

Below is how the proposed revisions to *Book of Church Order* Chapter 2, the Disciplinary and Judicial Procedures, would read if the amendments in CO 24-4 are adopted.

## **CHAPTER 2 THE DISCIPLINARY AND JUDICIAL PROCEDURES**

### **Part I Judicatories**

#### ***Article 1. Nature of Judicatories***

*Sec. 1.* A governmental unit exercising its judicial powers is called a judicatory.

*Sec. 2.* The board of elders of each church shall function as a judicatory in all matters assigned to it as a judicatory by the *Book of Church Order*.

*Sec. 3.* Each classis and the General Synod shall appoint a commission on judicial business. This commission is a judicatory and shall execute all judicial authority granted to each respective body by the *Book of Church Order*.

*Sec. 4.* Decisions made by the commission on judicial business appointed by the classis may be appealed to the classis as a whole. For purposes of this appeal, the classis is considered a higher judicatory.

*Sec. 5.* Decisions made by a panel of the General Synod Commission on Judicial Business may be appealed to the full Commission. For purposes of this appeal, the full Commission is considered a higher judicatory.

#### ***Article 2. Composition of Judicatories***

*Sec. 1.* The commission on judicial business appointed by a classis shall have at least three, but no more than nine, members and, in any event, must be less than half the number of members that constitutes a quorum for a regular session of its assembly.

*Sec. 2.* All members of a commission on judicial business appointed by a classis shall be an enrolled member of the classis or an elder who is a member of one of the churches of the classis. All members of the Commission on Judicial Business appointed by the General Synod shall be a member of a classis or an elder from one of the local or organizing churches of the classis.

*Sec. 3.* At least half of the members of any commission on judicial business shall be elders.

*Sec. 4.* The bylaws, rules of order, or similar governing document of the classis that authorizes the appointment of a commission on judicial business shall provide for the designation of several alternate members for the commission. The clerk of the classis shall maintain a list of the alternate members in an order established randomly. If any regular member of a commission on judicial business is unable for any reason to attend any meeting of or otherwise fulfill his or her responsibilities as a member of

the commission, such regular member shall be replaced by the alternate member holding the same office whose name appears highest on the list and who is able to serve. Such replacement may be made by the action of the classis or its executive committee.

Sec. 5. The term of service for regular members of a classis commission on judicial business shall be three years. The classis shall make reasonable efforts to stagger terms so that the number of terms expiring each year is the same. For the purposes of calculating terms of service, a partial term of two years or more shall be considered a full term. No person may serve on a commission on judicial business for a continuous time that exceeds two full terms. Any person who has served two terms shall be ineligible to serve thereafter for at least one year. If a regular member of a commission is unable to complete their term of office, then the classis shall appoint a replacement member at its next regular meeting.

Sec. 6. The clerk of the classis shall act as the clerk for its commission on judicial business, unless otherwise provided by the classis. However, the clerk shall not be a member of the commission. A classis commission on judicial business shall elect one person to act as presiding officer.

Sec. 7. When a panel of the General Synod Commission on Judicial Business is needed, the moderator of the Commission will randomly select nine members and at least three alternates from the Commission, provided there are at least five elders and four ministers, to form a panel. If any member of a panel is unable to fulfill the member's responsibilities as a member of the panel, such member shall be replaced by an alternate member holding the same office.

Sec. 8. The moderator of the General Synod's Commission on Judicial Business shall act as the clerk and presiding officer at all judicial proceedings, unless the moderator designates another member to serve as presiding officer. The moderator shall be a member of the commission, *ex-officio* and without vote, and may attend all proceedings as an advisor to the panel.

### **Article 3. General Procedures for a Commission on Judicial Business**

Sec. 1. The presiding officer shall be empowered to render a decision on all procedural motions or requests brought before the commission. A party may appeal against the decision of the officer to the entire commission.

