

Text in yellow highlight is the original text.

Text in blue highlight is the proposed amended text is primary based on order of receipt by the Stated Clerk.

Text in green highlight is second considered proposed amended text involving blue coded amendment text, based on order of receipt by the Stated Clerk.

## **Gracious Dismissal Policy**

### **Charitable, Viable, Responsible, Missional and Relational**

#### **I. Prologue**

The mission of Presbytery of Grand Canyon is to pray together, worship together and work together to fulfill Christ's commission in the Southwest and beyond. We are a connectional church – parts of the body with one another. Of particular note is our historic and present relationship and mutual support with Native American Congregations. Our journey of faith is lived out in the unity found in the grace of our Lord Jesus Christ, the love of God, and the fellowship of the Holy Spirit (2 Corinthians 13:14).<sup>1</sup>

The Presbytery of Grand Canyon is committed to pursuing reconciliation with pastors, sessions and congregations who are requesting or considering a request for dismissal from the Presbyterian Church (U.S.A.). Whether that reconciliation takes the form of mutually accepted recommitment to the presbytery-congregational-denominational relationship or dismissal to another Reformed body, Presbytery of Grand Canyon commits itself and invites all its congregations to pursue reconciliation with a graciousness befitting those who claim Jesus as Lord.

#### **II. The Property Trust Clause**

As a presbytery, we recognize that chapter four of the Form of Government (FOG) states that except where otherwise provided, "all property held by or for a particular church, a presbytery, a synod, the General Assembly, or the Presbyterian Church (U.S.A.)...is held in trust nevertheless for the use and benefit of the Presbyterian Church (U.S.A.)." Therefore, we affirm the responsibility of the Presbytery to provide for and insure the mission and government of the Church throughout its geographical district (FOG G-4.02; G-3.0303f).

Provided this Gracious Dismissal Policy and its procedures, guidelines and standards are followed by all members of the presbytery, the presbytery and congregations desire and intend to avoid litigation against one another in secular courts. In the Spirit of the Apostle Paul, we peacefully seek first to resolve any disagreements as brothers and sisters in Christ before seeking any civil remedies afforded by law in the state of Arizona. Though property is held in trust by the

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<sup>1</sup> This policy has in part been developed in response to the urging of the 218th General Assembly (2008) of the Presbyterian Church (U.S.A.) that presbyteries develop a process to assist congregations and the presbytery at those times when a congregation considers leaving the denomination, and that such process reflect the principles of consistency, pastoral responsibility, accountability, gracious witness, and openness and transparency.

Presbyterian Church (U.S.A.) the presbytery affirms that the Trust Clause should not be used as a weapon to threaten civil action against a congregation, for Scripture calls us to seek in all humility to resolve our disagreements and avoid the harm that is done to the Gospel and Christ's body when Christians resort to civil litigation and public disputes over property.

### **III. Polity Foundations Relating to Dismissal/Dissolution**

All conversations and actions regarding issues of dismissal/dissolution shall be undertaken in accordance with Book of Order, Book of Order Annotated Edition, and relevant Permanent Judicial Commissions cases. The following summary of pertinent decisions shall be considered when pursuing such conversations and actions.

