

*PRESBYTERIAN CHURCH (U.S.A.)
216TH GENERAL ASSEMBLY (2004)*

[The full text of the items referred to this committee may be found in the Reports to the General Assembly under tab 04.]

*Moderator: Jeffrey Clayton
Vice Moderator: Annika Lister Stroope*

There are recommendations contained in this report that will be moved as part of a consent agenda. Such items are marked with an asterisk (“*”) and are so indicated in the Table of Contents below.

There are recommendations contained in this report that have financial implications and are indicated with a “\$” sign next to the item. The details of the financial implication are provided with the item in the context of the report, and are so indicated in the Table of Contents below.

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The Assembly Committee on Church Polity recommends that the 216th General Assembly (2004) approve the following recommendations:

Rules of Discipline

*** Item 04-01. On Amending D-10.0401c, Time Limits, When Utilizing Alternative Dispute Resolution—From the Presbytery of South Louisiana. *ACC**

That the recommendation be disapproved.

Vote: 54/2/0

Item 04-02. On Amending D-1.0103 to Add a Call to Prayer and Confidentiality—From the Presbytery of Western North Carolina. *ACC

That the recommendation be disapproved.

Vote: 57/0/0

*** Item 04-03. On Amending D-6.0306a and D-8.0302a to Specify a Time Limit in Exercising the Right to Challenge the Findings of the Moderator and Clerk —From the Presbytery of San Francisco. *ACC**

In response to Item 04-03, that the 216th General Assembly (2004) approve the following:

The 216th General Assembly (2004) directs the Stated Clerk to send the following proposed amendments to the presbyteries for their affirmative or negative votes:

1. Shall D-6.0306a be amended as follows: [Text to be deleted is shown with a strike-through; text to be added or inserted is shown as italic.]

“a. If a challenge is made to the findings of the moderator and clerk *within thirty days after receipt of those findings*, either by a party to the case or by a member of the permanent judicial commission, opportunity shall be provided to present evidence and argument on the finding in question. Parties shall be invited to submit briefs prior to the hearing on the jurisdictional questions.”

2. Shall D-8.0302a be amended as follows: [Text to be deleted is shown with a strike-through; text to be added or inserted is shown as italic.]

“a. If a challenge is made to the findings of the moderator and clerk *within thirty days after receipt of those findings*, either by a party to the case or by a member of the permanent judicial commission, opportunity shall be provided to present evidence and argument on the finding in question.”

3. Shall D-13.0302a be amended as follows: [Text to be inserted is shown as italic.]

“a. If a challenge is made to the findings of the moderator and clerk *within thirty days after receipt of those findings*, either by a party to the case or by a member of the permanent judicial commission, opportunity shall be provided to present evidence and argument on the finding in question.”

Vote: 58/0/0

*** Item 04-04. On Amending D-10.0201a to Specify a Time Limit—From the Presbytery of North Puget Sound. *ACC +ACWC**

That the recommendation be disapproved.

Vote: 49/6/3

*** Item 04-05. On Amending D-10.0202h to Allow Dissemination of Findings—From the Presbytery of North Puget Sound. *ACC +ACWC**

That the recommendation be disapproved.

Vote: 57/1/0

* Item 04-06. ACC Request Regarding Conflict Resolution—From the Manager of Judicial Process and Social Witness, Office of the General Assembly.

That the recommendation be approved

Vote: 55/0/0

* Item 04-07. ACC Request Interpretation of D-10.0102, Referring a Statement of Offense from a Non-Member of the PC(USA)—From the Manager of Judicial Process and Social Witness, Office of the General Assembly.

That the recommendation be approved.

Vote: 53/4/1

Sexual Abuse

Item 04-08. Independent Committee of Inquiry: Amendments to the Book of Order. *ACC +ACWC

1. That Recommendations 1. and 2. be answered by the action taken on Item 04-10 of this report.

Vote: 53/2/1

2. In response to Recommendation 3., that the 216th General Assembly (2004) approve the following with comment:

The 216th General Assembly (2004) directs the Stated Clerk to send the following proposed amendment to the presbyteries for their affirmative or negative votes:

Shall D-1.0101 be amended as follows: [Text to be deleted is shown with a strike-through; text to be added or inserted is shown as italics.]

