

## Part III

## *Appeals*

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### *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.* 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. 3.* 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. 4.* The regional synod shall be the final court of appeal for all cases originally heard by a board of elders. However, the General Synod may hear such an appeal if one delegate to the regional synod from each of the classes in that regional synod, with the exception of the classis from whose action the appeal is taken, shall give written notice to the clerk of the regional synod within thirty days of its adjournment that there is just cause for appealing a case to the General Synod.

### *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

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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 its judicial business committee, call a meeting of the committee at a suitable time and place, and give notice of such meeting to all the parties involved. The committee shall determine whether the case and its attendant papers are in order. The committee shall promptly advise the several parties if it finds any irregularities. A period of not more than twenty days shall be allowed to correct such irregularities. The committee may request further written response or arguments. If less than thirty days remain before the next regular session of the judicatory to which the committee is to report and the committee determines that it is unable to prepare an acceptable report, it shall immediately record this determination and the reasons therefor with the clerk of such judicatory and request permission to delay its report until the next session. The clerk shall promptly confer with the officers of the judicatory who shall promptly rule upon the request.

*Sec. 5.* If the case is in proper order, the committee 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 committee may dismiss the appeal without a hearing. (This dismissal may be subject to complaint to the higher judicatory, but not appeal.) If the appeal goes forward, the committee 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 Chapter 2, Part I, Article 5, Section 10. 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. 6.* The committee shall report in writing its findings and recommendations to its parent judicatory by a date determined by the parent judicatory prior to the next stated meeting or a special meeting and shall furnish a copy of its report to each of the parties. After receiving the report of the committee, the judicatory may request to hear the original parties in the case with their counsel. The recommendation(s) of the committee may be adopted, rejected, amended, or referred back to the committee. 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. 7.* 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. 8.* The judicatory shall record its decision, stating the reasons therefor.

*Sec. 9.* When an appeal is filed, the appellant shall have the responsibility to establish that the lower judicatory erred in its decision.

*Sec. 10.* 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>32</sup>

*Sec. 11.* 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. 12.* No appeal can be taken from any decision of the General Synod.