- A. Each case must be considered on a case-by-case basis. (PJC [2014, 221-03, Tom et al v. Pby of San Francisco]).
- B. When dismissing a particular congregation within its geographic region, the presbytery must fulfill its fiduciary duty under the Trust Clause (G-4.0203) to consider the interest of the PC(USA) as a beneficiary of the property.
- C. A full fiduciary review must be undertaken in all cases (PJC [2014, 221-03, Tom et al v. Pby of San Francisco]).
- D. There is no unilateral right of a Presbyterian Church (USA) congregation to depart from the denomination or its presbytery of membership. No authority is given to a congregation or to session to vote to leave the denomination. (GA [218<sup>th</sup>, Item 4-20]; see also PJC Sundquist v. Heartland, Remedial case 210-02, 2008. See G-1.0503 and G-3.02).
- E. Presbyterian Churches may only be dismissed to another reformed denomination. The other option that a congregation has which desires to leave the PC(USA) is to seek to be dissolved. Those people may then reconstitute themselves as whatever type of community that they desire. It may be possible for the Presbytery to then sell **or rent** (Various authors) them the building at a negotiated rate, or otherwise work to seek the viability of that congregation (G-4.0205). The procedure for dissolution in this type of case, shall be the same as the procedure for dismissal in this policy. (This policy shall not guide dissolutions of local congregations for other reasons.)
- F. It is important for the presbytery to prayerfully discern and consider the mission of the church in its district and of the whole church as it decides whether to dismiss or dissolve a congregation (G-3.0301; G-3.0303a).
- G. The full presbytery, meeting in plenary, has exclusive right to determine the final terms of dismissal/dissolution (G-3.0301a).

In acceptance of the above polity provisions, the presbytery is disallowed from creating a formula by which all dismissals/dissolutions will proceed. **Therefore, each request for a dismissal/dissolution shall construct such terms as negotiated by the Administrative Commission and the congregation, through its Session or a Session authorized committee, according to the**

values articulated in section IV. Therefore, Presbytery will respond to each request for a dismissal/dissolution by negotiating an agreement with the congregation, through its Session or a Session authorized committee, according to the values articulated in section IV. (Gale Watkins #1)

#### **IV. Values to Guide Conversations and Negotiations**

The following values shall guide the conversation of the Administrative Commission with a congregation requesting dismissal/dissolution. The following values shall guide Presbytery's conversations with a congregation requesting dismissal/dissolution. (Gale #2) It is hoped that the congregation will concur that these values are worthy guides for the conversation.

- A. Charitable – the presbytery commits itself to a process that seeks to be truly gracious. We intend to seek to be gracious to the congregation that seeks dismissal/dissolution; gracious to those with the initial vision to form a PC(USA) church in the particular locality; gracious to the Presbytery that has supported this congregation; and gracious to those members of the congregation that do not wish to leave the Presbytery. It serves neither the Presbyterian Church (USA), nor an individual congregation, nor the larger life of the Kingdom of God to seek dismissal/dissolution terms that create an undue burden upon the operating budget of a congregation moving forward.
- B. Viable – the presbytery commits itself to maintaining its own viability to continue the mission of the church of Jesus Christ and the Presbyterian Church (USA) within its region as well as to maintaining the viability of congregations requesting dismissal/dissolution. It is our desire to dismiss churches that possess the resources, including either property or the ability to buy/rent property, so that they can continue in the ministry of Jesus Christ. The value of viability thus affirms a variety of possible options:
  - a. Dismissing/dissolving a congregation with its property intact;
  - b. Dismissing/dissolving a congregation with a payment to the congregation such that the congregation can find another location from which to continue ministry;
  - c. In response to the above option b, the presbytery may seek
    - i. to allow a minority from within the congregation to continue ministry on the property, or
    - ii. to initiate a new worshipping community or new church development on the property; or,
  - d. Other options that promote the viability of the presbytery as well as the viability of a particular congregation.
- C. Responsible – the presbytery commits itself to a process that promotes fiduciary responsibility among all parties. A full, financial review shall be conducted in order to ascertain:
  - a. The amount of financial support a congregation has received from the presbytery,
  - b. The amount of financial support a congregation has shared with the presbytery,
  - c. The value of the church's real property and

- d. The other current assets, liabilities and operating costs that impact the congregation's ability to continue as a viable ministry and mission.

This financial review shall be considered by the Presbytery as one factor, although not the only factor, in negotiating any proposed dismissal/dissolution settlement.

