

APPENDIX C

JUDICIAL MATTERS

PROCEDURAL CHECKLIST FOR PCA BCO RULES OF DISCIPLINE

by T. David Gordon

“The following checklist is, to the best of our knowledge, complete and accurate as of April 2015. Since the Book of Church Order is subject to revision at each meeting of the General Assembly, the checklist may not be accurate beyond the next meeting of the Assembly. Updated checklists are available, upon request, from the Stated Clerk’s Office in Atlanta.”

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PROCEDURAL CHECKLIST FOR PCA *BCO* RULES OF DISCIPLINE
 (This information to be used in connection with the SJC Manual)

Prior to First Meeting of Court

Line Nbr	Date or N/A	Initials	Item	<i>BCO</i> #
1.			Process entered before Session of church to which alleged offender belongs (unless offender is a minister, or process is an appeal)	33-1
2.			Injured party has tried means of reconciliation	31-5
3.			Instruction has been given to offender	31-5,7
4.			Consider character of person bringing accusations	31-8
5.			Give warning to voluntary prosecutor regarding slander	31-9
6.			Suspend official functions of church court members while under process (at discretion of court)	31-10
7.			In case of scandal, process shall commence within one year after offense committed	32-20
			<u>Cases without process:</u>	
8.			If any person comes forward and makes his offense known to the court, a full statement of the facts shall be recorded and judgment rendered without process.	38-1
9.			If a minister believes God has not called him to the ministry, see <i>BCO</i> 38-2 and 46-8	38-2; 46-8
10.			a. If a member or officer joins another evangelical church, see <i>BCO</i> 38-3a b. If a member or officer joins another body judged as failing to maintain the Word and Sacraments, see <i>BCO</i> 38-3b. c. If a member or officer willfully neglects the church for a period of one year, or makes known no intention of fulfilling church vows, see <i>BCO</i> 38-4.	38-3a 38-3b 38-4

First Meeting of Court

1.			Gal 6:1 reiterated	32-1
2.			Charge made out	32-2
3.			Charge reduced to writing	32-3
4.			Prosecutor appointed by court	31-2; 32-3.1
5.			Indictment prepared	31-2,4;32-3.2
6.			Times, places, circumstances particularly stated	32-5
7.			All parties and witnesses cited to appear and be heard at another meeting	32-3.3
8.			Attention called to Rules of Discipline (<i>BCO</i> 27-46)	32-3
9.			At least 10 days elapse between citation and next meeting	32-3.3; 32-7
10.			Citation issued and signed by moderator or clerk by order and in name of the court.	32-4

Second Meeting of Court

Line Nbr	Date or N/A	Initials	Item	BCO #
1.			Charges read to the accused	32-3
2.			Counsel assigned to accused if necessarily absent	32-3
3.			Accused responds with "guilty" or "not guilty"	32-3
4.			If "guilty" then court may deal with discretion	32-3
5.			If "not guilty" then trial date shall be scheduled no sooner than 14 days after citation	32-3
6.			If accused refuses to obey citation, cite a second time	32-6a
7.			Refusal to plead or cooperate will be dealt with for contumacy	32-6b
8.			When accused found contumacious	33-2
9.			Accused immediately suspended from the sacraments for contumacy (and if officer from office)	33-2
10.			Censure made public if Session deems expedient	33-2
11.			If charge is of gross crime or heresy , court may proceed to inflict highest censure	33-3
12.			If impracticable immediately to commence process, Session may fence the Table from the accused until examination.	33-4
13.			If offense took place at a distance	
14.			Court may appoint a commission of its body or request coordinate court where facts occurred to take testimony	32-8
15.			If offense not likely to become known to court of jurisdiction, Court of location sends notice to court of jurisdiction which shall proceed against accused; or whole case may be remitted to court of location.	32-9

