

Policy and Procedure for the Dismissal of Churches in Lehigh Presbytery

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Background

One of the actions of the 218th General Assembly (2008) was a commissioner's resolution urging presbyteries to provide a procedure that exercises the responsibility and power "to divide, dismiss, or dissolve churches in consultation with their members" (*Book of Order* G-3.0303b), with consistency, pastoral responsibility, accountability, gracious witness, openness, and transparency.

On January 4, 2011, Lehigh Presbytery Council acted to create a task group to develop a Policy and Procedure for churches seeking or considering dismissal from Lehigh Presbytery and the Presbyterian Church (U.S.A.) – herein referred to as the PC (USA). The work of the Task Group was to review the *Book of Order*, existing policies and procedures of other presbyteries within the PC (USA), and any other appropriate documentation dealing with the dismissal of churches, their assets, and properties from Lehigh Presbytery and the PC (USA), and to develop a Dismissal Policy and Procedure specifically for use in Lehigh Presbytery.

Members of the Original Working Group

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Resources

The following resources were used in consideration of this document:

1. The Bible
2. PC(USA) *Book of Order* 2011-2013
3. Lehigh Presbytery website: <http://www.lehighpresbytery.org/lehighmission.htm>
4. Gracious Separation Policies from the following presbyteries:
 - Albany
 - San Diego
 - Cascades
 - Blackhawk
 - San Francisco
 - Donegal
 - Beaver-Butler
 - Salem
5. A Guide to Church Property Law, 2nd Edition, Lloyd Lunceford

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1. Introduction

The 218th General Assembly (2008) of the PC(USA) urged “that presbyteries and synods develop and make available to lower governing bodies and local congregations a process that exercises the responsibility and power ‘to divide, dismiss, or dissolve churches in consultation with their members’ (*Book of Order*, G-3.0303b) with consistency, pastoral responsibility, accountability, gracious witness, openness, and transparency.” Believing that trying to exercise this responsibility and power through litigation is harmful to the cause of Christ, impacting the local church, other parts of the Body of Christ and ecumenical relationships, and our witness to Christ in the world around us, the General Assembly urged presbyteries and synods to implement a process using the following principles:

- **Consistency**: The authority delegated to presbyteries is guided and shaped by our shared faith, service, and witness to Jesus Christ.
- **Pastoral Responsibility**: The requirement in G-3.0303b to consult with the members of a church seeking dismissal highlights the presbytery’s pastoral responsibility, which must not be submerged beneath other responsibilities.
- **Accountability**: For a governing body, accountability rightly dictates fiduciary and connectional concerns, raising general issues of property (G-4.02) and specific issues of schism within a congregation (G-4.0207). But full accountability also requires preeminent concern with “caring for the flock.”
- **Gracious Witness**: Scripture and the Holy Spirit require a gracious witness from us rather than a harsh legalism.
- **Openness and Transparency**: Early, open communication and transparency about principles and process of dismissal necessarily serve truth, order, and goodness, and work against seeking civil litigation as a solution.

In all matters relating to this subject, the following three questions should be considered:

- a. Is God leading this particular congregation to seek dismissal from Lehigh Presbytery and the PC(USA)?
- b. If God is leading this congregation to seek dismissal from Lehigh Presbytery and the PC(USA), how can that be accomplished in a way that honors Jesus Christ?
- c. If God is leading this congregation toward restoration of fellowship with Lehigh Presbytery and the PC(USA), how can that be accomplished in a way that honors Jesus Christ?

2. Statement of Values of Lehigh Presbytery

Lehigh Presbytery is called by God to nurture its congregations as they grow in every way into communities whose head is Jesus Christ, so that they will go out to make disciples, baptizing and teaching in the name of the Father, Son, and Holy Spirit, and to witness, through their actions, to the love of God.

(cf. Ephesians 4:15 and Matthew 28:18-21; Lehigh Presbytery Vision Statement, 2004)

- a. Commitment to the ministry of churches and acknowledging good will of parties in dispute

Lehigh Presbytery seeks to uphold one another and respect each other’s integrity. While we acknowledge some differences in our views on what the Bible teaches

about a number of issues, it is our desire to strive to be a church representing the body of Christ, a church made up of many different parts.