“Church discipline is the church’s exercise of authority given by Christ, both in the direction of guidance, control, and nurture of its members and in the direction of constructive criticism of offenders. *The church’s disciplinary process exists not as a substitute for the secular judicial system, but to do what the secular judicial system cannot do.* Thus, The purpose of discipline is to honor God by making clear the significance of membership in the body of Christ; to preserve the purity of the church by nourishing the individual within the life of the believing community; *to achieve justice and compassion for all participants involved; to correct or restrain wrongdoing in order to bring members to repentance and restoration; to uphold the dignity of those who have been harmed by disciplinary offenses; to restore the unity of the church by removing the causes of discord and division; and to secure the just, speedy, and economical determination of proceedings. In all respects, members all participants are to be accorded procedural safeguards and due process, and it is the intention of these rules so to provide.”*

Comment:

Elements of an Apology

1. We, the 216th General Assembly (2004) of the Presbyterian Church (U.S.A.) acknowledge that our children, adolescents, and adults have suffered sexual abuse, molestation, and exploitation as committed by members and leaders of our congregations, governing bodies, and agencies, including those specific incidents that occurred in the Congo and continued in the U.S. church during the period of 1946–1985, as identified in the *Final Report of the Independent Committee of Inquiry, Presbyterian Church (U.S.A.)* (September, 2002).

2. We apologize that we as a church did not take adequate steps to prevent the specific incidences as confirmed in the *Final Report*, that our church did not understand the significance of, or believe, the earliest reports of incidents of sexual abuse when survivors turned to people in positions of authority and responsibility, that our church did not do more at the time of their reporting to intervene and stop the perpetrators of sexual abuse, and that our church did not do more after discovering the truth of the victims' allegations to reach out to others who might have been victimized.

3. We apologize that some of us in our church chose to doubt and discredit the survivors who came forward with the truth, that some dismissed the reports, and that some demonized them, all of which added a layer of pain and anguish to the original abuse.

4. We apologize that our church's inactions over the years allowed hurt and harm to extend to the survivors' families, children, friends, and faith. We recognize that we as a church have suffered losses in the nature and quality of our relationships as a community of faith.

5. We apologize that some of us in our church were complicit as our sisters and brothers in the body of Jesus Christ suffered the loss of their innocence, had childhoods stolen, lost opportunities to enjoy more of the fullness of life that God offers all in Jesus Christ (John 10:10b), and lost a child's ability to trust the people of the church.

6. We acknowledge that survivors who have come forward have demonstrated a primary motivation to work through the church to improve our faith community, tell the truth, prevent further victimization, seek healing, and make our church safe for all.

7. We express our thankfulness to God for the courage of the survivors whose witness has held us accountable to be true to our calling as the followers of Jesus Christ. We express our gratitude to those among us who have listened to victims, supported their efforts, and worked for justice.

8. We welcome the many other women and men in our church who have been abused as they come forward, and we pledge to work with them so that they may be restored to God's fullness of life.

Vote: 55/1/0

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3. In response to Recommendation 4., that the 216th General Assembly (2004) approve the following:

The 216th General Assembly (2004) directs the Stated Clerk to send the following proposed amendment to the presbyteries for their affirmative or negative votes:

Shall D-11.0403e be amended as follows: [Text to be deleted is shown with a strike-through; text to be added or inserted is shown as italic.]