Sec. 2. For the commission on judicial business of the classis, the presence of at least two-thirds of the members of the commission shall constitute a quorum to conduct all proceedings and to render any final decision not otherwise the responsibility of the moderator. The affirmative vote of at least a majority of the members of the commission who are present and participating in any proceeding shall be required to render any decision. Only commission members or their properly appointed alternates who were present for the proceeding may take part in the deliberations and cast any votes regarding the proceeding. Alternate members may attend the proceeding but may not participate in the deliberations or cast votes regarding the proceeding unless duly appointed as a replacement.

Sec. 3. For a panel of the General Synod Commission on Judicial Business, the presence of seven panel members shall constitute a quorum to conduct all proceedings and to render any final decision not otherwise the responsibility of the moderator. The affirmative vote of at least five panel members shall be required to render any decision. Only panel members who were present for the proceeding shall take part in the deliberations regarding the proceeding. Alternate members may attend the proceeding but may not participate in the deliberations or cast votes regarding the proceeding unless duly appointed as a replacement.

Sec. 4. For the full Commission on Judicial Business of the General Synod, the presence of at least two-thirds of the members of the Commission shall constitute a quorum to conduct all proceedings and to render any final decision not otherwise the responsibility of the moderator. The affirmative vote of at least a majority of the members of the Commission shall be required to render any decision. Only Commission members who were present for the proceeding may take part in the deliberations and cast any votes regarding the proceeding.

Sec. 5. A commission on judicial business shall establish such administrative rules for hearings and trials as it deems appropriate provided that all procedures be conducted in a fair and impartial manner.

Sec. 6. All deliberations and votes of a commission shall be conducted in a closed session, provided that counsel to the judicatory, if any, and the clerk of the judicatory may be present.

Sec. 7. A commission may impose discipline on behalf of its appointing assembly. Any discipline imposed shall be appropriate for the offense and consistent with Holy Scriptures and the Constitution of the Reformed Church in America.

Sec. 8. A commission shall record its decision, stating the reasons. Decisions of a commission shall be reported in writing to the assembly on behalf of which it acts at the next stated session. Official notification shall be provided to the parties within 30 days of the decision.

## **Part II Discipline**

### ***Article 1. Nature of Discipline***

Sec. 1. Discipline is the exercise of the authority which the Lord Jesus Christ has given to the church to promote its purity, to benefit the offender, and to vindicate the honor of the Lord Jesus Christ.

Sec. 2. The exercise of discipline may take the form of admonition, rebuke, suspension from the privileges of membership in the church or from office, deposition from office, or excommunication, as the gravity of the offense in the opinion of the assembly or the judicatory may warrant. Admonition and rebuke are pastoral in nature and are exercised by an assembly in the ordinary course of its proceedings. All further steps of discipline—suspension, deposition, and

excommunication—are judicial in nature and require the formal presentation of charges to a judicatory.<sup>1</sup> A judicatory may, in the judicial process, impose admonition or rebuke as a form of discipline.

## **Article 2. Nature of Offenses**

Sec. 1. The only matters to be considered as offenses subject to accusation are those which can be shown to be such from the Holy Scriptures, or from the Constitution of the Reformed Church in America.<sup>2</sup>

Sec. 2. Offenses which are known at most to a very few persons shall be dealt with first in the manner indicated by the Lord Jesus Christ in Matthew 18:15-17. If this procedure fails, the matter shall be presented to the body to which the offender is amenable.

Sec. 3. Notwithstanding Chapter 2, Part II, Article 1, Section 2, notorious and scandalous offenses require immediate suspension and/or other action as determined by the responsible body, pending review by the appropriate assembly or judicatory.