The Trial

Line Nbr	Date or N/A	Initials	Item	BCO #
			Prior to trial:	
1.			Court ascertains that citations duly served	32-10
2.			Judicial Committee appointed if expedient	32-11
3.			Challenge for cause by either party on the right of any member to sit in trial. Other members of court decide the question	32-16
4.			Disqualification of any member considered	32-17
			In trial:	
5.			1. Moderator charges the court	32-12, 32.15.1
6.			2. Indictment read, Answer of accused heard	32-15.2
7.			3. Witnesses examined in presence of the accused	32-13
			<u>Witnesses for Prosecutor</u>	32-15.3
8.			Oath of 35-6 administered by Moderator	35-6
9.			Witnesses examined by Prosecutor party	35-5
10.			Witnesses cross-examined by Accused party	35-5
11.			Additional interrogatories by parties or court members	35-5
12.			More than one witness necessary to establish charge, unless corroborative evidence is produced in addition to one witness.	35-3
			<u>Witnesses for Accused</u>	32-15.3
13.			Oath of 35-6 administered by Moderator	35-6
14.			Witnesses examined by Accused party	35-5
15.			Witnesses cross-examined by Prosecutor party	35-5
16.			Additional interrogatories by parties or court members	35-5
			<u>Pertaining to All Witnesses</u>	
17.			Witnesses are of proper age and intelligence, and believe in the existence of God, or a future state of rewards and punishments.	35-1
18.			Either party has the right to challenge a witness whom he believes to be incompetent; to be decided by court.	35-1
19.			Husband or wife not compelled to bear testimony against one another	35-2
20.			No witness afterwards to be examined, unless a member of the court, shall be present during the examination of another witness on the same case, if either party object.	35-4
21.			Permission granted by Moderator for all questions before being put or answered, subject to appeal to the court.	35-5

22.			All testimony shall be recorded (transcription, audiotape, videotape, or some other electronic means) and witnesses informed of such prior to testifying. (See also <i>BCO</i> 32-18)	35-7
23.			Testimony may be taken by commission or coordinate court if necessary due to distance, per <i>BCO</i> 35-10.	35-10
24.			Professional counsel prohibited to appear	32-19
25.			<i>BCO</i> 35-7, as amended, now requires recording all testimony.	35-7
26.			4. Parties heard	32-15.4
27.			Prosecutor first	
28.			Accused next (not compelled to testify, 35-1)	
29.			Prosecutor closes	
30.			5. Roll is called—members may express opinion in the case	32-15.5
31.			6. Vote is taken	32-15.6
32.			Verdict announced	
33.			Judgment entered on records	
34.			Minutes of trial kept by clerk	32-18;35-7
35.			Record of the Case assembled by clerk	32-18

If Accused is a Minister

Line Nbr	Date or N/A	Initials	Item	<i>BCO</i> #
1.			Scandalous charges not received on slight grounds.	34-2
2.			Minister warned in private if guilty of private offense	34-3
3.			When accused found to be contumacious:	32-6
4.			Immediately suspended from sacraments and office	34-4a
5.			Record made of fact and of charges	34-4a
6.			Censure made public	34-4a
7.			If accused persists in contumacy, he shall be deposed and excommunicated	34-4b
8.			Errors carefully considered for heresy and schism	34-5
9.			Measures taken to remove scandal if appropriate	34-6
10.			Definite suspension or deposition imposed if minister makes confession pending trial	34-7
11.			Pastoral relation dissolved in case of deposition	34-9
12.			Assessment of dissolution in case of suspension from office	34-9
13.			For failure to discharge official functions, see 34-10	34-10

