

Administrative Commissions

Administrative Commission appointed to “visit particular churches ... reported to be affected with disorder and inquire into and settle difficulties therein” — G-9.0502 G-9.0503a(4), G-9.0504, G-9.0505

Administrative Commissions may be appointed by presbyteries for a variety of functions (to ordain and install officers; organize, merge, or close churches; receive candidates) as well as to “inquire into and settle difficulties.” However it is this last type of commission that so often provokes raw high emotion and so often results in a judicial review by a judicial commission. With the stakes so high, even small irregularities are magnified.

Creation of the Administrative Commission:

Many future difficulties can be avoided by a careful evaluation of the presbytery’s goals in creating the commission and the powers the presbytery’s commission will need to meet those goals. OGA does not keep statistics on this topic, but our experience suggests that a large proportion of commissions appointed by presbyteries are appointed at the request of the Committee on Ministry. This is surely not the only source possible for such requests, but it is certainly appropriate and understandable under the Committee on Ministry’s G-11.0502i and j responsibilities. If the Committee on Ministry is the originator, it should be kept “in the loop” but it should do only those things that the commission instructs during the commission’s life.

Technically, an administrative commission has the full authority of a presbytery for the limited purposes for which the commission was created. (G-9.0502) This fact suggests that a presbytery should be very careful and deliberate in the authority it delegates to an administrative commission. Careful attention at this stage will be rewarded by a clear focus for the commission and an understanding of the commission’s authority by the session.

It is helpful to note that administrative commissions are not “all or nothing” propositions. They may be given authority to “dissolve pastoral relationships” (which must be explicitly given, G-9.0503a[4]) or may be authorized to make only recommendations to the presbytery to dissolve. Commissions may be authorized to “assume original jurisdiction in any case it determines ... the session of a particular church is unable or unwilling to manage wisely the affairs of its church” It is, of course, possible for such a commission to assume all the session responsibilities described in G-10.0102. Often, however, the session of a particular church will not be “unable to manage wisely” all of its G-10.0102 responsibilities. Usually there are particular problematic areas. For instance, the session may be experiencing no apparent difficulty in carrying out its G-10.0102a-m responsibilities, but may be at loggerheads with the pastor or choir director over exercising its G-10.0102n and o responsibilities. In such a case a wise presbytery might authorize assumption of jurisdiction for those two powers and leave the remainder

of the G-10.0102 responsibilities in the session's hands, merely providing support and assistance to the session in carrying out those functions. The rationale for this advice is that "running a church" by an administrative commission will quickly tire the commission and often the facts do not dictate that the commission do quite that much. In fact, many times an administrative commission may persuade a session to agree not to meet without a member of the commission present, as an alternative to assuming original jurisdiction. Then the commission can simply consult rather than govern.

Such administrative commissions are usually created by a written motion to the presbytery.

Drafting a Creating Motion and "Opportunity to be Heard":

The careful evaluation of the problems and necessary goals will greatly aid in drafting a clear and concise creating motion. Remember that the commission takes "its marching orders" from this document; the affected session and minister get notice of precisely what is being sought from this motion. Time spent carefully crafting the motion is time well spent. Several necessary components seem clear:

Membership: How large will the commission be? What kind of skills and personalities will be necessary? (This varies depending on what the presenting problem is.) It is also helpful to note that a presbytery may remove and replace members of its commission over time. This may be done to give "overworked" members a break and to bring in "new blood" or it may be done to bring in new skills or gifts to the process. A presbytery commission must have at least seven members (except installation commissions—which may consist of only five), but can have more if the circumstances merit it. It is our opinion that the following persons ought not be appointed to such commissions: the stated clerk, the executive presbyter, the moderator, the moderator of the Committee on Ministry, any member of the presbytery's judicial commission.

Powers: This is the section where the presbytery lays out what authority it has deemed its commission needs to "correct the [presenting] difficulties." When the dissolution of the pastoral relationship is a foreseeable possibility, it needs to be specifically listed. The *Book of Order* requires it (G-9.0503a[4]) and it usually does get the pastor's attention. When assumption of original jurisdiction is anticipated, our office has begun to believe that it is procedurally safest for the presbytery itself to assume such jurisdiction, after debate and opportunity for the session to challenge the motion. We have then advised that the presbytery should occasion such assumption upon some triggering event or action of the session. For instance, if conflict with the choir director is the issue, perhaps the commission is instructed to assume jurisdiction if the session takes action to dissolve the employment relationship with the choir director. This usually has dramatic effect on the behavior of all the interested parties. Of course, there are clearly situations where sessions have amply demonstrated that it is unable or unwilling to carry out its responsibilities and where the presbytery needs to give its commission authority to act as the session in all of the G-10.0102 powers. In that situation a plan to replace individual commission members periodically should be developed at the onset. If ever the

commission is confused about what authority it possesses, it should not hesitate to request clarification from the presbytery.

Rationale: The motion should include a fairly detailed rationale section describing the history of the presbytery's intervention in the particular situation. It should answer the question: why is a commission necessary? (as opposed to continued Committee on Ministry intervention). In our experience, the group or person seeking the appointment of an administrative commission in this circumstance needs to be prepared to answer substantive questions from presbytery commissioners. Usually compelling responses to those questions is sufficient to convince the presbytery of the necessity of the appointment of an administrative commission.

Of course a presbytery will be very likely to appoint such a commission at the request of the affected pastor and/or session. Unless there is reason to believe it would be unwise, a presbytery should normally appoint a commission in that situation.

