

Guidelines and Recommendations Regarding Briefs

THE JUDICIAL COUNCIL

In The United Methodist Church, any person may file a brief in any case on the Judicial Council's docket. It is not necessary to be a party to the proceeding nor is an invitation required for any person or group to file a brief. Anyone is free to communicate with the Judicial Council, through its secretary, by brief or written correspondence concerning a docketed case.

Any person who chooses to file a brief must comply with the Disciplinary requirements that a copy of the brief be supplied to each of the parties to the proceeding [¶ 2608, ¶ 2610] and that the mailing, delivery, or transmission of such copies must be certified to the Secretary of the Judicial Council.

Some cases come before the Judicial Council through a petition for declaratory decision (¶ 2610 of *The 2016 Book of Discipline*). The issue frequently involves constitutionality, meaning, application, or effect of the *Discipline* or a portion thereof concerning an action or legislative act of an annual, jurisdictional, central or General Conference or regarding proposed General Conference legislation.

The Judicial Council also reviews episcopal rulings, especially concerning the legality of actions taken by an annual, jurisdictional, central or General Conference (¶ 2609). The Judicial Council also handles appeals from church trials (¶ 2715). During sessions of the General Conference, referrals are also made to the Judicial Council under ¶ 2609.

FILING & SERVICE OF BRIEFS

Any person submitting a brief should:

DIGITAL FORMAT:

Provide the Brief *and attachments* in a digital format that is compatible with Microsoft Word (such as DOC, DOCX, or RTF).

Please Note: At this particular time, the Judicial Council does *not need* a simultaneous transmission of the Brief in a Portable Document Format (pdf).

ELECTRONIC TRANSMISSION:

Electronically transmit (email) the MS Word compatible Brief to

Judicial Council Secretary secretary@umcjudicialcouncil.org

Interested Parties/Persons & Amicus Curiae Simultaneously copy each interested party / person and amicus curiae with the email transmitting your Brief to the Judicial Council Secretary. The email addresses for each of the interested parties/persons can be found on the last page of the PDF document that is linked to the docket item on the Judicial Council's Docket page.

Affirmation of Service: In the event that the interested parties are not served pursuant to simultaneous transmission of the Brief to the Secretary and the Interested Parties/Persons, then a formal affirmation of service/delivery of the Brief to the Interested Parties/Persons and Amici Curiae must be filed with the Secretary, affirming proper service on said persons.

FILING DEADLINES for the **2021 Fall Docket** of the Judicial Council are as follows:

Wednesday, October 13, 2021: Deadline for electronic filing of **BRIEFS** (electronic transmission by 11:59 p.m. Pacific Time USA [UTC-7 hours]) *Hard copies must also be provided (see below)*

Wednesday, October 20, 2021: Deadline for electronic filing of **REPLY BRIEFS** (electronic transmission by 11:59 p.m. Pacific Time USA [UTC-7 hours]) *Hard copies must also be provided*

HARD COPIES OF BRIEF/REPLY BRIEF

Thirteen (13) copies of each Brief, printed on 8½ x11 paper and signed by the person submitting the brief, should be delivered (parcel post) to Rev. Dr. Kabamba Kiboko, Judicial Council Secretary
c/o L Smith, 1215 Shady Lane, Durham NC 27712.

On the following pages are suggestions for the preparation of briefs under various circumstances:

I. Declaratory Decisions

A petition for a declaratory decision often arises from doubts as to the constitutionality or legality of an action taken by the General Conference, a Jurisdictional, Central or Annual Conference, or some board or agency. It may also arise from the need for an interpretation of some portion of the *Discipline*, so that some group may know how to proceed in keeping with church law.

Such petitions must meet two conditions: (1) it must be a matter which affects the body filing the petition and (2) it must involve the constitutionality, meaning, application, or effect of the *Discipline* or some portion thereof, or some act of the General Conference.

When a member of some group offers a motion that the group initiate a petition for a declaratory decision, it is assumed that the member feels there has been some violation of the Constitution or *Discipline* or there is a need for interpretation of some part of the Constitution or *Discipline* as it relates to that group.

If the question raised is one of constitutionality or legality, the maker of the motion should prepare and submit a brief which says, in effect, "We believe the meaning of _____ is such that, when applied to this matter, it has the effect of making the action unconstitutional or illegal." The argument should be supported by the following:

- A. State the basis for the jurisdiction of the Judicial Council. Note that the *Discipline* gives the Judicial Council jurisdiction only under certain narrowly defined circumstances. Cite the paragraph numbers and circumstances thought to establish jurisdiction in the matter.
- B. State the relationship between the action, the *Discipline*, and the group petitioning for the decision.
- C. Identify the specific paragraph of the Constitution or *Discipline* thought to have been violated.
- D. Identify and discuss previous decisions of the Judicial Council bearing on the issue.
- E. State any other supporting arguments or information.
- F. Identify the relief requested.

If the petition is a request for information, a brief need not argue a point of view. It need only establish jurisdiction and the need of the petitioning body for an interpretation.

A person preparing a brief in opposition to the petition may argue that the Judicial Council does not have jurisdiction or that the position of the petitioner is in error.

II. Bishop's Decision Of Law

A. Appeal of Bishop's Decision of Law

The maker of a motion to appeal a bishop's decision on a question of law should prepare and file a brief setting forth the reasons why the decision is thought to be in error, citing the *Discipline*, the decisions of the Judicial Council and other references where appropriate. Supporters of the appeal may participate in a joint brief or may file separate briefs if they prefer. The bishop may prepare a brief in support of the decision, providing rationale and references in more detail. Others who support the decision and oppose the appeal may file a brief as well.

B. Review of Bishop's Decision of Law

As in (A) above, the bishop may prepare a brief in support of the decision. Those in agreement and those in opposition may also file briefs. A brief should set forth the circumstances surrounding the decision, cite the relevant sections of the *Discipline* and decisions of the Judicial Council, and give supporting arguments.

III. Appeals from Church Trials

It is expected that briefs will be filed by counsel for the church and counsel for the person charged, accompanied by transcripts of the trial and any previous appeals. Others may file briefs if they wish. Briefs should state clearly the facts relevant to the appeal and the church law on which the appeal is based.

IV. Other Matters.

The above guidelines are generally applicable to all cases coming through any other channel. A brief should deal with jurisdiction, present the facts, clarify the issues, identify applicable church law and previous decisions, and point to a conclusion.