

## **APPROVAL OF CONTRACTS AND WAIVERS FOR RCA MINISTERS SUGGESTED GUIDELINES FOR USE BY THE CLASSES**

An earlier version of this paper was presented to the 2015 Annual Meeting of the RCA Stated Clerks. This document was written by Howard Moths, the stated clerk of the Synod of the Great Lakes, to assist the classes in fulfilling the requirements of the *BCO*. It has not been endorsed by the General Synod or any other RCA assembly. Questions or comments may be sent to Howard at [hmoths@sbcglobal.net](mailto:hmoths@sbcglobal.net).

Attached are four documents that are designed to help the classis with the process of approving contracts between ministers and RCA congregations. They include:

1. Comparison Chart Call v Contract – a chart comparing the similarities and differences
2. Contract Classis Guidelines 2015 – a revised and expanded version of sample guidelines
3. Contract Template 2015 – a revised template for contracts
4. Waiver Template 2015 – an application for waiver of the salary standards

According to the RCA *Book of Church Order (BCO)*, all contracts between ministers and RCA churches must be approved by the classis (*BCO*, 1.II.7.8, p. 34). Historically, churches have not always asked for classis approval, and classes have not always taken this responsibility seriously, especially for part-time positions in the church. Recent changes in insurance and retirement requirements have made the process of approving contracts and considering waivers of the minimum standards for salary and benefits more important. If the classis decides not to fulfill its responsibility in approving contracts and waivers, it exposes the churches and the classis to the threat of lawsuits for unpaid salary and benefits, and unexpected invoices for retirement benefit payments from BOBS. The attached documents are designed to help the classis in the process of approving guidelines, contracts, and waivers.

Ministers may serve a local church under two conditions. Ministers who receive a call approved by the classis and are installed in a local church at a classis meeting form one group. Ministers who serve churches under contract form another. This distinction is particularly important when it comes to membership in the consistory and the dissolution of the pastoral relationship between a minister and a church. Installed ministers are members of the consistory; ministers who are serving under contract are not. The pastoral relationship between an installed minister and the church cannot be terminated without the approval of the classis (*BCO*, 1.II.12.8); the termination of a minister under contract is determined by the provisions of the contract. Installed ministers are further divided into two classifications: 1) solo or senior ministers, and 2) associate ministers. Ministers who serve churches under contract are divided into two classifications: 1) ministers serving a church without an installed minister on a temporary basis (may be named specialized transition ministers), and 2) assistant ministers serving on staff in a church. (*BCO*, 1.II.7.4-6, 1.II.7.9, 1.I.2.8) See the attached comparison chart to explore the differences between calls and contracts.

Below is a template that may be useful in forming classis guidelines for contracts. The guidelines contain some assumptions about what might be best practices, but each classis may choose to establish different guidelines, as long as they comply with the *BCO*. One significant area for discussion are the guidelines for the dissolution of the relationship between the church and the person working under contract. What kind of notice should be given to the minister if a church has decided to not renew a contract? What kind of severance should be given if a contract is ended before the renewal date?

Although awkward to discuss in advance, clarity on these questions will prevent many headaches in the event that a contract is ended prematurely.

The significance of this discussion of contracts has been raised now that BOBS is billing churches for unpaid contributions to the retirement plan of ministers under contract who have been working part-time in churches. The 2014 Minutes of General Synod, page 174, reads:

In the past year, during an editorial review of the 403(b) plan document, retirement staff determined that there is an inconsistency between the plan document and the stipulations for participation stated in the RCA's *Book of Church Order*. The plan document is inclusive of all ordained ministers, those serving in both full- and part-time positions. Because the retirement plan operates under regulations established by the U.S. Department of Labor and the Internal Revenue Service, participating employers (e.g. consistories, higher assemblies, institutions, and agencies of the RCA) are required to abide by the stipulations in the plan document, not those spelled out in the *Book of Church Order*. Benefits Services staff worked with the General Synod's Commission on Church Order to develop proposed amendments to the *BCO* that bring the two documents into conformity and also serve to encourage classes to determine if and when people serving in part-time ministries should be receiving contributions to the retirement plan.