Infliction of Church Censures

Line Nbr	Date or N/A	Initials	Item	BCO #
1.			Court proceeds with tenderness (Gal 6:1)	36-1
2.			<u>Censure of Admonition</u>	36-3
3.			Administered in private if offense is private	
4.			Administered in presence of court if offense is public	
5.			Announced in public if court deems expedient	
6.			<u>Definite Suspension from Office</u> [see also <i>BCO</i> 33-2; 34-4(a)]	36-4
7.			Administered in presence of court alone or in open session of court, as court deems best	
8.			Public announcement made at court's discretion	
9.			<u>Indefinite Suspension from Office or Sacraments.</u> [see also <i>BCO</i> 33-2; 34-4 (a); 30-1; 30-3]	36-5
10.			Administered in presence of court alone or in open session of court, as court deems best	
11.			Public announcement made at court's discretion	
12.			Administered with added solemnity	
13.			Administered under blessing of God for repentance	
14.			Address offending brother per <i>BCO</i> 36-5	
15.			<u>Excommunication</u> [see also <i>BCO</i> 33-3; 34-4(b)]	36-6
16.			If accused persists in contumacy, shall be excommunicated	33-3
17.			Administered in presence of court alone or in open session of court, as court deems best	
18.			Public announcement made at court's discretion	
19.			Moderator reiterates steps of discipline taken	
20.			Explain authority of Church to excommunicate from Matt 18:15-18, and 1Cor 5:1-5	
21.			Administer censure in words of <i>BCO</i> 36-6	
22.			<u>Deposition</u>	36-7
23.			Administered by Moderator in words of <i>BCO</i> 36-7	
24.			If deposed without excommunication, Presbytery assigns him to membership in some particular church, subject to the approval of the Session of that church	46-8
25.			If includes suspension or excommunication, add appropriate words from <i>BCO</i> 36-7	36-7

Removal of Church Censures

1.			<u>Definite Suspension from Office</u>	37-1
2.			Offender repents of contumacy	33-2
3.			Gives satisfaction in relation to his charges	34-4a
4.			Declare words of <i>BCO</i> 37-1	
5.			<u>Indefinite Suspension from Sacraments</u> (see <i>BCO</i> 30)	37-2,3
6.			Rulers of church frequently converse with him and pray for God to grant repentance	
7.			Offender repents of contumacy	33-2
8.			Gives satisfaction in relation to his charges	34-4a
9.			Court satisfied with reality of repentance	37-3
10.			Offender admitted to profess repentance	
11.			Restoration declared by words in <i>BCO</i> 37-3	
12.			<u>Excommunication</u>	37-4
13.			Session obtained sufficient evidence of sincere repentance	
14.			Questions of <i>BCO</i> 37-4 posed to excommunicated person, with affirmative response given	
15.			Exhortation of encouragement and comfort given	
16.			Sentence of restoration pronounced (from <i>BCO</i> 37-4)	
17.			<u>Deposition from Office</u>	37-5,6
18.			Public confession made	
19.			Restoration announced by words of <i>BCO</i> 37-5	
20.			Absolved ruling elder or deacon re-elected by people before resumption of office	37-6
21.			<u>Restoration of Minister</u> [see also <i>BCO</i> 34-4a]	
22.			Minister exhibits for a considerable time such an eminently exemplary, humble and edifying life and testimony as shall heal the wound made by his scandal.	34-8
23.			General sentiment of the church is strongly in minister's favor and demands his restoration	34-8
24.			Presbytery proceeds with great caution	37-8
25.			Admitted to Sacraments	37-8
26.			Granted privilege to preach on probation for a time	37-8
27.			See <i>BCO</i> 37-9 for jurisdiction in removal of censures	37-9
28.			Restoration pronounced	37-8,9

General Review and Control

Line Nbr	Date or N/A	Initials	Item	BCO #
1.			<u>Areas Reviewed:</u>	40-2
2.			Proceedings correctly recorded	40-2.1
3.			Proceedings regular and in accordance with Constitution	40-2.2
4.			Proceedings wise, equitable, suited to promote welfare of Church	40-2.3
5.			Lawful injunctions of higher court obeyed	40-2.4
6.			Higher court records approval or disapproval, and corrections of lower court records	40-3
7.			Requirement communicated for review and correction of serious irregularities	40-3
8.			If appeal or complaint is in process, judicial case proceedings not dealt with under review and control	40-3
9.			Gross negligence of lower court examined, deliberated and judged by higher court.	40-4
10.			In case of delinquency or unconstitutional proceedings:	40-5 (cf. BCO)
11.			Offending court cited to appear	
12.			Offending court show what it has done or failed to do	
13.			Court issuing citation may:	
14.			Reverse or redress lower court's proceedings	
15.			Censure delinquent court	
16.			Remit whole matter with injunction to delinquent court	
17.			Stay all further proceedings in the case	
18.			Process against lower court conducted according to rules for process against individuals	40-6

