

IN THE JUDICIAL COUNCIL OF THE UNITED METHODIST CHURCH

**IN THE MATTER OF THE)
CONSTITUTIONALITY AND)
MEANING, APPLICATION AND)
EFFECT OF PETITION 90066)
AS AMENDED)**

**REQUEST FOR DECLARATORY DECISION AS TO THE
CONSTITUTIONALITY AND THE MEANING, APPLICATION
AND EFFECT OF PETITION 90066 AS AMENDED**

The Council of Bishops of the United Methodist Church ("COB") submits this request for declaratory decision as to the constitutionality and the meaning, application and effect of Petition 90066 as amended.

Jurisdiction

The Judicial Council has jurisdiction in this matter pursuant to Paragraphs 2609.1 and 2610.2b. The COB voted to request this declaratory decision on February 27, 2019. A copy of the minutes of the COB meeting authorizing this request is attached hereto as Exhibit A.

Interested Parties

The interested parties are the COB and Beth Ann Cook, the person who moved the substitution of the minority report at page 516 of the *Daily Christian Advocate* (hereinafter "DCA").

Factual Background

Petition 90066 originally stated as follows when adopted in the Legislative Committee of the General Conference:

Petition Number: 90066-¶2500-G; Taylor, Leah - Houston, TX, USA. Disaffiliation - Taylor - NEW Par. 2553 Amend, effective as of the close of the 2019 General Conference, Chapter Six, Church Property, by adding a new Section VIII. Disaffiliation of Local Churches Over Issues Related to Human Sexuality, then by adding a new ¶ 2553 as follows:

¶ 2553. Disaffiliation of a Local Church over Issues Related to Human Sexuality.

1. Basis—Because of the current deep conflict within The United Methodist Church around issues of human sexuality, a local church shall have a limited right, under the provisions of this paragraph, to disaffiliate from the denomination for reasons of conscience regarding a change in the requirements and provisions of the *Book of Discipline* related to the practice of homosexuality or the ordination or marriage of self-avowed practicing homosexuals as resolved and adopted by the 2019 General Conference, or the actions or inactions of its annual conference related to these issues which follow.

2. Time Limits—The choice by a local church to disaffiliate with The United Methodist Church under this paragraph shall be made in sufficient time for the process for exiting the denomination to be complete prior to December 31, 2023. The provisions of ¶ 2553 expire on December 31, 2023 and shall not be used after that date.

3. Initial Inquiry to disaffiliate from The United Methodist Church—If the church council of a local church determines that the church wishes to consider disaffiliation from The United Methodist Church under this paragraph, that church council shall submit a request to the district superintendent to begin this process. The district superintendent shall appoint a task force under ¶ 213 for the purpose of making findings and a recommendation to the district superintendent on whether the church will have a viable future within or outside The United Methodist Church. The provisions of ¶ 213.2 and ¶ 213.3 shall not apply. If the local church, as it exists at the time of the assessment, is found to have a viable future, the district superintendent shall call a church conference under ¶ 248 for the sole purpose of deciding whether to disaffiliate from The United Methodist Church under this paragraph, based upon the reasons in ¶ 2553.1. If the local church is found to not have a viable future, the district superintendent shall recommend closure under ¶ 2549, or take other appropriate action, and all property of the local church shall remain with The United Methodist Church according to the provisions of ¶ 2549.

4. Decision Making Process—The church conference shall be conducted in accordance with ¶ 248 and shall be held within one hundred twenty (120) days after the district superintendent calls for the church conference. In addition to the provisions of ¶ 246.8, special attention shall be made to give broad notice to the full professing membership of the local church regarding the time and place of a church conference called for this purpose and to use all means necessary, including electronic communication where possible, to communicate. The decision to disaffiliate from The United

Methodist Church must be approved by a two-thirds (2/3) majority vote of the professing members of the local church present at the church conference.

