

Suggested Procedures for Handling a Complaint

Against a Session Taken to Presbytery¹

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* 43-3

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

1	Determination of Who Will Adjudicate the Complaint	
1.1	The Presbytery needs to determine if the Complaint will be adjudicated by the Presbytery as a whole or by a commission. <i>BCO</i> 15-3	<p>Some options:</p> <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 3. Presbytery hears and adjudicates 4. Presbytery hears and a committee recommends a response to the Presbytery <p>If the complaint is heard by a Commission, the members of the Commission are members of the Presbytery other than members of the Session of the church from which the complaint comes.³ Though Assistant Pastors are not members of the Session, the spirit of the <i>BCO</i> is that assistant pastors of the church from which the Complaint came should not serve on the Commission.</p>

¹ These procedures are based upon the *OMSJC* procedures for a Complaint heard by the SJC. They have been modified to fit a Presbytery context.

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.

³ *BCO* 15-3

1.2	The Session against whom the Complaint is made shall appoint one or more representatives to defend its action or decision before the Presbytery. A Complainant may present his complaint himself or he may obtain the assistance of a communing member in good standing of the PCA. <i>BCO 43-5</i>	
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2	The Record of the Case (ROC) <i>BCO 43-6</i>	
2.1	The Record of the Case (ROC) shall be prepared by the Clerk of Session and filed with the Stated Clerk of Presbytery not more than 30 days after receipt of notice of complaint. <i>BCO 43-6</i>	
2.2	Contents:	
2.2.1	<p>The ROC shall include:⁴</p> <ul style="list-style-type: none"> (a) 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 (b) The response of the lower court, its acts, orders, decisions and judgment (c) All transcribed testimony actually taken before the lower court. <i>BCO 35-9</i> (d) Any papers bearing on the Complaint 	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. <i>BCO 35-10</i>
2.2.2	Only documents provided to the Presbytery Stated Clerk can be included in the Record of the Case. No document shall be included in the ROC that must be accessed through external links, websites, QR codes, file-sharing services, or other external digital platforms. ⁵	

⁴ *BCO 43-6* and *OMSJC 7.2.b*

⁵ *OMSJC 7.2.c*

2.2.3	The Clerk of Session shall work with the Presbytery Stated Clerk to provide an inventory of documents for the Record. ⁶	
2.2.4	<p>The Clerk of Session shall provide a summary timeline of the Case. This will include dates that important documents were filed, dates parties received important notifications, significant actions of the original and higher courts related to the matter and dates thereof in the following format.⁷</p> <p>MM/DD/YY Session action.</p> <p>MM/DD/YY John Doe filed complaint with Session.</p> <p>MM/DD/YY Session called meeting; complaint was considered and denied.</p> <p>MM/DD/YY Complainant received notification that his complaint was denied.</p> <p>MM/DD/YY Complainant carried/filed that complaint with Presbytery.</p> <p>MM/DD/YY Presbytery stated meeting; complaint was considered and denied.</p> <p>MM/DD/YY Complainant notified Presbytery Clerk he had carried/filed it with the SJC.</p>	
2.3	A copy of the Record of the Case shall be sent to the parties. ⁸	
2.4	The parties shall have the right to examine the Record of the Case. Corrections to the Record of the Case shall be considered as follows: ⁹	
2.4.1	The Moderator of Presbytery, or the Chairman of the Commission if the case is to be heard by a Commission, shall serve as mediator between the parties with respect to the perfection of the Record.	

⁶ OMSJC 7.2.d

⁷ OMSJC 7.2.e

⁸ OMSJC 7.3

⁹ OMSJC 7.4

2.4.2	<p>The hearing body may delete any portions of the ROC as submitted that violate justice or due process, a provision of the <i>BCO</i> or <i>Robert's Rules of Order</i>, or that are extraneous to the matter before them. The hearing body may also require the addition of material to the ROC that is relevant to the Case. Deletions and additions shall always be recorded in the minutes of the hearing body, with the approved rationale for the change. Any deletions or additions shall be reported to the parties and may be addressed in argument from the parties in any hearing requested by a party on the ROC.</p>	
2.4.3	<p>If a party objects to any portion of the Record, the other party shall respond to such objection within 15 days of receipt of notification of the objection. Such response shall be in writing and must be filed with the Presbytery Stated Clerk or the Chairman of the Commission. The response must also be copied to the party that lodged the objection. If a party, having received notice that an objection to the ROC has been filed, fails to respond to that objection within 15 days they shall be deemed to have acceded to the objection.</p>	
2.4.4	<p>If the other party shall accede to the objection, it shall be so stipulated in writing and made a part of the Record of the Case. Such stipulation shall be filed not more than 30 days after the date the last party received such ROC, obtaining a receipt of acknowledgment.</p>	
2.4.5	<p>If the other party does not accede to the objection, the Presbytery/Commission shall hold a hearing with respect to the objection.</p> <ul style="list-style-type: none"> (1) In preparation for the hearing the Moderator/Chairman shall: <ul style="list-style-type: none"> (a) Set a date and time for the hearing, making every reasonable effort to obtain such date and time as may be agreeable to the parties. 	