The amendments were approved by the classes and the 2015 General Synod for incorporation into the RCA *Book of Church Order*. The following amended section strikes the word *full-time*, making it clear that it applies to all ministers:

*Sec. 7. A consistory shall fulfill the provisions of the call form (Formulary #5) for retirement and insurance for all ministers serving the church under call or contract unless (a) regarding retirement, the minister is covered by the retirement plan sponsored by the Regional Synod of Canada or the retirement plan of the communion where the minister's membership is held, or (b) the classis determines that the minister is serving the church part-time and that circumstances warrant that the consistory be exempt from this requirement. (BCO, 1.1.2.7, p. 14)*

Option (b) above gives the classis the opportunity to waive the requirement for retirement and insurance under some circumstances. Since the *BCO* grants the authority to the classis to approve calls and contracts, the classis must decide on a minimum standard for compensation (salary and benefits) and what circumstances may warrant an exemption from those standards, and then implement a process for the classis to approve waivers. The stated clerk must keep a signed copy of any approved waivers of the minimum standards for compensation to answer questions that may be raised in future years about the agreement that was approved by the classis. The General Synod office that handles insurance and retirement benefits for the Board of Benefit Services (BOBS) is developing its own document for use by the classis to communicate any waiver that has been approved by the classis so that the church will not be billed for insurance or retirement benefits that have been waived.

The classis is not required to grant any waivers of the minimum standard for compensation (salary or benefits). The classis may require that the responsibilities in the call or contract be reduced to reflect the compensation level that the church is able to pay. Or the classis may choose to supplement the salary or benefits for the minister so that the minimum standards are met.

## Comparison of Installed Ministers and Those Serving Under Contract in the RCA

|                               | <b>Ministers Under Call</b>  | <b>Ministers Under Contract</b>  |
|-------------------------------|--|--|
| <b>Title</b>                  | Senior Minister or Associate Minister  | Contract Minister or Assistant Minister  |
| <b>Ministry Begins</b>        | When classis approves the call form (Formulary #5) and the minister is installed in the church by the classis.   | On the date specified in the classis-approved contract, following the guidelines established by the classis.   |
| <b>Initiation of Ministry</b> | Installation by the classis. (BCO, 1.I.2.3)  | Optional commissioning by the classis, if appropriate. (BCO, 1.II.12.4)  |
| <b>Consistory Membership</b>  | Becomes a member of consistory by virtue of installation. May be elected president of consistory, and presides at all of its meetings except where otherwise provided. (BCO, 1.I.3.1)                                    | Not a member of consistory unless elected, ordained, and installed as an elder or deacon of the consistory. May not represent that church as an elder delegate to classis or a synod.  |
| <b>Church Membership</b>      | Becomes a member of the local church by virtue of installation.  | May become a member of the church or retain membership in another local church.  |
| <b>Classis Membership</b>     | Becomes enrolled as a member of the classis when installed.  | May become a member of the classis or retain enrollment in another classis.  |
| <b>Supervisor</b>             | No classis supervisor is necessary for a church with an installed senior minister.   | May be appointed as supervisor of the church (if vacant) and preside at meetings of the consistory if invited by the consistory, but shall not have the right to vote.   |
| <b>Salary and Benefits</b>    | Must comply with the minimum standards for salary and benefits approved by the classis.  | Must comply with the minimum standards for salary and benefits approved by the classis.  |
| <b>Evaluation of Ministry</b> | Mutual reflection regularly with the consistory. (BCO, 1.II.7.1.m)   | The classis shall review all contracts annually. (BCO, 1.II.7.4,9)   |
| <b>Length of Ministry</b>     | Serves indefinitely until the pastoral relationship is dissolved by the classis after joint application by the minister and consistory, or a vote by the classis to dissolve the pastoral relationship. (BCO, 1.II.12.8) | Serves until the contract ends and is not renewed, or earlier, when permitted in the contract. Contracts with churches without an installed minister are limited to one year, with possible renewal. Assistant ministers may receive multi-year contracts, subject to annual review by the classis.                        |
| <b>Discipline</b>             | Amenable solely to the discipline of the classis while a member of classis. (BCO, 1.II.12.2)   | Amenable solely to the discipline of the classis while a member of classis. A minister who is ordained and installed as an elder or deacon remains amenable to the classis except in respect to the minister's conduct in exercising the responsibilities of the board of elders or the board of deacons. (BCO, 1.II.12.6) |

*The following is a template that may be useful to a classis in the process of forming guidelines for contracts that must be followed by the churches. (BCO, 1.I.2.7, pp. 14-15)*