5. Process following decision to disaffiliate from The United Methodist Church—If the church conference votes to disaffiliate from The United Methodist Church, the terms and conditions for that disaffiliation shall be established by the bishop of the applicable annual conference, with the advice of the cabinet, the annual conference treasurer, the annual conference benefits officer, the director of connectional ministries, and the annual conference chancellor. The terms and conditions, including the effective date of disaffiliation, shall be memorialized in a binding Disaffiliation Agreement between the annual conference and the trustees of the local church, acting on behalf of the members. That agreement must be consistent with the following provisions:

a) Standard Terms of the Disaffiliation Agreement. The General Council on Finance and Administration shall develop a standard form for Disaffiliation Agreements under this paragraph to protect The United Methodist Church as set forth in ¶ 807.9. The agreement shall include a recognition of the validity and applicability of ¶ 2501, notwithstanding the release of property therefrom. Annual conferences may develop additional standard terms that are not inconsistent with the standard form of this paragraph.

b) Apportionments. The local church shall pay any unpaid apportionments for the 12 months prior to disaffiliation, as well as an additional 12 months of apportionments.

c) Grants. All grants received by the local church from the annual conference or its ancillary organizations within five (5) years from the date of disaffiliation shall be repaid.

d) Property. A disaffiliating local church shall have the right to retain its real and personal, tangible and intangible property. All transfers of property shall be made prior to disaffiliation. All costs for transfer of title or other legal work shall be borne by the disaffiliating local church.

e) Pension Liabilities. The local church shall contribute withdrawal liability in an amount equal to its pro rata share of any aggregate unfunded pension obligations to the annual conference. The General Board of Pension and Health Benefits shall determine the aggregate funding obligations of the annual conference using market factors similar to a commercial annuity provider, from which the annual conference will determine the local church's share.

f) Other Liabilities. The local church shall satisfy all other debts, loans, and liabilities, or assign and transfer them to its new entity, prior to disaffiliation.

g) Payment Terms. The agreement shall specify the terms and conditions of the payment to the annual conference for any sums related to ¶ 2553.5. b, c, and e. The term of payment shall not exceed ten (10) years.

h) Disaffiliating Churches Continuing as Plan Sponsors of the General Board of Pension and Health Benefits Plans. The United Methodist Church believes that a local church disaffiliating under ¶ 2553 shall continue to share common religious bonds and convictions with The United Methodist Church based on shared Wesleyan theology and tradition and Methodist roots, unless the local church expressly resolves to the contrary. As such, a local church disaffiliating under ¶ 2553 shall continue to be eligible to sponsor voluntary employee benefit plans through the General Board of Pension and Health Benefits under ¶ 1504.2, subject to the applicable terms and conditions of the plans.

i) Once the disaffiliating local church has reimbursed the applicable annual conference for all funds due under the agreement, and provided that there are no other outstanding liabilities or claims against The United Methodist Church as a result of the disaffiliation, in consideration of the provisions of this paragraph, the applicable annual conference shall release any claims that it may have under ¶ 2501 and other paragraphs of *The Book of Discipline of The United Methodist Church* commonly referred to as the trust clause, or under the agreement.

The petition was amended by the General Conference on Tuesday, February 26, by the conference's substitution of a minority report presented by Beth Ann Cook. Ms. Cook stated as follows concerning the minority report:

The Judicial Council ruled that this petition as it's currently worded is unconstitutional for two reasons. The first is that it is the conference board of trustees and not the bishop that has the responsibility of formalizing the agreement. The other would require an amendment from the floor to bring a vote of two-thirds of the annual conference to make sure that we are doing things legally. But this minority report is a way for us to seek to love one another in the midst of deep disagreement. Jesus said you will know that we are disciples because of our love for one another. Let us be known as those who love in the midst of deep disagreement and pain are seeking to have a fair process.

DCA, p. 515. As amended, the petition stated as follows:

¶ 2553. Disaffiliation of a Local Church over Issues Related to Human Sexuality.