	<p>(b) Notify the parties of such date and time for the hearing not less than 14 days prior to the date of hearing, obtaining a receipt of acknowledgement from each party. Such 14-day period may be shortened if the parties agree in writing.</p> <p>(c) Notify the parties of their right to submit briefs.</p> <p>(2) The hearing shall proceed as follows:</p> <p>(a) After the hearing has been opened, but before any arguments are presented, the members of the Presbytery/Commission shall have the opportunity to question the parties with respect to the matter at hand. The same shall be true after the conclusion of the time for argument.</p> <p>(b) A party shall have a maximum of 20 minutes to address the question, the time divided between opening arguments by the parties in turn, and rebuttal arguments by the parties in turn.</p> <p>(c) At any time during which a party is presenting an argument, a member of the Presbytery/Commission may ask questions of that party; the time taken for such questions shall not form a part of the time of the party questioned.</p> <p>(3) After oral argument the parties shall be dismissed and the Presbytery/Commission shall make a decision as to whether in fairness and justice the ROC should be corrected.</p>	<p>Suggested Guidelines for an ROC Brief:¹⁰</p> <ul style="list-style-type: none"> • No longer than five (5) 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
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¹⁰ OMSJC 7.2.4.f(1)(c) and 8.5.a

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</i> 43 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</i> 43-2, Appendix G.VI ¹¹	
3.2	<p>A Complaint is <i>judicially in order</i> if:¹²</p> <ul style="list-style-type: none"> (a) The Complainant has standing to file. (b) The Complaint was timely filed. (c) The Complaint was first filed with Session whose act or decision is alleged to be in error. <i>BCO</i> 43-2 and 43-3. (d) A ground or reason has been specified. <i>BCO</i> 43-2 (e) The Record of the Case (ROC) appears to be complete and sufficiently documented. <i>BCO</i> 43-6 	<p>Only the complainant may take his complaint to a higher court. Someone else may not take a complaint that was not his own to a higher court. <i>BCO</i> 43-3</p> <p>Written notice of taking the Complaint up shall be filed with both the Clerk of Session and the Presbytery Stated Clerk within thirty (30) days of notification of the Session's decision. <i>BCO</i> 43-3</p> <p>No changes may be made to the Complaint before submitting it to the Presbytery. There are three purposes for this requirement,</p> <ul style="list-style-type: none"> a. To give the court of original jurisdiction an opportunity to change its ruling. b. To ensure that the complainant does not add to his original complaint. c. To ensure that the higher court evaluates the case on the basis of the Record of the Case <p>See §2</p>
If the complaint is found to be in order, proceed to Section 5.		

¹¹ *OMSJC* 9.1.a(2)

¹² *OMSJC* 10.5

4	If the complaint is found not to be in order:	
4.1	The Presbytery/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 relevant party with a request that the case be put in order, if possible, within 30 days. ¹³	Putting it in order may include only formatting, not substantive, changes. ¹⁴
4.2	<p>Each party should be allowed to file a Review Brief. The Review Brief sets out the party's position regarding whether the Complaint is in order. In such Review Brief, the parties may allude to those documents that have been supplied by the lower court as the proposed Record of the Case and may additionally allude to any documents that were not submitted as part of the proposed Record of the Case but only if such documents bear on whether the case is in order.¹⁵</p> <p>The Complainant may file a Review Brief within 15 days of such notification. The Respondent may file a responsive Review Brief within 15 days of receiving the Complainant's Review Brief.¹⁶</p> <p>A Review Brief that is timely filed but does not meet these standards shall be returned to the sending party. A revised Review Brief may be submitted within 5 days of notification that the brief does not meet the standard of form.¹⁸</p>	<p>Guidelines for a Review Brief:¹⁷</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. ¹⁹	No party shall be entitled to an oral hearing on such a jurisdictional question without the consent of the Presbytery/Commission. ²⁰

