

Part II

Complaints

Article 1. Nature of Complaints

Sec. 1. A complaint is a written statement alleging that an action or a decision of an assembly or its officer has violated or failed to comply with the Constitution of the Reformed Church in America or other laws and regulations of the church.

Sec. 2. Grounds for complaint include any action or decision that is harmful to the church, whether the alleged error of the assembly or its officer is procedural or substantive, and specifically would include, but are not limited to, irregularity in the proceedings; refusal of reasonable indulgence to any person or entity involved in or affected by the decision or action; manifestation of bias or prejudice in the decision or action; and manifest injustice.

Sec. 3. A complaint may be filed only with the judicatory that has immediate superintendence of the assembly.

Sec. 4. A complaint may be filed only by:

- a. One or more confessing members in good and regular standing against the consistory or board of elders having superintendence over them.
- b. One or more members of an assembly against that assembly of which they are members.
- c. An assembly against that assembly having immediate superintendence over it.

Sec. 5. Neither notice of intent to complain nor the complaint itself shall have the effect of suspending the action against which the complaint is made, unless within thirty days one-third of the members of the assembly complained against who were present when the action was taken file with the clerk of the judicatory in which the complaint is filed a request for such suspension until a decision is made in the higher judicatory. The clerk, upon receipt of the request for suspension, shall immediately notify, in writing, the clerk of the assembly complained against, and shall request the clerk of the assembly to certify a list

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of those members of the assembly present when the action complained against was taken.

Article 2. Process for Complaints

Sec. 1. Written notice of intent to complain shall be filed with an officer or with the clerk of the assembly which took the action in question. This filing shall be completed not later than twenty days after having received official notification of the action taken. In default of this requirement, the case shall not be heard.

Sec. 2. The complaint 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 complaint 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 complaint the clerk of the lower assembly shall file with the clerk of the higher judicatory the original record of all the proceedings pertaining to the complaint, including the notice of intent and any other documents bearing on the complaint. 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.

Sec. 4. The clerk of the higher judicatory shall, upon receiving the record, 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 to be submitted within the same twenty days. 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. If the complaint is deemed to be frivolous, dilatory, or clearly without merit, the committee may dismiss the complaint without a hearing. (This dismissal may be subject to complaint to the higher judicatory, but not appeal.) If the complaint goes forward, the committee shall consider the record of the case and such additional arguments as may have been submitted and shall also hear the 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 with all parties present. If the complainant in person or by counsel fails to appear, the committee may declare the case to be defaulted.

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 action of the lower assembly, or remand the matter to it with instructions.

Sec. 7. Persons who have voted on the matter in a lower assembly or who have a conflict of interest, shall not vote upon the case in a higher judicatory.

Sec. 8. The judicatory shall record its decision, stating the reasons therefor.

Sec. 9. When a complaint is filed, the complainant has the burden of moving forward and proving by a preponderance of the evidence that the respondent has violated or failed to comply with the Constitution of the Reformed Church in America or other laws and regulations of the church.³¹

Sec. 10. No member or groups of the Reformed Church in America, nor any person connected with the matter, shall circulate, or cause to be circulated, any written or printed arguments or briefs upon any complaints before the final disposition of same, including appeals, if any.

Sec. 11. No complaint can be taken against any action or decision of the General Synod.