

SUBJECT TO FINAL EDITING

JUDICIAL COUNCIL OF THE UNITED METHODIST CHURCH

DECISION NO. 1425

(Docket No. 1021-2)

IN RE: Review of a Bishop's Ruling on a Question of Law in the New England Annual Conference as to Whether the Conference Disaffiliation Policy and Discernment Process Are Permissible Under the Discipline or Are in Conflict with ¶ 2553.

DIGEST

Annual conferences may develop additional procedures and standard terms that are not inconsistent with those established by the General Conference in ¶ 2553. The bishop's Decision of Law is affirmed.

STATEMENT OF FACTS

In response to the passage of the Modified Taylor Disaffiliation Plan (Petition 90066), subsequently codified as ¶ 2553 of *The Book of Discipline 2016* [hereinafter *The Discipline*], by the special session of General Conference in 2019, the New England Annual Conference adopted at its regular session, on June 13, 2019, Resolution RS-19-211 [hereinafter RS-211]. RS-211 requires that any local church seeking disaffiliation from The United Methodist Church undergo a discernment process of no less than eight months. The resolution reads in relevant parts:

Therefore, the New England Annual Conference approves the following procedure to be included in our Conference Policies and Procedures, governing the process and conditions for churches and ministry settings within New England in discernment about disaffiliation from The United Methodist Church:

1. Before a District Superintendent may call for a church conference for disaffiliation, the local church or ministry setting shall undergo a discernment period of no shorter than eight months.
2. During this discernment period, the local church/ministry setting shall seek assessments of the impact of this action upon the church, community, and Conference from *at least* the NEAC Trustees, Cabinet, Treasurer, Council on Finance and Administration, Chancellor, Benefits Officer, and the Conference Board of Congregational and Community Development evaluating the strategic missional impact of the church/ministry setting. These conference entities must make an initial response to the request within 30 days or will be deemed to not impede the discernment process of the local church. The church/ministry setting shall also develop a statement articulating their theological and missional foundations in seeking disaffiliation for reasons of conscience "related to human sexuality."

3. The local church or ministry setting shall hold a minimum of four listening sessions, advertised to and open to the full professing membership, at least two of which are also advertised to and open to those beyond professing membership, who participate in the ministries of the church/ministry setting. These sessions shall solicit the input of these constituents, and shall report the findings of the assessments named in (2.) above. The sessions shall be facilitated by the District Superintendent or their designee, and may not be facilitated by the pastor, the hired or appointed staff, or any member or constituent of the church/ministry setting.
4. After the discernment period, the church conference, and an affirmative 2/3 vote of the professing members present, the Disaffiliation Agreement may be formulated in accordance with ¶2553, and shall include the recommendations and assessment from the Conference bodies named in (2.) above. It shall also include provision for how the community previously served by the church/ministry setting shall be served by The New England Annual Conference moving forward.
5. When presented to the Annual Conference for a vote, the Disaffiliation Agreement must be accompanied by a full report of the outlined process, the assessments and recommendations named in (2.) above, a summary of the financial and missional impact to the community, conference, and wider Church of the assets and ministries under consideration, and a recommendation for how the community previously served by the church/ministry setting shall be served by The New England Annual Conference moving forward.

Immediately following its passage, an annual conference member raised a question of law and hand-delivered a hard copy to the bishop's table, questioning the legality of RS-211:

I respectfully request a Decision of Law from the Bishop as to the authority of the Annual Conference to adopt RS-19-211 since it adds terms inconsistent with Paragraph 2553. "Are the proposed steps of disaffiliation in RS-19-211 in conflict with 2553?"

On June 29, 2019, Bishop Sudarshana Devadhar issued his Decision of Law in which he ruled:

I find that RS 211 is consistent with the implied, if not expressed, intent of 2019 General Conference. ¶ 2553 must, of necessity, be read as setting forth minimum standards for Annual Conferences, which retain the reserved constitutional right to enact additions not inconsistent with ¶ 2553; and further I find that RS 211 is not inconsistent with ¶ 2553 because it does not impermissibly conflict with, negate or eliminate any aspect of ¶ 2553.

Accordingly, I find that new England Annual Conference RS 19-211 is lawful.

