FREQUENTLY ASKED QUESTIONS
GRACIOUS DISMISSAL POLICIES AFTER TOM V. PBY OF SAN FRANCISCO
(GAPJC Remedial Case 221-03)

WHAT ARE GRACIOUS DISMISSAL POLICIES?
In 2008, at the direction of the 219th General Assembly, the Stated Clerk of the Presbyterian Church (U.S.A.) sent a resolution to the presbyteries, synods and sessions, “indicating the will of the assembly that presbyteries and synods develop and make available to lower governing bodies and local congregations a process that exercises the responsibility and power ‘to divide, dismiss, or dissolve churches in consultation with their members’ with consistency, pastoral responsibility, accountability, gracious witness, openness, and transparency.”¹ Accordingly, Gracious Dismissal Policies may be used by councils to offer clarity and guide their process when discerning whether and how a particular congregation could be dismissed from the PC(USA).

HOW DO GRACIOUS DISMISSAL POLICIES RELATE TO THE TRUST CLAUSE (G-4.0203)?
In the recent General Assembly Permanent Judicial Commission (GAPJC) case, Tom v. Pby of San Francisco, the GAPJC authoritatively interpreted how the Trust Clause found in the Book of Order at G-4.0203 interacts with Gracious Dismissal Policies.² The GAPJC held that while a presbytery has broad discretionary authority under the Book of Order to determine property rights [within the context of determining the mission of Jesus Christ in the world (G-4.0201) and in its district (G-3.0303a) to dismiss a particular congregation within its geographic region (G-3.0301a)], the presbytery must fulfill its fiduciary duty under the Trust Clause (G-4.0203) to consider the interest of the PC(USA) as a beneficiary of the property.

WHAT MUST BE IN A GRACIOUS DISMISSAL POLICY?
A presbytery has broad discretionary authority to determine the mission of Jesus Christ in its district and may take into account many issues such as the spiritual needs of the congregation and community as well as the Marks, Notes and Great Ends of the Church.³ The presbytery must also consider a congregation’s financial position and valuation of property and take into consideration the PC(USA)’s use and benefit of the property in every decision concerning disposition of property. Accordingly, the Gracious Dismissal Policy should include this duty among the procedures listed within the Policy.

MUST A GRACIOUS DISMISSAL POLICY OR IMPLEMENTATION OF A GRACIOUS DISMISSAL POLICY INCLUDE CONSULTATION WITH ANY OF THE NATIONAL ENTITIES OF THE GENERAL ASSEMBLY?
No, a presbytery has discretionary authority to determine the mission of Jesus Christ in its district when deciding whether to organize, merge, dismiss or dissolve a congregation.⁴ This discretionary authority includes the presbytery’s consideration of a congregation’s financial position and valuation of the property.
How must a Gracious Dismissal Policy be implemented?

Even if the presbytery’s Gracious Dismissal Policy does not include the fiduciary duty under the Trust Clause, the presbytery should ultimately exercise this fiduciary duty before making its decision about dismissal. In *Tom v. Pby of San Francisco*, the GAPJC stated that this would include exercising due diligence regarding the value of the property of the congregation seeking dismissal which would include doing a financial analysis of the value of the property. The presbytery must be informed of this financial analysis before it votes on a dismissal. Providing this information gives the presbytery and congregation the information needed to make an informed decision regarding dismissal of the congregation. (This is not all that different from presenting the financial implications for decisions to be made at the General Assembly).

What types of Gracious Dismissal Policies would not be constitutional?

Any Gracious Dismissal Policy that precludes a presbytery from taking into account the Trust Clause fiduciary duty before deciding whether to dismiss a congregation on a case-by-case basis would be unconstitutional.

Possible examples of policies that would preclude this analysis on a case-by-case basis are:

1. Policies that only require a percentage vote from the congregation for the presbytery’s approval of terms of dismissal including only taking into account the spiritual needs or desires of current membership and not the breaking of the historic relationship of the members who came before.

2. Policies that only require the consideration of per capita and/or mission financial obligations are not sufficient to meet the fiduciary duty under the Trust Clause to consider the interest of the PC(USA) as a beneficiary of property.

3. Policies that require the payment by the congregation of a set percentage of assets prior to approval for dismissal. This would serve to preclude a case-by-case analysis.

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1 GA (2008, 49, 51, 284, Item 04-28) The 218th General Assembly (2008) of the Presbyterian Church (U.S.A.) 1. Directs the Stated Clerk to send this resolution to the presbyteries, synods, and sessions, indicating the will of the assembly that presbyteries and synods develop and make available to lower governing bodies and local congregations a process that exercises the responsibility and power "to divide, dismiss, or dissolve churches in consultation with their members" (Book of Order, G-11.0103i) with consistency, pastoral responsibility, accountability, gracious witness, openness, and transparency.

2. Believing that trying to exercise this responsibility and power through litigation is deadly to the cause of Christ, impacting the local church, other parts of the Body of Christ and ecumenical relationships, and our witness to Christ in the world around us, [the General Assembly] urges [congregations considering leaving the denomination,] presbyteries[,] and synods to implement a process using the following principles:
• **Consistency:** The local authority delegated to presbyteries is guided and shaped by our shared faith, service, and witness to Jesus Christ.

• **Pastoral Responsibility:** The requirement in G-11.0103i to consult with the members of a church seeking dismissal highlights the presbytery's pastoral responsibility, which must not be submerged beneath other responsibilities.

• **Accountability:** For a governing body, accountability rightly dictates fiduciary and connectional concerns, raising general issues of property (G-8.0000) and specific issues of schism within a congregation (G-8.0600). But, full accountability also requires preeminent concern with "caring for the flock."

• **Gracious Witness:** It is our belief that Scripture and the Holy Spirit require a gracious witness from us rather than a harsh legalism.

• **Openness and Transparency:** Early, open communication and transparency about principles and process of dismissal necessarily serve truth, order, and goodness, and work against seeking civil litigation as a solution.

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2 **PJC (2014, 221-03, Tom et al v. Pby of San Francisco)**

3 See F-1.0302; F-1.0303; F-1.0304.

4 However, in considering each congregation on a case-by-case basis, it is important to recognize that one of the entities of the General Assembly or a synod may have created with the congregation and the presbytery a direct financial interest in the property or assets and thus must be consulted by the presbytery. For example, The Presbyterian Church (U.S.A.) Investment and Loan Program (PILP) regularly extends loans to congregations which are secured by the property and/or guarantee of payment from a presbytery. A presbytery that is considering the dismissal or dissolution of a congregation with a secured or unsecured loan from PILP must, as a part of the presbytery’s fiduciary interest under the Trust clause, consult with the Presbytery Investment and Loan Program. See also Advisory Opinion: Trust Clause and Gracious Separation: Implementing the Trust Clause for the Unity of the Church for a more extensive discussion of this particular duty.

5 **PJC (2014, 221-03, Tom et al v. Pby of San Francisco)**