- D. Missional – the presbytery commits itself to a process whereby the missional calling of both the presbytery and the congregation is affirmed. Consideration may be given by the Administrative Commission to ways any proposed dismissal/dissolution settlement will adversely impact either the presbytery's or the congregation's missional ability and may seek creative ways to negotiate a settlement that allows for the continuation of both.
- E. Relational – the presbytery commits itself to a process that seeks, whenever possible, to continue in some form of relationship with a congregation seeking dismissal/dissolution. While continuing relationship is not always possible, it is to be affirmed, honored and pursued as a tangible expression of the Kingdom of God.

## V. Initial Response

When the presbytery becomes aware that a congregation may be in disagreement with the presbytery and/or the denomination to the extent of considering withdrawal from the Presbyterian Church (U.S.A.), this information should be brought immediately to the attention of the Presbytery Leadership Team for action. The initial response of the presbytery shall be pastoral and relational, seeking to listen to the concerns of the congregation and to engage in theological dialogue regarding those concerns as sisters and brothers in Christ. If a congregation takes steps to actively seek dismissal/dissolution from the PC(USA), an Administrative Commission may be authorized by the Presbytery Leadership Team and empowered to initiate communication and discussion to ascertain the sense of the Session and congregation toward possibilities for reconciliation.

When the presbytery becomes aware that a congregation may be in disagreement with the presbytery and/or the denomination to the extent of considering withdrawal from the Presbyterian Church (U.S.A.), this information should be brought immediately to the attention of the Stated Clerk who shall refer it to the Presbytery Leadership Team or Commission on Ministry for action. The initial response of the presbytery shall be pastoral and relational, seeking to listen to the concerns of the congregation and to engage in theological dialogue regarding those concerns as sisters and brothers in Christ. If, by letter to the Stated Clerk, a session requests dismissal/dissolution from the PC(USA), the Stated Clerk shall propose that Presbytery form an Administrative Commission which shall be empowered to initiate communication and discussion to ascertain the sense of the Session and congregation toward possibilities for reconciliation.

(Gale # 3)

If it appears that progress can be made toward reconciliation through continued and constructive dialogue, the Administrative Commission will establish with the Session a mutually agreeable process for talks to be held and proceed to engage in such dialogue.

If it appears that progress cannot be made toward reconciliation and constructive dialogue, the Administrative Commission will proceed to determine the desire of the members of the congregation to be dismissed/dissolved or to stay in the PC(USA). This process may involve individual interviews with members, electronic polling, a straw vote, etc. at the discretion of the Administrative Commission. After discerning the desire of members, the Administrative Commission shall determine if a large enough proportion wishes to depart that it seems wise to proceed to negotiations for dismissal/dissolution. The Administrative Commission should also determine if there is a sufficient remnant of the congregation that wants to remain in the PC(USA) that it could continue as a congregation either in the existing property or in a new location. If appropriate the Administrative Commission shall establish a mutually agreeable procedure for negotiating a proposed dismissal/dissolution settlement in conformity to the values articulated in section IV. This negotiation shall begin with a full, fiduciary review.

## **VI. Fiduciary Review**

The Administrative Commission shall begin working with the Session to review the property and financial records of the congregation.

- A. The Session will provide to the Administrative Commission copies of all executed documents concerning the congregation's incorporation and by-laws, real property and other assets including, but not limited to, current deeds of trust, loan agreements (both past and present), liens, property and casualty insurance, and statements of tangible and intangible assets. Representatives of the Session and the Administrative Commission will review these documents to determine whether the Presbytery of Grand Canyon, the Synod of the Southwest or any Presbyterian Church (U.S.A.) body is named therein and/or is exposed to any liability claims which exist or may arise under these documents.
- B. The AC shall review past support provided by the Presbytery, including but not limited to, purchase of land, payment of staff salaries, support of mission programs via operating budget, grants or other means, as well as financing and/or contributions to existing buildings.
- C. The AC shall review past support from the church for per capita, mission giving and any other support given to the presbytery, the synod or General Assembly.
- D. The AC will obtain a Fair Market Value assessment by a licensed assessor in order to have an understanding of the value of the property held in trust.
- E. In order for the dismissal/dissolution process to be finalized, steps must be taken to repay in full any indebtedness owed to or guaranteed by the presbytery, the synod, or the Presbyterian Church (U.S.A.) or to refinance such indebtedness through an independent creditor without support from presbytery, synod, or Presbyterian Church (U.S.A.).
- F. Appropriate action must also be taken to amend any organizational documents, as necessary, and to ensure that adequate insurance coverage of all property and activities of the church is maintained until dismissal/dissolution is completed.

