

The Presbytery of Milwaukee, Presbyterian Church (U.S.A.)
Advisory Opinion of the Stated Clerk
On Presbytery Required Boundary Training Policies
and Non-Compliant Members

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Context:

The Constitution of the Presbyterian Church (U.S.A.) requires every council of the church to “adopt and implement a sexual misconduct policy and a child and youth protection policy” (G-3.0106). This, across the presbyteries of the Church, is commonly known as Boundary Training. The 2022 General Assembly has passed an even broader requirements, set to be part of the *Book of Order* if ratified by a majority of the presbyteries in 2022.

On February 19, 2022, the Presbytery of Milwaukee passed an expanded policy on Ethical Conduct and Boundaries. The Presbytery policy specifies that:

All minister members (including all those in validated ministry), pastors, and Christian Educators are required to complete Safe Gatherings training every three years. Exceptions to this include, those who are retired and not serving in any capacity within the Presbytery. Those engaged in validated ministry who are required by their employer to have comparable training, reference and background checks may seek permission from CPM to provide verification of these in lieu of Safe Gatherings.

“All people working with or supervising Protected Persons during any activities, events, and programs that the Presbytery funds, sponsors, or organizes (collectively “Activities”), must satisfactorily complete an application form and a Presbytery-approved training (such as Safe Gatherings) which includes background and reference checks. Safe Gatherings training must be completed every three years.

Ministers, pastors, and Christian Educators are also required to complete Wisconsin’s Mandatory Reporter Training. Under Wisconsin’s child abuse reporting law, mandatory reporters are typically people who interact with children in their professional capacities. A mandatory reporter generally must report suspected child abuse or neglect immediately if he or she has reasonable cause to suspect that a child seen in the course of professional duties has been abused or neglected or has been threatened with abuse or neglect that will occur.

Questions:

What recourse does the presbytery have with non-compliant members who are required to complete the training?

Response:

Foundational Constitutional Understandings

1. One of the Foundations of Presbyterian Polity is “councils possess whatever administrative authority is necessary to give effect to duties and powers assigned by the Constitution of the church. The jurisdiction of each council is limited by the express provisions of the Constitution, with powers not mentioned being reserved to the presbyteries” (F-3.0209). The Constitution, particularly the *Book of Order*, provides the minimum standards and expectations. Where the *Book of Order* is silent, the presbyteries then may establish their own rules as long as they are not in conflict with the Constitution or civil law.
1. This foundational understanding of our Constitutional administrative power, especially of presbyteries, was further illuminated in the authoritative interpretation found in the General Assembly Permanent Judicial Commission’s (GAPJC) ruling on Bolton v. Alamance Presbyterian Church (1995): “It should be stated at the outset that the *Book of Order* is the part of the Constitution of the Presbyterian Church (U.S.A.) that defines the powers of the various governing bodies of the church and establishes procedures to ensure that all persons and governing bodies are treated fairly within the concept of due process of law. The *Book of Order* is not a straitjacket which prevents a governing body from exercising its powers in a reasonable way so as to carry out its basic functions and duties with efficiency to avoid a waste of time of its members (*Book of Order*, G-4.0301i). *Book of Order*, G-4.0301i states that ‘governing bodies possess whatever administrative authority is necessary to give effect to duties and powers assigned by the Constitution of the church.’”
2. As a Constitutional standard, pastoral relationships are defined in G-2.0504 as installed or temporary.
3. *Book of Order*, G-2.0502, establishes that Ministers of the Word and Sacrament have membership in the presbytery by the action of the presbytery itself, and no pastoral relationship may be established, changed, or dissolved without the approval of the presbytery.
4. Thus, G-2.0502 may be read as no pastoral relationship, temporary or installed, may be established, changed, or dissolved without the approval of the presbytery.
5. Constitutionally, G-2.0504.b. states temporary pastoral relationships (non-installed) are approved by the presbytery but do not carry a “formal call or installation.” Unlike installed pastoral relationships, where the congregation is the body engaging in the creation of the pastoral relationship (formal call), in temporary pastoral relationships it is the session.
6. “The session, with the approval of presbytery, may obtain the services of a minister of the Word and Sacrament, candidate, or ruling elder in a temporary pastoral relationship. No

formal call shall be issued and no formal installation shall take place.” Thus, a temporary pastoral relationship is contractual in nature.