In order to achieve the goals of servanthood, encouragement and support, Lehigh Presbytery has historically seen its role as being a resource. The *Book of Order* of the PC(USA) (G-3.0301) requires Lehigh Presbytery to be responsible for the mission and government of the church throughout its geographical district. It therefore has the responsibility and power to develop strategy for the mission of the church in its area consistent with F-1.01 - F-1.04 and to coordinate the work of its member churches, guiding them and mobilizing their strength for the most effective witness to the broader community for which it has responsibility. As a result, Lehigh Presbytery has an abiding interest in the location and facilities of the member churches as an expression of the missions of Lehigh Presbytery.

b. The Trust Clause

According to the Book of Order of the PC(USA): All property held by or for a particular church, a presbytery, a synod, the General Assembly, or the Presbyterian Church (U.S.A.), whether legal title is lodged in a corporation, a trustee or trustees, or an unincorporated association, and whether the property is used in programs of a particular church or of a more inclusive governing body or retained for the production of income, is held in trust nevertheless for the use and benefit of the Presbyterian Church (U.S.A.). (G-4.0203)

A congregation may request dismissal with its property (including financial assets such as endowment funds) to another approved denomination. (The term "denomination" includes commonly recognized Reformed denominations as well as formal associations of churches professing adherence to Reformed theology. The Presbytery Engagement Team, defined in Section 3.b, will determine if the congregation's new preference for denominational affiliation is based on Reformed theological tenets.)

Church buildings and grounds generally mean much more to the members of a congregation than simply an asset on the books. They represent a special place where members have experienced life-changing conversions of faith in Jesus Christ, experienced inspiring worship services, and witnessed and participated in baptisms, marriages, funerals and memorial services. It is recognized that vacating a property in which the congregation has heavily invested, both spiritually and financially, would be a difficult sacrifice to make.

With due consideration to both the congregation seeking dismissal and Lehigh Presbytery, as well as the October 28, 2012 decision by the Permanent Judicial Commission of the General Assembly of the PC(USA) in Remedial Case 221-03, we affirm that the following principles will guide Lehigh Presbytery's use of the Trust Clause:

- The Trust Clause will not be used to bind congregations to the institution of the PC(USA) if a congregation feels called to depart.
- The Trust Clause will not be used as a weapon to threaten civil action against a congregation over issues of conscience.
- The Trust Clause will be the basis upon which Lehigh Presbytery will exercise due diligence regarding the value of the assets of the congregation seeking to be dismissed.

c. Commitment to avoid litigation

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 rather than love for neighbor. If a church initiates a civil action, Lehigh Presbytery will attempt to settle the dispute and have the civil action withdrawn. However, if this effort is unsuccessful, Lehigh Presbytery may take legal action to defend its mission strategy.

d. Commitment to dialogue and openness

The goal of Lehigh Presbytery will always be reconciliation and continued engagement in relationship with all congregations within the Presbytery without the threat of isolation, estrangement or blame. Lehigh Presbytery is called to be a servant to the churches God has entrusted to it, encouraging and supporting them toward becoming healthy, growing, congregations. In doing so, Lehigh Presbytery hopes to creatively engage the concerns of the congregation, and enable them to make decisions based on facts and not assumptions, so that both the congregation and Lehigh Presbytery can concur that they have discerned God's will regarding continued denominational affiliation.

3. Process for Engagement with Lehigh Presbytery

a. Expectations

Lehigh Presbytery expects that any Session considering or seeking dismissal from the PC(USA) and Lehigh Presbytery will be willing to spend the time and energy required to engage in a process of mutual discernment with representatives of the Presbytery to determine God's direction for the congregation.

b. Initial Contact and Subsequent Discussions

When the Stated Clerk of Lehigh Presbytery has been informed, by letter, that a church's Session has voted to request dismissal from the PC (USA), a Presbytery Engagement Team (PET) shall be formed to assist the congregation in discerning God's will for their denominational affiliation. The PET is selected by the Temporary Operations Team (TOT) of Lehigh Presbytery's Lead Team and Commissioned by Lehigh Presbytery as an Administrative Commission Working alongside a Session. The PET should consist of a limit of seven members and alternates if TOT so desires representing both Ruling Elders and Teaching Elders.