In Memorandum 1382, we granted Bishop Devadhar's motion for stay of the decision pending the resolution of the request of the Council of Bishops for declaratory decision on the implications of illegal votes relating to Petition 90066 (Docket No. 1019-19). Subsequently, in Memorandum 1412, we deferred this case "to the next interim session of the Judicial Council,

with instructions for the New England Annual Conference Secretary to submit to the Judicial Council, within thirty [30] days of the date of this Memorandum, the official record of the 2019 New England Annual Conference, including the minutes of the daily proceedings, adopted resolutions, questions of law and rulings of law.” This matter has now returned to the Docket for review of the bishop’s Decision of Law.

JURISDICTION

The Judicial Council has jurisdiction pursuant to ¶ 2609.6 of *The Discipline*.

ANALYSIS AND RATIONALE

The core issue in this case is whether an annual conference has the authority to adopt procedures in addition to the ones enacted by the General Conference in 2019 for the disaffiliation of local churches. The Constitution established a sound balance of powers between the General Conference and annual conferences, ensuring that no single body has absolute authority in matters of disaffiliation. In JCD 1366, we held that, “[w]hile the General Conference, under the authority of ¶ 16.3, may regulate the process and set the conditions for an annual conference to leave The United Methodist Church, the annual conference, having ‘reserved to it...such other rights as have not been delegated to the General Conference under the Constitution,’ exercises autonomous control over the agenda, business, discussion, and vote on the question of withdrawal.” JCD 1366 at 44, quoting Const., ¶ 33. We affirmed this principle, in JCD 1379, by stressing that, “[s]ince the disaffiliation of local churches is not mentioned among the enumerated powers of the General Conference, this subject matter has ‘not been delegated to the General Conference under the Constitution,’ and, therefore, the final decision concerning exiting local churches belongs to the annual conference as part of its ‘reserved rights.’” JCD 1379, quoting Const., ¶ 33.

The General Conference acknowledged this division of powers at its special session in 2019 by passing the Modified Taylor Disaffiliation Plan (Petition 90066) with the following provision: “Annual conferences may develop additional standard terms that are not inconsistent with the standard form of this paragraph.” ¶ 2553.4(a). In a parallel legislation dealing with the pro rata share of unfunded pension obligations a disaffiliating local church is required to pay, the same General Conference added a provision declaring: “Nothing in the foregoing prevents an annual conference from collecting other obligations from a church or charge.” ¶ 1504.23. Those legislative enactments clearly suggest that the disaffiliation process established by the General Conference constitutes minimum standards, which do not preclude additional procedures and standard terms created by annual conferences, provided that the latter do not negate or violate the former. If it had intended to occupy the field with the passage of ¶ 2553, the General Conference would have said so and, certainly, would not have included those provisions. JCD 1424.

In its jurisprudence, the Judicial Council consistently held that “in exercising its rights, an Annual Conference cannot take an action which negates General Conference legislation,” JCD 823, that “annual conferences may not legally negate, ignore, or violate provisions of the *Discipline* with which they disagree, even when the disagreements are based upon conscientious objections to those provisions,” JCD 886, and that “no Annual Conference may adopt any rule or policy that is in conflict with the *Discipline*.” JCD 1105.

The discernment process in RS-211 takes place at least eight months before the church conference is called by the district superintendent. All it does is require that congregations contemplating disaffiliation examine the potential impact of their exit from the denomination by obtaining assessments from conference agencies and officials whose work areas intersect directly with the local church's disaffiliation and by soliciting the input of professing members and constituents, and that the findings together with the Disaffiliation Agreement be reported to the members of the annual conference prior to their vote. Further, RS-211 specifically states that, once the discernment process is completed and the disaffiliation resolution passed by the requisite two-thirds majority at the church conference, "the Disaffiliation Agreement may be formulated in accordance with ¶ 2553," thereby underscoring its fidelity to the mandate established by the General Conference. We do not see how this discernment process ignores, negates, or violates the instructions of ¶ 2553.

RULING

Annual conferences may develop additional procedures and standard terms that are not inconsistent with those established by the General Conference in ¶ 2553. The bishop's Decision of Law is affirmed.