- G. If the congregation has established a foundation or received grants or endowment(s), related documentation must be examined to identify any terms or restrictions affected by the proposed dismissal/dissolution or involving the presbytery, the synod or the Presbyterian Church (U.S.A.). Corrective action must be taken as appropriate.
- H. Expenses incurred in taking the above stated actions will be paid by the congregation requesting dismissal/dissolution.

Presbytery affirms its fiduciary responsibility to review the terms negotiated by the Administrative Commission and the congregation requesting dismissal/dissolution and reserves the right to modify said terms as it deems necessary.

## VII. Considerations Particular to Native American Congregations

- A. **Background:** The establishment of churches on reservation land was a process that took both the national church and the federal government working together with agency directors who oversaw the particular reservation. Agreements were worked out with the understanding that missions/churches would aid in the “civilizing” of the American Indian and were granted specific areas of land that were to be used specifically for the establishment of these Presbyterian missions/churches. Agreements were worked out which granted specific areas of land that were to be used specifically for the establishment of these Presbyterian missions/churches. (Mark Tilly # 1) This land would not be given to these missions/churches but permission was given for the Presbyterian church to build missions/churches and to establish their ministries within the designated property. As long as there was an active Presbyterian mission/church on the property it would be considered church property. Once there was no longer an active Presbyterian ministry the land would be “returned” to the tribal agency and would be available for tribal development. At one time all the land deeds/titles for Native American congregations were held by the denominational offices. At the time of restructuring and the elimination of the Board of National Missions those deeds/titles were transferred to either presbyteries or local congregations themselves. There are only three pieces of reservation property (nationally) that have been deeded to the Presbyterian Church as owner of the property and are not considered a part of the reservation. One of these is Ganado.

- B. **Implications for Native American Congregations:**

- a. Many of our Native American congregants and leaders are not aware that church property is held in trust. Many believe that church buildings are the property of each local church, regardless of who gave the money to build them. As part of the discernment process it is critical to teach about property being held in trust. In its ongoing work with Native American congregations, it is important for the Presbytery to teach the content of G-4.02, “Church Property. (Gale # 4)

- b. In a dismissal/dissolution process of a Native American church, the Administrative commission will research as to who holds the title/deed to the land. The AC will make careful inquiry as to whether the land will revert to the tribal government if a Presbyterian Church (USA) congregation/mission is no longer on the land.
- c. According to the “Native American Churchwide Policy Statement” there would need to be a consultation with the Native American Consulting Committee or Native American Ministries Committee regarding the property issue: *Whenever consideration is given by any governing body or agency to the disposition of church property that is related to Native American ministries, the appropriate Native American consulting body will be given adequate prior notification requesting its comments or recommendations or both. Such consideration will occur even when the church owned building or land may not presently be used for Native American work.*
- d. An Administrative Commission should contact the Land Office of the particular community to discuss the past history of agreement between church and tribe regarding the land the church sits on.
- e. In many cases, the Presbytery of Grand Canyon is paying insurance for Native Congregations. The Administrative Commission and Session should make a plan for the departing congregation to secure and pay for its own insurance.

### **VIII. Status of Teaching Elder Members of Presbytery**

If a congregation is to be dismissed/dissolved by the presbytery, one of the concerns of this process is to assure that the rights and status of teaching elder members are considered and handled properly. Teaching elders may request transfer to the Reformed body to which the congregation is requesting dismissal. Transfer may occur concurrently with the dismissal or at a later time not to exceed 24 months.

