

SUBJECT TO FINAL EDITING

JUDICIAL COUNCIL OF THE UNITED METHODIST CHURCH

DECISION 1432

[Docket No. 1021-9]

IN RE: Review of a Bishop's Ruling on Questions of Law in the West Virginia Annual Conference Concerning the Legality of Not Electing the At-Large Lay Members to Annual Conference Until After the Annual Conference has Convened and the Session has Commenced.

DIGEST

An annual conference may adopt rules and regulations to equalize the lay with the ministerial membership as mandated by ¶ 32 of the Constitution. Such policies may specifically provide for the use of an organizational motion to be passed after the call to order but prior to the conduct of other business. The bishop's Decisions of Law is affirmed.

STATEMENT OF FACTS

Prior to the 2021 session of the West Virginia Annual Conference, the conference secretary sent notices to all people who were nominated in accordance with the existing Rules of Order of said conference to be At-Large Laity members in compliance with the required equalization formula. At the plenary session, on June 5, 2021, after the bishop called the session to order, the Organizational Motion for the 2021 Annual Conference Session was adopted. This omnibus motion provided, among other things, for the election of equalization members listed on pages 9 – 11 of the Conference Workbook. The equalization members did not vote until their election. This was done through a process controlled by Zoom accessibility and instructions to the tellers on the floor that persons with orange name tags were not eligible to vote and were not to be counted in the vote on the Organizational Motion. The record shows that the vote was taken prior to the approval of the conference agenda and the conduct of other business.

Thereafter, Subsection 6 of the Miscellaneous Standing Rules of the Conference, entitled "Equalization of Lay and Clergy Membership," [hereinafter Rule 6] was presented and adopted.

Rule 6 contains fifteen categories of people, listed in the order of priority in which lay equalization members are nominated, and the following paragraph near the end:

Individuals from this priority list who have responded affirmatively to the invitation by their respective group shall be formally invited by the Annual Conference Secretary. Those who accept shall be presented for election by the Annual Conference in the organizing motion. Once duly elected by the Annual Conference, they will be seated within the bar aequalization members [emphasis added].

After the adoption of Rule 6, a clergy member raised the following questions of law:

Does the newly amended rule 6, on Equalization of Lay and Clergy Membership violate Discipline Paragraph 32's requirement for the genuine "election of additional lay members to equalize lay and clergy membership of the annual conference" (emphasis added), or any other relevant church law, when it provides for an election which takes place only after that year's annual conference session is called to order?

Does this amended rule violate Discipline Paragraph 32 or any other part of church law when this vote would take place only AFTER the nominees had already arranged to take time off of work, checked into hotel rooms, and traveled to the site of the annual conference session?

Does this amended rule provide a genuine election in conformity with Discipline Paragraph 32 and other relevant church law when it would be too late at the time of the vote to have other persons make these same arrangements to be present for the annual conference session?

On June 30, 2021, Bishop Sandra Steiner Ball rendered the following Decision of Law, which reads in relevant parts:

[Bishop's Analysis and Rationale]

Paragraph 32 states "If the lay membership should number less than the clergy members of the annual conference, the annual conference shall, by its own formula, provide for the election of additional lay members to equalize lay and clergy membership of the annual conference."

#1. Newly amended rule 6, on Equalization of Lay and Clergy Membership does not violate Discipline paragraph 32. The rule 6 and the Organizational motion pages 9–11 of the Conference Workbook provide for a genuine election of Equalization members. The organizational motion provides for the action of election by the annual conference and is aligned with rule 6: "By the authority of the Annual Conference the Secretary shall invite persons to be present for election as

equalization members ...” “Those who accept shall be presented for election by the Annual Conference in the organizing motion. Once duly elected by the Annual Conference, they will be seated within the bar as equalization members.” The Organizational motion provides for the election of Equalization members, Tellers, Assistant Secretaries for the West Virginia Conference Annual Conference Business session, sets the bar, and the organizational procedures for the conference business session. The organizational motion not only lists the positions or conference formula for equalization members but includes the names of those presented for election so that the Conference body may be attentive to its responsibility for inclusivity as called for in ¶ 4 of *The Book Of Discipline*. Following election, the duly elected persons fulfill the positions to which they have been elected. The Organizational motion precedes any discussion, debate, or vote on agenda items. The 2021 Annual Conference session was called to order and followed by opening worship, ministry celebration, a memorial service. These services and celebrations were open meetings in accordance with ¶722. There was no actionable business, voting, discussion, or debate scheduled for the annual conference session until the business session of the Conference was opened and called to order on Saturday morning June 5, 2021 with the organizational motion following an opening devotional and prayer.

