

**ADVISORY OPINION**  
**THE TRUST CLAUSE AND GRACIOUS SEPARATION:**  
**IMPLEMENTING THE TRUST CLAUSE FOR THE UNITY OF THE CHURCH**

**WHAT IS THE TRUST CLAUSE?**

G-4.0203 of the *Book of Order* states:

All property held by or for a particular church, a presbytery, a synod, the General Assembly, or the Presbyterian Church (U.S.A.), whether legal title is lodged in a corporation, a trustee or trustees, or an unincorporated association, and whether the property is used in programs of a particular church or of a more inclusive governing body or retained for the production of income, is held in trust nevertheless for the use and benefit of the Presbyterian Church (U.S.A.)"<sup>1</sup>

Presbyterian congregations emerge from the collective gifts of God’s people and often include direct gifts from individuals, other congregations, presbyteries, synods, and the General Assembly. These gifts are not regarded as given for a single generation, but are held in trust for this generation and for future generations to come. Indeed, “the Trust Clause reflects our understanding of the church as a communion of saints across time, with responsibilities both to those who came before and those who will follow. When a congregation seeks to leave the Presbyterian Church (U.S.A.), it is breaking what is often a significant historic relationship; it is also departing from a fellowship in which its officers have participated, by whose polity they have pledged to be governed, and with which many members may feel bonds of affection.”<sup>2</sup> Accordingly, the idea of holding property in trust has long been a part of the Presbyterian theology as well as a practice recognized by the U.S. Supreme Court (*Watson v. Jones*, 80 U.S. (13 Wall.) 679 (1872)).<sup>3</sup>

**HOW DOES CHURCH UNITY RELATE TO THE TRUST CLAUSE?**

***“There is one Church, for there is one Spirit, one hope, ‘one Lord, one faith, one baptism, one God and Father of all, who is above all and through all and in all’ (Eph. 4:5-6) (F-1.0302(a))***

Our polity reflects this theology of unity and oneness and the *Book of Order* reminds us that “unity is God’s gift to the Church in Jesus Christ” and “in Christ the Church is one, it strives to be one.”<sup>4</sup> Along these lines, the 217th General Assembly (2006) called upon “every member of the Presbyterian Church (U.S.A.) to witness to the church's visible oneness, to avoid division into separate denominations that obscure our community in Christ, and to live in harmony with other members of this denomination, so that we may with one voice together glorify God in Jesus Christ, by the power of the Holy Spirit; and all sessions, congregations, presbyteries, and synods to renew and strengthen their covenanted partnership with one another and with the General Assembly.”<sup>5</sup>

Further, G-3.0101 reminds us, “the mutual interconnection of the church through its councils is a sign of the unity of the church. Congregations of the Presbyterian Church (U.S.A.), while possessing all the gifts necessary to be the church, are nonetheless not sufficient in themselves to be the church. Rather, they are called to share with others both within and beyond the congregation the task of bearing witness to the Lordship of Jesus Christ in the world. This call to bear witness is the work of all believers. The particular responsibility of the councils of the

church is to nurture, guide, and govern those who witness as part of the Presbyterian Church (U.S.A.) to the end that such witness strengthens the whole church and gives glory to God.”<sup>6</sup> Furthermore, “the congregation is the basic form of the church, but it is not of itself a sufficient form of the church. Thus congregations are bound together in communion with one another, united in relationships of accountability and responsibility, contributing their strengths to the benefit of the whole, and are called, collectively, the church.”<sup>7</sup> Accordingly, the church is not a voluntary association of those who share the same opinions and experiences, but is an organic body reflecting unity in diversity and called into existence by God that celebrates and transmits through the ages the name and knowledge of Jesus Christ.<sup>8</sup> The constitutional provisions under which congregations hold property for the benefit of the Presbyterian Church (U.S.A.) arise out of and reflect our theological conviction that this denomination constitutes one indivisible body, which itself is part of the body of Christ, and which encompasses not only the visible Church today but also the one, holy, catholic, and apostolic Church of our heirs and forbearers (F-1.0302).