References

1.			Reference deemed necessary by lower court	41-5
2.			All testimony and other documents duly prepared	41-6
3.			Reference presented to higher court, accompanied by necessary records	41-4

Appeals

1.			Appeal made only to next higher court	42-1
2.			Regular trial has taken place	42-2
3.			Legitimate grounds of appeal established	42-3
4.			Notice of Appeal given	42-4
5.			Filed by appellant with clerk of lower court and clerk of higher court, within thirty (30) days of notification of the last court's decision.	

Line Nbr	Date or N/A	Initials	Item	BCO #
6.			No attempts made to circularize courts	
7.			Clerk of lower court file Record of the Case with clerk of higher court, not more than 30 days after receipt of notice of appeal	42-5
8.			<u>Record of the Case Includes:</u>	42-5
9.			Copy of all proceedings in connection with case	
10.			Notice of appeal and reasons therefore	
11.			Response of lower court	
12.			Evidence	
13.			Any papers bearing on the case Admissibility of Audio/Video recordings	OMSJC 7.2B3
14.			If Record not filed, rebuke given by higher court	42-7
15.			No information other than Record of the Case taken into consideration by higher court	42-5;32-18; but see 35-14
16.			Judgment of lower court suspended pending higher court's decision	42-6
17.			Suspension, excommunication or deposition may be put into effect for sufficient reasons until final decision	42-6
18.			Higher court decision whether appeal is in order	42-7
19.			Higher court hears the case	42-8
20.			Record of the Case is read	
21.			Each side allotted not over 30 minutes for oral argument	
22.			Appellant given right to open and close argument	
23.			Suitable rebuke given by appellate court if appellant manifests litigious or unChristian spirit	42-12
24.			Court or commission enters closed session	42-8
25.			Court or commission discuss merits of the case	42-8
26.			Vote taken, without further debate, on each specification:	42-8
27.			Shall this specification of error be sustained?	42-8
28.			Minute explanatory of court's action written, and entered into Record of the Case	42-8
29.			Decision of higher court made:	42-9
30.			Affirm in whole or in part	
31.			Reverse in whole or in part	
32.			Render decision that should have been rendered	
33.			Remand the case to lower court for new trial	
34.			Written opinion prepared	
35.			Copy of opinion and judgment delivered personally or mailed to the lower court , with written receipt required.	
36.			Copy of opinion and judgment delivered personally or mailed to the appellant , with written receipt required.	

Line Nbr	Date or N/A	Initials	Item	BCO #
37.			An appellant shall be considered to have abandoned his appeal if he fails to appear before the higher court, in person or by counsel, for a hearing thereof, after he has been properly notified; but an appellant may waive, in writing, his right to appear with permission of the court and not be considered to have abandoned his case. In case of such failure to appear, the judgment of the lower court will stand unless the appellant gives to the court a prompt and satisfactory explanation.	42-11

Complaints

1.			Written notice of complaint, with supporting reasons, filed with clerk of court within 60 days following meeting of the court	43-2
2.			Court consider complaint at next meeting	
3.			No attempt made to circularize the court	
4.			Complainant may take complaint to next higher court if:	43-3
5.			Court alleged to be delinquent denies complaint	
6.			Court fails to consider complaint by next stated meeting	
7.			Complainant files written notice of complaint together with supporting reasons, with both the clerk of the lower court and the clerk of the higher court within thirty (30) days notification of the last court's decision.	
8.			Action against which the complaint made not suspended , unless 1/3 of the members vote for suspension, until final decision in the higher court.	43-4
9.			Representative(s) appointed to defend action of lower court	43-5
10.			Clerk of lower court files following documents with clerk of higher court, not more than 30 days after receiving notice of complaint	43-6
11.			Copy of all proceedings in connection with the complaint	
12.			Notice of complaint and supporting reasons	
13.			Response of the lower court, if any	
14.			Any papers bearing on the complaint.	
15.			Rebuke from higher court in case of failure to thus file	43-6
16.			Complainant waives right to appear with permission of court	43-7

