

Suggested Procedures for Handling a Complaint

by the Court Complained Against¹

A Complaint must be considered either at the next stated meeting of the court or at a called meeting before the stated meeting. “If the complaint is filed with less than ten (10) days’ notice, the court may consider the complaint at a later meeting not more than 60 days later.” (*BCO* 43-2)

To consider a complaint, the court does not necessarily have to decide the complaint, but it must act upon it. For example, the court may declare the complaint in order and appoint a commission to decide the complaint, the court may schedule a hearing for the complaint, or the court may hear and debate the complaint and appoint a committee to study and report back on a question before making the final decision. This provision of consideration at the next meeting is to ensure timely action upon the complaint, so any action taken to consider the complaint must be a means of doing something other than unnecessarily delaying the deciding of the complaint.²

A hearing is not required when a complaint is considered by the original court. The following procedures present the fullest process modelled upon that in the *OMSJC* for a higher court hearing a complaint against a lower court.

These may be modified to not include briefs, respondents, or a full hearing. The simplest form of the process should include the opportunity for the complainants to present their complaint and reasoning with the court, whether in writing (e.g., briefs, section 5), in person, or both.

There is no Record of the Case (ROC) in a Complaint being heard by the court whose action is being complained against as there has been no action by a lower court in the matter, the record of which forms the basis of the ROC (*BCO* 43-6). The process of adjudicating the Complaint by the original court forms core of the Record of the Case for any carrying of it up to a higher court.

¹ These procedures are based upon the *OMSJC* procedures for a Complaint heard by the SJC. They have been modified to fit a Session or Presbytery context and to adjust to the adjudication by the original court as opposed to a higher court reviewing a lower court’s ruling on a Complaint. Not all components of this procedure are constitutionally mandated, but following these procedures aids the court in complying with both the spirit and the letter of the *BCO*.

² Almquist, C.S. Per, *Our Bond of Union: A Commentary on the Book of Church Order of the Presbyterian Church in America* (Committee on Discipleship Ministry, 2025), 360.

1	Determination of Who Will Adjudicate the Complaint	
1.1	Presbyteries and larger Sessions need to determine if the Complaint will be adjudicated by the Presbytery/Session as a whole or by a commission. <i>BCO 15-3</i>	Some options: <ol style="list-style-type: none"> 1. Commission erected to hear and adjudicate 2. Committee appointed to hear and recommend a response to the Presbytery/Session 3. Presbytery/Session hears and adjudicates 4. Presbytery/Session hears and a committee recommends a response to the Presbytery/Session
1.2	If the action complained against was the action of a commission, that commission must adjudicate the complaint. <i>BCO 15-1</i>	
1.3	A court may assign one or more members to defend its action or decision, acting as Respondent's on the court's behalf—e.g., filing a brief and presenting oral arguments defending the court's action(s).	If the complaint is being heard by a commission (not including the circumstances of 1.2), these representatives are not members of the commission.

2	Suspension of the Action Against Which Complaint is Made	
2.1	“Notice of complaint shall not have the effect of suspending the action against which the complaint is made, unless one-third (1/3) of the members present when the action was taken shall vote for its suspension, until the final decision in the higher court.” <i>BCO 43-4</i>	This step only needs to be taken if a member of the court makes a motion to suspend the action.

3	Determination as to whether the Complaint is in Order	
3.1	A Complaint is <i>administratively in order</i> if the relevant provisions of <i>BCO 43</i> have been followed, including, but not limited to, a statement of the action(s) or delinquency(s) complained of and the reasons supporting said complaint set forth	

	(preferably in numbered paragraphs for easy reference). <i>BCO 43-2, Appendix G.VI</i> ³	
3.2	<p>A Complaint is <i>judicially in order</i> if:⁴</p> <p>(a) The Complainant has standing to file.</p> <p>(b) The Complaint was timely filed.</p> <p>(c) The action complained against is an act or decision of a court of the Church. <i>BCO 43-1</i></p> <p>(d) A ground or reason has been specified. <i>BCO 43-2</i></p>	<p>It is the right of any communing member of the Church in good standing to make complaint against any action of a court to whose jurisdiction he is subject. <i>BCO 43-1</i></p> <p>The SJC has held that a TE is always a member of Presbytery, but an RE only has standing to file a complaint when an action was taken at a Presbytery meeting at which he was a commissioner. <i>BCO 13-1</i></p> <p>Written notice of complaint, with supporting reasons, shall be filed with the clerk of the court within sixty (60) days following the meeting of the court. <i>BCO 43-2</i></p> <p>These courts are church Sessions, Presbyteries, and the General Assembly. <i>BCO 10-2</i></p> <p>A commission acts on behalf of the court that appointed it, so its action may be complained against.</p> <p>A congregation is not a court of the Church so actions of a congregational meeting may not be complained against.</p>
3.3	If the action complained about relates to a judicial case under process, and the Complaint was timely filed, “the court’s adjudication shall be delayed until after the judicial case has been completed, or, if an appeal is filed, after it has been fully adjudicated or withdrawn.” <i>BCO 43-1</i>	
If the complaint is found to be in order, proceed to Section 5.		