### **HOW DOES MISSION RELATE TO THE TRUST CLAUSE AND CHURCH PROPERTY?**

The *Book of Order* in G-4.0201 affirms, “the property of the Presbyterian Church (U.S.A), of its councils and entities, and of its congregations, is a tool for the accomplishment of the mission of Jesus Christ in the world.”<sup>9</sup> Each local congregation “is the church engaged in the mission of God in its particular context” with a particular history.<sup>10</sup> For its members, the congregation is the site of baptisms, confirmations, marriages, and celebrations of the resurrection to join the communion of saints. Such significant personal experiences make the local congregation an indelible part of the lives of their members. These shared experiences are what most of us picture when we think of our home congregation.

Yet, we also affirm that the “congregation is the basic form of the church, but it is not of itself a sufficient form of the church” and our polity recognizes that purpose of the trust clause is not only to support the witness and mission of a particular congregations, but also to support the mission and witness of the whole Presbyterian Church (U.S.A.). Indeed, it is “the particular responsibility of the councils of the church is to nurture, guide, and govern those who witness as part of the Presbyterian Church (U.S.A.) to the end that such witness strengthens the whole church and gives glory to God.”<sup>11</sup> Along these lines, as a council of the church, the presbytery is responsible for developing “the strategy for the mission of the church in its district”<sup>12</sup> and has the responsibility and power to organize, receive merge, dismiss and dissolve congregations in consultation with their members.<sup>13</sup> Further, the presbytery has the responsibility to assist congregations in developing mission and participating in the mission of the whole church.<sup>14</sup> Accordingly, it is important for the presbytery to prayerfully discern and consider the mission of the church in its district and of the whole church as it decides whether to dismiss or dissolve a congregation.

### **WHO HAS THE AUTHORITY TO DISMISS A CONGREGATION?**

Presbyteries are responsible for upholding the trust clause and congregations may only be dismissed upon the approval of their presbytery. In accordance with G-4.0207, “the relationship to the Presbyterian Church (U.S.A.) of a particular church can be severed only by constitutional action on the part of the presbytery.”<sup>15</sup> As noted above, the presbytery is responsible for the mission and government of the church throughout its geographical district and has the power

organize, receive merge, dismiss and dissolve congregations in consultation with their members.<sup>16</sup>

**CAN A CONGREGATION VOTE TO SEEK DISMISSAL? DOES A CONGREGATION HAVE A UNILATERAL RIGHT TO DEPART FROM THE PC(USA)?**

No. There is not a unilateral right of a Presbyterian Church (U.S.A.) congregation to depart from the denomination or its presbytery of membership. Withdrawal from the Presbyterian Church (U.S.A.) is not a matter that can be considered at a congregational meeting.<sup>17</sup> No authority is given to a congregation or to session to vote to leave the denomination.<sup>18</sup> While a presbytery may consult with a congregation about dismissal in the form of listening sessions, hearings, or other consultations, these consultations are merely for the benefit of informing the presbytery as it considers a request for dismissal.<sup>19</sup> Along these lines, our church has long recognized that “by giving to presbytery rather than to session or congregation the power to dismiss a church, the constitution of this denomination guarantees a formal meeting of presbytery as the forum in which loyalist minorities of whatever size might press their claims that they were sufficient in numbers and dedication to continue a church in its connectional relationship within this denomination.”<sup>20</sup> Further, in seeking to negotiate with a congregation seeking dismissal, presbyteries have an obligation to see that secular litigation is used as a last resort.<sup>21</sup>

Here, it is also important to note that freedom of conscience is limited for teaching elders, ruling elders and deacons under G-2.0105 and does not encompass the calling of congregational meetings to seek dismissal, moving churches to seek dismissal from the denomination or obstructing constitutional governance of the church.<sup>22</sup> There may not be any secret acts by the pastors and sessions diminishing a church's connection to the Presbyterian Church (U.S.A.). Further, congregations that fail to abide by the principles of Gracious Separation “have breached important responsibilities and duties.”<sup>23</sup>

**DOES A CONGREGATION HAVE TO BE DISMISSED TO ANOTHER REFORMED BODY?**

Yes. Dismissal to another reformed body is a requirement through authoritative interpretations of PC(USA) constitutional provisions.<sup>24</sup> Through authoritative interpretation the General Assembly held:

Presbyteries may dismiss congregations to other ecclesiastical bodies of this denomination, and to denominations whose organization is conformed to the doctrines and order of the Presbyterian Church (U.S.A.). No congregation may be dismissed to independent status, or to the status of a nondenominational congregation.<sup>25</sup>

The requirement of dismissal to another reformed body goes back to historical reformed understandings of the importance and need to continue the reformed family as well as our reformed theology. Further, dismissal to “another Reformed body” was also the language used during reunion and is found in the *Book of Order* under the “Articles of Agreement.”<sup>26</sup> Accordingly, if the presbytery discerns it should dismiss the congregation to another reformed body, then the Presbytery should dismiss “pending reception into another reformed denomination” so that the congregation does not end up in independent status if another reformed denomination refused to admit the congregation into the denomination.

