

SUBJECT TO FINAL EDITING

THE JUDICIAL COUNCIL OF THE UNITED METHODIST CHURCH

MEMORANDUM NO. 1387

*In Re:* Request from the Eastern Pennsylvania Annual Conference Concerning the Legality of a Resolution Pertaining to the One Church Plan

**STATEMENT OF FACTS**

At the regular session of the Eastern Pennsylvania Annual Conference 2019 a standing vote was taken on Resolution 2019-13. Those in favor numbered 273; those against numbered 208; there were 15 abstentions. Resolution 2019-13 passed. The text of the resolution was:

**WHEREAS**, the 2019 General Conference Special Session was not in consensus regarding adoption of a plan to unify the United Methodist Church; and

**WHEREAS**, Bishops and leaders from across the denomination have issued statements which continue to lead the UMC forward toward a more unified body; and

**WHEREAS**, it has been estimated that 65% of delegates from the United States voting at the 2019 Special Session voted in support of the “One Church Plan” endorsed by our Council of Bishops; and

**WHEREAS**, the question of the constitutionality of the adopted plan is before the Judicial Council and questions regarding the validity of certain delegate credentials as well as concerns regarding the exchange of money and gifts for votes are being investigated; and

**WHEREAS**, the Eastern Pennsylvania Conference in accordance with our United Methodist Social Principles is firm in acknowledging “that sexuality is God’s good gift to all persons,” that “all persons, regardless of age, gender, marital status, or sexual orientation, are entitled to have their human and civil rights ensured and to be protected against violence,” and that we “implore families and churches not to reject or condemn lesbian and gay members and friends;” and

**WHEREAS**, congregations, individuals, laity and clergy of the Eastern Pennsylvania Conference are in full and faithful ministry in diverse ways with people of varying expressions of sexual orientation and gender identity, including LGBTQIA+ persons; and

**WHEREAS**, we as United Methodist followers of Jesus are committed to not excluding anyone from access to God’s grace and to fully providing the most faithful ministries to, for and with all of God’s children; and

**WHEREAS**, our baptismal covenant calls us to “accept the freedom and power God gives [us] to resist evil, injustice, and oppression in whatever forms they present themselves”

**THEREFORE BE IT RESOLVED**, that until or when the denomination resolves the divisiveness evident in the 2019 Special Session, **the Eastern Pennsylvania Conference considers itself a “One Church” Conference in spirit**, [emphasis

added] committed to continued support of ministry to, for and with all persons regardless of sexual orientation or gender identity.

The Minutes of the Annual Conference, before the voting, provide in part:

Bishop recognized Joe DiPaolo, First Church of Lancaster, to ask a question about a point of order. He asked, since the One Church plan which was considered and rejected by the St. Louis Conference included as part of it our changing the language on the conducting of same sex marriages and ordination of homosexuals, etc., would not this resolution then put us out of compliance with the Discipline, and therefore, should this resolution be ruled out of order? The Bishop responded that it is her assessment that this is really one of the many, many things that we've done in this body and in other conferences around the country and has been ruled with the Judicial Council that "aspirational" kinds of things are in order but noting that we still have to maintain the Discipline. She repeated so as to be sure to be heard, that the Discipline has to be maintained, no matter what is voted here. She continued, saying that if this is voted, "it is only aspirational, in my opinion."

...

After the voting the minutes says:

Point of Order: Bishop Johnson recognized Chris Fisher, First Church, Schuylkill Haven, who requested that the Judicial Council review this resolution because of the unclear language of "aspiration to disobey the Discipline." A vote was taken to refer the resolution to the Judicial Council, and it passed.

In a letter to the Judicial Council the Secretary for the Eastern Pennsylvania Annual Conference, attest the accuracy of the following information:

1. The exact wording of the motion made by Rev. Christopher Fisher at the afternoon session, on Saturday, June 15, 2019, of the 2019 Eastern Pennsylvania Annual Conference was: "I am at Schuylkill Haven First, and I rise to request Judicial Council review this resolution because of the unclear language of aspiration to disobey the Discipline."