Transfers to another reformed body or denomination with whom we are in correspondence may be approved unless the minister is the subject of a pending judicial or investigative action (per D-10.0105). The reasons for not granting transfer may be communicated by presbytery's Stated Clerk to appropriate persons.

If transfer is not requested concurrently with the dismissal, the teaching elder's service to the dismissed congregation may be designated by the presbytery as a validated ministry of the presbytery for a period of up to 24 months, and the teaching elder may be granted permission to continue in his or her ministry. Following this 24 month period, the teaching elder will need either to transfer into other validated service or transfer his or her ecclesiastical membership into another Reformed denomination.

## **IX. Status of Inquirers and Candidates within the Presbytery**

Special attention should be given to members of the congregation who are preparing for ministry and are under the care of the presbytery. Each inquirer or candidate under care, together with his or her liaison from the Committee on Preparation for Ministry (CPM), shall be advised of the congregation's desire to seek dismissal/dissolution. Each inquirer or candidate under care, together with his or her liaison from the Commission on Preparation for Ministry (CPM), shall be advised of the Session's desire to seek dismissal/dissolution. (Gale # 5) The inquirer or candidate will be given the option of being dismissed with the congregation or transferring her/his membership to another congregation within the presbytery or the Presbyterian Church (U.S.A.). If transfer to another congregation within the presbytery or the Presbyterian Church (U.S.A.) is requested, the Administrative Commission and the CPM liaison will assist the member in seeking a waiver of the usual six-month requirement for church membership in order to maintain care status.

## **X. Status of Members of the Congregation**

It is important that throughout the dismissal/dissolution process both the Session and Administrative Commission communicate carefully so that divisiveness is minimized between those in the congregation who wish to withdraw and those members who want to remain within the Presbyterian Church (U.S.A.). The Administrative Commission shall endeavor to contact all members regarding their membership status. Those wishing to transfer to another congregation within the Presbyterian Church (USA) shall be granted that right. Presbytery encourages its sessions to extend a warm welcome to those wishing to transfer to another congregation within the Presbyterian Church (USA), being guided by G-1.03 and G-3.0201b. (Gale # 6)

## **XI. Records of a Congregation Seeking Dismissal**

Presbyteries have a constitutional responsibility to safeguard the historic records (official minutes of session meetings, rolls, registers, etc.) of the congregations that choose to leave the denomination. According to the *Book of Order* (G-3.0107) ownership of the records of dismissed or dissolved congregations passes to the presbytery and clerks are charged with the safekeeping of records that must be maintained in perpetuity. Records shall be deposited with the Presbyterian Historical Society, the official archives of the Presbyterian Church (U.S.A.) as the depository for preservation. The Stated Clerk shall be responsible for obtaining digital copies of the records to be turned over to the dissolved or dismissed church for their use with one source of service being the Presbyterian Historical Society. The cost of these copies is the responsibility of the church. The Administrative Commission responsible for directing the dissolution or dismissal process shall discuss the turning over of records early in the process to be able to locate and itemize the records of concern. These records should not be turned over to the Stated Clerk until dismissal/dissolution is approved by the Presbytery, in order that the congregation will be able to record all actions of the process.



## **XII. Notice of the Meeting of the Presbytery**

Written notice of the meeting to act upon a request for dismissal/dissolution shall be given electronically and via mail at least 30 days prior to the meeting of the presbytery. This notice shall include a written report from the Administrative Commission outlining their findings and recommendations regarding the church's request for dismissal/dissolution.

