

**MINUTES
COMMISSION ON HANDBOOK**

**Hilton St. Louis Airport Hotel
March 2–3, 2018**

37. Call to Order

The meeting was called to order by Chairman Dr. Dale Sattgast on September 29, 2017 at 12:45 p.m. with voting members Ms. Heidi Abegg, Mr. David Hawk, Dr. Richard Nuffer, Dr. Dale Sattgast, and the Rev. David Totsky attending. Advisory members Dr. George Gude, representative of the Commission on Constitutional Matters (CCM), Dr. John Sias, Secretary of the Synod, and Mr. Frank Simek, Chief Administrative Officer of the Synod were also in attendance.

38. Welcome

Chairman Sattgast welcomed all and thanked them for their attendance.

39. Opening Devotion

Reverend Dr. Dale Sattgast served as meeting chaplain and led the commission in prayer using Responsive Prayer 2, basing his devotion on Genesis 22:1–18. He noted the testing of faith of Abraham and Christians today and the on-going need to keep God as number one. The hymn, “When I Survey the Wondrous Cross,” *LSB* 425, was sung.

When the commission reconvened on Saturday at 8:00 a.m., Dr. Sattgast led the commission in praying Responsive Prayer 1, basing his devotion on Genesis 50:15–21 and Matthew 10:16ff. He spoke of the contrast and distinction between what is so often referred to as “luck” and the grace, providence, and love of God. The hymn “Rejoice, My Heart, Be Glad and Sing,” *LSB* 737, was sung.

40. Review /Adoption of the Agenda

The agenda was presented. Motion and second to adopt. Motion carried.

41. Approval of Minutes

A motion was made and seconded to approve the minutes of the September 29–30, 2017, meeting of the commission. Motion carried.

42. Unfinished Business

The commission addressed a number of COH Issues previously identified in its tracking list.

A. Tracking COH Issues for 2016–2019 Convention / Handbook Cycle

- COH Issue 16-003: Active and Inactive Status, District Membership, and Ecclesiastical Supervision

Dr. Sias led the Commission in a discussion regarding issues previously identified by the Clergy Call and Roster Committee (CCRC) of the Council of Presidents. The draft, as developed by that committee with the input of the Secretary, was presented for a second reading by the commission and discussed. Minor changes in wording were suggested and incorporated into the text.

The question was raised regarding the use of the term *professional staff* in Bylaw section 2.11. The CCRC should be alerted to this matter, as well as a suggestion to set a definite time period for the “limbo state” that occurs when an active-status worker’s call terminates, but no other call has been accepted and candidate or emeritus status has not been applied for or granted.

The draft is to be shared with the CCRC and the plenary Council of Presidents at its April meeting. It is expected that these groups will then return the draft to the commission for final refining and presentation as an overture to the convention.

This matter to be continued to the August meeting and has incorporated tracking issue 16-026.

- COH Issue 16-006: Meaning of *staff* and related terms in the bylaws

- a. COH Issue 16-006A

Dr. Gude noted that in Bylaw 1.5.1.1 the term *staff* is contextual. As such the question is raised regarding who is *staff* and therefore barred from various positions. It is believed that if called upon to offer an interpretation, the CCM might have some difficulty crafting a clear definition, beyond that *staff* would include (other than those falling under some other category of Bylaw 1.5.1.1, such as *faculty*) anyone who was an employee.

In discussion of the matter, the question was raised as to whether Bylaw 1.5.1.1 needs to be rewritten. Instead of a global addressing of the term *staff*, it was determined that it might be better to focus on this bylaw, and provide a definition for *staff* pertaining to this bylaw only.

It was decided to refer 16-006A back to members Gude, Nuffer, and Hawk, redirecting the committee from provision of a general definition of *staff* to augmentation of Bylaw 1.5.1.1 with a defining subparagraph. Mrs. Heidi Abegg will provide an initial definition.

- b. COH Issue 16-006B

Dr. Nuffer presented a document regarding the use of the term *staff* throughout the *Handbook*. He and Mr. Hawk noted that in their look into Bylaw 3.11 *staff* equates most often to *employee*. The question was raised whether this was a matter in which Synod's counsel needed to be consulted.

The question noted above under issue 16-003, of the meaning of *professional staff member* in Bylaw 2.11.1, was added to the material to be treated under issue 16-006B.