## **GUIDELINES FOR CONTRACTS BETWEEN MINISTERS AND RCA CHURCHES**

**Approved by the Classis of \_\_\_\_\_ on \_\_\_\_\_.**

1. All contracts (full-time or part-time) with ministers ordained in the RCA, non-RCA ordained ministers, commissioned pastors, retired ministers, seminary students, or licensed candidates seeking ordination must be approved by the consistory of the local church and by the classis, before they can be in effect. (BCO, 1.II.7.8, p. 34)
2. All contracts must be reviewed annually by the consistory and the classis. This review should take place whenever salary adjustments are made or near the end of each calendar year. (BCO, 1.II.7.4, 1.II.7.9)
3. Three types of ministers under contract can be found in the RCA *Book of Church Order*:
  - a. Ministers serving churches without an installed pastor (BCO, 1.II.7.4),
  - b. Specialized transition ministers (BCO, 1.II.7.6), and
  - c. Assistant ministers serving on staff in churches (BCO, 1.I.2.8)
4. Contracts may *not* be issued for the position of associate minister, since associate ministers serve under a call. (BCO, 1.I.2.5)
5. All contracts with ministers must meet the minimum standards for salary and benefits as approved by the classis, unless a waiver is approved by the classis. (BCO, 1.I.2.7, 1.II.12.3, 1.II.7.1.n) If a consistory and a pastor agree to less than the minimum salary or benefits, a waiver request, signed by both the pastor and a consistory representative, shall be sent to the appropriate Classis committee for Classis approval. (See the *attached waiver application*.) The waiver request must state the amount and the reasons for the exemption. A waiver request shall be submitted to the Classis at least three months prior to the effective date. The compensation forfeited by the waiver is not required to be repaid, unless a repayment agreement is stipulated in the waiver request. (See the *Minimum Salary and Benefits Guidelines*.)
6. All RCA ministers who are members of classis and receive contracts from churches may be commissioned by classis to the form of ministry in which they are engaged, but are not installed in the local church as are ministers serving under a call. (BCO, 1.I.2.7, 1.II.12.4) Contracts do not make ministers ipso facto members of the church or consistory. If assistant ministers or students working under contract join the local church, they may be elected to the consistory as an elder or deacon. (BCO, 1.II.12.6)
7. The consistory shall regularly review the performance of any minister, commissioned pastor, or seminary student working under contract. The results of the review shall be communicated in such a way to give opportunity for the person working under contract to improve his/her performance.
8. All contracts shall specify the guidelines for the dissolution of the relationship between the church and the person working under contract. Contracts with ministers serving churches without an installed minister shall be a maximum of one year. (BCO, 1.II.7.4) These

contracts may be renewed after proper review by the classis. Contracts with ministers serving on an interim basis shall specify that the ministers cannot be called to be the installed pastor of the church in which s/he serves, unless prior approval is given by the classis. These contracts shall be intentionally terminated prior to the arrival of the pastor receiving a call.

9. Assistant ministers may receive multi-year contracts, subject to annual review by the classis.
10. Contracts with ministers over age 70 are limited to 12 months or less, and are renewable (*BCO*, 1.II.12.10).
11. Before deciding to use a contract to fill a ministry position with an ordained minister, consistory members are asked to read the paper on "Clergy Contracts" found in the 1994 Minutes of General Synod, pp. 240-243. This paper was approved for use by the 1995 General Synod.
12. The church may extend a contract to a minister of another denomination whose ordination meets the criteria of Chapter 1, Part II, Article 11, Section 1, whose good standing has been certified by that denomination, and who serves with the approval of classis as a minister under contract or an assistant minister. (*BCO*, 1.II.12.15)

#### **Contracts with Commissioned Pastors**

1. When the classis receives an invitation for a ministry it deems appropriate for a commissioned pastor candidate, the classis shall 1) authorize the ministry, 2) approve a contract, and 3) commission the candidate to the authorized ministry to the extent of the contract. (*BCO*, 1.II.14.5)
2. The contract should specify the functions that are being authorized, specifically, whether or not the commissioned pastor will serve as the presiding officer of the consistory and/or as the classis supervisor, and if the pastor may preside at the ordination and installation of elders and deacons, and/or perform a service of Christian marriage when approved by consistory. (*BCO*, 1.II.14.8)\*
3. Contracts with commissioned pastors do not have to comply with the minimum salary guidelines for ministers, but must be fair and equitable as determined by the classis.
4. The classis shall evaluate the performance of the commissioned pastor at least annually. (*BCO*, 1.II.14.10)

\*As approved by the 2015 General Synod, the *BCO* now includes a provision that allows commissioned pastors to serve as a supervisor to a church without an installed minister. The classis has the authority to determine if this appointment would be the best arrangement for the church. The commissioned pastor employed as a supervisor is limited by these rubrics: 1) the commissioned pastor may only serve as supervisor of the consistory of a church he or she is currently serving; 2) the consistory must request this arrangement from the classis; 3) the classis must approve the appointment; and 4) the church must be without an installed minister.

## SAMPLE EMPLOYMENT CONTRACT

The contract is between the (church) of (city, state) and the Rev. (name) for her/his service in the position of Minister Under Contract/Assistant Minister/Specialized Transition Minister/Commissioned Pastor/Student Under Contract. The title for this position is:

\_\_\_\_\_.

