

# Court of Adjudication Rules of Procedure

## 1. Administrative Rules

**1.1. Annual Meeting.** The Court of Adjudication (the “Court”) shall hold an annual meeting each year following the Annual Convocation of the North American Lutheran Church (the “NALC”). At the annual meeting, the Court shall elect an administrative judge from among its members. The administrative judge shall serve until the Court’s next annual meeting. If the office of administrative judge shall become vacant, the Court shall meet to elect a replacement to fill the unexpired term

**1.2. Court Files.** The Court shall maintain its official files at the NALC’s main office. These files shall include all official documents filed with or by the Court. The Court shall keep confidential those documents not open to public access under Rule 1.5 below. Otherwise, on terms set by the Court, these files shall be open for review by any NALC pastor or by any member of an NALC congregation.

**1.3. Court Web Page.** The Court shall maintain a page on the NALC’s web site. The Court shall use its web page to post its rules, to provide contact and case-filing information, and to make available to the public all opinions and other documents related to the Court’s cases.

**1.4. Filing And Service Of Documents.** Unless the Court expressly orders otherwise, each document filed with the Court shall be submitted as an attachment to an e-mail message sent to the e-mail address that the Court has established for case filings. The e-mail address shall be posted on the Court’s web page. In cases with multiple parties, the party filing a document shall simultaneously serve a copy by e-mail on all other parties.

**1.5. Public Access To Documents.** All Court opinions and all documents filed with the Court shall be publicly available on the Court’s web page except where (i) NALC policies or these rules provide otherwise; (ii) the Court orders that the opinion or filing be kept in whole or in part confidential; or (iii) applicable law requires that the document be kept confidential.

**1.6. Chief Judge.** The administrative judge shall appoint a chief judge for each matter submitted to the Court. The chief judge shall lead the Court’s administration of the matter.

**1.7. Role Of NALC Governing Documents And Other Policies.** The Court shall be bound by the NALC governing documents and by other policies adopted by an NALC Convocation or the Executive Council.

**1.8. Resolving Disputes In Accord With Biblical Principles.** Where a case is based on a dispute among two or more parties, no party may file a case with this Court unless the party has first attempted to resolve the matter informally in accord with Biblical principles.

**1.9. Decision By Majority.** Unless a governing policy states otherwise, the Court shall decide all matters by a simple majority vote. The majority must consist of at least three votes except where these rules state otherwise.

**1.10. Theological Or Doctrinal Questions.** If at any time the Court determines that it must answer a theological or doctrinal question to decide a matter, the Court must refer the question to the Joint Commission on Theology and Doctrine. After consulting with the parties, the Court, sitting with all its members, shall frame the question or questions to be referred. To the fullest possible extent, the Court shall state the question without naming the people, places, or institutions involved in a particular case. The Court is obligated to accept the theological and doctrinal guidance of the Joint Commission on Theology and Doctrine. All substantive proceedings in matters involving theological or doctrinal questions will be stayed until the Joint Commission on Theology and Doctrine has answered in writing the question or questions put to the Commission by the Court.

## 2. Article 15.03(a) Cases – Appeals From Disciplinary Decisions

**2.1. Bringing An Appeal.** Under Article 15.03(a) of the NALC Constitution, this Court is to hear “appeals from disciplinary decisions.” A party initiates an appeal by filing a notice of appeal with the NALC General Secretary. Each notice of appeal must describe briefly each issue that a party is asking the Court to decide. The party filing the notice of appeal must identify specifically any theological or doctrinal questions that must be answered to decide the appeal.

**2.2. Questions Subject To Appeal.** The Court will not decide factual questions. So long as the Hearing Committee or Inquiry Panel has conducted a reasonably thorough evidentiary proceeding, the Court will accept all factual determinations by the Hearing Committee or Inquiry Panel. The Court will decide questions relating to the application of NALC policy to the facts. This includes questions regarding whether the Hearing Committee or Inquiry Panel followed the correct process or applied the proper penalty.

**2.3. Participation Of Attorneys Or Other Representatives.** Any party may appoint an attorney or other agent to represent the party for any or all phases of an appeal.