## **Article 3. Responsibilities for Discipline**

### *Sec. 1. Discipline of a Member*

All members of a local church are under its care and are subject to its government and discipline, as administered by its board of elders. The board of elders may, upon formal presentation and trying of a charge, suspend from the privileges of membership in the church a member who persistently rejects its admonitions or rebukes. If a member fails to show marks of repentance after suspension, the board of elders may, with permission of the classis, proceed to excommunication. The board of elders shall publicly notify the congregation of its intention to excommunicate, and later, after a hearing, of its final action. The board may omit such public notification, if such omission will not impair the purposes of discipline and will best serve the spiritual welfare of the congregation. Such omission shall require a two-thirds vote of the board of elders.<sup>3</sup>

### *Sec. 2. Discipline of an Elder or Deacon*

The board of elders shall have jurisdiction in the case of a charge against an elder or deacon. If the charge is proven, the elder or deacon may be suspended or deposed from office together with such other discipline as may be imposed in accordance with Chapter 2, Part II, Article 3, Section 1.<sup>4</sup>

### *Sec. 3. Discipline of a Commissioned Pastor*

Elders who are serving in a classis commission as a commissioned pastor are subject solely to the government and discipline of the classis. Commissioned pastors shall be subject to the same rules as ministers within Chapter 2, Part II.

#### *Sec. 4. Discipline of a Minister of Word and Sacrament*

- a. Ministers are under the care of the classis and are subject to its government and discipline.
- b. The consistory has the right to close the pulpit to a minister who has been accused of any notorious or scandalous offense which would render appearance in the pulpit inappropriate. Proceedings of the consistory in such a case are at its peril, but are undertaken to prevent scandal. This action is not to be considered a trial. The consistory must report its action to the classis immediately.<sup>5</sup>
- c. The classis commission on judicial business shall have exclusive jurisdiction in the case of a charge against a minister with the single exception noted below. If the charge is proven, the minister may be suspended or deposed from office, suspended from the privileges of membership in the church, and/or excommunicated.<sup>6</sup>
- d. In the case of charges against a minister who is also installed as a General Synod professor, charges concerning doctrine must first be considered by the General Synod Commission on Judicial Business. Either the accused or the classis may request the General Synod Commission on Judicial Business to review a charge, in order to determine whether the case concerns doctrine and thus must be heard at the General Synod Commission on Judicial Business. The classis shall stay further judicial action until the General Synod Commission on Judicial Business has made its determination over jurisdiction and completed any other appropriate judicial work related to the charge. The decision of the General Synod Commission on Judicial Business on jurisdiction is final. Once the General Synod Commission on Judicial Business has completed its judicial work, any further or remaining charges are the responsibility of the classis.

#### *Sec. 5. Discipline of a General Synod Professor*

- a. General Synod professors are amenable to the General Synod for their ministries of teaching and of certification of candidates for ministry, and in these ministries are subject to its government and discipline. The General Synod Commission on Judicial Business shall have original jurisdiction in the case of a charge against a General Synod professor only if that charge concerns matters of doctrine. If a panel of the Commission on Judicial Business determines that the charge concerns matters of doctrine and has merit, the panel shall hear the case, but shall render judgment only on matters of doctrine. In all other cases, the panel shall either dismiss the charge or, if appropriate, remand the charge for consideration by the classis in which the General Synod professor holds membership as a Minister of Word and Sacrament.
- b. If the charge is proven, the General Synod professor may be admonished, rebuked, or removed from the office of General Synod professor. Any other discipline shall be determined by the classis in which the General Synod professor holds membership.

- c. When a charge against a General Synod professor is proven and discipline is imposed by the panel of the General Synod Commission on Judicial Business, the professor may appeal the decision, within sixty days of the conclusion of the original trial, to the full Commission on Judicial Business.<sup>7</sup>

#### *Sec. 6. Discipline of a Consistory*

Consistories are under the care of the classis and are subject to its government and discipline. A classis commission on judicial business has the authority, after trial, to suspend a consistory accused of unfaithfulness to duty, or of disobedience to the classis, or of violation of the Constitution of the Reformed Church in America or the laws and regulations of the church. If a consistory is suspended, all of its members shall be disqualified for re-election until the classis has removed the disqualification. The classis shall fulfill the responsibilities of the consistory (including those of the boards of elders and deacons) so suspended until a new consistory has been legally constituted.<sup>8</sup>