- COH Issue 16-009: Listing of classifications of ministers of religion—commissioned (Const. Art. V, VI, XII)

The Commission discussed recommended changes to the Constitution, intended to reduce repetitive duplication of the list of auxiliary offices, to reduce the complexity of proposed modifications:

- a. Const. Art. V B: Simply list categories of Commissioned ministers in V and strike V B 4–11 replacing it with “4. Commissioned ministers, as specified above.” Likewise, change V B 12 to “V B 5 Candidates for the office of the ministry (ordained ministers) [striking the list of individual auxiliary offices] or for the auxiliary offices (commissioned ministers)” It was noted that this change would have the additional benefit of reflecting more explicitly Synod's position on the ministry, as expressed in Walther's *Kirche und Amt*.
 - b. Const. Art. VI 3 3 to read: Regular call of pastors and [striking list of individual auxiliary offices] any commissioned ministers and regular election of lay delegates by the congregations, as also the blamelessness of the life of such.
 - c. Const. Art. VI 6 to read: [striking list of individual offices] Ordained and commissioned ministers, or candidates for these offices, not coming from recognized orthodox church bodies must submit to a colloquium before being received.

- d. Const. Art. XII 9 C to read: Perform, either in person or by proxy, the ecclesiastical ordination of the candidates for the ministry assigned to their districts, the commissioning of the candidates for auxiliary offices assigned to their districts, and the installation of all ministers, ordained or commissioned, called to serve within their districts;
- e. Const. Art. XII 10 A: Change title from “Advisory Representatives” to “Advisory Delegates”
- f. Const. Art. XII 10 B: ~~Advisory Members~~Delegates: Advisory delegates are those advisory members of the Synod listed in Const. Art. V, as well as those parish pastors who are not the voting pastoral delegates of their congregations [striking existing list of advisory members].

It was decided to table this matter until a proposal to adjust the list of auxiliary (commissioned) offices is received. It was also noted that the changes proposed to Const. Art. XII 10 B may be more germane to COH Issue 16-011, below.

- COH Issue 16-010: Updating of archaic terminology for commissioned ministers (Const. XII 9 c, etc.) The item was determined to have been adequately treated in the proposal under item 16-009.
- COH Issue 16-011: Attendance of advisory members at district conventions (Const. Art. XII 10 and Bylaw 4.2.3)

This item was tabled until further information is received from the CCM. See COH Issue 16-009 above.

- COH Issue 16-013: Which process to follow in a dispute (Bylaws 1.10.5; 2.14.3; 2.17.3; 3.10.5.7.5, 8–9; 3.10.5.7.10(b)(3); 3.10.6.7.1; 3.10.6.7.5–3.10.6.7.5.2)

Dr. Gude reported that the issue is fairly involved. The *Standard Operating Procedures Manual (SOPM)* for the seminaries has been reworked and sent to the seminaries. At this point the current *SOPM* is sufficient. For colleges and universities, no process for faculty complaints is specified, which may be an issue going forward. Sias and Gude reported their work on this item:

- a. It was suggested to add to Bylaw 3.10.5.7.9 as follows: “The board of regents shall have authority to investigate, hear, and act on any complaint regarding the conduct of office of seminary faculty and administration, including those arising out of Bylaw 3.10.5.7.5.”
- b. It was suggested that 3.10.5.7.9 (a) be amended to read: If the board of regents receives a complaint against a member of that seminary’s faculty or administration concerning any matter, including those specified under Bylaw 3.10.5.7.5, except in a matter of sexual misconduct or criminal behavior, it shall direct the complainant first to meet face-to-face with the respondent in an attempt to resolve the issue (in the manner described in Matthew 18:15).
- c. It was suggested that 3.10.5.7.9 (b) be added: Should allegations involve information that could lead to the expulsion of the member from the Synod under Article XIII of the Constitution, the member’s ecclesiastical supervisor is to be informed immediately of the accusation (Bylaws 2.14.3 and 2.17.3).
- d. Delete: 3.10.5.7.10 (3) “The faculty shall elect a standing hearings committee or assign the functions of such a committee to another standing committee,” a vestigial remnant of prior procedure.
- e. 3.10.6.7.5.2 be amended to read: An appeal process established by the board of regents of the institution consistent with the *Model Operating Procedure Manual for Faculty and*

Administration Complaints and Appeal of Termination: Colleges and Universities (developed by the Commission on Constitutional Matters in consultation with the Concordia University System) shall be in place . . . “

Motion, second and carried to propose change to these bylaws and include in omnibus.