1. Basis—Because of the current deep conflict within The United Methodist Church around issues of human sexuality, a local church shall have a limited right, under the provisions of this paragraph, to disaffiliate from the denomination for reasons of conscience regarding a change in the requirements and provisions of the *Book of Discipline* related to the practice of homosexuality or the ordination or marriage of self-avowed practicing

homosexuals as resolved and adopted by the 2019 General Conference, or the actions or inactions of its annual conference related to these issues which follow.

2. Time Limits—The choice by a local church to disaffiliate with The United Methodist Church under this paragraph shall be made in sufficient time for the process for exiting the denomination to be complete prior to December 31, 2023. The provisions of ¶ 2553 expire on December 31, 2023 and shall not be used after that date.

3. Initial Inquiry to disaffiliate from The United Methodist Church—If the church council of a local church determines that the church wishes to consider disaffiliation from The United Methodist Church under this paragraph, that church council shall submit a request to the district superintendent to begin this process. The district superintendent shall appoint a task force under ¶ 213 for the purpose of making findings and a recommendation to the district superintendent on whether the church will have a viable future within or outside The United Methodist Church. The provisions of ¶ 213.2 and ¶ 213.3 shall not apply. If the local church, as it exists at the time of the assessment, is found to have a viable future, the district superintendent shall call a church conference under ¶ 248 for the sole purpose of deciding whether to disaffiliate from The United Methodist Church under this paragraph, based upon the reasons in ¶ 2553.1. If the local church is found to not have a viable future, the district superintendent shall recommend closure under ¶ 2549, or take other appropriate action, and all property of the local church shall remain with The United Methodist Church according to the provisions of ¶ 2549. [Note: See DCA 516 for a correction of the proposed minority report that appears at DCA 386]

4. Decision Making Process—The church conference shall be conducted in accordance with ¶ 248 and shall be held within one hundred twenty (120) days after the district superintendent calls for the church conference. In addition to the provisions of ¶ 246.8, special attention shall be made to give broad notice to the full professing membership of the local church regarding the time and place of a church conference called for this purpose and to use all means necessary, including electronic communication where possible, to communicate. The decision to disaffiliate from The United Methodist Church must be approved by a two-thirds (2/3) majority vote of the professing members of the local church present at the church conference.

5. Process following decision to disaffiliate from The United Methodist Church—If the church conference votes to disaffiliate from The United Methodist Church, the terms and conditions for that disaffiliation shall be established by the *board of trustees* [Note: See DCA 386] of the applicable annual conference, with the advice of the cabinet, the annual conference treasurer, the annual conference benefits officer, the director of connectional

ministries, and the annual conference chancellor. The terms and conditions, including the effective date of disaffiliation, shall be memorialized in a binding Disaffiliation Agreement between the annual conference and the trustees of the local church, acting on behalf of the members. That agreement must be consistent with the following provisions:

a) Standard Terms of the Disaffiliation Agreement. The General Council on Finance and Administration shall develop a standard form for Disaffiliation Agreements under this paragraph to protect The United Methodist Church as set forth in ¶ 807.9. The agreement shall include a recognition of the validity and applicability of ¶ 2501, notwithstanding the release of property therefrom. Annual conferences may develop additional standard terms that are not inconsistent with the standard form of this paragraph.

b) Apportionments. The local church shall pay any unpaid apportionments for the 12 months prior to disaffiliation, as well as an additional 12 months of apportionments.

~~c) Grants. All grants received by the local church from the annual conference or its ancillary organizations within five (5) years from the date of disaffiliation shall be repaid.~~ [Note: See DCA 386]

dc) Property. A disaffiliating local church shall have the right to retain its real and personal, tangible and intangible property. All transfers of property shall be made prior to disaffiliation. All costs for transfer of title or other legal work shall be borne by the disaffiliating local church.

ed) Pension Liabilities. The local church shall contribute withdrawal liability in an amount equal to its pro rata share of any aggregate unfunded pension obligations to the annual conference. The General Board of Pension and Health Benefits shall determine the aggregate funding obligations of the annual conference using market factors similar to a commercial annuity provider, from which the annual conference will determine the local church's share.