#### **Article 4. Procedure for Bringing a Charge<sup>9</sup>**

Sec. 1. A charge is a written accusation of an offense filed with the clerk of the responsible judicatory specifying the name of the accused, the nature of the alleged offense, and the time, place, and attendant circumstances of the alleged offense. (For the form of the charge, see Appendix, Formulary No. 12). The clerk of the judicatory shall provide a copy of the charge to the accused within three days of its receipt.<sup>10</sup>

Sec. 2. A charge may be brought by an individual who is subject to the jurisdiction of the responsible judicatory. If the charge is brought by an individual, it must be signed by and made in the name of the individual who must come forward openly to support the charge(s) throughout the proceedings.<sup>11</sup>

Sec. 3. A committee designated by the responsible judicatory may also bring a charge.

Sec. 4. If filed by an individual, the charge shall be referred to an investigative committee appointed by the judicatory to determine whether there is sufficient merit to the charge to warrant further consideration. If a charge is filed by the committee designated by the judicatory, that same committee shall continue its proceedings to determine whether there is sufficient merit to the charge to warrant further consideration. In either case, in making this determination, the committee:<sup>12</sup>

- a. May interview the accuser, the accused, or any witnesses.
- b. Shall consider the number and credibility of witnesses and the length of time between the occurrence of the alleged offense and the date when allegations were made.
- c. If the alleged offense occurred more than five years prior to the date of the charge, the charge shall be dismissed by the committee unless the committee

concludes that circumstances prevented the accusation from being brought earlier. In considering whether such circumstances exist, the burden is on the accuser to provide the committee with information sufficient to support why the charge was not brought earlier. If the decision of the committee is that such circumstances exist, the committee shall state the reasons why it believes such circumstances exist in its report to the judicatory. If the committee fails to provide the reasons for such a decision in its report to the judicatory, the judicatory shall dismiss the charge.

- d. Shall determine whether efforts to resolve the matter short of trial would be appropriate. Such efforts may include mediation, admission by the accused that the charge is true and acceptance of appropriate sanctions, or any other disposition to which the committee and the accused may agree. Any agreed-upon resolution must be approved by the appropriate judicatory.<sup>13</sup>

Sec. 5. The committee shall conduct its work in a confidential manner in order to protect the reputations of all persons involved and to preserve the impartiality of the judicatory if the charge moves forward.

Sec. 6. If the charge is not otherwise resolved, and the committee determines there is sufficient merit in the charge, the judicatory shall proceed to trial. If there is not sufficient merit, the committee shall dismiss the charge. This dismissal shall be the final resolution of the charge.<sup>14</sup>

Sec. 7. The action of the committee shall be reported to the judicatory.<sup>15</sup>

### ***Article 5. Trying a Charge***<sup>16</sup>

Sec. 1. The clerk of the judicatory shall issue a citation (for the form of the citation to an accused person or consistory, see Appendix, Formulary No. 13) signed by the presiding officer and the clerk, requesting the accused to appear before the judicatory at a specified time and place. The citation and a copy of the charge shall be provided to the accused.<sup>17</sup>

Sec. 2. The accused shall file a written reply to the charge with the clerk within twenty days of the receipt of the citation and a copy of the charge. If the accused acknowledges guilt or fails to file a reply to the charge, the judicatory shall impose the appropriate discipline.<sup>18</sup>

Sec. 3. The judicatory shall try the charge within thirty days of the filing of the reply, unless the trial is postponed to a later date by consent of the parties and the judicatory involved.

Sec. 4. The judicatory may try the charge, even though the accused is not present, if it is satisfied that proper notice was provided.

