



JUDICIAL COUNCIL OF THE UNITED METHODIST CHURCH
 CONSEIL JUDICIAIRE DE L'EGLISE METHODISTE UNIE
 RECHTSHOF DER EVANGELISCH-METHODISTISCHEN KIRCHE
 CONSELHO JUDICIAL DA IGREJA METODISTA UNIDA
 CONSEJO DE LA JUDICATURA DE LA IGLESIA METODISTA UNIDA



Petition for Declaratory Decision

This form is to be used by the Secretary of the body authorized to petition the Judicial Council for a ruling in the nature of a declaratory decision as to the constitutionality, meaning, application, or effect of (please check one):

- The Book of Discipline 2016* or any portion thereof (§ 2610.1)
- any act or legislation of a General Conference (§ 2610.1)
- any proposed legislation (§ 2609.2)

Name of body authorized to make a Petition (§ 2610.2): _____

Date of session: _____ (month/day/year) Location: _____

Name of Secretary: _____

Address: _____ City: _____

State/Province: _____ ZIP/Postal Code _____ Country: _____

Phone: _____ Fax: _____ E-mail: _____

To be reviewed (indicate paragraph number, title of legislation and/or act where applicable):

Book of Discipline: _____

Legislation: _____

Act of General Conference: _____

Signature: *Suey S. Malone*
Secretary of the Conference/Body

Date: _____
 (month/day/year)

The following must be attached:

- Text of the written Petition for Declaratory Decision as originally presented
- Minutes of proceedings
- List of names and addresses of interested parties, including eu mail
- Other relevant materials (e.g. conference rules, resolutions, policies, reports)

➤ Send electronic copy of this form and all materials in PDF and Microsoft Word format to: **secretary@umcjudicialcouncil.org**

➤ Mail thirteen (13) sets of hard copies to:
**UMC Judicial Council, c/o LaNella Smith, Assistant to the J.C. Secretary,
 1215 Shady Lane, Durham, NC 27712**

IN THE JUDICIAL COUNCIL OF THE UNITED METHODIST CHURCH

**IN THE MATTER OF QUESTIONS RELATED TO
THE SEPARATION OF AN ANNUAL CONFERENCE
WITHIN THE UNITED STATES
FROM THE UNITED METHODIST CHURCH**

REQUEST FOR DECLARATORY DECISION

The Council of Bishops of the United Methodist Church ("COB") submits this request for declaratory decision on the following questions related to the 2016 Book of Discipline of The United Methodist Church ("the Discipline"):

Question 1: May an annual conference of the United Methodist Church ("UMC") within the United States separate from the UMC under the Discipline?

Question 2: Since ¶ 572 of the Discipline already provides a process for annual conferences outside the United States to separate from the UMC "to become an autonomous Methodist, affiliated autonomous Methodist, or affiliated united church," should the process and requirements of ¶ 572 be viewed as minimum standards devised by the General Conference for any annual conference to separate from the UMC under the holding in Decision 1366?

Question 3: Pursuant to Judicial Council Decision 1366, must the General Conference first act to establish the procedure and requirements for separation of an annual conference within the United States before a vote can be taken by the annual conference to separate from the UMC?

Question 4: If an annual conference within the United States takes a vote to separate from the UMC but the General Conference has not established the procedure and requirements for separation of an annual conference, what is the effect of the vote and what authority, if any, does the annual conference have to act on the vote and legally effect a separation?

Question 5: If an annual conference within the United States may separate from the UMC, what are the requirements under the Discipline for a separation, including, but not limited to:

(a) the bodies (such as jurisdictional conferences and other annual conferences in addition to the separating annual conference) that must vote to approve the separation and the required vote(s);

(b) matters of church law related to use of the name United Methodist, or any part thereof, use of the UMC Cross & Flame or other intellectual property, including the United Methodist Hymnal;

(c) maintenance of retirement benefits and compliance with civil law and the requirements of WESPATH concerning the same;

(d) compliance with any applicable state law requirements, including such requirements related to foundations, credit unions, title to real property, and the annual conference's articles of incorporation; and

(e) disposition of property held in trust for the denomination pursuant to the UMC's trust clause, such as endowments, designated funds (including funds for specific ministries of the UMC), cemetery associations, camps, historical records and archives, and any other property held in the name of the separating annual conference?

Question 6: Must any separation of an annual conference from the UMC provide dissenting members, local churches, districts, clergy, and affiliated entities such as camps, Wesley Foundations, and health facilities an option to remain a part of the UMC and join another annual conference?

The Council of Bishops authorized the filing of this request for declaratory decision by vote on March 4, 2022. A copy of the certified vote is attached to this request as Exhibit A.

Jurisdiction

The Judicial Council has jurisdiction in this matter pursuant to ¶ 2610.2b.

Rationale

The foregoing questions are important to the current context of the UMC relating to annual conferences within the United States.¹ Members of the UMC are asking the foregoing questions in an effort to comply with the Discipline if a motion to separate is properly presented in an annual conference.

In Decision 1366, the Judicial Council stated as follows regarding the authority of an annual conference to separate from the UMC in the context of proposed legislation to the General Conference:

Section 9 raises the fundamental question of whether an annual conference can leave The United Methodist Church. The argument raised against this proposed legislation is that it violates the right of jurisdictional and central conferences to determine the boundaries of their annual conferences (¶¶ 27.4 and 31.4) and that annual conferences are not authorized to create or dissolve themselves. The submitter of this proposal defended it on the basis that (1) there is historical precedent (i.e. the 2012 General Conference voted to approve the withdrawal of the Swedish Annual Conference to merge with the Baptist Church of Sweden and the Mission Covenant Church of Sweden to form a new denomination) and (2) the Constitution neither allows nor expressly prohibits an annual conference from voting to exit the denomination.