³ *OMSJC 9.1.a(2)*

⁴ *OMSJC 10.5*

4	If the Complaint is Found Not to be in Order:	
4.1	The court/Commission should reduce to writing the ground(s) for such finding, including any conclusion as to whether the case either can or cannot be put in order. This should be sent to the Complainant with a request that the case be put in order, if possible.	Putting it in order may include only formatting, not substantive, changes. ⁵
4.2	<p>The Complainant may file a Review Brief within 15 days of such notification. The Review Brief sets out the Complainant's position regarding whether the Complaint is in order.⁶</p> <p>A Review Brief that is timely filed but does not meet these standards shall be returned to the Complainant. A revised Review Brief may be submitted within 5 days of notification that the brief does not meet the standard of form.⁸</p>	<p>Guidelines for a Review Brief:⁷</p> <ul style="list-style-type: none"> • No longer than two (2) pages • 8½ x 11 pages with 1-inch margins on all sides • No smaller than 12-point font • Line numbering that restarts on each page
4.3	After the 30-day period described above (4.1 and 4.2) has expired, and after reviewing any Review Brief(s) timely filed, the Presbytery/Commission shall make a secondary determination as to whether the case is in order. ⁹	No party shall be entitled to an oral hearing on such a jurisdictional question without the consent of the Presbytery/Commission. ¹⁰
4.4	If the secondary conclusion is that the case is not in order, no further action shall be taken in relation to the case other than to dismiss the Complaint on the ground that the case is out of order.	This decision should be communicated to both parties and should include a statement setting forth the ground(s) for the conclusion that the case is not in order and either an explanation as to why it cannot be put in order or that the parties have failed to timely put the case in order despite an opportunity to do so.
4.5	Alternatively, the Presbytery/Commission may, based on the Review Brief(s), find that the case is administratively in order and proceed with the case.	

⁵ OMSJC 9.2.a

⁶ OMSJC 8.1 and 9.2.a

⁷ OMSJC 8.5

⁸ OMSJC 8.5.c

⁹ OMSJC 9.2.b and 10.6

¹⁰ OMSJC 9.2.b

5	Preliminary Briefs once the Complaint is found in order	
5.1	<p>Both parties (if Respondents have been appointed in 1.3 above) may each submit one Preliminary Brief. Any Preliminary Brief from a Complainant shall be filed no later than 14 days after he receives notice that the Complaint is in order. This brief shall immediately be sent to the Respondent, who may file a Preliminary Brief no later than 14 days prior to the date set for the hearing.¹¹</p> <p>Such Preliminary Brief should include the party's position with regard to:¹³</p> <ol style="list-style-type: none"> (1) A summary of the facts (2) A statement of the issues (3) The proposed judgment and relief (4) Argument in support of the judgment and relief sought 	<p>Failure to file a brief by a party shall not be considered to be an abandonment of the case.¹²</p> <p>Guidelines for a Preliminary Brief:¹⁴</p> <ul style="list-style-type: none"> • No longer than ten (10) pages • 8½ x 11 pages with 1-inch margins on all sides • No smaller than 12-point font • Line numbering that restarts on each page
5.2	<p>A Preliminary Brief that is timely filed but does not meet these standards shall be returned to the Complainant. A revised Preliminary Brief may be submitted within 5 days of notification that the brief does not meet the standard of form.¹⁵</p>	

6	The Hearing <i>OMSJC</i> 10.8 through 10.10 and 14	
6.1	<p>At the time and place set for a hearing of the case, the Moderator of the court or Chair of the Commission shall call the court/Commission to order and proceed as follows:¹⁶</p>	

¹¹ *OMSJC* 8.2.a

¹² *OMSJC* 8.6

¹³ *OMSJC* 8.2.b

¹⁴ *OMSJC* 8.5. *OMSJC* 8.5.b gives twelve (12) pages, but because the SJC only hears complaints raised to a higher court, their briefs include an additional section with a summary of the proceedings in the lower court(s).