“e. If the accused is found guilty or after the guilty plea, the session or permanent judicial commission ~~may~~ *should* hear evidence as to the extent of the injury suffered, mitigation, rehabilitation, and redemption. This evidence may be offered by either party, or the original accuser, or that person’s representative. *The person who was directly harmed by the offense may submit a victim impact statement. The statement shall not be subject to cross-examination.* The session or permanent judicial commission shall then meet privately to determine the degree of censure to be imposed. (D-12.0000) Following such determination and in an open meeting, the moderator of the session or permanent judicial commission shall then pronounce the censure.”

Vote: 58/0/0

4. That Recommendation 5. be approved.

Vote: 57/2/0

5. In response to Recommendation 6, that the 216th General Assembly (2004) approve the following:

The 216th General Assembly (2004) directs the Stated Clerk to send the following proposed amendment to the presbyteries for their affirmative or negative votes

Shall G-9.0503a be amended by adding a new section to read as follows: [Text to be added is shown as italic.]

“(7) *To make pastoral inquiry in the event that jurisdiction in a judicial proceeding is ended as a result of the death of, or renunciation of jurisdiction by, the person accused of the disciplinary offense of ‘sexual abuse of another person.’ (D-10.0401b) The inquiry shall:*

“(a) *not be a part of the church’s judicial proceedings;*

“(b) *be empowered to receive witnesses and to consider evidence; and*

“(c) *reach a determination of truth related to the accusation and make a full report to the governing body who appointed it, including recommendations for appropriate action.*”

Vote: 53/6/0

6. In response to Recommendation 7., that the 216th General Assembly (2004) approve the following:

The 216th General Assembly (2004) directs the Stated Clerk to send the following proposed amendments to the presbyteries for their affirmative or negative votes:

Shall D-10.0000 be amended as follows:

a. Amend D-10.0202 by adding a new “b.” and re-lettering current “b.-i.” as “c. -j.” The new section “b.” shall read as follows:

“b. provide the person making the accusation with a statement of the investigating committee’s procedures;”

b. Amend D-10.0203 by adding new sections “a.” and “b.” and by adding a “c.” to the current text so that it shall read as follows: [Text to be deleted is shown with a strike-through; text to be added or inserted is shown as italic.]

“a. The investigating committee shall inform the person making the accusation of the right to be accompanied by an advocate at each and every conference between the person making the accusation and the investigating committee, the prosecuting committee, and the session or permanent judicial commission. The role of the advocate is to provide support and consultation.

“b. If the statement of accusation is submitted on behalf of another person who is alleged to have been harmed by the offense, the investigating committee shall notify that person of the right to be accompanied by an advocate at each and every conference with the investigating committee, the prosecuting committee, and the session or permanent judicial commission.

“c. At the beginning of each and every conference ...”

Vote: 59/0/0

7. In response to Recommendation 8., that the 216th General Assembly (2004) approve the following:

The 216th General Assembly (2004) directs the Stated Clerk to send the following proposed amendments to the presbyteries for their affirmative or negative votes:

Shall the following sections be amended:

a. Amend D-12.0103 by adding a new section to read as follows:

“d. In a case in which the offense is sexual abuse of another person, the rehabilitation program may include the advice that the person found guilty complete a voluntary act or acts of repentance. Such acts may include: public acknowledgement of guilt, community service, symbolic restoration of what was lost by the person who was harmed, and/or con-

tributions toward documented medical/psychological expenses incurred by the person who was harmed.”

b. Amend D-12.0104 by adding a new section “c.” and re-letter current “c.”–“h.” as “d.”–“i.” The new section shall read as follows:

“c. In a case in which the offense is sexual abuse of another person, the rehabilitation program may include the advice that the person found guilty complete a voluntary act or acts of repentance. Such acts may include: public acknowledgement of guilt, community service, symbolic restoration of what was lost by the person harmed, and/or contributions toward documented medical/psychological expenses incurred by the person who was harmed.”