With respect to the first argument, an historical precedent may have symbolic and moral force for practical considerations but can hardly serve as legal authority to determine the validity of future decisions. If past actions of the General Conference are precedent-setting in the sense that they supply the constitutional justification

¹ This request applies to annual conferences within the United States, because, as noted above in Question 2, ¶ 572 already provides a separate process for separation of annual conferences in the central conferences that desire “to become an autonomous Methodist, affiliated autonomous Methodist, or affiliated united church.”

for similar actions in the future, it would enable the General Conference to unilaterally modify the Constitution without going through the amendment process of ¶ 59 in violation of the separation of powers. Thus, any past, current, and future decision of the legislative branch of the Church is not a decisive factor in constitutional adjudication.

As to the second argument, *the silence of the Constitution on this subject matter does not inevitably mean that the framers intended to legally bar an annual conference from leaving the denomination, nor does it lead to the automatic inference that the topic has been exclusively assigned to the General Conference under the umbrella of “all matters distinctively connectional.”* If a particular subject matter is not expressly listed under ¶ 16 or elsewhere in the Constitution, the inference under our system of “enumerated powers” must be that it falls under the category of “such other rights as have not been delegated to the General Conference under the Constitution” in ¶ 33. ***An annual conference has the right to vote to withdraw from The United Methodist Church. This reserved right, however, is not absolute but must be counterbalanced by the General Conference’s power to “define and fix the powers and duties of annual conferences” in ¶ 16.3.*** The last sentence in ¶ 33 reaffirms this authority by stating that the annual conference “shall discharge such duties and exercise such powers as the General Conference under the Constitution may determine.” Constitution, ¶ 33 [emphasis added].

We agree with the submitter’s argument that the “withdrawal of an annual conference does not negate the constitutional powers of jurisdictional or central conferences.” Here too, a jurisdictional and central conference’s right is not isolated and unfettered but juxtaposed with the legislative authority of the General Conference, as indicated by the identical phrase “shall have the following powers and duties and such others as may be conferred by the General Conference” contained in the constitutional provisions granting powers to jurisdictional and central conferences. Constitution, ¶¶ 27 and 31 [emphasis added].

While 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.* Consequently, we find that amended ¶ 2801.9 is constitutional.

Decision 1366, pp. 43-44 (emphasis added in bold and italics).

The foregoing statements of the Judicial Council answer only whether, in the context of proposed legislation that was not enacted by the General Conference, an annual conference within Council of Bishops’ Request for Declaratory Decision Related to Separation of Annual Conferences Within The United States From the United Methodist Church

the United States has the right to withdraw from the UMC and if so, on what terms. Decision 1366 does not answer the questions presented in this request for declaratory decision regarding how that authority may be exercised and the requirements for doing so. By contrast, the General Conference has previously adopted a detailed process for an annual conference outside the United States to separate to become an autonomous Methodist, affiliated autonomous Methodist, or affiliated united church. *See* ¶ 572. A review of that paragraph illustrates the need for the Judicial Council to answer the questions posed in this request for declaratory decision. For example, ¶ 572 requires approval of the central conference first, which must then be followed by ratification of the central conference's decision by two-thirds of the aggregate votes cast by the annual conferences in the central conference. This requirement, in and of itself, demonstrates the General Conference's view that an annual conference does not exist in isolation but rather is an interconnected part of the central conference connectional structure and is, in an important sense, vital to the whole. While the Discipline provides a process for separation, it is not a unilateral decision. Decision 1366 anticipates this connectional context even in the consideration of the proposed legislation at issue in that matter. In the current context of the UMC, those considerations need clarification for the benefit of the whole church.

Decision 1366 also does not address practical issues currently in the Discipline regarding material matters such as disposition of property held by an annual conference, compliance with civil laws, and, importantly, the status and rights of clergy members, local churches and their members. A declaratory decision is needed to guide the annual conferences and their residential bishops within the United States in how to navigate the requirements of the Discipline that are binding now and should not become null and void or unenforceable simply based on a vote of the annual conference to separate.

Council of Bishops' Request for Declaratory Decision
Related to Separation of Annual Conferences Within
The United States From the United Methodist Church

Finally, in terms of the rationale for this request for declaratory decision, it is anticipated that some annual conferences within the United States will have a resolution to separate presented at their 2022 sessions. The effect of such a vote is unknown without the Judicial Council's declaratory decision pending any legislation of the General Conference when it meets. At a minimum, the effect of a vote to separate and the authority, if any, of the annual conference to act on that vote and take steps to separate are paramount and urgent questions. Therefore, for consistency among the annual conferences within the United States and to avoid action by individual annual conferences that may violate the Discipline, an expedited ruling on these questions is necessary and respectfully requested. Delay in issuing the request for declaratory decision will increase frustration and anxiety among persons within the UMC and will likely cause harm not only to the denomination but to local churches, districts, annual conference institutions and related entities, pastors, and jurisdictions.



BISHOP TRACY MALONE
SECRETARY
COUNCIL OF BISHOPS

EXHIBIT A

Minutes of Executive Committee of the Council of Bishops Recording of Electronic Vote

On February 25, 2022, the Council of Bishops voted to approve the following motion:

Motion: Bishop Bard moved that the COB authorize Bill Waddell to revisit the request for a Declaratory Decision so that we might vote upon that request by email as soon as possible.

On March 1, 2022, the final request for declaratory decision was submitted to the Council of Bishops for approval by electronic vote, and on March 4, 2022, the vote to approve submission of the request passed unanimously.



BISHOP TRACY MALONE
SECRETARY
COUNCIL OF BISHOPS