

DISCIPLINARY AND ARBITRATION CODE
of the Regional Conference of Central and Southern Europe
of The United Methodist Church
(original in German)

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Preamble

Having regard to the *Discipline of the Regional Conference* (henceforth *BOD-CSE*) ¶ 58 of the Constitution of the church, the following Disciplinary and Arbitration Code is applicable to all members of The United Methodist Church, provided that no other procedures for individuals are stipulated in the *BOD-CSE*.

The code of practice on disciplinary procedures is applicable when the conduct of members harms or endangers the church and all other means of reaching a pastoral resolution have been exhausted. As a last resort it serves,

- to clarify offences;
- to help offenders back onto the right path;
- when this proves impossible to facilitate the determination of separation from such members.

The code of practice on arbitration procedures provides a means to settle disputes between individual members, so as to prevent a breakdown of relations within the church community or restore relationships.

Its chief concern as a disciplinary and arbitration code is that there is no loss of focus on the mandate given by Jesus Christ and no damage is done to the fellowship of the church. Any member guilty of an offence or of unlawful conduct towards another church member should find their way back to the gospel under the liberating Lordship and leadership of Jesus Christ and thereby into the communion of those who trust in him. Wrongdoing can, by God's grace, become an opportunity for a renewal of faith; but it can also lead those who are intransigent to leave the church.

It is with this purpose in mind that the disciplinary and arbitration code of practice should be understood and applied – by such persons as must necessarily be aware of their own constant reliance on God's grace.

1 Personal Scope of Application

The disciplinary and arbitration code shall be applicable to

1. all clergy members in accordance with *BOD-CSE* ¶ 140;
2. all other church members including lay speakers, certified lay speakers, trainees, and further staff members.

In all provisions of this disciplinary and arbitration code, persons referred to as 'clergy members' or church members shall be understood as those specified above under clauses 1 and 2 respectively.

The provisions applicable to bishops are set out in the *BOD* issued by the General Conference.

2 DISCIPLINARY CODE

3 Material Scope of Application

The disciplinary code shall be applicable to grievances which present evidence to support charges of the following kinds. Charges can be brought in the following cases:

1. dissemination of doctrines contrary to the Articles of Religion and further established standards of doctrine of The United Methodist Church;
2. misconduct to the detriment of the United Methodist Church,
3. disregard of the order and discipline of The United Methodist Church, mismanagement and negligence in the discharge of duties of office within the church,

4. persistent resistance to reconciliation between church members or clergy members;
5. the pursuit of legal proceedings against other church members or in the civil courts of law.

4 Statute of Limitations

The right to file a complaint shall become time-barred three years after the complainant became aware of the offence and ten years after the offence was committed.

The limitation period is suspended as long as judicial proceedings on account of the offence are pending before a civil court of law; in such cases, disciplinary and arbitration proceedings can be initiated only during the first twelve months after the date on which the judgement of that court became legally binding.

If the indictment is of sexual abuse or child abuse or a serious offence there shall be no limitation.

5 Filing Complaints

All professing members and clergy members of The United Methodist Church shall be entitled to file complaints.

Grievances must be submitted in writing and signed by the complainant to the following recipients, viz.

1. against a professing member: to the relevant pastor in charge, for the attention of the district superintendent
2. against a clergy member: to the relevant district superintendent, for the attention of the bishop
3. against a superintendent: to the bishop.

6 Conciliation Procedures

The purpose of these procedures is that, if possible, disciplinary proceedings can be rendered unnecessary and grievances can be addressed and resolved within the framework of the pastoral undertakings which are integral to the life of the church.

The recipient of the complaint shall consult one or two professing members of the church, selected with due regard to the gender and ecclesiastical status of the respondent, so as to bring to the attention of the respondent the alleged grievances, to admonish the respondent to desist from it, or, in the case of an unconciliatory attitude towards a third party, to induce the respondent to seek reconciliation with the latter.

The complainant shall be notified as to the outcome of the admonitory action. If it is to no avail, the complainant can request the recipient of the complaint to initiate investigation proceedings, or the recipient of the complaint can do so voluntarily.

7 General Rules of Procedure

1. In all stages of the proceedings, the principles of the rule of law must be respected. A right to a fair hearing must be ensured. Evidence shall be taken during the course of the relevant proceedings. Notification of decisions shall be given in writing.
2. Proceedings are conducted in the following stages:
 - 2.1 Investigative procedures;
 - 2.2 Judicial procedures;

- 2.3 Appeals procedures;
- 2.4 Cassation procedures.

3. All proceedings are to be held *in camera*. The services of a minute taker may be enlisted.

8 Regulations for Investigation, Trial and Appeal Procedures

- A The Committees on Investigation, Trials and Appeals shall elect a president from amongst their number.
- B If the number of clergy members in full connection in an Annual Conference is insufficient for the constitution of a Committee on Investigation and a trial panel in accordance with ¶ 9.1 and ¶ 10.1, the Annual Conference can elect a single investigating judge and a proxy as well as a trial panel consisting of three members and three alternate members. If the number of clergy members in full connection is also insufficient for this, then those lacking shall be elected from other Annual Conferences. The principle of inclusivity is to be respected in the formation of the committees (BOD-CSE ¶ 138).