#2. Does the amended rule 6 violate Paragraph 32 when this vote would take place only after the nominees had arranged to take time off from work, checked into hotel rooms and traveled to the site of the conference session?

No. Paragraph 32 does not speak to the practicalities of the arrangements for those considered for election. Rule 6 provides for an annual conference formula and process by which lay equalization persons are named, accept their willingness to be elected, are invited to be present for the election, and if elected, to be seated and to serve within the bar with voice and vote.

#3. Does this amended rule provide a genuine election in conformity with Discipline Paragraph 32 and other relevant Church law when it would be too late at the time of the vote to have other persons make these same arrangements to be present for the Conference session?

Yes. Paragraph 32 does not speak to the practical arrangements of those who may be elected. Paragraph 32 says that, “the annual conference shall, by its [sic] own formula, provide for the election of additional lay members.” Rule 6 provides the formula called for in Paragraph 32 and includes a process of naming, invitation, affirmation, and election. Not the rule nor the organizational motion prohibits a motion from the floor to nominate a replacement for someone in one of the formula categories as listed in the rule or as named in the organizational motion. If that were to happen, there would have to be immediate confirmation of that person’s eligibility as prescribed in Paragraph 32, their willingness, and availability to exercise vote and voice if elected.

[Bishop's Ruling]

On the three questions raised in the request of Law, Rule 6, on equalization of Lay and Clergy Membership, as modified and adopted by the West Virginia Annual Conference, does not violate Paragraphs 32, 602, 604.1. It also does not negate, ignore, or violate The Book of Discipline and, therefore, does not violate the holding in Judicial Council Decision #886. I do not find that amended rule6 violates any other relevant church law. [parenthetical references omitted]

Jurisdiction

The Judicial Council has jurisdiction pursuant to ¶ 2609.6 of *The Book of Discipline 2016* [hereinafter *Discipline*].

Analysis and Rationale

At issue in this case is whether Rule 6 violates ¶ 32 of the Constitution. Specifically, does the election of lay equalization members by way of passing an organizational motion meet the constitutional requirements? This provision defines the membership of an annual conference but also states in the last sentence:

If the lay membership should number less than the clergy members of the annual conference, the annual conference shall, by its own formula, provide for the election of additional lay members to equalize lay and clergy membership of the annual conference [emphasis added].

That final sentence is operational only if the lay membership drops below the number of clergy members in an annual conference. When such condition occurs, ¶ 32 requires that additional lay members be elected “to equalize lay and clergy membership of the annual conference.” Most importantly, the annual conference is tasked with the responsibility to elect additional lay members “by its own formula.” The qualifying phrase “by its own formula” cannot be construed as anything other than an express grant of power to the annual conference in matters of lay equalization. *See* JCD 511 (holding that “it is applicable only to those situations in which the lay membership numbers fewer than the ministerial. In such situations the conference is mandated to equalize the lay with the ministerial membership, by its own formula.”).

The clergy member asserts that Rule 6 violates ¶ 32 because voting on a slate attached to a large omnibus organizational motion does not offer the opportunity for discussion and nomination of other candidates as a “genuine” election would. The Constitution does not prescribe

any form of election, “genuine” or otherwise, but leaves this question to the discretion of the annual conference. This freedom includes the right to choose an organizational motion as means to achieve lay and clergy equalization. It does not behoove us to second-guess that decision. A conclusion to the contrary, advocated by the clergy member, would improperly restrict conference autonomy expressly guaranteed by the Constitution. The West Virginia Annual Conference was within its rights when it adopted the formula in Rule 6. Should that formula prove to be inadequate in the future, the members of said conference are free to change it.

Further, the clergy member challenges the legality of the adopted conference policy on the grounds that “it provides for an election which takes place only after that year’s annual conference session is called to order,” thereby highlighting an issue. The annual conference is not properly constituted, until it meets the requirements of ¶ 32. But to do so, a properly constituted annual conference body must first elect the additional lay members. Since there is no other practicable way out of this dilemma, we hold that, by necessity, the annual conference can fulfill said constitutional requirements by passing the organizational motion *after* the call to order but *prior* to conducting other business, as the West Virginia Annual Conference did. The bishop ruled correctly on the Question of Law.

