

Report of Council Committee on Constitutional Revision of Article IV.D
For Presentation to Council, October 8, 2014

Moved that Article IV.D be repealed and reenacted to read:

D. Referrals, Appeals, and Complaints.

1. **Finality of local church decisions.** Issues relating to the local congregation which may lawfully be brought before the broader assemblies are specified in this section. Except in the case of referrals, appeals, or complaints authorized and accepted under this section, all local church decisions are final and may not be reviewed by the broader assemblies (Presbytery or Council). Nothing in this section prevents local churches from seeking, or the broader assemblies from offering, informal counsel and advice. To the contrary, it is strongly encouraged as the best way of avoiding needless appeals and referrals.

2. **Referrals.** A referral is a written request by a local church Session or a regional Presbytery asking a broader assembly (Presbytery or Council, as the case may be) to accept jurisdiction for deciding a matter that would normally be decided by the more local assembly. Normally, all matters should be handled at the local church level. However, should a local church Session, or subsequently a Presbytery, determine that the matter implicates the policies or reputation of a broader assembly, or that it otherwise justifies the consideration of a broader assembly, the more local assembly may refer the matter to the broader assembly. All referrals should be sent to the Presiding Minister of the broader assembly. The Presiding Minister may, subject to approval of the broader assembly, exercise discretion to accept jurisdiction over the matter. The Presiding Minister may subsequently, subject to approval of the broader assembly, remand the matter to the more local assembly.

3. **Appeals**

a. **Definition:** An appeal is an action brought by a person or persons who are or were members of a local CREC congregation (including mission congregations), against whom a formal action has been taken by a CREC court and who are aggrieved by such formal

action. It constitutes a request for removal of jurisdiction from one court to the next higher court.

- b. Any member or former member of a CREC church shall possess an inherent right of appeal regarding judicial actions of which he may be or was the subject. All matters must be adjudicated at the level of the local church before an appeal may be made. An appeal is normally filed with the Presbytery of which the local congregation is a member. However, an appeal may be made directly to Council. In such a case, the presiding Minister of Council may, in his sole discretion, remand the case to the Presbytery from which it arises. At the conclusion of the matter at the Presbytery level, either party retains the right to make further appeal to Council.
- c. The broader assemblies, through the presiding minister, must refuse to hear frivolous or unconstitutional appeals. He is also free to deny an appeal if the appellant has overtly discredited himself in his manner of bringing the appeal or the judicial action appealed resulted in harmless error.
- d. A simple majority of the Court is necessary to decide the issue on behalf of Council; the decision of Council shall be considered settled and binding unless and until it is found by a future Council to be in conflict with the Scriptures or the Constitution of the CREC. Decisions of Council may be appealed to a future Council, though the future Council is not obligated to hear such an appeal.

4. Complaints

- a. Definition: A complaint is a request for a judicial decision to be made against a current CREC member or assembly on a charge that has not been adjudicated either because the local assembly refused to hear the case, the local assembly resolved the case without formal action, the local assembly is one of the parties charged, or the complainant is from outside the CREC.
- b. Complaints against individuals must be first addressed at the local church level. If the matter is resolved by a formal action of the Session, the right of appeal as set forth in Subsection 2 may

be invoked. If formal action has been taken by a CREC assembly the matter is an appeal not a complaint.

- c. A complaint against a CREC assembly may not be brought except on the testimony of two or three witnesses. To be considered separate testimony, the witnesses may not be of the same household.
- d. A complaint against the Session of a local church may be brought to a court above the local level only under the following circumstances:
 - i. when the Session of elders is accused of participating in or tolerating grievous dishonesty in subscription to the doctrinal or constitutional standards of the local church; or
 - ii. when the Session of elders is accused of gross misbehavior
- e. When accusations of grievous dishonesty or gross misbehavior on the part of the Session of a local church are made to or from other local churches or presented to the Minister of Presbytery or Council, the session under accusation must be promptly informed. However, irresponsible accusations must be rejected and the member making the complaint should be directed back to his own Session.
- f. If a complaint is brought against a CREC assembly by someone who is not a member of a CREC church, the CREC, in Presbytery, Council, or through its appropriate Minister, can agree to hear the case if all of the following conditions have been met:
 - i. The presiding minister has established that one or more of the conditions in IV.D.4.a applies.
 - ii. The presiding minister has established that the government of the church where the complainant is a member affirms the truth of the Apostles' Creed, and is willing to give due weight, respect and consideration to the decision of the CREC.
 - iii. The charges as framed have two or three available and accountable witnesses listed for each specified complaint. To be considered separate testimony, the witnesses may not be of the same household.

iv. The complainant and his church have not overtly discredited themselves in the manner of bringing the charges

g. The broader assemblies must refuse to hear frivolous or unconstitutional complaints. Complaints presented to Council do not necessarily have to be first heard by Presbytery. However, Council, acting in Session or through the Minister, may choose to remand the case to Presbytery.

5. The decisions of the assemblies with regard to the local congregation are spiritually authoritative. If the elders of a particular congregation choose to refuse the instruction of the broader church, they may do so without deprivation of property. However, if their disregard of godly counsel is particularly egregious, they may be removed from membership in the CREC, in accordance with constitutional procedure.

6. After a fair and open judicial hearing at Presbytery, a congregation may be removed from membership in the Presbytery by a two-thirds vote of the Presbytery. Upon such occasions, the removed congregation retains the full right of appeal to Council.