¹³ OMSJC 8.1 and 10.6

¹⁴ OMSJC 9.2.a

¹⁵ OMSJC 8.1

¹⁶ OMSJC 8.1 and 9.2.a

¹⁷ OMSJC 8.5

¹⁸ OMSJC 8.5.c

¹⁹ OMSJC 9.2.b and 10.6

²⁰ OMSJC 9.2.b

4.4	<p>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.</p> <p>If, however, the defect is due to the neglect or failure of the lower court to provide a Record of the Case that is “complete and sufficiently documented” as defined in <i>BCO</i> 43-6 and <i>OMSJC</i> 7, then the Presbytery/Commission shall suspend the act or decision complained against until the proceedings are produced so that the Presbytery/Commission can fairly consider the complaint.²¹</p>	<p>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.</p>
4.5	<p>Alternatively, the Presbytery/Commission may, based on the Review Brief(s), find that the case is administratively in order and proceed with the case.</p>	

5	Preliminary Briefs once the Complaint is found in order	
5.1	<p>Each party may 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.²²</p> <p>Such Preliminary Brief should include the party’s position with regard to:²⁴</p> <ol style="list-style-type: none"> (1) A summary of the facts (2) A summary of the proceedings at the Session (3) A statement of the issues 	<p>Failure to file a brief by a party shall not be considered to be an abandonment of the case.²³</p> <p>Guidelines for a Preliminary Brief:²⁵</p> <ul style="list-style-type: none"> • No longer than twelve (12) 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

²¹ *BCO* 43-6 and *OMSJC* 10.6

²² *OMSJC* 8.2.a

²³ *OMSJC* 8.6

²⁴ *OMSJC* 8.2.b

²⁵ *OMSJC* 8.5

	<p>(4) The proposed judgment and relief</p> <p>(5) Argument in support of the judgment and relief sought</p>	
5.2	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 <u>5</u> days of notification that the brief does not meet the standard of form. ²⁶	

6	The Hearing	
6.1	<p>At the time and place set for a hearing of the case, the Moderator of the Presbytery or Chair of the Commission shall call the Presbytery/Commission to order and proceed as follows:²⁷</p> <ol style="list-style-type: none"> (1) Prayer should be offered by a member of the Presbytery/Commission. (2) All members of the Presbytery/Commission should be polled to certify that they have read the ROC and 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. (3) The Moderator/Chair shall enjoin the members of the Presbytery/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> (4) Remind the Presbytery/Commission members that they should disregard all 	

²⁶ OMSJC 8.5.c

²⁷ OMSJC 10.8

	<p>evidence not in the Record of the Case (<i>BCO</i> 32-18); even though such evidence may be found in the briefs of the parties or in oral argument (See <i>OMSJC</i> 8.3).</p> <p>(5) Read to the Presbytery/Commission members the principles of Review set forth in <i>BCO</i> 39-3.</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 Presbytery/Commission shall have the opportunity to question the parties on any matter before the court. ²⁸	
6.3	<p>THE ORAL ARGUMENTS: The arguments of the parties shall be heard in the following order:²⁹</p> <ol style="list-style-type: none"> (1) the Complainant makes the opening argument (2) the Respondent then replies (3) the Complainant makes the closing argument 	<p>A party shall have a maximum of 30 minutes to argue his case before the Presbytery/Commission (and in the case of the Complainant, this 30 minutes is inclusive of both his opening and closing arguments).³⁰</p> <p>At any time during which a party is presenting an argument, a member of the Presbytery/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.³¹</p>
6.4	<p>AFTER THE ORAL ARGUMENTS: The court/Commission shall go into closed session and discuss the issues in the matter to:³²</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>

²⁸ *OMSJC* 14.3.b

²⁹ *OMSJC* 14.3.a

³⁰ *OMSJC* 14.3.c

³¹ *OMSJC* 14.3.d

³² *OMSJC* 10.10

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 made of the complaint. The decision may be:³³</p> <ul 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 	Go to 7.3
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
7.3	<p>When a decision has been reached, a full statement of the case should be prepared. This statement should include:³⁴</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 	<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> <ol style="list-style-type: none"> 1. Did the Session/Presbytery/ Commission err when it _____? 2. Did the Session/Presbytery/ Commission err when it _____?

³³ OMSJC 14.4.c

³⁴ OMSJC 10.11

	<p>(3) The judgement</p> <p>(4) The reasoning and opinion of the court/Commission</p> <p>(5) Any remedy or redress taken</p>	<p>A definite conclusion rendered on the specific issues being judged. Typically,</p> <p>1. Yes</p> <p>2. No</p> <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 15-1 and 15-3</i></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.³⁵</p>

³⁵ *BCO 15-3*