Ruling

An annual conference may adopt rules and regulations to equalize the lay with the ministerial membership as mandated by ¶ 32 of the Constitution. Such policies may specifically provide for the use of an organizational motion to be passed after the call to order but prior to the conduct of other business. The bishop’s Decisions of Law is affirmed.

March 15, 2022

Separate Opinion

I write separately from my colleagues given the divergence of our interpretations and applications of precedents and Disciplinary provisions regarding the questions posed and the issues raised by the clergy member who requested a ruling from the presiding Bishop. My reading and interpretation of the question leads me to believe that the primary, if not exclusive, issue at hand

is that the amendments made to the Rules of the Annual Conference are creating distinct and concrete disadvantages and hardships for *laity*, particularly the “at-large” lay members of Annual Conference. For the purpose of this opinion, I am using the term “at-large” to describe the lay members of annual conference who are elected pursuant to the United Methodist Constitutional requirement that annual conferences equalize the lay and clergy membership of the annual conference (as set forth at the end of ¶ 32 of the *Discipline*).

The clergy member’s request for a ruling of law by the bishop is set forth in the official minutes, and certified by the Secretary of the Annual Conference, as follows:

In accordance with ¶¶51 and 2609 of the Book of Discipline, I request a bishop’s decision of law on the following questions about the amended new rules for “Equalization of Lay and Clergy Membership,” in light of Discipline ¶¶32, 602, and 604.1, Judicial Council Decision #886, and other relevant church law:

- Does the newly amended rule 6, on Equalization of Lay and Clergy Membership violate Discipline Paragraph 32’s requirement for the genuine “election of additional lay members to equalize lay and clergy membership of the annual conference” (emphasis added), or any other relevant church law, when it provides for an election which takes place only after that year’s annual conference session is called to order?
- Does this amended rule violate Discipline Paragraph 32 or any other part of church law when this vote would take place only AFTER the nominees had already arranged to take time off of work, checked into hotel rooms, and traveled to the site of the annual conference session?
- Does this amended rule provide a genuine election in conformity with Discipline Paragraph 32 and other relevant church law when it would be too late at the time of the vote to have other persons make these same arrangements to be present for the annual conference session?

The equalization formula is not at issue here. The issue is that the Conference Rules were amended in such a way that “at-large” lay members of annual conference are now deprived of a process of election that is timely and reasonable and certain. It places a terrible burden on laity who must arrange time off from work, some of whom must use their vacation time to do so, all while having no actual assurance that they will be full voting members of the Annual Conference.

There is also the predicament that some laity may face in acquiring the time-off and coverage of work duties while being unable to make the representation that they are a voting member of the legislative body. It can be untenable.

This is further exacerbated by a personal lack of certainty as to whether one can effectively and confidently submit themselves for consideration as a General or Jurisdictional Conference Lay Delegate. Although Annual Conference membership is not a requirement, it plays a significant role in the dynamics as one wonders whether they will be sitting on the sidelines during the balloting process or whether they will be submitting ballots along with their colleagues.

I assume that it was not the intention of the West Virginia Annual Conference to undercut or undermine the confidence and certainty of their faithful at “at-large” members of annual conference; however, I fear that it may, to varying degrees, be the unintended consequence of this action. For the sake of your laity, I would strongly urge and pray that you would amend the rules to provide for the election of your “at-large” Annual Conference lay members either at their respective District Conferences or at the conclusion a year in advance when the Conference Nominating Committee makes its report and recommendations.

We have navigated the equalization provisions for over fifty years. It is a very important mechanism for building the leadership potential of our denomination’s laity, especially our youth and young adults. Please let us all avoid placing our laity in an untenable, uncertain, and unassured position by having to commence Annual Conference without knowing with absolute certainty that one will be elected when the process commences.

Unlike the majority, I am aware of the many ways that we provide for the election of the “at-large” lay delegates to annual conference. It’s not at all difficult, particularly given that all clergy, no matter their status or health, must be included in the count. As such, the “unknowns” are relatively few or at least the margin of error is relatively predictable.

We are a denomination that values the ministry partnership of our lay and clergy. Please let us not cause any of our laity undue stress and anxiety by the timing and scheduling of our elections to our most valued decision-making bodies.

Beth Capen

March 15, 2022