7. All temporary pastoral relationship between a session and minister(s), as well as ruling elders commissioned to pastoral service, are subject to the review and approval of the presbytery. Furthermore, as stated in G-2.0504.b, under the presbytery’s oversight and established standards, titles and terms of service for temporary relationships are determined by the presbytery. A person serving in a temporary pastoral relationship is invited by the session for a specified period not to exceed twelve months in length, which is approved and only renewable with the approval of the presbytery. Therefore, presbytery alone creates and dissolves pastoral relationships, temporary and installed.
8. Confusion arises then regarding the G-2.09 section of the *Book of Order* which addresses only the process for dissolving installed pastoral relationships. The *Book of Order* is silent about the process of dissolving temporary pastoral relationships.
9. Under the Foundations of Presbyterian Polity, dissolution of temporary pastoral relationships, even those that are contractual in nature between a session and a minister with presbytery approval, are established by a presbytery under its own rule (the standards, policies, and forms of such contracts and relationships), and thus may be dissolved similarly under the rules established by the presbytery (F-3.0209).
10. G-2.0904 states “the presbytery may inquire into reported difficulties in a congregation and may dissolve the pastoral relationship if, after consultation with the minister of the Word and Sacrament, the session, and the congregation, it finds the church’s mission under the Word imperatively demands it.”
11. All authoritative interpretations of the G-2.09 section by General Assembly Permanent Judicial Commission rulings establish that the principals of fundamental fairness must be exercised by the presbytery as it exercises its administrative authority to dissolve installed pastoral relationships without the request of either pastor or congregation. Furthermore, if a presbytery intends or does not intend that an administrative commission has the power to dissolve a pastoral relationship, it should so indicate in clear and expressed language. (See GAPJC (2006, 218-05, 307, Essinger-Hileman v. Pby of Miami); PJC (2002, 215-05, Gaba v. Pby E. VA); GAPJC (1995, 207-13, Lewis v. Pby of New York City); PJC (1994, 206-2, Phinisee v. Pby of Grace); GAPJC (1993, 205-13, Cooper v. Pby of Muskingum Valley); GAPJC (1991, 203-2, Anderson v. Pby of Central Florida); GAPJC (1990, 202-1, Baumann v. Bellefield Church); GAPJC (1988, 200-7, Campbell, Jr. et al. v. Pby of Atlantic)).
12. The GAPJC ruled in *Rice v. Presbytery of Philadelphia* (1996, 12.068) that "a presbytery clearly has the right and responsibility to approve or disapprove of the ministerial tasks undertaken by its members.... [T]his power should not be exercised arbitrarily." Furthermore, under *Lewis v. Presbytery of New York City* (1995, 11.066), a presbytery is "obligated to treat all parties fairly and provide them with an opportunity to present their

positions. The test is fundamental fairness -- the opportunity to be heard and a consideration of their respective positions without prejudice."

13. Based on the Rice and Lewis standards, the GAPJC in 2010 (219-04, 369) ruled in Wolfe v. Presbytery of Winnebago the following ruling regarding the power of a presbytery in relationship to minister members.
 - a. A presbytery has right and responsibility to approve or disapprove ministerial tasks undertaken by its members, but should not be exercised arbitrarily.
 - b. A presbytery is obligated to treat all parties with fundamental fairness and provide them an opportunity to present their positions.
 - c. A minister member is accountable to the presbytery for the performance of their work. A presbytery has authority to determine how the minister can be helpful to the mission of the church.
 - d. A presbytery has the authority to address the work of a minister of Word and Sacrament through administrative means.

14. Even though G-2.0904 is directly addressing installed pastoral relationships, the fundamental scope also applies to temporary pastoral relationships by a presbytery under its own rule. (1.) The presbytery has the Constitutional administrative authority to inquire into reported difficulties in a congregation; (2.) the presbytery may dissolve the pastoral relationship if, (a.) after consultation with the minister of the Word and Sacrament, the session, and the congregation, (b.) it finds the church's mission under the Word imperatively demands it. This may occur only if the principals of fundamental fairness are exercised by the presbytery as it exercises its administrative authority to dissolve temporary pastoral relationships, and if a presbytery intends or does not intend that an administrative commission have the power to dissolve a pastoral relationship, it should so indicate in clear and expressed language.

15. If a presbytery has not established its own rules regarding temporary pastoral relationships, let alone installed, especially being mindful of its processes and forms in establishing and dissolving such relationships, a presbytery may be found by a higher council deficient in its Constitutional administrative rights and responsibilities, and lacking authority to act on any conflict arising from temporary pastoral relationships under its jurisdiction.

Contextual Application

A presbytery has the Constitutional right and authority to restrict, suspend, dissolve pastoral relationships, and remove determination of "good standing" if the member is in violation of PC(USA) Constitutional mandates, Presbytery mandates codified in presbytery approved policies and standards for membership, and State Statutes. If the presbytery member continues to be in non-compliance and non-communicative, the presbytery by vote may remove a minister from the PC(USA) under G-2.0508, Failure to Engage in Validated Ministry, or G-2.0509, Renunciation of Jurisdiction.

It is advised that a presbytery follow the fundamental fairness principal, which should include actions similar to the following:

1. Notification to the presbytery member of being in non-compliance with the presbytery mandated policy for membership. This notification includes communicating the power and jurisdiction of the presbytery to restrict, suspend, dissolve, or remove from ministry.
2. Ability of the member to be heard regarding non-compliance and opportunity to remedy.
3. If the presbytery member is non-communicative and continues to be in non-compliance, if applicable, the session shall be notified and made aware that if the mandated policy for membership has not been remedied, and the presbytery has the right and jurisdiction to restrict, suspend, or dissolve the pastoral relationship. The presbytery shall hear the session and work with the session in forming a plan to support the session if the pastor continues to be in non-compliance and thus restricted, suspended, or the pastoral relationship dissolved.
4. If the presbytery member continues to be in non-compliance, a person or agency/commission of the presbytery with standing may bring forward to the presbytery a motion to restrict, suspend, or dissolve a pastoral relationship. The minister member and the church session (if applicable) have the right to speak and be heard.
5. Pending responses from the above from the presbytery member, the presbytery may entertain such motions to remove the member from the PC(USA) Minister Roll under G-2.0508, Failure to Engage in Validated Ministry, or G-2.0509, Renunciation of Jurisdiction.