**WHO DETERMINES WHETHER THE RECEIVING BODY IS ANOTHER REFORMED BODY?**

“It is the responsibility of the dismissing presbytery to determine whether the receiving body meets these standards, and this responsibility cannot be delegated to any other entity within the presbytery (such as an administrative commission). Thus the General Assembly may not determine in advance whether a particular denomination or its constituent bodies qualify under these standards.”<sup>27</sup> In exploring this matter, presbyteries should consider such questions as whether the receiving body is:

- “1) doctrinally consistent with the essentials of Reformed theology as understood by the presbytery;
- 2) governed by a polity that is consistent in form and structure with that of the Presbyterian Church (U.S.A); and
- 3) of sufficient permanence to offer reasonable assurance that the congregation is not being dismissed to de facto independence.”<sup>28</sup>

Further, “failure on the part of the presbytery thoroughly to explore and adequately to document its satisfaction in these matters may thus violate, however unintentionally, the spirit of the polity of the Presbyterian Church (U.S.A.)”<sup>29</sup>

#### **MAY A PRESBYTERY DELEGATE ITS FINAL DECISION TO DISMISS A CONGREGATION TO AN ADMINISTRATIVE COMMISSION?**

While a presbytery could delegate dismissal of a congregation to an Administrative Commission, such a decision is of such missional importance to a presbytery that the entire presbytery would likely wish to discern such a matter together.<sup>30</sup>

#### **CAN A PRESBYTERY DISMISS ITSELF OR ALL OF ITS CONGREGATIONS?**

No. A presbytery cannot release itself, or all of its congregations, for only the General Assembly and the synod working together itself can organize, divide, unite, or combine presbyteries or portions of a presbytery.<sup>31</sup>

#### **WHAT ARE GRACIOUS DISMISSAL POLICIES?**

At the direction of the 219<sup>th</sup> General Assembly (2008), 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.”<sup>32</sup> 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.<sup>33</sup> 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 Presbyterian Church (U.S.A.) 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.<sup>34</sup> The presbytery must also consider a congregation's financial position and valuation of property and take into consideration the Presbyterian Church (U.S.A.)'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 GENERAL ASSEMBLY ENTITIES?**

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.<sup>35</sup> This discretionary authority includes the presbytery's consideration of a congregation's financial position and valuation of the property.

**MAY A GRACIOUS DISMISSAL POLICY (OR ANY BYLAW OR POLICY OF THE PRESBYTERY) DELINEATE THE CIRCUMSTANCES IN WHICH A PRESBYTERY WILL DISSOLVE, DISMISS OR MERGE A CONGREGATION?**

No. Since the presbytery must determine its mission when discerning whether to dissolve, dismiss or merge a congregation, dismissal of a congregation requires that the presbytery make the decision about dismissal in each separate case after careful consideration of all the circumstances.<sup>36</sup> A presbytery may not discern ahead of time the circumstances in which a presbytery will dismiss a congregation.

"Dismissal of a congregation now requires, as it always has with the single exception of Article 13, that the presbytery make the decision about dismissal in each separate case after careful consideration of all the circumstances."<sup>37</sup>

**MAY A GRACIOUS DISMISSAL POLICY DESCRIBE HOW AND WHEN PROPERTY WILL BE USED AND/OR DISTRIBUTED AMONG CONGREGATIONAL ENTITIES?**

No. A presbytery is required to determine its mission, including the use and distribution of real and personal property, after careful consideration of all the circumstances on a case by case basis.<sup>38</sup>

**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.<sup>39</sup> 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.

**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 Presbyterian Church (U.S.A.) 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.