2. The vote was conducted with the assumption that a 2/3 majority was needed for approval. A hand vote was taken, and it was the determination of Bishop Peggy Johnson, and concurred with by the Parliamentarian (Rev. Bruce Rogers), the Conference Lay Leader (Mr. David Koch), and myself, Conference Secretary, that more than 2/3 of the body voted in favor of the motion. With that result, Bishop Peggy Johnson announced that the resolution had passed.

In the bishop's report to the Judicial Council the following text from the maker of the appeal is attached:

I appeal to Judicial Council the legality of resolution 2019-13, especially line 44, which declares that that Eastern Pennsylvania Conference "considers itself a "One Church" Conference in spirit." Is it legal for the EPA Conference to consider itself a "One Church" Conference in spirit? Attendant facts: Please note that the question had been asked of the bishop earlier in debate before the resolution was passed whether the resolution was legal, because it appeared to ask the Annual Conference to act in

violation of the decision of 2019 General Conference. The bishop declared at that time that the resolution was aspirational, and we were still required to uphold the discipline, and therefore in her view the resolution was legal. I appeal the Bishop's ruling of law pronounced before the vote on the legality of the resolution, as well as line 44 of the resolution itself, as passed.

Bishop Johnson has reported this to the Judicial Council under 2609.7, as an appeal of an episcopal decision on questions of law when such decisions are appealed by one-fifth of the members of the conference (§ 56.2 Const. and § 2609.7 *The Book of Discipline of The United Methodist Church, 2016* [hereinafter *The Discipline*]). She has not sent any ruling, facts or rationale for the ruling.

### **JURISDICTION**

The Judicial Council lacks jurisdiction since no formal decision of law was made under § 2609.6, and an appeal under §§ 56.2 and 2609.7 of *The Discipline* is then not possible.

### **ANALYSIS AND RATIONALE**

Bishop Johnson has reported this to the Judicial Council under 2609.7, as an appeal of an episcopal decisions on questions of law when such decisions are appealed by one-fifth of the members of the conference (§ 56.2 Const. and § 2609.7 *The Discipline*).

The minutes from the conference indicate that no formal request for an episcopal ruling was made during Joe DiPaolo's colloquy with the Bishop regarding his Point of Order concerning the parliamentary procedure for ruling proposed legislation out-of-order.

Generally speaking, when a request is properly made for an episcopal ruling on a matter of law, the presiding bishop is required to report the request and file the written episcopal ruling with the Judicial Council, according to § 2609.6. (*The Discipline*) The filing of the report and the ruling triggers an automatic review by the Judicial Council and jurisdiction is conferred. It is not necessary for the annual conference to vote to appeal the Bishop's ruling of law for the purpose of conferring jurisdiction for a Judicial Council review. In the absence of a formal request for an episcopal ruling on a properly posed question of law, the Judicial Council lacks jurisdiction for judicial review. The Council's jurisdiction is limited and construed narrowly. Subsequent mischaracterization of those legislative circumstances has no bearing in these matters, nor does it change the narrow scope of the Judicial Council's jurisdiction.

Since there were no formal request for an episcopal ruling of law before the voting, and no ruling from the bishop, there was nothing to appeal when Rev. Chris Fisher made his motion

The question raises if the motion, asking for the legality of resolution 2019-13, in fact was meant to be a motion under § 2609.5. or 2610 of *The Discipline*. We notice that there is a difference between the written appeal as it is attached to the bishop's report, and how it is reported in the minutes and in the letter from the annual conference secretary. Since the Eastern Pennsylvania Annual Conference only has sent this as an appeal under 2609.7 and have not sent any other documentation, it is not possible for the Judicial Council to take jurisdiction under other paragraphs of *The Discipline*.

Lidia Romao Gulele was absent.

Warren Plowden, first lay alternate, participated in this decision.

Øyvind Helliesen was absent.

Angela Brown, second clergy alternate, participated in this decision.

November 1, 2019