**2.4. Initial Conference.** As soon as practicable after the Court has received a notice of appeal, the Court shall schedule a status conference. This conference ordinarily will take place remotely, either by telephone or using other electronic means available to all parties. The chief judge and at least two other judges shall participate. The purpose for the initial status conference is to discuss procedural arrangements for deciding the case. The judges participating in the conference may decide procedural questions that arise by majority vote, even if the majority consists of fewer than three votes.

**2.5. Stay Of Panel Or Committee Ruling Pending Appeal.** At the initial conference, a party may ask the Court to stay all or any part of a ruling by a Hearing Committee or Inquiry Panel. The judges participating in the initial conference may decide the motion or, if they need more information, may order that the parties submit their arguments in writing.

**2.6. Written Arguments.** Within 30 days after the later of the initial conference or receiving from the Joint Commission on Theology and Doctrine answers to questions put to it, a party that filed a notice of appeal must submit its arguments in writing with copies to the other parties. Within 30 days after receiving the initial written arguments, the other party or parties must submit arguments in writing with copies to the other parties. Within 15 days after receiving the written opposing arguments, a party that filed a notice of appeal may submit written arguments replying to the opposing written arguments. The Court, acting either at the request of a party or on its own, may adjust this schedule.

**2.7. Record On Appeal.** Each party must attach to its written arguments any part of the Hearing Committee or Inquiry Panel record that is necessary for considering the party's arguments and deciding the appeal.

**2.8. Oral Argument.** After considering the parties' written arguments and consulting with the parties, the Court will decide whether to hold oral arguments and whether such arguments will take place in person or instead by telephone or other electronic means available to all parties. Unless the Court orders otherwise, oral argument will be closed to the public.

**2.9. Possible Outcomes On Appeal.** After considering the parties' arguments, the Court (i) may uphold the decision below; (ii) overturn the decision below; (iii) revise the decision below; or (iv) remand the matter to a Hearing Committee or Inquiry Panel for further proceedings.

### 3. Article 15.03(b) Cases – Requests For Advisory Opinions

**3.1. Filing A Case.** Under Article 15.03(b) of the NALC Constitution, the NALC Convocation, the NALC Executive Council, or a governing authority of an NALC regional entity may petition the Court for an advisory opinion regarding the interpretation of the NALC governing documents. To file a case, the petitioner shall file a petition setting out (i) the question or questions that the petitioner wants the Court to decide; (ii) a statement of the facts that the petitioner wants the Court to take as true for purposes of deciding the case; and (iii) any additional information that the petitioner believes that the Court will find useful.

**3.2. Notice Of Filing.** The Court shall promptly post the petition on its web page and shall give notice of the filing by e-mail to all NALC pastors and congregations.

**3.3. Non-Party Filings.** Within 30 days after notice of the petition has been given under Rule 3.2, any NALC pastor or any member of an NALC congregation may submit a memorandum setting out a position on the question posed by the petition.

**3.4. Motions To Intervene.** A non-party who would be directly affected by the Court's decision may move to intervene in the case as an adverse party to the petitioner. If the Court grants the motion, the case shall proceed as if it had been brought under Article 15.03(c).

**3.5. Initial Conference.** As soon as practicable after a petition has been filed, the Court shall schedule a status conference with representatives of the petitioner. This conference ordinarily

will take place remotely, either by telephone or using other electronic means available to all parties. The chief judge and at least two other judges shall participate. The purpose for the initial status conference is to discuss procedural arrangements for deciding the case. The judges participating in the conference may decide procedural questions that arise by majority vote, even if the majority consists of fewer than three votes.

**3.6. Special Motions.** The petitioner may file motions relating to the case. Such motions may include requests to keep certain information confidential or to decide a case expeditiously. When deciding such motions, the Court shall seek to protect the ability of NALC pastors and members of NALC congregations to submit their positions in writing before the Court issues a final ruling.

**3.7. No Oral Arguments.** The Court ordinarily shall decide cases without oral argument. At the request of the petitioner or on its own initiative, however, the Court may order oral arguments if the Court believes that they would be of material benefit in reaching a sound decision.