Sec. 5. The clerk of the judicatory shall issue citations to persons who are requested to appear as witnesses for or against the accused and, at the same time, shall provide a list of the witnesses to all parties. Persons who have not received a witness citation

may be permitted to testify at the trial, if the presiding officer concludes that to allow the testimony is not fundamentally unfair.

Sec. 6. Neither the accuser, accused, counsel for any party, witnesses, clerk of the judicatory, members of the committee of the judicatory as described in Chapter 2, Part II, Article 4, nor any person with a conflict of interest shall participate in the deliberation or the decision of the judicatory at any stage of the trial.<sup>19</sup>

Sec. 7. Unless the accused refuses or fails to appear after proper notice, witnesses shall be examined in the presence of the accused. The accused shall be permitted to cross-examine adverse witnesses. No affidavits shall be admitted.<sup>20</sup>

Sec. 8. The judicatory may, at its discretion, appoint a committee to take testimony of a party or witness at a location other than that of the place of hearing, upon request of any party. Ten days' notice shall be given to all parties of the appointment and membership of the committee and of the time and place of its meeting. The parties shall examine the witness(es) and shall have the right of cross-examination.<sup>21</sup>

Sec. 9. A verbatim record of the trial, including the judgment, shall be preserved and entered into the records of the judicatory. Parties to the case shall be given reasonable access to the record.

Sec. 10. Parties and the judicatory may be represented by counsel of their own choosing, provided that such counsel is a minister, elder, or confessing member of the Reformed Church in America. Counsel shall not be compensated for their time or efforts but may be reimbursed for expenses.<sup>22</sup>

*Sec. 11. Procedural Rules<sup>23</sup>*

- a. The judicatory shall establish such administrative rules for the trial as it deems appropriate to ensure that the trial will be conducted in a fair and impartial manner.
- b. No member or groups of the Reformed Church in America, nor any person connected with the case, shall circulate, or cause to be circulated, any written or printed arguments or briefs upon any charges before the final disposition of same, including appeals, if any.
- c. The accuser shall be responsible for moving forward with the evidence.
- d. The charge(s) must be proven with a high degree of probability.<sup>24</sup>
- e. Receipt of evidence shall not be controlled by formal rules of evidence. However, the presiding officer may exclude any evidence if the officer determines that to admit such evidence would be fundamentally unfair.
- f. The only persons who may attend the trial are the parties, their counsel, the members of the judicatory, and such other persons as the judicatory deems appropriate.<sup>25</sup>



- g. Only members of the judicatory shall be present for the deliberation on the evidence. However, the counsel for the judicatory, if any, may be present.<sup>26</sup>

*Sec. 12. Procedural Rules for Trying a Charge against a General Synod Professor*

- a. A charge that a General Synod professor teaches doctrine contrary to Holy Scripture or the Standards of the Reformed Church in America may be submitted to the General Synod by filing the charge with the moderator of the General Synod Commission on Judicial Business by a member of the synod. If a charge is brought against the professor at the classis level, either the professor or the classis may request a panel of the General Synod Commission on Judicial Business to hear the case.
- b. A panel of the Commission on Judicial Business shall determine whether there is sufficient merit to the accusation that it be heard.
- c. If the charge goes forward, it shall be heard by a panel of the Commission on Judicial Business.
- d. The burden of proof shall be on the accuser, who is responsible for moving the charge forward.
- e. The accused shall have the right of cross-examination of adverse witnesses.
- f. Affidavits may not be used, but written evidence may be introduced, provided proper foundation has been laid. Written evidence may include arguments that support the accuser's charge as well as arguments from the accused.
- g. Either party may invite expert witnesses to testify on their behalf. Each party shall have the right to place questions to any expert witnesses.
- h. The panel of the Commission on Judicial Business shall state its reasons for its decision.
- i. Should the charge be sustained, the panel of the Commission on Judicial Business shall impose discipline.

