

From: Rev. J. Herbert Nelson II, The Stated Clerk of the General Assembly  
Date: March 10, 2017  
Subject: Advisory Opinion on the Action of the 222<sup>nd</sup> General Assembly to appoint the Way Forward Commission

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The 222<sup>nd</sup> General Assembly (2016) established a Way Forward Commission (“Commission”) in response to Item 04-07. In its establishing action the General Assembly set a goal for the Commission, empowered the Commission with certain broad and specific powers to accomplish the goal and, finally, set an overall limit to those powers. The Stated Clerk has been asked to provide an advisory opinion on the powers of the Commission in the General Assembly’s establishment of the Commission.

First, whenever a commission is appointed by a council, it is “empowered to consider and conclude matters referred to it by a council.” (G-3.0109). The General Assembly established the Commission with a task and a goal: “to study and identify a vision for the structure and function of the General Assembly agencies of the PC(U.S.A.)” (GA, 2016, 38-40, 224, Item 04-07). The General Assembly mandated processes, consultations and considerations the Commission will use as the goal of identifying the vision is accomplished.

Second, whenever a commission is appointed by a council, “The designating council shall state specifically the scope of the commission’s powers ...” (G-3.0109). In establishing the Commission, the General Assembly gave the Commission certain broad and specific powers to begin implementing the identified vision. (GA, 2016, 38-40, 224, Item 04-07). The General Assembly empowered the Commission to:

- take the “comprehensive, detailed analysis” of the examination team and its “clearly detailed, measurable recommendations for improvements” and send them to the agencies for implementation;
- describe and implement a General Assembly level staffing pattern that accomplishes its vision;
- take such administrative actions in both OGA and PMA as may move the General Assembly staff in the direction of its vision;
- recommend to the 223<sup>rd</sup> General Assembly (2018) such changes in Standing Rules as may move the church in the direction of its vision.
- recommend to the 223<sup>rd</sup> General Assembly (2018) any amendments to the Book of Order as may move the church in the direction of its vision.

In addition, the Commission was also empowered to:

- explore the best way for Shared Services to serves these agencies.

And finally, the powers of the Commission are not so broad as to negate the need to bring recommendations to the 223<sup>rd</sup> General Assembly (2018) for missional and structural changes. Whenever a commission is appointed by a council, “The designating council shall state specifically ... any restrictions on those powers.” (G-3.0109). In establishing the Commission, the General Assembly did limit the powers of the Commission: “Recommendations for any missional and structural changes will be

brought to the 223<sup>rd</sup> General Assembly (2018) in compliance with all Standing Rules of the General Assembly” (GA, 2016, 38-40, 224, Item 04-07).

Therefore, when the Commission makes recommendations or implements General Assembly improvements, staffing pattern, or administrative actions in both OGA and PMA that include missional or structural changes, these must be brought to the General Assembly for its approval. In addition, the Commission will need to bring recommendations to the 223<sup>rd</sup> General Assembly (2018) for any amendments, replacement or setting aside of the Standing Rules of the General Assembly or the *Book of Order* necessary to accomplish its vision.

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#### BOOK OF ORDER

“A commission is empowered to consider and conclude matters referred to it by a council. The designating council shall state specifically the scope of the commission’s powers and any restrictions on those powers.” G-3.0109

#### AUTHORITATIVE INTERPRETATIONS

GAPJC, 2013, 221-07, Kim et al v. AC of Synod of Lincoln Trails acting as Midwest Hanmi Presbytery: “The actions of an administrative commission are the actions of the council that appointed it, from and after the time the administrative commission’s actions are taken.”

GAPJC, 2010, 219-05, Lee et al v. Midwest Hanmi Presbytery: “Under the *Book of Order*, when a governing body establishes an administrative commission, it shall state specifically the scope of power given to the commission. Powers not delegated by a governing body are reserved to that body.”

GAPJC, 2010, 219-03, Sundquist v. Heartland Presbytery: “The functions of an administrative commission are limited by the appointing body and may include any function that the appointing body wishes to delegate (with few exceptions). Powers delegated to administrative commissions must be specifically described. A governing body may amend or rescind an action or decision of an administrative commission in the same manner that it may change its own decisions and actions.”

GAPJC, 1991, 203-01, Hoy, et al. v. Presbytery of Tropical Florida: “When an administrative commission is established, the *Book of Order* requires that it exercise only those powers which are specifically granted to it.”

GA, 1988, 142, 12.249, Req. 13-88: “The decisions or actions which should be entrusted to a commission and not to a committee are enumerated in G-9.0503 (*now G-3.0109b*). “This list is not exhaustive, and the *Book of Order* leaves room for judgment as to whether a ‘certain power’ may appropriately be handled by a committee or by a commission.”

#### HISTORY AND REFERENCES

General Assembly action establishing and empowering the Way Forward Commission (GA , 2016, 38-40, 224, Item 04-04)

2016 Manual of the General Assembly: Standing Rules of the General Assembly, Guidelines and Policies of the General Assembly and Organization for Mission (which includes Statement of Vision and priority

Goals for Mission of the General Assembly, Officers & Committees of the General Assembly, Presbyterian Mission Agency structure including Budget, Elected Leadership & Staff Leadership, Mission Agency Relationships, Presbyterian Church (U.S.A.) A Corporations, Other General Assembly Related Corporations.)

The following documents related to various organizational structures can be viewed at (<http://www.presbyterianmission.org/>).

B. 198th General Assembly (1986) of the Presbyterian Church (U.S.A.), Deliverance Implementing a Design for the Corporate Structure of Certain Agencies of the General Assembly [Adopted June 17, 1986, modified by the 199th General Assembly (1987) and the 214th General Assembly (2002)]

C. Deliverance Concerning Corporate Structure of Certain Agencies of the Presbyterian Mission Agency • Presbyterian Church (U.S.A.), A Corporation • The Publishing Corporation - Amended by 217th General Assembly (2006)

D. Memorandum Defining the Relationship Between the Board of Pensions and the Presbyterian Mission Agency

E. Presbyterian Church (U.S.A.) Investment and Loan Program, Inc. Establishment of a Corporation and Related Matters [(Approved by the 207th General Assembly (1995) and amended by the 209th General Assembly (1997)]

F. Joint Report—Presbyterian Mission Agency and Presbyterian Church (U.S.A.) Foundation (Minutes, 1996, Part I, pp. 617–18)

G. Ratification of Establishment of New Covenant Trust Company, N.A. A Subsidiary of The Presbyterian Church (U.S.A.) Foundation and Related Matters [Approved by the 211th General Assembly (1999), amended by the 212th General Assembly (2000) and the 214th General Assembly (2002).] [Minutes, 1999, Part I, pp. 492–94; Minutes, 2001, Part I, p. 339]

H. Establishment of New Covenant Annuity Insurance Company and Related Matters [Approved by the 211th General Assembly (1999).] [Minutes, 1999, Part I, pp. 500–502]

I. Ratification of Foundation Participation in Formation of New Covenant Funds [Approved by the 211th General Assembly (1999).] [Minutes, 1999, Part I, p. 505]

J. Presbyterian Church (U.S.A.) Mortgage Corporation [Approved by the 213th General Assembly (2001).] [Minutes, 2001, Part I, pp. 173–75]