.
- (e) The vote of the Standing Judicial Commission.
- (f) Any concurring and/or dissenting opinions of any members of the Standing Judicial Commission, which have been approved under 20.12.

21.3

(a) A copy of the report (see Section 21.2) of each case decided subsequent to the previous annual General Assembly shall be included in the *Commissioner Handbook* for the next following General Assembly.

(b) The briefs (see Sections 9.1, 9.2, 9.3, 9.4) shall be made available by electronic means or by inclusion in the *Commissioner Handbook* for the next following General Assembly.

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21.4 A minority decision may be filed in accordance with *BCO* 15-5(c) within 20 days of the adjournment of the Standing Judicial Commission making a decision, provided also that written notice by 1/3 of the voting members of the Commission file such notice within 24 hours of the adjournment.

21.5 The minutes, but not the judicial cases, decisions, or reports, of the Standing Judicial Commission shall be reviewed annually by the Committee on Constitutional Business. The minutes shall be examined for conformity to this Manual of the Standing Judicial Commission and *RAO* 17, violations of which shall be reported as “exceptions” as defined in *RAO* 14-11.d.(2). With respect to this examination, the Committee on Constitutional Business shall report directly to the General Assembly.

22. AMENDMENTS, USE AND DISTRIBUTION OF OPERATING MANUAL

22.1 This Manual may be amended as provided in *RAO* 17-5.

22.2 If any member asserts that this Manual has been violated in any case, such member may file a written objection citing the alleged violation. This written objection shall be included by the Secretary in the report of the case to the General Assembly filed under Section 21.2.

STANDING JUDICIAL COMMISSION

MEMBER VOWS

RAO 17-1. There shall be a Standing Judicial Commission composed of twenty-four members in accordance with *BCO* 15-4. Upon election, each new member of the Standing Judicial Commission, before entering upon the duties of this office, shall sign a printed copy of the following vows; further, if the newly elected member is present, he shall affirm these vows in the presence of the Assembly electing him:

“I do solemnly vow, by the assistance of the grace of God, in my service as a judge in this branch of the church of our Lord Jesus Christ, that

1. I will act as before God, my Judge and the Searcher of hearts;
2. I will judge without respect to persons, and if so tempted, will recuse myself from judgment;
3. I will judge not according to appearances, but judge righteous judgment;
4. I will judge according to the Constitution of the Presbyterian Church in America, through my best efforts applied to nothing other than the record of the case and other documents properly before me; and
5. If in a given case I find my view on a particular issue to be in conflict with the Constitution of the Presbyterian Church in America, I will recuse myself from such case, if I cannot conscientiously apply the Constitution.”

SIGN: _____

Print Name: _____

Date _____