*Sec. 13. Decision by a Board of Elders*

- a. The vote on whether the charge(s) has been proven shall be by written ballot. A simple majority of those present and voting shall be required to reach a decision.
- b. The Board of Elders shall record its decision, stating the reasons therefor. A copy shall be provided to the parties.

#### *Sec. 14. Imposition of Discipline*

- a. The judicatory shall impose such discipline as is appropriate for the offense and as is consistent with the Holy Scriptures and the Constitution of the Reformed Church in America.<sup>27</sup>
- b. The judicatory shall record its actions, stating the reasons. Official notification shall be provided to the parties within 30 days of the decision.

*Sec. 15.* The recorded decision and the disciplinary action shall be made available upon request to other assemblies within the Reformed Church in America and other appropriate ecclesiastical bodies. In addition, the judicatory, at its discretion, may distribute the recorded decision and disciplinary action to assemblies within the Reformed Church in America.<sup>28</sup>

### ***Article 6. Restoration and Reinstatement***

*Sec. 1.* A member who has been suspended or excommunicated may be restored to the privileges of membership in the church upon repentance expressed before the judicatory which suspended or excommunicated the member. If public notice of the judgment of excommunication had been given, due public notice of reinstatement shall also be given the congregation.

*Sec. 2.* A person who has been suspended or deposed from office may be restored to office upon repentance and renewal of vows before the judicatory which suspended or deposed that person, provided that the judicatory is satisfied that the honor of the office will not be impaired and that the welfare of the church will be served by such a restoration, and provided that the restoration is approved by a two-thirds vote of those present at the meeting of the judicatory. Restoration after deposition shall include reordination to office.<sup>29</sup>

## **Part III Complaints**

### ***Article 1. Nature of Complaints***

*Sec. 1.* A complaint is a written statement alleging that an action or a decision of an assembly or its officer has violated or failed to comply with the Constitution of the Reformed Church in America or other laws and regulations of the church.

*Sec. 2.* Grounds for complaint include any action or decision that is harmful to the church, whether the alleged error of the assembly or its officer is procedural or substantive, and specifically would include, but are not limited to, irregularity in the proceedings; refusal of reasonable indulgence to any person or entity involved in or affected by the decision or action; manifestation of bias or prejudice in the decision or action; and manifest injustice.

Sec. 3. A complaint may be filed only with the appropriate judicatory:

- a. In the event of a complaint against a consistory or its officer, the complaint is filed with the clerk of the classis that has immediate superintendence of the consistory.
- b. In the event of a complaint against a classis or its officer, the complaint is filed with the moderator of the General Synod Commission on Judicial Business.

Sec. 4. A complaint may be filed only by:

- a. One or more confessing members in good and regular standing against the consistory or board of elders having superintendence over them.
- b. One or more members of an assembly against that assembly of which they are members.
- c. An assembly against that assembly having immediate superintendence over it.

Sec. 5. Neither notice of intent to complain nor the complaint itself shall have the effect of suspending the action against which the complaint is made, unless within thirty days one-third of the members of the assembly complained against who were present when the action was taken file with the clerk of the judicatory in which the complaint is filed a request for such suspension until a decision is made in the higher judicatory. The clerk, upon receipt of the request for suspension, shall immediately notify, in writing, the clerk of the assembly complained against, and shall request the clerk of the assembly to certify a list of those members of the assembly present when the action complained against was taken.

## ***Article 2. Process for Complaints***

Sec. 1. Written notice of intent to complain shall be filed with an officer or with the clerk of the assembly which took the action in question. This filing shall be completed not later than twenty days after having received official notification of the action taken. In default of this requirement, the case shall not be heard.

Sec. 2. The complaint and the reasons therefor shall be filed with the clerk of the higher judicatory within twenty days after the filing of notice of intent. In default of this requirement, the complaint shall be considered to be dismissed and the clerk of the higher judicatory shall notify the parties involved.