The president shall conduct the hearing. The substance of the hearing is to be recorded by the minute taker engaged by the committee.

The respondent is to be served with a summons not less than ten days before the date of the hearing, with a caution that the hearing can be held and judgement pronounced irrespective of his/her appearance.

The hearings are to be held *in camera*. The committee can however permit the district superintendent, the pastor in charge and other professing members to be in attendance; this does not apply to the deliberations on the verdict.

- C The Committee on Investigation organises its proceedings at its own discretion; however, it is duty-bound to give the respondent, the complainant and the relevant pastor in charge an opportunity to be heard personally. A decision to terminate the proceedings requires a two-thirds majority of the Committee on Investigation. If they are not terminated, the Committee on Investigation shall formulate a bill of charges to be sent to the respondent and to the counsel for the church, inviting them to submit their responses, nominate potential witnesses and specify any further evidence within a period of three weeks.
- D When the indictment or the petition for review has been read out to the respondent before the Committee on Investigation or on Appeals respectively, the respondent is cross-examined in regard to his/her person and the matter in question in the absence of witnesses, inasmuch as he/she is willing to provide information. After this, evidence is taken by cross-examining witnesses, reading from relevant documents and possibly carrying out visual inspections, whilst also giving the respondent and the counsel of the church opportunity to ask questions and communicate their views. Provided that the rights of the respondent and the counsel of the church are safeguarded, witnesses can also be interrogated by individual members of the panel.
After the evidence has been taken, the counsel of the church and the respondent or his/her counsel make their pleas, in an appeals process first the complainant. The respondent has the last word. The panel then withdraws for its deliberations on the verdict which it has to reach. Any decision to the disadvantage of the respondent must be approved by a two-thirds majority.
- E The verdict may be:
 - 1. not guilty of the charge;
 - 2. the issue of a reprimand;
 - 3. a) in the case of clergy members:

- involuntary leave of absence;
 - involuntary retirement;
 - administrative location;
 - withdrawal under complaints or charges (in accordance with BOD-CSE ¶ 361.3);
- b) in the case of professing members:
removal from offices in the church;

4. Removal from professing member status.

The offender shall also be obligated to compensate any financial damages he/she has caused.

The verdict can either be announced immediately or subsequently sent in writing to all parties concerned together with the reasoning behind the decision. The respondent must also be informed of his/her rights of appeal.

The verdict together with the rationale supporting it must be received within three weeks of the conclusion of the hearing.

- F The deadline for appeals, and for cassation applications against decisions on appeals, is one month after receipt of the reasoned ruling. The respondent, his/her counsel and the counsel of the church are entitled to lodge an appeal or a cassation application in as far as the party concerned is adversely affected by the ruling.

The president of the appellate body is entitled to make the commencement of an appeals procedure contingent upon prepayment of an appropriate contribution to process costs by the appellant.

The Committee on Investigation can engage the services of a legal counsel in an exclusively advisory capacity, but not those of the counsel of the church.

9 Committee on Investigation

If the conciliation process is unsuccessful, investigation proceedings can be initiated voluntarily by the recipient of the complaint or upon the request of the complainant. The remit of the investigation is to establish the facts of the case to such an extent that the disciplinary proceedings are terminated or, in the case of clergy members, the complaint can be referred to the Board of Ordained Ministry (BOD-CSE ¶ 362), or trial proceedings are initiated.

The Committee on Investigation shall be composed as follows:

1. in the case of clergy members: of three clergy members in full connection who, together with three alternates, are elected by the Annual Conference to serve each time for a quadrennium;
2. in the case of other professing members: of two professing members, selected by the superintendent from the investigative committee members elected by the charge conferences, who live in the vicinity of the respondent, and of one clergy member in full connection, appointed by the superintendent on an ad hoc basis. Each charge conference elects a member and an alternate for the Committee on Investigation, to serve each time for a quadrennium.

10 Committee on Trials

The Committee on Trials shall be composed as follows:

1. in the case of clergy members: of five clergy members in full connection who, together with five alternates, are elected by the Annual Conference to serve each time for a quadrennium;
2. in the case of other professing members: of three professing members and two clergy members in full connection, selected by the responsible superintendent from the Committee on Trials mem-

bers elected by the charge conferences and from the clergy members in full connection elected under clause 1 respectively. Each charge conference elects a member and an alternate for the Committee on Trials, to serve each time for a quadrennium.

No one can serve in the same case as a member both of the Committee on Investigation and of the Committee on Trials.