Line Nbr	Date or N/A	Initials	Item	BCO #
17.			Complainant has abandoned complaint if fails to appear without waiving right or giving satisfactory explanation	43-7
18.			Higher court hears complaint if considers complaint in order	43-8
19.			Higher court may appoint commission to hear complaint	43-8; 15-2,3
20.			Court notifies complainant and respondent in writing of the date set for the hearing	43-8
			<u>At the Hearing:</u>	43-9
21.			All papers bearing on complaint are read	
22.			Complainant given opportunity to present argument	
23.			Respondent given opportunity to present argument	
24.			Complainant given right of opening and closing the argument	
25.			Court or commission enters closed session	
26.			Discusses and considers merits of the complaint.	
27.			Vote taken as to what disposition should be made of the complaint	
28.			Complainant notified of the court's decision	
29.			Respondent notified of the court's decision	
30.			Court may annul whole or any part of lower court's action	43-10
31.			Court may send matter back to lower court for new hearing	43-10

Dissents, Protests, and Objections

1.			(For definitions of D, P, & O, see <i>BCO</i> 45-2,3,4)	45-2,3,4
2.			D/P filed by one who had right to vote in the case	45-1
3.			O filed by one who did <i>not</i> have right to vote	45-1, 4
4.			D/P/O filed with clerk of lower court within 30 days following meeting of lower court, or with clerk of the General Assembly before its adjournment.	45-1
5.			D/P/O filed with reasons (generally, but <u>not necessary</u>)	45-2,3,4
6.			D/P/O in temperate language, respectful to court	45-5
7.			D/P/O recorded by court	45-5
8.			Court records answer to D/P/O if deemed necessary	45-5

Jurisdiction

1.			When church member removes his residence beyond bounds:	46-1
2.			Certificate of dismissal obtained from old Session	
3.			Certificate of dismissal presented to new church	
4.			If Certificate of dismissal not possible:	
5.			Received by the Session upon other testimonials	
6.			Old church duly notified	
7.			Elders of old church continue oversight until transfer	46-2
8.			Elders of old church inform on duty to transfer	
9.			Old church notify session of church in new bounds	
10.			If transfer neglected for 1 year, name removed from roll, unless special permission granted	46-2, 38-4
11.			Regular connection with new church formed	46-3
12.			Associate Members:	46-4
13.			All rights and privileges afforded	
14.			Barred from voting in congregational or corporate mtgs.	
15.			Barred from holding office	
16.			If a member or officer joins another evangelical church, see <i>BCO</i> 38-3a	38-3a
17.			If a member or officer joins another body judged as failing to maintain the Word and Sacraments, see <i>BCO</i> 38-3b	38-3b
18.			Member who has willfully neglected church for 1 year, or has made known he/she has no intention of fulfilling vows:	38-4
19.			Session follows Scriptural procedures (Matt 18, Gal. 6:1)	
20.			Session reminds member of solemn covenant	
21.			Session erases name from church roll	
22.			Session notifies person whose name was erased	
23.			Minister/Licentiate/Candidate dismissed from Presbytery:	46-6
24.			Name of Presbytery to which dismissed, in certificate	
25.			Remains under jurisdiction until received by other Presbytery	
26.			Certificate of Dismission valid testimony of good standing for only 1 year	46-7
27.			Minister divested of his office without censure, or deposed without excommunication:	46-8
28.			Presbytery assigns him membership in some particular church, subject to approval of Session of that church	

Presbytery Judicial Commissions Acting As Appellate Courts

1.			See APPENDIX H of <i>BCO</i>	15, Appendix H
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