Sec. 3. Within twenty days after receiving a copy of the complaint the clerk of the lower assembly shall file with the clerk of the higher judicatory the original record of all the proceedings pertaining to the complaint, including the notice of intent and any other documents bearing on the complaint. These constitute the record of the case. The clerk of the higher judicatory shall forward upon receipt to each of the parties a copy of the record of the case and all documents subsequently submitted in the case to the higher judicatory.

Sec. 4. The clerk of the higher judicatory shall, upon receiving the record, promptly notify its judicial business commission, call a meeting of the commission at a suitable time and place, and give notice of such meeting to all the parties involved. The commission shall determine whether the case and its attendant papers are in order. The commission shall promptly advise the parties if it finds any irregularities. A period of not more than twenty days shall be allowed to correct such irregularities. The commission may request further written response or arguments to be submitted within the same twenty days.

Sec. 5. If the case is in proper order, the commission shall then consider its merits. If the complaint is deemed to be frivolous, dilatory, or clearly without merit, the commission may dismiss the complaint without a hearing. If the complaint goes forward, the commission shall consider the record of the case and such additional arguments as may have been submitted and shall also hear the parties together with such counsel as may be requested by the parties. Counsel shall meet the qualifications set forth in the Judicial Procedures. This hearing shall be conducted in a fair and impartial manner with all parties present. If the complainant in person or by counsel fails to appear, the commission may declare the case to be defaulted.

Sec. 6. The judicatory may confirm or reverse, in whole or in part, the action of the lower assembly, or remand the matter to it with instructions. The commission shall record its decision, stating the reasons. Decisions of the commission shall be reported in writing to the assembly on behalf of which it acts at the next stated session. Official notification shall be provided to the parties within 30 days of the decision.

Sec. 7. Persons who have voted on the matter complained against in a lower assembly or who have a conflict of interest shall not vote upon the case in another judicatory.

Sec. 8. When a complaint is filed, the complainant has the burden of moving forward and proving by a preponderance of the evidence that the respondent has violated or failed to comply with the Constitution of the Reformed Church in America or other laws and regulations of the church.<sup>30</sup>

Sec. 9. No member or groups of the Reformed Church in America, nor any person connected with the matter, shall circulate, or cause to be circulated, any written or printed arguments or briefs upon any complaints before the final disposition of same, including appeals, if any.

Sec. 10. No complaint can be taken against any action or decision of the General Synod.

## **Part IV Appeals**

### ***Article 1. Nature of an Appeal***

Sec. 1. An appeal is the transfer to a higher judicatory of a complaint, a charge, or an appeal on which judgment has been rendered in a lower judicatory. The right of

appeal belongs to either of the original parties in a case. That right may be exercised when a party considers itself to be aggrieved or injured by a judgment of a judicatory.

Sec. 2. An appeal may also be a transfer of a charge against a General Synod professor on whom a judgment has been rendered. The appeal shall be made to the full General Synod Commission on Judicial Business. In an appeal of this nature, any reference in this Part to a “lower judicatory” shall be deemed to refer to the panel of the General Synod Commission on Judicial Business that rendered the original judgment and any reference in this Part to “higher judicatory” shall be deemed to mean the full General Synod Commission on Judicial Business to which the appeal is made.

Sec. 3. The grounds of appeal include: irregularity in the proceedings of the lower judicatory; refusal of reasonable indulgence to a party on trial; receiving improper, or declining to receive proper, evidence; rendering a decision before all the testimony is taken; bias or prejudice in the case; and manifest injustice in the judgment.

Sec. 4. Notice of intent to appeal suspends the judgment of the lower judicatory until the appeal is finally decided. But when the judgment which is appealed from results in suspension, deposition from office, or excommunication, the person against whom the judgment has been pronounced shall be required to refrain from the sacrament of the Lord’s Supper and from the exercise of office until the appeal is finally decided, unless exception is made in the judgment of the lower judicatory.