Vote: 59/0/0

8. That Recommendation 9. be approved.

Vote: 59/0/0

9. That Recommendation 10. be disapproved.

Vote: 59/0/0

10. In response to Recommendation 11., that the 216th General Assembly (2004) approve the following:

The 216th General Assembly (2004) directs the Stated Clerk to send the following proposed amendments to the presbyteries for their affirmative or negative votes:

Shall G-6.0000 be amended as follows:

a. Shall G-6.0204 be amended by adding an “a.” to the existing text and adding a new section “b.” to read as follows: [Text to be added is shown as italic]

“b. A minister of Word and Sacrament shall report to ecclesiastical and civil legal authorities knowledge of harm, or the risk of harm, related to the physical abuse, neglect, and/or sexual molestation or abuse of a child or an adult who lacks mental capacity when (1) such information is gained outside of a confidential communication as defined in G-6.0204a; or (2) she or he reasonably believes that there is risk of future physical harm or abuse.

b. Shall G-6.0304 be amended by adding an “a.” to the existing text and adding a new section “b.” to read as follows: [Text to be added is shown as italic]

“b. An elder shall report to ecclesiastical and civil legal authorities knowledge, gained in the course of service to the church, of harm, or the risk of harm, related to the physical abuse, neglect, and/or sexual molestation or abuse of a child or an adult who lacks mental capacity when (1) such information is gained outside of privileged communication; or (2) she or he reasonably believes that there is risk of future physical harm or abuse.”

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c. Shall G-6.0402 be amended by adding an “a.” to the existing text and adding a new section “b.” to read as follows: [Text to be added is shown as italic]

“b. A deacon shall report to ecclesiastical and civil legal authorities knowledge, gained in the course of service to the church, of harm, or the risk of harm, related to the physical abuse, neglect, and/or sexual molestation or abuse of a child or an adult who lacks mental capacity when (1) such information is gained outside of privileged; or (2) she or he reasonably believes that there is risk of future physical harm or abuse.”

Vote: 57/0/1

Item 04-09. On Adding New Sections G-6.0204, G-6.0304, and G-6.0402 Regarding Reporting Requirements of Child Abuse, in Response to the GA Independent Committee of Inquiry—From the Presbytery of Grace. *ACC +GAC +ACWC

That Item 04-09 be answered by the action taken on Item 04-08, Recommendation 11., of this report.

Vote: 59/0/0

Item 04-10. On Adding Section D-10.0106 to Provide for Administrative Leave in Case of Alleged Child Abuse by Clergy—From the Presbytery of Baltimore. *ACC +ACWC

In response to Item 04-10, that the 216th General Assembly (2004) approve the following:

The 216th General Assembly (2004) directs the Stated Clerk to send the following amendments to the presbyteries for their affirmative or negative votes:

Shall a new section, *D-10.0106*, be added to the Rules of Discipline to read as follows: [Text to be added is shown as italic.]

“D-10.0106 Administrative Leave When Allegations of Sexual Abuse Submitted

“When a written statement of an alleged offense of sexual abuse towards any person under the age of eighteen, or who it is alleged lacked the mental capacity to consent, has been received against a minister of Word and Sacrament, the stated clerk receiving the allegation shall immediately communicate the allegation to the permanent judicial commission. The moderator of the permanent judicial commission shall within three days designate two members, who may be from the roster of former members of the permanent judicial commission, to determine whether the accused shall be placed on a paid or unpaid administrative leave during the resolution of the matter. While administrative leave is in effect, a minister or other employee may not perform any pastoral, administrative, educational, or supervisory duties, and may not officiate at any functions such as Baptism, funerals, or weddings.

“a. The designated members of the permanent judicial commission, after giving the accused the opportunity to be heard, shall determine whether the risk to the congregation

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and to potential victims of abuse, when considered in light of the nature and probable truth of the allegations, requires administrative leave or other restrictions upon the minister's service. Such administrative leave or restrictions will continue until resolution of the matter in one of the ways prescribed in the Rules of Discipline or the leave or restrictions are altered or removed by the designated members of the commission.

“b. If the designated members of the commission determine that no administrative leave or restriction is required, the investigating committee appointed to investigate the allegations shall be free at any point in its investigation to present additional evidence to the designated members supporting the imposition of administrative leave or other restrictions.”