## **XIII. Report of the Administrative Commission**

The Administrative Commission shall report to the presbytery, to include the following:

- A. The results of its full fiduciary review.
- B. What recommendations the Administrative Commission brings regarding the request for dismissal/dissolution, based on the guidelines noted above.
- C. What recommendations the Administrative Commission brings regarding (1) any financial transactions to occur between the congregation, the presbytery, the synod and/or all General Assembly entities, (2) what provisions will be made for those members who wish to remain within the Presbyterian Church (U.S.A.), and (3) what provision will be made for any Teaching Elders, Christian Educators or Commissioned Ruling Elders associated with the congregation who request to remain within the Presbyterian Church (U.S.A.). What recommendations the Administrative Commission brings regarding (1) any financial transactions to occur between the congregation, the presbytery, the synod and/or all General Assembly entities, (2) what provisions will be made for those members who wish to remain within the Presbyterian Church (U.S.A.), and (3) what provision will be made for any Teaching Elders, Christian Educators, inquirers, candidates, or Commissioned Ruling Elders associated with the congregation who request to remain within the Presbyterian Church (U.S.A.). (Gale # 7)
- D. An assessment from the Administrative Commission regarding how the congregation's dismissal/dissolution may affect the larger mission and ministry of the Presbytery.
- E. If the Administrative Commission and the Session of the Church seeking dismissal/dissolution have been unable to reach negotiated terms for dismissal/dissolution, the Administrative Commission may recommend to Presbytery approval for the Administrative Commission to assume original jurisdiction of the Session in order to seek resolution of the situation. (G-3.0303)

It should be noted that renegotiation of the terms for dismissal/dissolution through use of amendments from the floor of Presbytery, though allowed under our polity, would invalidate months of work between the Administrative Commission and the congregation. Therefore, the proposal shall be presented with the hope that everyone present will acknowledge, understand

and honor that the terms of dissolution/dismissal have been reached by good faith negotiations between the Administrative Commission and the congregation.

#### **XIV. The Presbytery Vote**

After hearing the report of the Administrative Commission, the Stated Clerk shall move the following: “The \_\_\_\_\_ Presbyterian Church shall be dismissed to the following Reformed body, \_\_\_\_\_, with the financial arrangements and other provisions listed as part of the Report of the Administrative Commission;” OR “The \_\_\_\_\_ Presbyterian Church shall be dissolved with the financial arrangements and other provisions listed as part of the Report of the Administrative Commission.” Following discussion and prayer, vote will be taken by written ballot. The only choices shall be "Yes" or "No."

If **two-thirds a majority** (Ron Hawkins # 1) of those present and voting vote in favor of the motion, the congregation shall be dismissed/dissolved in accordance with the financial transactions and other provisions approved by the presbytery.

#### **XV. Actual Departure**

The Administrative Commission and the Session shall execute a contract outlining the entire terms of the departure, including the obligations of both the departing congregation and the Presbytery.

A final worship service will be conducted in which representatives of the presbytery, the congregation and the new Reformed denomination will meet, worship, and transfer the congregation to its new denominational home or dissolve the congregation. As part of this worship gathering, both representatives of the presbytery and the departing congregation will offer prayers on each other's behalf, give thanks for the years of ministry shared together, and share words of blessing even as we go separate ways.

#### **XVI. Ministerial Conduct**

Imputation of bad or immoral motives should not be a part of our conduct toward one another, toward local congregations, or toward the presbytery. How we treat one another will reflect and impact directly our witness to Christ in Arizona. Faithfulness to that witness compels us to conduct ourselves in a way that honors God and one another. We should conduct ourselves in such a way as to bring honor upon ourselves and the Gospel in the eyes of neighbors and potential members from our communities.

#### **XVII. Presbytery Use of Property**

If the group choosing to leave the PC(USA) does not buy the church property, the Presbytery shall (1) use the property as a new church development or mission station, or (2) sell the property on the open market, the proceeds from which shall be **given to the Presbytery Endowment for support of racial ethnic ministry and new church**

**development.** (Gale # 8)

Replace bold and underlined above with the following:

**split between Account Number 22605 - Emergency Reserve Account and Account Number 22615 - Mission Growth Grant program allowing for all programing in the Presbytery.**

(Leadership Commission and Resources Committee #1)