The PET shall initially meet separately with the Session and the pastoral staff to hear firsthand the leaders' positions on the issues that have led to Session's action. Following these meetings the PET shall meet informally with members of the congregation to (1) make sure that the members are fully informed on the issues under discussion and are familiar with Lehigh Presbytery's dismissal policy, and (2) listen to members' questions, concerns and/or advocacy regarding any aspect of the issues. Appropriate arrangements for individual or small group meetings shall be made for those who prefer to speak with PET members privately. Depending on the size of the congregation, multiple general meetings may be necessary. Such meetings should include at least two members of the PET and the discussions shall be summarized, maintaining the anonymity, if desired, of congregational or pastoral participants, and the summary shared with the membership of the PET and the Session.

The goal of the PET in these meetings is not to advocate for or against any of the issues that have led to Session's action, but to creatively engage the concerns of both the leaders and members of the congregation and assess the possibilities for reconciliation.

In its discussions with the Session and the congregation, the PET will review the financial, property and membership consequences for a congregation that is considering departure from the PC(USA). The objective here is to make those leaving and those staying aware of the attendant consequences and costs of leaving the denomination. The PET will direct each Teaching Elder to contact the PC(USA) Board of Pensions to determine the effects on his/her benefits and ordination status if he/she chooses to leave the PC(USA).

If the PET determines that progress can be made toward reconciliation through continued and constructive dialogue, the Session and the PET will establish a mutually agreeable timeline of talks to be held and proceed to engage in such dialogue. However, if the PET concludes that reconciliation is unlikely, the PET and a Special Committee of the Congregation (SCC) will negotiate the terms of dismissal.

The SCC shall, to the maximum extent possible, be comprised of pastoral leadership, elders, and representatives from the congregation's finance, property, and personnel committees, and should be selected with the goal of being representative of the congregation. Members of the SCC are selected and approved by the Session. Every effort shall be made to represent the interests of those desiring to remain with the PC(USA).

c. Administrative Provisions

The church that is considering departure from Lehigh Presbytery and the PC(USA) is responsible for all of Lehigh Presbytery's costs associated with the dismissal process. Such costs include administration, travel, telephone, mailings, legal title transfer fees, property appraisal and external audit, and will be fully documented by the PET. A \$1000 deposit to cover the PET's initial expenses shall accompany the letter that Session sends to Lehigh Presbytery requesting dismissal. At the conclusion of the PET's work, i.e., when the Dismissal Agreement (see Section 6) is fully executed and a final report has been prepared, the Presbytery shall send an accounting of all PET-related expenses (including any office expenses incurred by the Presbytery) to the church. Full reimbursement of expenses is expected within 30 days of receipt of the statement. Any amount of the \$1000 initial deposit that has not been expended shall be returned to the congregation.

The Session shall provide the PET with an up-to-date membership list that includes the names and addresses of all active members as of the date that the Session notified the Presbytery of its intent to seek dismissal from the PC(USA) and Lehigh Presbytery. No members shall be removed from active membership except upon such member's expressed request. Active members on this list are the only ones that are authorized to vote on the Terms of Dismissal. (See Section 4.c.)

The Moderator of Lehigh Presbytery shall serve as the official spokesperson for Lehigh Presbytery in all matters related to the dismissal of a member church from the PC (USA) and Lehigh Presbytery. Any member of the PET or any Teaching Elder or member of the church requesting dismissal shall refer all inquiries from the media to the Presbytery. The Moderator shall, to the extent feasible, coordinate the response with the Clerk of Session and the Chair of the PET so as to present a balanced and accurate response

In the spirit of Acts 15, where disagreements and differences were set aside for the sake of the Gospel, spokespersons for a church that has been dismissed from the PC (USA), as well as the Moderator, should not engage, or respond to, the media concerning the dismissal in any way that would discredit the dismissed church, Lehigh Presbytery or the PC (USA), and thus harm the cause of Christ.