11 Committee on Appeals

1. The Regional Conference shall elect a Committee on Appeals in accordance with the *Book of Discipline* (see *BOD* 2008, ¶ 2716), which is composed of five clergy members (four in full connection and one full-time local pastor) and four lay members who have been professing members of The United Methodist Church for at least six years successively, as well as an equal number of corresponding alternates. The election shall be conducted on the basis of nominations by the bishop.
2. The Committee on Appeals shall constitute itself and adopt its own rules of procedure. Members of the committee who in the event of a dispute are possibly biased, or deem themselves biased, shall be replaced by alternates.
3. All decisions of the Committee on Appeals shall be final, except that in the case of rulings on questions of law appeals may be taken to the Judicial Court of the Regional Conference.

No one who has already served as a member of the Committee on Investigation or the Committee on Trial on the case concerned can serve as a member of the Committee on Appeals on the same case.

12 Cassation Procedures

In the event of procedural shortcomings which have had a detrimental effect on the outcome of the proceedings or legal errors as regards the *BOD-CSE*, appeals in cassation with the Judicial Court of the Regional Conference shall be admissible.

The Judicial Court can only confirm or nullify the decision and remit the case to the Committee on Appeals, for which the legal opinion of the Judicial Council is binding.

The deadline for appeals and cassation applications against decisions of an appellate body is one month after receipt of the reasoned ruling. The respondent, his/her counsel and the counsel of the church are entitled to lodge an appeal in as far as the party concerned is adversely affected by the ruling.

The president of the appellate body is entitled to make the commencement of an appeals process contingent upon partial prepayment of process costs by the appellant.

13 Counsel for the Church

When the investigation is concluded, the counsel for the church takes up the complaint and represent the teaching and discipline of the church in the trial, appeals and cassation proceedings. He/she may represent a legal standpoint that differs from that of the complaint. He/she and four alternates from the diversity of regions covered by the Regional Conference shall be elected by the latter to serve each time for a quadrennium.

In trial, appeal and cassation proceedings, the respondent may engage the services of a legal counsel who must be a professing member of The United Methodist Church. In particularly difficult cases, the president of the Committee on Investigations may allow the participation of a defence counsel even during the investigation proceedings.

14 Miscellaneous Provisions

Challenges to the composition of the trial and appellate bodies or of the Judicial Court on the grounds that particular members are biased must be filed within one week of receiving notice of the composition of the legal body for the relevant case. Decisions to disqualify any member are taken by the relevant body, in the absence of that person. If all members of such a body are disqualified on the same grounds, decision shall be taken by the next higher authority.

The withdrawal from church membership or death of the respondent terminate the proceedings, likewise, in the case of complaints against a clergy member, his/her withdrawal from the ordained ministry and membership of the Annual Conference. Complaints of unconciliatory attitude are dropped if the corresponding charges are withdrawn.

15 Notice of Summons and Decisions

Summons and notifications of decisions taken by the committees shall be served on the respondent, the defence counsels, the legal counsels and the supervising clergy persons, by registered mail against written acknowledgement of receipt.

16 Suspension

In extraordinary circumstances, and to protect both the church and the parties concerned, the bishop can suspend the accused person from all pastoral responsibilities in accordance with the stipulations of the BOD-CSE.

The presumption of innocence shall be maintained during the period of suspension.

17 Pardon

A Pardon Committee shall be set up. The members shall be nominated by the bishop and approved by the Annual Conference. The committee is composed of three clergy members in full connection and three lay members.

Requests shall be submitted to the Pardon Committee. The latter shall make its deliberations on the request and refer its decision, together with the rationale behind it, to the bishop for the attention of the Annual Conference. The Annual Conference shall decide on the motion only, which is submitted by the bishop. A two-thirds majority shall be required.

18 Treatment of Case Records

The records of disciplinary and arbitration proceedings shall be kept in custody in the archives of the bishop.

19 ARBITRATION CODE

20 Scope of Application

1. If a dispute arises between two or more professing members in a matter of civil law and the parties

concerned are unable to settle the dispute between themselves, the pastor in charge shall make enquiries about the particular circumstances and advise the parties concerned to submit their dispute to the arbitration provided by the church.

2. The proceedings should be governed by the Social Principles of the church.

21 Arbitration Procedures

1. Before arbitration proceedings are initiated, an attempt at reconciliation shall be made by the pastor in charge.

2. The arbitration panel shall consist of five members apart from its president. Each party shall select two of its members, and these four persons shall then select a fifth. All the arbitrators must be Professing Members of the church and have no personal or financial interest in the outcome of the proceedings. The pastor in charge shall serve as president but have no voting rights.

3. If one of the parties concerned is a clergy member, the relevant district superintendent shall assume the function of the pastor in charge.

4. The arbitration ruling shall require an absolute majority vote. If one of the parties concerned fails to comply with the arbitration ruling, then the arbitration panel can file disciplinary proceedings.

22 Proviso

Recourse to the civil courts of law in place of the above arbitration proceedings or alongside them is admissible, where action must be taken before statutory limitation or exclusion periods expire.