

SUBJECT TO FINAL EDITING

## JUDICIAL COUNCIL OF THE UNITED METHODIST CHURCH

### MEMORANDUM NO. 1408

**IN RE: Request from the Council of Bishops for a Declaratory Decision Clarifying Decision 1383 and Conditionally Staying Decision 1383 Pending Legislative Action by the General Conference.**

This matter arose from Judicial Council Decision [JCD] 1383 in which the Judicial Council declared unconstitutional the provisions of *The Book of Discipline 2016* [hereinafter *The Discipline*] setting forth the administrative process leading to involuntary leave of absence (§ 354), involuntary retirement (§ 357.3), administrative location (§ 359), and discontinuance from provisional membership (§ 327.6) because they violate a clergy person's right to fair and due process guaranteed in ¶ 20 and ¶ 58 of the Constitution.

As a result of the postponement of the General Conference session and the exigencies posed by the Covid-19 pandemic, the Council of Bishops submitted on July 15, 2020 this Petition for Declaratory Decision, asking two questions: (1) whether JCD 1383 allows an annual conference to adopt specific language in order to comply with the decision and (2) whether an annual conference can continue to employ the administrative process provisions of §§ 354, 357.3, 359, and 327.6 of the *Discipline* if it adopts such specific language.

In balancing the competing requirements of the Constitution and in consideration of the rationale of JCD 1383, the Judicial Council provides the following clarification:

Paragraphs §§ 354, 357.3, 359, and 327.6 of the *Discipline* are effective with the insertion of this additional specific language in §§ 354.4, 357.3, 359.2, and 327.6:

Members of the Cabinet, Board of Ordained Ministry, Conference Relations Committee, and Administrative Review Committee shall not vote in the clergy session on recommendations for involuntary leave of absence (§ 354), involuntary retirement (§ 357.3), administrative location (§ 359), and discontinuance from provisional membership (§ 327.6) if they were involved in any prior discussions, communications, proceedings, and/or decisions concerning such administrative matters.

In regard to the second question asked by the Council of Bishops, this Memorandum clarifying Decision 1383 ensures that the administrative processes continue to remain in effect while bringing the issue of voice and vote into compliance with the fair process requirements of the Constitution. As such, no specific annual conference action is necessary other than to ensure continued compliance with the *Discipline*, including the voting restrictions that are set forth herein.