4. **Process for a congregation to pursue dismissal**

a. Development of terms of dismissal

The dismissal of a church from Lehigh Presbytery will be a stressful event in the life of the congregation and the Presbytery. The actions of Lehigh Presbytery are to be focused on the preservation and the advancement of ministry throughout the process.

The fundamental basis for developing the terms of dismissal is the recognition that each church is unique and, therefore, requires a unique set of terms. The PET shall prepare an initial draft of the terms of dismissal for discussion with the SCC based on its due diligence regarding the assets/resources of the congregation. Due diligence, of necessity, includes not only an evaluation of the spiritual needs of the congregation and its circumstances but also a financial analysis of the property at stake.

The PET's financial analysis shall include an appraisal of the church's property, documentation of its indebtedness, and the possibility of requiring the church to compensate the Presbytery for the loss of this asset. In determining the amount of any compensation the PET shall consider the extent to which such payment might adversely impact the vitality and witness of the congregation.

Other factors that may be considered in reaching a conclusion regarding any financial compensation to the Presbytery for the loss of the asset are:

- The property has been acquired and paid for by the congregation;
- The congregation has been faithful in being a Presbyterian witness in the community;
- Efforts to develop other PC(USA) churches in the area;
- Existence of plans for another PC(USA) church within the area;
- Any use of denominational resources to acquire or develop the property of the congregation and the presence or absence of any continuing obligation to the Presbytery, Synod or denomination for any liability of the church.

The terms of dismissal may include an administrative fee payment schedule and mission fee payment schedule that is equitable. (See Section 4.b.4.) However, administrative and mission fees are not satisfactory substitutes for the separate evaluation of the value of the property held in trust.

Once the terms of dismissal have been agreed to by both the PET and SCC they are ready for consideration by the congregation.

If both the PET and Session agree that it is necessary for terms of dismissal to be developed concurrently with the Discernment process, the audit of the assets and appraisal of the property may be completed and terms of dismissal may be negotiated and presented to the congregation as a part of its discernment process.

b. Terms for release to another approved denomination

1. Policy for releasing claims to property

If a church seeking dismissal has outstanding loans from Lehigh Presbytery, the Synod or other PC(USA) body, the loans must be paid back or transferred to another creditor before the actual transfer of title occurs. This repayment does not have to be made before Lehigh Presbytery acts on the request to dismiss, but must be made within 90 days of the Presbytery vote to dismiss. If the PET, in consultation with Lehigh Presbytery's Lead Team, does not believe a viable plan for repayment exists, the PET shall recommend to the SCC that the process be put on hold before the congregational vote until a viable plan to repay the loan is established.

If the church seeking dismissal has received grants from Lehigh Presbytery, the Synod or General Assembly, and has unexpended funds, the PET and SCC, in consultation with the grantor, shall consider whether the church should continue to apply such grants to the original purpose, or such grant should be terminated and unexpended funds returned to the grantor.

Property issues will be approached in such a way as not to constrain local congregations in their ability to do mission and ministry. Likewise, property issues will be approached in such a way as not to constrain Lehigh Presbytery's ability to do mission and ministry in any given locality under its jurisdiction.

In order to be dismissed with its property, a church may only be released to another denomination whose organization is similar in form to the doctrines and order of the PC(USA), as determined by Lehigh Presbytery. Such denominations constitute "approved" denominations as this term is used in this policy. In addition, the dismissed church must commit to remaining with its new denomination for a minimum of five years.

A church may be dismissed with its name, if mutually agreed upon by the PET and the SCC. All original rolls, registers, minutes and historical records will remain the property of the PC(USA).

The real property of the dismissed church shall be transferred to Lehigh Presbytery under either of the following circumstances: (1) the church is dismissed to other than an approved denomination, or (2) the church is dismissed to become an independent congregation.