**3.8. No Factual Determinations.** The Court shall take as true the factual description included in the petition. The Court shall not decide whether the description is accurate or resolve any factual disputes.

**3.9. Participation Of Lawyers.** Unless the Court orders otherwise, parties shall represent themselves before the Court.

**3.10. The Court's Decision.** The Court shall issue its decision in writing, explaining the basis for its ruling. It shall post the decision on its web page as soon as it is finalized.

#### 4. Article 15.03(c) Cases – Disputes Regarding Interpretation of Governing Documents

**4.1. Case Type.** A person, body, or entity – a petitioner – may bring a case based on a claim that (i) another person, body, or entity – a respondent – has violated the NALC's governing documents either through action or inaction and (ii) that the alleged violation has affected the petitioner directly.

**4.2. Petition.** The petitioner shall prepare a complaint that includes (i) allegations of the facts necessary to enable the Court to decide the matter; (ii) the basis for asserting that the matter falls within the Court's jurisdiction; (iii) a concise statement of the petitioner's argument, including the precise remedy being sought; and (iv) a certification that the petitioner has exhausted efforts to resolve the matter before bringing a case.

**4.3. Preliminary Jurisdictional Review.** The petitioner must first submit the complaint to the Court to enable the Court to determine preliminarily whether the petition states one or more claims that fall within the Court's jurisdiction. The Court will inform the petitioner in writing of its determination. If the determination is that all or any part of the complaint falls outside the Court's jurisdiction, the Court will explain the basis for that determination. In response, the petitioner may revise the complaint and submit the revised complaint to the

Court for preliminary jurisdictional review. In conducting its preliminary jurisdictional review, the Court will view the matter in the light most favorable to the petitioner. For this reason, and because no respondent will yet be joined, the Court's decision at this state will be preliminary. Any respondent will be free to challenge the decision in the response it submits after being served with the complaint.

**4.4 Service Of Complaint On Each Respondent.** Once an original or revised complaint in its entirety has satisfied the Court's preliminary jurisdictional review, in order to move the matter forward, the petitioner must send a copy to each respondent.

**4.5. Response.** Within 30 days after receiving the petition, each respondent shall file a response. The response shall include (i) a response to the petitioner's allegations of fact and (ii) a concise statement of the respondent's counter-arguments. The factual response shall consist of two parts. In the first, each respondent shall expressly admit or deny each of petitioner's allegations. In the second, the respondent shall set out any additional allegations of fact necessary to support the respondent's position.

**4.6. Reply.** Within 15 days after receiving responses from all respondents, the petitioner shall file a reply. In the reply, the petitioner shall (i) expressly admit or deny each of the respondents' allegations of fact and (ii) reply to the respondent's counter-arguments.

**4.7. Initial Conference.** As soon as practicable after the reply has been filed, the Court shall schedule a status conference with representatives of the parties. This conference ordinarily will take place remotely, either by telephone or using other electronic means available to all parties. The chief judge and at least two other judges shall participate. The purpose for the initial status conference is to discuss procedural arrangements for deciding the case. The judges participating in the conference may decide procedural questions that arise by majority vote, even if the majority consists of fewer than three votes.

**4.8. Factual Consensus.** At the initial conference, the Court will propose a process for resolving any factual disputes. In the first instance, the Court will urge the parties to work together to come to agreement on a statement of facts. To the extent that the parties cannot reach consensus, the Court will develop a process for resolving the factual dispute.

**4.9. Participation Of Lawyers.** Unless the Court orders otherwise, parties shall represent themselves before the Court.

**4.10. Non-Party Participation.** A non-party may ask the Court for permission to file a memorandum stating a position on a disputed question regarding the interpretation of the NALC's governing documents. The Court shall decide such motions in accord with its own discretion.

**4.11. Proceedings.** After consulting with the parties, the Court shall decide whether to hold oral arguments or other proceedings.

4.12. **The Court's Decision.** The Court shall issue its decision in writing, explaining the basis for its ruling. It shall post the decision on its web page as soon as it is finalized.