- COH Issue 16-018: Inauguration date of appointees (Bylaw 3.2.4 [c])

Inauguration of appointed commission members on Sept. 1 is problematic, as they cannot possibly be appointed by that time. Formerly, inaugurations were staggered. After discussion it was suggested to amend Bylaw 3.2.4 (a) to read: “The President, First Vice-President, regional vice-presidents, Secretary, and members of all ~~elected~~ boards and commissions of the Synod who are elected by the Synod convention shall assume office on September 1 following the convention and shall be inducted into office on a date subsequent to September 1 following the convention.”

It is further suggested that Bylaw 3.2.4 (c) be amended to read: All newly appointed members of all boards and commissions shall begin their service on September 1 following each regular meeting of the Synod in convention or immediately upon their appointment thereafter.

A motion was made, seconded and carried to accept both changes as non-substantive.

- COH Issue 16-018B: Inauguration date of appointees (Bylaw 3.2.4 [c])

Additionally, since the regents are elected on both a local and national level, it was suggested to amend 3.2.4[a] to add the final sentence: “Members of college and university boards of regents elected by the district conventions shall assume office upon election.” A motion was made, seconded and carried to include this in an omnibus for convention consideration.

- COH Issue 16-019: Need for uniform standards for document retention (Bylaw 3.6.2.2.1 [c]) There is a need to revisit standards for document retention and archival to account for the electronic era—and also a need to evaluate whether the required procedures are being carried out synod-wide, to deposit required items into the archives (and to avoid deposit of non-required, historically useless items). Perhaps a new, uniform standard or clarifying policy would better serve the Synod and its archives, and should be reflected in the bylaws

This is currently a work in process. The Chief Administrative Officer and Secretary are working with Concordia Historical Institute and Synod counsel. It has been recommended to get proper policy in place before making piecemeal changes to the bylaws.

- COH Issue 16-021: Voting status of appointed board members in voting for other appointed board members (Bylaw 3.10.5.2 [4])

The CCM has issued an opinion (16-2805) concerning the wording “Appointed members may not vote on the appointment of other members to the board.” CCM Opinion 16-2805 concerning this has been issued.

After discussion it was suggested to clarify this matter by reformatting:

3.10.5.2 The board of regents of each theological seminary shall consist of no more than thirteen voting members:

1. Three ordained ministers, one commissioned minister, and three laypersons shall be elected by the convention of the Synod.

~~(a) Elected and appointed seminary boards of regents members may serve a maximum of two consecutive six-year terms and must hold membership in a member congregation of the Synod.~~

~~(b) Not more than two of the elected members shall be members of the same congregation.~~

2. A vice-president of the Synod shall be designated by the President of the Synod.

3. A district president other than the geographical district president shall be appointed by

the Council of Presidents.

4. Four members may be appointed as voting members by the board of regents. ~~Appointed members may not vote on the appointment of other members of the board.~~ In order to achieve continuity, a plan of staggered terms for the appointed board members will be adopted by each board of regents.

Elected and appointed seminary boards of regents members may serve a maximum of two consecutive six-year terms and must hold membership in a member congregation of the Synod.

Appointed members may not vote on the appointment of other members of the board.

A motion was made, seconded and carried to adopt this as a non-substantive change.

- COH Issue 16-022: Vacancies on Seminary Board of Regents (Bylaws 3.2.5, 3.10.5.4, etc.)

After discussion it was determined that the treatment of seminary regent vacancies in Bylaw 3.10.5.4 does not include the member appointed by the Council of Presidents. In general, vacancy language should be examined for coherence with (and possibly incorporation in and reference to) Bylaw 3.2.5. Action declined.