2. Status of Teaching Elder members of Lehigh Presbytery

If a church is dismissed by Lehigh Presbytery, one of the paramount concerns of this process is to assure that the rights and status of Teaching Elder members are considered and properly handled. This important matter shall be administered by Lehigh Presbytery's Committee on Ministry in accordance with its policies and practices.

3. Status of members of the congregation being dismissed

After the vote by Lehigh Presbytery to dismiss the congregation, a letter, jointly approved by both the PET and the SCC, shall be mailed to all members of the congregation. The letter shall explain the process that members who choose to remain with Lehigh Presbytery and PC(USA) can take to have their membership transferred to another PC(USA) congregation. The church being dismissed must provide the PET with a list of members whose membership is not being transferred to the new denomination, so as to make sure they are invited to join another PC(USA) congregation. This list shall be provided within 30 days of the vote by Lehigh Presbytery to dismiss the congregation. It is important throughout the process that both the PET and SCC communicate well, so that both the members who transfer out of PC(USA) and the members who remain are properly ministered to, the level of divisiveness and conflict can be minimized, and that the ministry of both groups may continue.

Members of the church being dismissed who are on Lehigh Presbytery committees shall have their terms of service end on the day Lehigh Presbytery votes to dismiss the congregation.

4. Financial implications

Lehigh Presbytery's ability to sustain ministry is related to its financial health. Funding comes in two forms: per capita giving and mission giving. The congregation being dismissed may be required to pay an administrative fee to Lehigh Presbytery in the year dismissal is granted, and for up to five years thereafter, based on negotiated percentages of the otherwise applicable per capita assessment for the that year dismissal is granted.

The congregation being dismissed may also be required to pay a mission fee to Lehigh Presbytery in the year dismissal is granted, and for up to five years thereafter, to assist the Presbytery in adjusting to the attendant decrease in mission support. Any such mission fee shall be negotiated by the PET and SCC. No portion of the mission fee may be designated by the congregation for a particular project, person or organization.

All required fees shall be paid no later than November 15 of the year they are due. Administrative and mission fees may be paid in a lump sum or in advance of, or within, the year they become due.

The church's financial assets (checking/savings accounts, endowments, etc.) shall remain with the church when it is dismissed to another approved denomination. However, the church must examine the terms of each received or pending bequest, and existing endowment, to determine if any stipulation therein would conflict in any way with the proposed dismissal. All identified conflicts must be resolved to the satisfaction of the PET before dismissal can be pursued.

The terms of dismissal may include financial compensation to the Presbytery for the loss of the asset. (See section 4.a above.)

The church shall allow Lehigh Presbytery, at its discretion, to attach a lien to its property to guarantee full payment of all financial obligations to the Presbytery. This lien shall be in effect as long as any portion of the church's financial commitment to the Presbytery remains unpaid. If the church fails to complete its financial commitment to the Presbytery by the deadline established in the terms of dismissal, the Presbytery may take possession of the property in order to facilitate the payment of the agreed financial commitment.

During the pendency of a property lien the church shall not encumber the property by any mortgage, note, lien or any financial obligation thereto without notice and consent of Presbytery. However, Presbytery shall not unreasonably withhold such consent to borrow money using the church property as collateral, if notified as to the amount and reason for the transaction.

The church shall encourage its members who have included the church in their wills to determine if a change in denominational affiliation is important enough for any of them to amend his/her will.

c. Confirmation of Congregation's desire and discernment to request dismissal

After the PET and the congregation's SCC have met and negotiated the terms of dismissal, the next step in the process is to confirm the congregation's desire for dismissal, and to ascertain the congregation's unity in that decision. That confirmation must be performed through a congregational vote using paper ballots. (Note: A motion for dismissal may only be introduced to the congregation by joint action of the PET and SCC.) The Moderator for the meeting during which the vote on dismissal will be taken shall be a member of the PET who is a Teaching Elder. Teaching Elders serving the congregation seeking dismissal shall have voice but no vote at such congregational meeting.