Pending the approval of the \_\_\_\_\_ Classis, this contract shall begin on (date) and end on (date). This contract may be renewed upon mutual agreement of the church, minister/student/commissioned pastor and the classis.

This contract for full-time or part-time (% of full-time), approximately \_\_\_\_ hours per week. This contract intends to comply with the minimum salary schedule approved by the Classis. [OR This contract does not meet the minimum salary and benefits as specified by the classis, and the undersigned hereby request a waiver of these requirements. A waiver request is attached.]

The duties of the (title) shall include:

*(list all responsibilities here or attach job description)*

The salary, housing allowance, and benefits for the (title) shall be:

*(list salary, housing allowance, and all benefits, including those below)*

Rev. (name) shall receive one week of paid vacation for each three month period of employment.

Rev. (name) shall receive a car allowance of \_\_\_\_ cents per mile [current IRS rate for business miles] for all business miles driven in performance of service to the church.

Equal payments of salary shall be made monthly/bimonthly/weekly. Rev. (name) is free to designate a day off each week, with the exception of (days).

Retirement payment of 11% of base salary and housing allowance is required to be paid to the minister's RCA Retirement Fund.

Three insurance provisions are included in this contract: Medical/Health (including family), Life, and Long-Term Disability as stipulated by the RCA Board of Benefits.

Rev. (name) shall be accountable to the (minister/committee) of the church. A performance review shall be completed at least yearly. The results of the review shall be communicated in such a way to give opportunity for the person working under contract to improve his/her performance.

This contract may be terminated by either party with 60 days written notice. If terminated by the church before the renewal date, the minister shall be given no less than two months of

severance pay after employment has ended. Renewal of this contract should be initiated no less than 60 days before the contract expires.

This agreement will bind the consistory of the church and the employee to meet the foregoing contract provisions by the signature of the clerk of consistory and employee below. The approval of the classis and the signature of the classis clerk or the president of the classis is required before this contract may be considered to be in effect.

Approved by the consistory of \_\_\_\_\_ (church) on \_\_\_\_\_ (date).

Approved by the Classis of \_\_\_\_\_ on \_\_\_\_\_ (date).

In witness to the approval of this contract are the signatures of the persons below.

|                     |       |
|---------------------|-------|
| _____               | _____ |
| Clerk of Consistory | Date  |

|                                      |       |
|--------------------------------------|-------|
| _____                                | _____ |
| Minister/Commissioned Pastor/Student | Date  |

|               |       |
|---------------|-------|
| _____         | _____ |
| Classis Clerk | Date  |

**WAIVER FOR THE REQUIREMENTS OF THE COMPENSATION GUIDELINES  
FOR MINISTERS OF WORD AND SACRAMENT SERVING RCA CHURCHES**  
CLASSIS OF \_\_\_\_\_

The following paragraph appears in the Salary Guidelines for Ministers of Word and Sacrament approved by the Classis [as suggested by the Synod of the Great Lakes]:

Waiving the Minimum Salary: If a church and pastor agree to a less-than-minimum salary, a waiver request, signed by both the pastor and a consistory representative, shall be sent to the appropriate Classis committee for Classis approval. The waiver request must state the amount and the reasons for the exemption. A waiver request shall be submitted to the Classis at least three months prior to the effective date. The compensation forfeited by the waiver is not required to be repaid, unless a repayment agreement is stipulated in the waiver request.

The following is a template for making this request. All waivers must be reviewed by the \_\_\_\_\_ committee of the Classis on an annual basis. Signed copies of this waiver request must be kept on file by the Consistory, Minister, and Classis.

Effective Date for this Waiver: \_\_\_\_\_

Time Period Covered by the Waiver: \_\_\_\_\_

The Consistory of the \_\_\_\_\_ [Name of Church] and the Rev. \_\_\_\_\_ [Name of Minister] request the following waiver of the minimum requirements of the Salary and Benefits Guidelines approved by the Classis.

The minister is working \_\_\_\_\_ [full-time or part-time]. If part-time, the minister is working \_\_\_\_\_ hours per week, or \_\_\_\_\_ percent of a full-time position.

The consistory and minister are requesting a waiver of the minimum salary so that the salary amount will be \$\_\_\_\_\_ which is \_\_\_\_\_ percent of the minimum requirement of the Classis.

The consistory and minister are requesting a waiver of the following benefits that are part of the minimum standards for compensation as approved by the Classis: [List benefits, such as insurance, retirement, housing, Social Security, and professional development.]

Signature of Consistory Clerk: \_\_\_\_\_

Signature of Minister: \_\_\_\_\_

Signature of Classis Representative (if approved): \_\_\_\_\_