Vote: 52/2/1

Item 04-11. On Adding a New Section D-10.0106 Regarding Administrative Leave in Case of Alleged Child Abuse by Clergy—From the Presbytery of Northern New York. *ACC +ACWC

That Item 04-11 be answered by the action taken on Item 04-10 of this report.

Vote: 54/2/0

Form of Government

Item 04-12. Undertake a Cycle of Consultation Regarding the Form of Government.

In response to Item 04-12, that the 216th General Assembly (2004) approve the following:

That the 216th General Assembly (2004):

1. Assign the following tasks to the Office of the General Assembly:

a. To undertake an extensive cycle of consultation with various groups and constituencies within the PC(USA), including but not limited to: governing bodies (sessions, presbyteries, synods), governing body staff, the Advisory Committee on the Constitution, racial ethnic caucuses, youth, women, pastors, new immigrant leaders, and other persons and groups interested in the role of the Form of Government in the mission and ministry of the PC(USA).

b. To bring recommendations to the 217th General Assembly (2006).

2. Assign the following tasks to the Office of the General Assembly and the General Assembly Council, Office of Theology and Worship:

a. To undertake a similar analysis of the Directory of Worship with the goal of evaluating its influence and effectiveness in guiding sessions, pastors, and higher governing bodies in planning and conducting worship that is authentically Reformed and culturally appropriate.

b. To bring recommendations to the 217th General Assembly (2006).

Vote: 51/8/0

Item 04-13. On Amending G-7.0306 On Who May Moderate a Congregational Meeting—From the Presbytery of Heartland. *ACC +ACREC

That the recommendation be approved.

Vote: 57/3/0

Item 04-14. ACC Request Interpretation on Whether an E-mail Vote is Permissible—From Stated Clerk, Presbytery of Winnebago.

That the recommendation be approved.

Vote: 56/3/0

*** Item 04-15. ACC Request Regarding G-9.0705, Termination of Presbytery Staff—From Member, Administrative Commission, Presbytery of Hanmi.**

That the recommendation be approved.

Vote: 59/0/1

*** Item 04-16. ACC Request Regarding G-7.0304a.(3) and G-14.0603, When a Motion to Dissolve the Pastoral Relationship is in Order—From Stated Clerk, Presbytery of Missouri River Valley.**

That the recommendation be approved.

Vote: 59/1/0

Other

Item 04-17. On Adding Standing Rule B.8.c. to Provide for Special Administrative Review.

That the recommendation be approved.

Vote: 46/8/2

Item 04-18. On Amending Standing Rule G.2.g. and C.7. Regarding an Assembly Committee on Administrative Review—From the Presbytery of Mississippi. *ACC +COGA

That Item 04-18 be referred to the Advisory Committee on the Constitution.

Vote: 47/8/2

Item 04-19. Add Standing Rule E.11 Regarding Independent Review Process for Permanent, Advocacy, and Advisory Committees and Commissions of the General Assembly.

That the recommendations be approved with amendment:

Amend Recommendation 3. as follows: [Text to be deleted shown with strike-through and with brackets.]

“3. The Committee on the Office of the General Assembly (COGA) and the General Assembly Council (GAC) recommend [~~that the 216th General Assembly (2004) refer~~] to the 217th General Assembly (2006) the [~~decision of the~~] application of this process as it relates to the General Assembly Permanent Judicial Commission.”

Vote: 58/0/0

Committee Final Action and Report to Plenary

[The items listed below were acted upon and approved by the assembly committee. No further action is needed, and is here for information only.]

Item 04-A. Vote of Presbyteries

The Report of the Votes of the Presbyteries to the 216th General Assembly (2004) on proposed Amendments to the *Constitution* is confirmed.

Vote: 59/0/0

Items of Information

Items 04-Info

All items in 04-Info were received as information.

Vote: 56/0/0