While the quorum for congregational meetings is set by the Book of Order and by the bylaws of particular congregations, a quorum of at least 50% of the active members of the congregation is required for a congregational meeting to vote to accept the terms of dismissal agreement and thereby leave Lehigh Presbytery and the PC (USA). The actual quorum for this meeting may be set higher by agreement of the PET and SCC. According to the *Book of Order* (G-1.0402), "an active member is a person who has made a profession of faith in Christ, has been baptized, has been received into membership of the church, and participates in the church's work and worship." Each congregation is responsible for establishing criteria to determine if individual members participate in the church's work and worship and thus qualify for active member status. For the purpose of this policy, an active member must be on active role at the time that the Session informs Lehigh Presbytery of their desire to leave the Presbytery and the PC(USA).

Such a called meeting of the congregation must be publicized at least four consecutive Sundays prior to the date of the meeting, and every effort shall be taken to maximize the participation of the congregation in this meeting.

It is also expected that representatives of the PET will have an opportunity to address the congregation and will be able to discuss specific issues that will enable the congregation to make an informed decision based on the facts of the situation

and prayerful discernment.

If the result of the vote to request dismissal and to accept the terms of the negotiated agreement is 75% or greater, the dismissal request is considered confirmed and then will be scheduled for a vote at an upcoming regular Lehigh Presbytery meeting.

5. Process for the Lehigh Presbytery to vote to dismiss a congregation

Once the congregation has voted to request dismissal from Lehigh Presbytery and has accepted the terms of dismissal, the PET will prepare a motion for Lehigh Presbytery's consideration. This motion shall include the terms of the negotiated agreement and the recommendation to dismiss the congregation to another approved denomination. The motion shall also include a statement that the effective date of dismissal is 90 days from an affirmative vote by the Presbytery.

Prior to the introduction of the motion the Chair of the PET shall inform the Presbytery of the due diligence (financial analysis) that was performed regarding the value of the property of the congregation seeking dismissal and how this financial analysis was considered in developing the terms of dismissal. Following this presentation the Chair of the PET shall engage the Presbytery in a discussion of the due diligence that was performed by the PET in arriving at its recommendation for any financial compensation for the church's assets. Such discussion will serve to fulfill the Presbytery's responsibility to uphold the PC(USA)'s trust clause (Book of Order, Section 4-.0203).

In order to maintain the trust and integrity of the process, it is essential that the motion be subject to a yes or no vote, without amendment or modification. Renegotiation of the terms of dismissal through the use of amendments on the floor would essentially invalidate months of work between the PET and the congregation, and destroy any trust built between Lehigh Presbytery and the congregation. Therefore, the following steps shall be taken by Lehigh Presbytery to avoid this outcome:

- The vote shall be scheduled at a regular meeting of Lehigh Presbytery
- The proposal will be presented as a whole, with the understanding that the agreement was arrived by good faith negotiations between both the PET and the congregation
- The proposal will be offered in the following form for a single vote by the Presbytery:
Move to suspend the rules so as to exclude amendments, substitute motions or tabling and agree to the negotiated terms of dismissal from Lehigh Presbytery of (name of church), permitting debate on whether to agree or disagree.

A 75% vote by Lehigh Presbytery is required for adoption of a motion for dismissal. If the vote by the Presbytery fails to pass by the requisite 75% majority, the TOT of Lehigh Presbytery shall appoint a Task Group to assess the situation, develop appropriate next steps and propose same to Presbytery's Lead Team for follow-up.

6. Final Steps

Once Lehigh Presbytery has adopted a motion for dismissal of a particular congregation, the Presbytery should immediately acknowledge the dismissal and pray for God's' continued blessing on this part of our family as they go their separate way. The PET and the SCC, consulting as necessary with legal counsel, shall prepare a Dismissal Agreement for signatures by authorized representatives of Lehigh Presbytery and the dismissed congregation. This Dismissal Agreement shall be limited to the terms of dismissal previously agreed to by the congregation and Lehigh Presbytery.

When the Dismissal Agreement has been duly executed, all organizational ties between Lehigh Presbytery and the dismissed church shall be considered null and void, except for any unsatisfied financial obligation. The PET shall present its final report to Lehigh Presbytery and the Presbytery shall vote to dissolve the PET.