- COH Issue 16-023: Definition of “Surplus institutional funds” (Bylaws 3.10.5.5(e)(2) and 3.10.6.4(e)(2))

The phrase “surplus institutional funds above an adequate working balance” calls for clearer definition, best provided by the Board of Directors of Synod. The Concordia University System Policy Manual states that boards of regents have responsibility for funds. It is noted the term “surplus funds” is also used in the bylaws (but with authority to clarify it granted) with reference to the Board of Directors of Concordia Publishing House in Bylaw 3.6.3 [e]. Need clarification from governance committee. It is difficult to establish a general answer as to what funds would be “surplus.”

Tabled until additional information is received from the Governance Committee of the Board of Directors.

- COH Issue 16-024: Committee on Convention Nominations, interim powers and standing subcommittee (Bylaw 3.12.3.5–7)

CCM Op. 16-2799 suggests that COH incorporate into Bylaws aspects of Res. 11-14: “Resolved, that the Bylaw 3.2.5 committee selected by the CCN be empowered to act on behalf of and in the name of the CCN for actions needed subsequent to the issuing of the CCN’s final report prior to the convention.” Res. 11-10 Task Force on Nominations and Elections may be bringing proposals to Bylaw Section 3.12. COH will check to see that this language is properly incorporated. It was determined to amend 3.2.5 (c) to read: “(c) This list shall be determined by the Standing Committee on Nominations (Bylaw 3.12.3.5 [b]). The Synod’s Director of Human Resources shall be consulted in developing the candidate list.”

Additionally, 3.12.3.5(b) is to be changed to: “The committee shall elect its own chairman, vice-chairman, and secretary and shall organize its work in whatever way it deems necessary. It shall designate two of its members to serve with the chairman on the Standing Committee on Nominations.”

It was decided that 3.12.3.6 should be amended to include: “(d) The committee shall prepare a reserve list of nominees for use by the chairman at the convention, should the need arise. (e) The committee shall, whenever possible, prepare and hold in readiness a slate of candidates for any new board or commission likely to be established at a convention of the Synod, and of these the committee should, whenever possible, be informed in advance. [and] (f) Any changes to the complete list of candidates and alternates necessitated by unavailability, declination, or ineligibility of candidates occurring after the last meeting of the Committee on Convention Nominations may be effected by the Standing Committee on Nominations. As much as possible, this shall be

accomplished by advancing available alternates and by making use of the reserve list of nominees approved by the plenary committee.””

In addition, Bylaw 3.12.3.7 should be amended to read: “The chairman of the Committee for Convention Nominations shall submit the committee’s report in person to the convention at one of its earliest sessions and shall facilitate the amendment of the slate from the floor” with the removal of 3.12.3.7(e) and (f).

These changes were made to provide nomenclature for this heretofore unnamed committee and to indicate actions needing to be taken in a more chronological order.

A motion was made, seconded and carried to include the proposal in a convention omnibus.

- COH Issue 16-025: District nominations and elections (Bylaw section 4.7)

The interplay of Synod and district convention, nomination, and election bylaws is extremely complex and may call for clarification (see CCM Op. 15-2755). District-level conventions, nominations and elections are governed in part by inference from Synod bylaws relating to Synod-level conventions, nominations, and elections, with the inferences sometimes not clear. Secretary Sias was asked to inquire with the Council of Presidents whether this was a periodic annoyance (and not worth addressing) or a significant burden worth a comprehensive solution. He was also asked to remind the Res. 11-10 Task Force to be sensitive to the impact on districts of changes to Synod nominations and elections bylaws. The committee of the Council of Presidents charged with determining whether action on this item was necessary responded in the negative. Action declined.

- COH Issue 16-026: Continuation of candidate status (Bylaw 2.11.2.2 [c][4])

It was noted that “willingness to consider a call or appointment,” a criterion for continuance of candidate status on the roster of Synod, may appear to exclude many of those transferred by the convention from non-candidate to candidate status. Noting CCM Op. 16-2795, the commission had referred the language dealing with candidate status qualifications to the Council of Presidents for potential clarification (as needed, with the help of COH). This issue was consolidated into Issue 16-003 and considered adequately addressed by that proposal, and is therefore closed.