Sec. 5. The full classis shall be the final court of appeal for all cases originally heard by a board of elders. A panel of the General Synod Commission on Judicial Business shall be the final court of appeal for all cases originally heard by a classis commission on judicial business. The full General Synod Commission on Judicial Business shall be the final court of appeal for all other matters.

## ***Article 2. Process for Appeals***

Sec. 1. Written notice of intent to appeal shall be filed with an officer or with the clerk of the judicatory which took the action in question. This filing shall be completed not later than twenty days after having received official notification of the action taken. In default of this requirement, the appeal shall not be heard.

Sec. 2. The appeal and the reasons therefor shall be filed with the clerk of the higher judicatory within twenty days after the filing of notice of intent. In default of this requirement, the appeal shall be considered to be dismissed and the clerk of the higher judicatory shall notify the parties involved.

Sec. 3. Within twenty days after receiving a copy of the appeal the clerk of the lower judicatory shall file with the clerk of the higher judicatory the original record of all the proceedings in the case, including the notice of intent, the evidence, the arguments, and any other documents bearing on the case. These constitute the record of the case. The clerk of the higher judicatory shall forward upon receipt to each of the parties a copy of the record of the case and all documents subsequently

submitted in the case to the higher judicatory. The higher judicatory shall not admit or consider as evidence anything not found in this record without consent of the parties.

*Sec. 4.* The clerk of the higher judicatory shall, upon receiving the record of the case, promptly notify the higher judicatory, call a meeting of the judicatory at a suitable time and place, and give notice of such meeting to all the parties involved. The judicatory shall determine whether the case and its attendant papers are in order. The judicatory shall promptly advise the parties if it finds any irregularities. A period of not more than twenty days shall be allowed to correct such irregularities. The judicatory may request further written response or arguments.

*Sec. 5.* A General Synod professor may file an appeal of a decision of a panel of the General Synod Commission on Judicial Business with the moderator of the Commission. The moderator will call a meeting of all the members of the Commission on Judicial Business at a suitable time and place, and give notice of such meeting to all the parties involved. The full Commission shall determine whether the case and its attendant papers are in order. The Commission shall promptly advise the parties if it finds any irregularities. A period of not more than twenty days shall be allowed to correct such irregularities. The Commission may request further written responses or arguments.

*Sec. 6.* If the case is in proper order, the commission shall then consider its merits. It shall consider the record of the case and such additional arguments as may have been submitted. If the appeal is deemed to be frivolous, dilatory, or clearly without merit, the commission may dismiss the appeal without a hearing. If the appeal goes forward, the commission shall also hear the original parties, together with such counsel as may be requested by the parties. Counsel shall meet the qualifications set forth in the Judicial Procedures. This hearing shall be conducted in a fair and impartial manner. Either party may elect not to appear in person or by counsel at the hearing.

*Sec. 7.* The judicatory may confirm or reverse, in whole or in part, the decision of the lower judicatory or assembly, or remand the case to it with instructions.

*Sec. 8.* Persons who have voted on the matter in a lower judicatory or assembly, or who have a conflict of interest, shall not vote upon the appeal in a higher judicatory.

*Sec. 9.* The judicatory shall record its decision, stating the reasons therefor.

*Sec. 10.* When an appeal is filed, the appellant shall have the responsibility to establish that the lower judicatory erred in its decision.

*Sec. 11.* The judicatory hearing the appeal shall give deference to the decision of the lower judicatory, particularly in the matter of credibility of witnesses, and shall uphold the decision of the lower judicatory if it is supported by substantial evidence in the record when the record is viewed as a whole.<sup>31</sup>

Sec. 12. No member or groups of the Reformed Church in America, nor any person connected with the case, shall circulate, or cause to be circulated, any written or printed arguments or briefs upon any appeals before the final disposition of same.

Sec. 13. No appeal can be taken from any decision of the full General Synod Commission on Judicial Business.