¹⁵ *OMSJC* 8.5.c

¹⁶ *OMSJC* 10.8.a

	<p>(1) Prayer should be offered by a member of the court/Commission.</p> <p>(2) All members of the court or Commission should be polled to certify that they have read all briefs timely filed (if any). Any member who cannot so certify shall not participate in any aspect of the proceedings, including deliberations and voting on the case, unless such member can become qualified after a postponement of the hearing.</p> <p>(3) The Moderator/Chair shall enjoin the members of the court/Commission 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. <i>BCO 32-12</i></p>	
6.2	After the hearing shall have been opened and the initial requirements of 6.1 met, but before any arguments of the parties have been presented, the members of the court/Commission shall have the opportunity to question the parties on any matter before the court. ¹⁷	
6.3	<p>THE ORAL ARGUMENTS: The arguments of the parties shall be heard in the following order:¹⁸</p> <p>(1) the Complainant makes the opening argument</p> <p>(2) the Respondent then replies</p> <p>(3) the Complainant makes the closing argument</p>	<p>A party shall have a maximum of 30 minutes to argue his case before the court/Commission (and in the case of the Complainant, this 30 minutes is inclusive of both his opening and closing arguments).¹⁹</p> <p>At any time during which a party is presenting an argument, a member of the court/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.²⁰</p>

¹⁷ *OMSJC 14.3.b*

¹⁸ *OMSJC 14.3.a*

¹⁹ *OMSJC 14.3.c*

²⁰ *OMSJC 14.3.d*

6.4	<p>AFTER THE ORAL ARGUMENTS: The court/Commission shall go into closed session and discuss the issues in the matter to:²¹</p> <ol style="list-style-type: none"> (1) Frame the issues (2) Vote on a judgment (see 7.1), (3) If the Complaint is sustained, the actions to remedy the error (see 7.2). 	<p>Framing the issues means to render concisely the specific issues being judged. Typically, this is one or more statements: Did the Session/Presbytery/Commission err when it _____?</p>
-----	--	---

7	The Judgment	
7.1	<p>When the court/Commission is ready to vote, the vote shall be taken, without further debate, as to what disposition should be made of the complaint. The decision may be:²²</p> <ol style="list-style-type: none"> (1) Deny the complaint and affirm the court's original action in whole (2) Deny the complaint and affirm the court's original action in part, thereby sustaining the complaint in part (3) Sustain the complaint in whole 	<p>Go to 7.3</p>
7.2	<p>If the complaint is sustained in part or in whole, the court/Commission must determine the appropriate actions to rectify the action(s) in error.</p>	<p>Possible actions may be to:</p> <ul style="list-style-type: none"> • <u>Reconsider</u> the action—places the motion to be reconsidered on the floor in the exact position it occupied the moment before it was voted on originally. RONR (12th ed.) 37 • <u>Rescind</u> something previously adopted—strikes out the original action entirely. RONR (12th ed.) 35 • <u>Amend</u> something previously adopted—the form to use when the desire is to change a part or substitute a different action. RONR (12th ed.) 35

²¹ OMSJC 10.10

²² OMSJC 14.4.c

7.3	<p>When a decision has been reached, a full statement of the case should be prepared. This statement should include:²³</p> <ul style="list-style-type: none"> (1) A summary the facts (2) A statement of the issues: a concise framing by the court/Commission of the specific issues being judged in the case (3) The judgement (4) The reasoning and opinion of the court/Commission (5) Any remedy or redress taken 	<p>A presentation in chronological order of the relevant history and facts that bear on the case.</p> <p>A concise framing by the court/ Commission of the specific issues being judged. Typically, this is one or more statements such as:</p> <ul style="list-style-type: none"> 1. Did the Session/Presbytery/ Commission err when it _____? 2. Did the Session/Presbytery/ Commission err when it _____? <p>A definite conclusion rendered on the specific issues being judged. Typically,</p> <ul style="list-style-type: none"> 1. Yes 2. No <p>The court/Commission's explanation of the resolution of disputed facts and reasons for the judgment rendered.</p>
7.4	<p>This decision should be sent to the Complainant and, in the case of a Commission, to the court that appointed it. Upon receiving the Commission's report, it becomes part of the court's minutes along with the Commission's minutes. <i>BCO</i> 15-1 and 15-3</p>	<p>If the complaint was decided by a Commission, the judgment of the Commission is the judgement of the court, so the court appointing it does not vote on the judgement.²⁴</p>

²³ *OMSJC* 10.11

²⁴ *BCO* 15-3