**WHAT IS THE PRESBYTERY'S ROLE REGARDING RECORDS OF A CONGREGATION SEEKING DISMISSAL?**

Presbyteries have a constitutional responsibility to safeguard the historic records of congregations that choose to leave the denomination. According to the *Book of Order*, G-3.0107, ownership of the records of dismissed or dissolved congregations passes to the presbytery, and clerks are charged with the safekeeping of records that must be maintained in perpetuity.<sup>40</sup> Depositing records with the Presbyterian Historical Society, the official archives of the Presbyterian Church (U.S.A.), is a recommended means of preservation. The Presbyterian Historical Society (PHS) offers stated clerks and administrative commissions several options that may help ease the conflict over records while ensuring that vital materials are preserved by the denomination. The desire of departing congregations to have continued access to records may be a point of contention. By choosing to microfilm the original records and digitize the microfilm, presbyteries, congregations and PHS will all have access to the materials.<sup>41</sup> In sum, PHS provides presbyteries with the capacity to: 1) Place original materials on deposit; 2) Place materials on deposit and microfilm them; 3) Deposit, microfilm and digitize records; or 4) microfilm, digitize and return the original records to the congregation.<sup>42</sup>

**IS A PRESBYTERY'S DECISION TO DISMISS A CONGREGATION SUBJECT TO REVIEW?**

Yes, a presbytery's decision to dismiss a congregation is subject to review and if a presbytery fails to carry out its constitutional responsibilities, the synod may be required to intervene by undertaking review of the presbytery's processes and decisions.<sup>43</sup> If the synod finds that the presbytery has not been faithful to its mission, the synod may direct the presbytery to appropriate action.<sup>44</sup> If a presbytery is unable or unwilling to carry out these constitutional responsibilities, the synod may assume jurisdiction over the presbytery's powers to divide, dismiss or dissolve congregations, identify true church, and hold property in trust for the use and benefit of the Presbyterian Church (U.S.A.).<sup>45</sup>

**WHAT ROLE DOES THE TRUST CLAUSE PLAY WITH REGARD TO CONGREGATIONAL LOANS?**

The Trust Clause provides important support and safeguards for the low-cost loan programs for Presbyterian Church (U.S.A.) congregations provided by the Presbyterian Investment and Loan Program, Inc. (PILP) and the General Assembly Mission Council (GAMC). The PILP makes low-cost loans to Presbyterian Church (U.S.A.) congregations for new buildings and renovations and without the trust clause, presbyteries would be unlikely to guarantee loans and without guarantees PILP's ability to assist congregations would be significantly impaired.<sup>46</sup> Most church building projects cannot be financed by congregations from their current receipts and many congregations depend on loans from PILP, the GAMC's Church Loan Program, or commercial lenders to complete these projects. Generally, these loans are secured by first lien mortgages on the property of the borrowing congregation. The property of the congregation provides the collateral for these loans and is a potential source of repayment should the borrowing congregation not be able to repay the loan. In addition to being secured, these loans are guaranteed by the presbytery of jurisdiction of the borrowing congregation. This means the presbytery is responsible to pay back the loan should the borrowing congregation fail to pay. The presbyteries have confidence in guaranteeing these secured loans due in part to the fact that church property is held in trust under G-4.0203. Further, G-4.0204 states:

Whenever property of, or held for, a congregation of the Presbyterian Church (U.S.A.) ceases to be used by that congregation as a congregation of the Presbyterian Church (U.S.A.) in accordance with this Constitution, such property shall be held, used, applied, transferred, or sold as provided by the presbytery.

Under G-4.0204, when a congregation ceases to exist or leaves the denomination, the congregation's property (which includes, but is not limited to, its real property, building, and other assets such as investments) is subject to the control of the presbytery of jurisdiction. The presbytery continues to be responsible for mission of the Presbyterian Church (U.S.A.) in the area of the departing congregation, and the presbytery can use the property to implement that mission. If the departing congregation has a secured loan with PILP, guaranteed by the presbytery, the presbytery would have the ability to retain the property or the presbytery could use the property to raise funds to satisfy the presbytery's responsibility under the guaranty. As noted above, a presbytery may discern and give some or all of this property to a departing congregation, but this choice will not result in a release of the obligation to repay the secured loan and/or in the release of the guaranty.