- COH Issue 16-030: Congregational representation at circuit forums (Bylaw 5.3.2, *etc.*)

There is a need for clarification concerning congregational voting representation. Circuit forums are charged by the Synod bylaws to select circuit visitors (Bylaw 5.2.2), to elect Synod convention delegates (Bylaw 3.1.1), and to suggest priorities and submit overtures (Bylaws 5.3.4–5). These actions are carried out by the voting representatives at the forum, as defined in Bylaw 5.3.2. Bylaw 5.3.2 [a] notes that circuits can “provide for additional representation from each congregation.” Such additional representation, however, is not eligible to vote in those votes taken for Synod-mandated purposes. This should be clarified in Bylaw 5.3.2 [a] as follows: “(a) Depending on each circuit’s adopted objectives, the circuit may provide for additional representation from each congregation. Such additional representatives have no vote in matters assigned to the circuit forum by the Bylaws of the Synod.” A motion was made, seconded and carried to adopt as non-substantive.

43. Leftover Tracking Items from 2013-2016 Convention

- A. COH Issue 13-029 (renewed as 16-035): Reference to Bylaw 3.4.3.7, regarding materials subject to doctrinal review (Bylaw 1.9.1.1)

At the September COH meeting, this matter was referred to the CCM. It was reported that the CCM looked into the matter and determined in its opinion that the doctrinal review status of material included in seminary journals, if questioned, is subject to review. The question was raised, whether

this should be made more explicit in the *Handbook*. Drs. Sias and Gude will provide proposal for August. Assigned as Tracking Issue 16-035.

44. Unfinished Business – Other Items

A. Definition of *academic year* (Bylaws 2.8.1 [d] and 3.10.5.7.10 [h][1]):

Secretary Sias reported that consultation with Dr. Baneck of the LCMS Office of Pastoral Education indicated no desire, on the part of the seminaries, to clarify the meaning of “academic year” in the noted bylaws. Action declined.

B. President’s Appeal Authority (Bylaw section 2.15)

Drs. Sias and Gude reported that Res. 12-09 added the ability of a suspending ecclesiastical supervisor to appeal a panel decision in Bylaw sections 2.14 and 2.17 for any reason, but did not address Bylaw section 2.15, in which the President of the Synod (there, the suspending ecclesiastical supervisor) already had the right to appeal, but only in matters of doctrine or practice. This was referred to the CCM for study and confirmation. Action declined.

C. Ties for the First Vice-President Slate (Bylaw 3.12.2.1 [b]):

While it is conceivable that a tie in nomination counts could add many names to the initial slate for First Vice-President, it was determined that other aspects of the relevant bylaws rendered this a non-issue. COH action declined.

D. Definitions:

There has been discussion about the need for a glossary or clarification of terms, *i.e.*, “parish,” “member,” “staff,” etc. in order to clarify how terms are used within Synod. It was noted that it might be better to include such terms in the “Definition of Terms” section (Bylaw 1.2.1). While some terms have a clear definition via CCM opinions, etc., others would necessitate a bit more work in determining usage and meaning. It was suggested that the terms be assigned individually for study to Commission members. At this time, no further action is required; these issues will be dealt with as they may arise.

E. COH Omnibus Resolution for 2019 Convention of Synod

Dr. Sias is working on consolidating into appropriate overtures all the substantive maintenance actions to be recommended by the commission to the convention, and intends to have a preliminary draft at the August meeting.

45. New Business / Other Matters

A. Correspondence

- Correspondence: None

B. “New” Matters Concerning Possible Constitution or Bylaw Changes:

The commission determined to assign and track four new items:

- COH Issue 16-033: Blind draw by COP Secretary (Bylaw 2.16.7.1 [c])
- COH Issue 16-034: Lay delegate and alternate from same parish (Bylaw 3.1.2.1 [h])
- COH Issue 16-036: Bylaws regarding “elected boards and appointed commissions” (Bylaw 3.1.4.1, *etc.*)
- COH Issue 16-037: Meaning/extent of “Faculty” (Bylaws 3.1.4.2, 3.10.6.7, *etc.*)

46. Update 2016-2019 COMMISSION ON HANDBOOK Issue Tracking Document

The commission reviewed and updated the tracking document, noting new and completed items, as well as items in process.

47. Next Meeting

The Commission has established the following dates for its upcoming meeting. August 3–4, 2018, noon to noon, at the Hilton St. Louis Airport Hotel.

48. Adjournment

Having completed business on the present agenda, the commission closed with Dr. Sattgast closing with prayer. Meeting adjourned at 12:05 p.m.

Reverend David W. Totsky
Secretary, Commission on Handbook