fe) Other Liabilities. The local church shall satisfy all other debts, loans, and liabilities, or assign and transfer them to its new entity, prior to disaffiliation.

gf) Payment Terms. The agreement shall specify the terms and conditions of the payment to the annual conference for any sums related to ¶ 2553.5. b, c, and e.—~~The term of payment shall not exceed ten (10) years. Payment shall occur prior to the effective date of departure.~~ [Note: See DCA 386]

hg) Disaffiliating Churches Continuing as Plan Sponsors of the General Board of Pension and Health Benefits Plans. The United Methodist Church believes that a local church disaffiliating under ¶ 2553 shall continue to share common religious bonds and convictions with The United Methodist Church based on shared Wesleyan theology and tradition and Methodist roots, unless the local church expressly resolves to the contrary. As such, a local church disaffiliating under ¶ 2553 shall continue to be eligible to sponsor voluntary employee benefit plans through the General Board of Pension and Health

Benefits under ¶ 1504.2, subject to the applicable terms and conditions of the plans.

ih) Once the disaffiliating local church has reimbursed the applicable annual conference for all funds due under the agreement, and provided that there are no other outstanding liabilities or claims against The United Methodist Church as a result of the disaffiliation, in consideration of the provisions of this paragraph, the applicable annual conference shall release any claims that it may have under ¶ 2501 and other paragraphs of *The Book of Discipline of The United Methodist Church* commonly referred to as the trust clause, or under the agreement.

The minority report was adopted at *DCA*, p. 523.

Question 1: Is Petition 90066 Constitutional As Amended?

In Decision 1377, Petition 90066 was held to violate Paragraph 33 because it omitted the annual conference as the body ratifying a local church vote to change affiliation. Therefore, Judicial Council ruled that the petition was unconstitutional.

The amendment made by adoption of the minority report does not cure the constitutional problem with the petition. There still is no requirement that the decision of the local church be ratified by the annual conference. Therefore, the COB believes the amended petition is also unconstitutional.

Question 2: May A Local Church Implement The Provisions Of Petition 90066 As Amended Since There Was No Change In The Requirements Of The Book of Discipline Related To The Practice Of Homosexuality Or The Ordination Or Marriage Of Self-Avowed Practicing Homosexuals As Required By Section 1 Of The Petition?

Section 1 of Petition 90066 as amended states that its provisions may be implemented when there is “a change in the requirements and provisions of the *Book of Discipline* related to the practice of homosexuality or the ordination or marriage of self-avowed practicing homosexuals as resolved and adopted by the 2019 General Conference, or the actions or inactions of its annual conference related to these issues which follow.” There was no change in the *Book of Discipline* at the 2019 General Conference regarding the practice of homosexuality or the ordination or marriage of self-avowed practicing homosexuals. Therefore, the COB

believes that a local church may not implement the provisions of the petition. Moreover, since the petition is tied to action by the 2019 General Conference and that conference is concluded, the COB respectfully submits that the provisions will never be subject to implementation unless the petition is amended to eliminate the requirement that the change in the practice of homosexuality or the ordination or marriage of self-avowed practicing homosexuals must have occurred at this particular general conference.

WHEREFORE, the Council of Bishops requests the Judicial Council for a declaratory decision as to the constitutionality and the meaning, application and effect of Petition 90066 as amended.



BISHOP MANDE MUYOMBO
SECRETARY
COUNCIL OF BISHOPS

Action item number 19C-188

Exhibit A

Minutes from Council of Bishops Meeting – Executive Session

February 27, 2019

St. Louis, Missouri

Motion to request declaratory decision regarding petition 90066 as amended.

Bishop Bruce Ough moved.

Bishop Cynthia Moore Koi Koi seconded.

Motion affirmed by Council of Bishop that we seek a declaratory decision as to the constitutionality and the meaning, application and effect from the Judicial Council of petition 90066 as amended.



Bishop Mande Muyombo
Secretary, Council of Bishops