If a congregation has a secured loan with PILP and/or the GAMC and chooses to leave the denomination or is dissolved by a presbytery, the terms of the loan provide that the loan is accelerated and becomes immediately due and payable. The guarantee of the presbytery is not satisfied until the loan is paid in full. Our connectional system and the fact that property owned and used by congregations is held in trust for the Presbyterian Church (U.S.A.) allows the denomination to assist local congregations by providing low interest mortgages through national entities such as PILP and the Church Loan Program. The assurances and protections given under the trust clause help enable these programs to make loans secured by mortgages of the underlying property which are more financially beneficial for the congregations than traditional loan sources.

In the current economy and in the aftermath of the banking crisis, it has become increasingly difficult for small and mid-size congregations to obtain financing for capital projects from banks.

It is often new, young, or struggling congregations that need the resources of the denomination the most and the PILP is able to meet these needs of these and other Presbyterian Church (U.S.A.) congregations. Without the current trust clause of the *Book of Order*, it is important to recognize that presbyteries would be unlikely to guarantee loans and without guarantees PILP's ability to assist congregations would be significantly impaired.

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<sup>1</sup> G-4.0203

<sup>2</sup> PJC ([2012, 221-03 Tom et. al. vs. Pby of San Francisco](#))

<sup>3</sup> This necessity for adoption of G-4.0203 arose from court decisions that changed the permissible role of courts in determining disputes as to church property. Until a few years before the adoption of G-4.0203, courts determining property disputes sought to determine from the doctrinal documents of a denomination whether the property of local congregations was held in trust for the larger church (this was referred to as the "implied trust" analysis). However, in 1979, the United States Supreme Court found that this type of inquiry into the doctrine of a denomination was an improper intrusion into the First Amendment right to freedom of religion. Accordingly, the courts were required to determine property disputes without seeking to interpret a denomination's doctrine (the so-called neutral principles of law analysis). For Presbyterians, this change in the legal framework the civil courts applied suggested specific reference in property matters in a denomination's constitutional documents was prudent. Section G-4.0203 provides that explicit understanding of the long held Presbyterian understanding. As such, it was not a change in our Presbyterian polity, but rather an attempt to protect the denomination's polity against changes in the permissible framework of legal analysis applied by the civil courts.

<sup>4</sup> In John 17:20-21, Jesus prayerfully desires unity in the Church saying: <sup>20</sup> "My prayer is not for them alone. I pray also for those who will believe in me through their message, <sup>21</sup> that all of them may be one, Father, just as you are in me and I am in you. May they also be in us so that the world may believe that you have sent me. Paul picks up on this theme in Galatians and Ephesians: Galatians 3:28 says "There is neither Jew nor Gentile, neither slave nor free, nor is there male and female, for you are all one in Christ Jesus." Ephesians 4:3, "Make every effort to keep the unity of the Spirit through the bond of peace." Along these same lines, F-1.0301 reminds us that our "church is called to be a community of love, where sin is forgiven, reconciliation is accomplished, and the dividing walls of hostility are torn down."

<sup>5</sup> GA (2006), Report of the Task Force on Peace, Unity, and Purity, 06-01, Rec. 1, a-b.

<sup>6</sup> G-3.0101

<sup>7</sup> G-1.0101

<sup>8</sup> See F-1.02 "Jesus Christ is the Head of the Church;" see also F-1.0403

<sup>9</sup> G-4.0201

<sup>10</sup> G-1.0101

<sup>11</sup> G-3.0101

<sup>12</sup> G-3.0301; G-3.0303(a)

<sup>13</sup> G-3.0301(a)

<sup>14</sup> G-3.0301(c)

<sup>15</sup> G-4.0207

<sup>16</sup> See G-3.0301; G-3.0303(a)

<sup>17</sup> GA (218th, Item 4-20); see also PJC (*Sundquist v. Heartland*, [Remedial Case 219-03](#), 2008)

<sup>18</sup> See G-1.0503 and G-3.02

<sup>19</sup> *Sundquist v. Heartland*, [Remedial Case 219-03](#)

<sup>20</sup> See PCUS 1976, 92, *Strong v. Synod of Mid-South*.