Process: Administrative Commissions always need to remember that they act in the name of the Lord. Their work is not about winning, or even bringing about change, but about restoring healthy ministry within a certain context. Commission members must always treat elders, pastors, and members with respect and patience. Emotions are high, because religion matters! Most commissions will find it helpful to do some information gathering of their own. The rationale section of the empowering motion will provide much information, but there is no substitute for first hand information. This can come in the form of interviews, as well as written correspondence. A wise commission will interview all who wish to speak with them, and seek out others suggested by those who do interview. It may also seek input via written materials when circumstances indicate such a forum will yield helpful feedback. Once the commission determines it has sufficient information, it needs to evaluate its next steps.

Sometimes the next step will be a report and recommendation to the presbytery, including suggestions for further action by other entities of the presbytery (Committee on Ministry, for instance). Sometimes it will be the removal of the pastor or the assumption of original jurisdiction as described below. In all cases the commission must seek to assure fundamental fairness of the process. It must not only be fair; it must feel fair to those affected.

Assumption of Jurisdiction and Dissolution of Pastoral Relationships:

There are currently two "schools of thought" on who should decide to assume jurisdiction in the case of a commission assuming jurisdiction over the session's responsibilities. It is clear from G-9.0505 that if an administrative commission is given permission to assume original jurisdiction it may do so. However, before taking that action, it must first grant a hearing to all those "affected by the decision" (i.e., at least the session members, perhaps also members of the congregation) under the provisions of G-9.0505b and d (which describe the required processes and procedures). There lies the source of the legion of remedial cases. More remedial actions have been filed in the last decade alleging

mistakes in this hearing process than all other sources of remedial actions combined. This is an area that requires great caution and slavish adherence to the procedures described in G-9.0505b and d. The situation is similarly treacherous for the presbytery when the commission is deciding to dissolve the relationship of the pastor.

While we believe granting such power to a commission may give the commission much greater persuasive powers than it might otherwise have, we are coming to recommend more and more that if a commission's investigation and evaluation reveals the need to assume original jurisdiction, it is often much "safer" (procedurally) to bring it as a recommendation to the presbytery. Then the session and/or pastor can argue against the motion, but do not have the same procedural objections available to them that they would have under the provisions of G-9.0505. *Robert's Rules of Order* govern. Action takes only a majority vote of the presbytery commissioners present.

If a commission has decided to hold the hearing, a couple of suggestions merit mention: Since the *Anderson v. Presbytery of Central Florida* case (1991 *GA Minutes*, p. 174) it has been clear that "fair notice and an opportunity to be heard" (G-9.0505b)¹ means a minister and session must be given a plain and clear statement that will clearly inform them of precisely what matters are at issue. Which issues are motivating the commission to recommend assumption of original jurisdiction? What behaviors on the part of the pastor are driving the commission's belief that the pastoral relationship must be severed? Therefore, when an administrative commission endeavors to grant a hearing on assuming jurisdiction or dissolving a relationship, it should exercise great care in drafting a very clear statement of why they are taking this action and what has led up to that decision. If the session or pastor is adequately informed of what they are "up against" and if they are granted an adequate opportunity to "make a case" against the commission's taking such action, they will be unlikely to prevail in a subsequent remedial case. The session or pastor must be given an opportunity to make that case (i.e., producing witnesses, cross examining the administrative commission's witnesses [which will often be members of the commission itself], even the right to be represented by counsel). The bottom line is that the session or minister must be given "due process." The Assembly has not definitely defined what that means, but has instead chosen to leave that to the "good sense" of individual administrative commissions (see *GA Minutes*, 1986, 1992). While this is helpful in allowing for flexibility and discretion, it is frustrating and risky because it leaves open the possibility of judicial review.

One area of original jurisdiction merits specific mention: assumption of G-10.0102r authority (discipline of members, including elders). Sometimes the mere granting of such authority by the presbytery dramatically changes the behavior of individual members. The fact that the commission could "try" a difficult elder for violation of ordination vows is a powerful incentive. If it becomes clear that such an action is necessary, a wise commission will most often ask the presbytery and its Permanent Judicial Commission to assume jurisdiction over such discipline. (D-4.0000) While the administrative

¹ For more detailed information on fair notice and hearings, see General Assembly action taken in 2001: Request 01-1, *Minutes*, 2001, Part I, p. 149.

commission could conduct such a trial, it is normally not wise. First it will take much precious time and energy away from other tasks. Second it will change the dynamics of its work within the congregation.

Role of Presbytery Staff:

Two presbytery “staff” members are likely to be involved with this type of administrative commission. The Executive Presbyter will often possess factual and perceptual information that will be invaluable to a commission as it begins its work. A commission will likely want to arrange for an early meeting with the Executive Presbyter. The Stated Clerk normally provides staff services to administrative commissions and such commissions normally report to the presbytery through the stated clerk. Both persons are likely to be involved in determining the make up of the commission. Wise clerks and executives will work diligently to coordinate their contact and interaction with the commission. Under the *Book of Order*, after creation, the commission is not required to meet with either.

A commission may engage professional staff necessary to complete its work. For instance, it may retain accountants, consultants, even attorneys. However, before any such professional assistance is sought, it should be clearly determined who will pay for the services and to whom the professional will initially report. The presbytery staff can often provide invaluable assistance in retaining such services.

Reporting to the Presbytery:

At the conclusion of its work, an administrative commission must report its findings and decisions to the presbytery (G-9.0502). Normally it is wise for a commission to give periodic “updates” on what it is doing. It must, of course, make reports to the presbytery when it brings a motion to the presbytery that the presbytery expand its authority, assume original jurisdiction, or dissolve a pastoral relationship. Other reports are discretionary, but wise. What is contained in them depends greatly on the circumstances. Commissions should be discreet and honor confidences, but a presbytery can demand full disclosure if it chooses, so wise commissions will provide updates. Wise commissions will also keep sessions, pastors and affected congregations informed as to its process and actions. In conflict situations real information will almost invariably be better than coffee hour speculation.

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