

PRESBYTERY OF HUDSON RIVER - ADMINISTRATIVE LEAVE POLICY

Relations between a Teaching Elder (hereafter TE) or Commissioned Ruling Elder (hereafter “CRE”) and the church (or institution, i.e., Presbytery staff) he/she serves can become discordant and inharmonious if the TE or CRE becomes subject to investigation and judicial process under the Rules of Discipline. These strained relations can occur regardless of the validity of the accusation and may continue until (or beyond) completion of the judicial process prescribed by the Rules of “Discipline.

Administrative leave can promote the peace and harmony of the local church by temporarily separating the accused TE or CRE and the local congregation or institution. Furthermore, since being accused can be physically, emotionally and spiritually exhausting, administrative leave can relieve the accused TE or CRE of the burden of ministering, especially in a conflicted situation.

UNDER AGE OF 18 OR LACK OF MENTAL CAPACITY TO CONSENT

D-10.0106 including (a) and (b) sets forth a specific process when a written statement of an alleged offense of sexual abuse toward any person under the age of eighteen, or who it is alleged lacked the mental capacity to consent. That section states, *When a written statement of an alleged offense of sexual abuse toward any person under the age of eighteen, or who it is alleged lacked the mental capacity to consent, has been received against a teaching elder, the stated clerk receiving the allegation shall immediately communicate the allegation to the permanent judicial commission. The moderator of the permanent judicial commission shall within three days designate two members, who may be from the roster of former members of the permanent judicial commission, to determine whether the accused shall be placed on a paid administrative leave during the resolution of the matter. The cost of such shall be borne by the employing entity whenever possible or be shared by the presbytery as necessary. While administrative leave is in effect, a teaching elder may not perform any pastoral, administrative, educational, or supervisory duties, and may not officiate at any functions such as Baptism, funerals, or weddings.*

- a. *The designated members of the permanent judicial commission, after giving the accused the opportunity to be heard, shall determine whether the risk to the congregation and to potential victims of abuse, when considered in light of the nature and probably truth of the allegations, requires administrative leave or other restrictions upon the teaching elder’s service. Such administrative leave or restrictions will continue until resolution of the matter in one of the ways prescribed in the Rules of Discipline or the leave or restrictions are altered or removed by the designated members of the commission.*
- b. *If the designated members of the commission determine that no administrative leave or restriction is required, the investigating committee appointed to investigate the allegations shall be free at any point in its investigation to present additional evidence to the designated members supporting the imposition of administrative leave or other restrictions.*

OVER AGE 18 AND WITH CAPACITY TO CONSENT

No such specific process is addressed in the Rules of Discipline for those over the age of 18 at the time of the alleged incident(s) and with mental capacity to consent. In those cases the following shall apply:

When the Stated Clerk of the Presbytery (or the Temporary Stated Clerk if the Stated Clerk is unavailable) receives a written statement of an alleged offense, in addition to initiating the procedures required by the Rules of Discipline, the Stated Clerk shall consult with two other persons: the General Presbyter and/or the co-chairs of the Committee on Ministry. If it is their [majority] judgment that the complaint warrants non-prejudicial administrative leave, the Stated Clerk and/or the General Presbyter will meet with the TE or CRE and the local session or entity, separately, to notify and interpret the recommendation.

In other instances non-prejudicial administrative leave may be prudent and helpful, but in those situations it has to be voluntary and mutually agreed upon. Whether administrative leave is imposed or is voluntary, all persons are presumed innocent until proven guilty.

The specific terms of a mutually agreed upon leave shall be spelled out in writing and signed by all parties, including the TE or CRE, the clerk of session and the presbytery representative (General Presbyter or Committee on Ministry co-chair).

The duration of administrative leave will be set by the General Presbyter and a co-chair of the Committee on Ministry and will depend upon the time needed for the investigative and judicial process. The investigation will proceed to conclusion with all deliberate speed, mindful of the financial obligations of those churches involved.

In all cases of administrative leave the TE or CRE shall:

Immediately surrender all church and church property keys (excluding the manse if the TE or CRE is living there), as well as any codes or passwords to the General Presbyter.

Not initiate or sustain contact (personally or electronically) with any member of the church staff or any member of the congregation (other than family members) except under the following circumstances:

- a) One member of the staff or session may be designated, by prior mutual agreement, to deliver personal mail or other personal effects to the TE or CRE on administrative leave.
- b) When specific contact has been authorized for the purpose of preparing a defense.

Remain out of all church buildings and off church grounds (excluding the manse where the TE or CRE lives/and or a school on the church property when the TE

or CRE is in the role of a parent of a child enrolled in the school) throughout the duration of administrative leave; not conduct worship services, weddings, funerals, administer the sacraments or engage in any form of pastoral care or leadership in the congregation when the TE or CRE serves, or in funeral homes, wedding chapels, or in any other congregation in the Presbytery or any other Presbytery. Provisions may be made with the General Presbyter or the Committee on Ministry for cases of extraordinary personal family pastoral care;

Not attend Session meetings or meetings of any other board, committee or organization of the congregation.

All other contact with the congregation shall be through the moderator of the session, approved by the Committee on Ministry and/or through his/her designee. Even in non-church events such as scouting, school, or sports programs, the TE or CRE shall not use social contact with church members to garner support for his/her case.

NOTE: Administrative leave requirements shall be supervised by the Clerk of Session or another person designated by the Clerk of Session.

Because a TE or CRE on non-prejudicial administrative leave is presumed innocent he/she will continue to receive full salary, housing allowance, and medical and pension benefits as defined by his/her terms of call or contract. However, expense allowances, including educational benefits, shall not be paid. The period during which financial support is paid shall be set by the General Presbyter and a co-chair of the Committee on Ministry and shall not ordinarily exceed one year. If the administrative leave is extended, the terms of call may be amended by the congregation, with the approval of the Committee on Ministry and the Presbytery.

Ordinarily, these costs shall be borne by the TE's or CRE's congregation. In the event the congregation cannot afford to honor the accused TE's or CRE's terms of call or contract and pay for temporary pastoral leadership, the Presbytery through the Committee on Ministry will maintain a list of volunteers including TE's or CRE's and ruling elders, in good standing, who are willing to provide worship leadership, emergency pastoral care and moderate meetings.

The Presbytery will provide for pastoral care, if desired, for all parties involved in the proceedings and their families.

Any violations of the terms of a person's administrative leave shall be reported to the Stated Clerk of the Presbytery, who will in turn share that information with the investigating committee. Such violation(s) may become the subject of expanded disciplinary proceedings.

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