<sup>21</sup> *Sundquist v. Heartland*, [Remedial Case 219-03](#)

<sup>22</sup> *Sundquist v. Heartland*, [Remedial Case 219-03](#)

<sup>23</sup> *Sundquist v. Heartland*, [Remedial Case 219-03](#)

<sup>24</sup> GA (2008, 14, 15 Item 07-13). For more information on authoritative interpretations see G-3.0501c and G-6.02

<sup>25</sup> GA (2008, 14, 15 Item 07-13). Along these lines, The General Assembly Permanent Judicial Commission has found that "[a]n 'independent' or 'congregational' Presbyterian church is an anomaly which runs counter to the notion

that we are a 'family' of churches and dismissal must therefore be made to another church within the family group ... . . . . The ... presbytery had no constitutional right to dismiss ... the churches to independent status. . . . The policy of not allowing members and ministers to be cut loose with no ties indicates the historic Presbyterian policy of ecclesiastical connectionalism. This policy likewise forbids ... dismissal to independency" (PCUS 1973, pp. 119-121, *Anderson v. Synod of Florida*).

<sup>26</sup> See the *Book of Order* Appendix B, Article 13 (page B. 13). The "Articles of Agreement" are cited here for historical purposes and do not carry constitutional authority.

<sup>27</sup> GA (2008, 14, 15 Item 07-13).

<sup>28</sup> GA (2008, 14, 15 Item 07-13).

<sup>29</sup> GA (2008, 14, 15 Item 07-13).

<sup>30</sup> *Sundquist v. Heartland*, [Remedial Case 219-03](#); see also (PCUS 1976, 92, *Strong v. Synod of Mid-South*)

<sup>31</sup> G-3.0502(e)

<sup>32</sup> 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.

<sup>33</sup> PJC (2014, 221-03, [Tom et al v. Pby of San Francisco](#))

<sup>34</sup> See F-1.0302; F-1.0303; F-1.0304.

<sup>35</sup> 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.

<sup>36</sup> GA (Minutes, 1991, Req. 91-24, Part I, p 396).

<sup>37</sup> GA (Minutes, 1991, Req. 91-24, Part I, p 396).

<sup>38</sup> GA (Minutes, 1991, Req. 91-24, Part I, p 396).

<sup>39</sup> PJC (2014, 221-03, [Tom et al v. Pby of San Francisco](#))

<sup>40</sup> G-3.0107 states, "each council shall keep a full and accurate record of its proceedings. Minutes and all other official records of councils are the property in perpetuity of said councils or their legal successors. When a council ceases to exist, its records shall become the property of the next higher council within whose bounds the lower council was prior to its cessation. The clerk of each council shall make recommendation to that body for the permanent safekeeping of the body's records with the Presbyterian Historical Society or in a temperature and humidity controlled environment of a seminary of the Presbyterian Church (U.S.A.)."

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<sup>41</sup> The PHS microfilming program creates archival-quality film at a reduced cost for PC(USA) entities, and if requested, PHS will arrange for the production of a digital edition of the microfilm in PDF or JPEG format at cost. Presbyteries may opt to pay for microfilming (and digitization) or ask the departing congregations to cover the costs. After the records are microfilmed, stated clerks may decide to place the original records on deposit at PHS or return them to the departing congregation as part of a gracious dismissal agreement.

<sup>42</sup> For more information about these processes, please contact: Presbyterian Historical Society, 425 Lombard Street, Philadelphia, PA 19147. Phone (215)-627-1852. Email: [refdesk@history.pcusa.org](mailto:refdesk@history.pcusa.org) or via the web at: [www.history.pcusa.org](http://www.history.pcusa.org)

<sup>43</sup> G-3.0108(a)&(b); *see also* F-3.0206

<sup>44</sup> G-3.0108(a)(b)&(c)

<sup>45</sup> *See* G-3.0401(c); G-3.0301(a); G-3.0303(b); G-4.0203 & G-4.0207.

<sup>46</sup> The funds for PILP loans are generated through the sale of Term Notes, which are debt securities to PC(USA) members and congregations and the sale of Denominational Account receipts (DARs) accounts to mid councils and PC(USA) agencies. The interest paid on these Term Notes and DARs and any redemptions are funded by the interest and principal repayment of the loans to congregations. The PILP relies on the congregation's repayment of principal and interest to be able to pay interest to investors and to repay principal to investors at maturity. The PILP administers the Church Loan Program for the GAMC. The Church Loan Program is a mission program under the responsibility of the GAMC and the principal corporation of the General Assembly, Presbyterian Church (U.S.A.), A Corporation, where endowment funds are also used to make low-cost loans to congregations.

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