



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): Council of Bishops
 Date of session: 07/17/2017 (month/day/year) Location: Chicago, IL
 Name of Secretary: Bishop Cynthia Fierro Harvey
 Address: 527 North Boulevard City: Baton Rouge
 State/Province: LA ZIP/Postal Code 70802 Country: USA
 Phone: 225-346-1646 Fax: 225-387-3662 E-mail: Bishop@LA-UMC.org

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

Book of Discipline: 2718.3 and 2718.4
 Legislation: _____
 Act of General Conference: _____

Signature: Cynthia Fierro Harvey
 Secretary of the Conference/Body

Date: 7.27.17
 (month/day/year)

The following must be attached:

- Text of the written Petition for Declaratory Decision as originally presented
- Minutes of proceedings (relevant portions only)
- List of names and addresses of interested parties, including e-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:
 secretaryjudicialcouncil@gmail.com

Mail four (4) sets of hard copies to: Secretary of the Judicial Council, 5556 North Sheridan
 Road, # 610; Chicago, IL 60640 U.S.A.

**BEFORE THE JUDICIAL COUNCIL
OF
THE UNITED METHODIST CHURCH**

IN THE MATTER OF THE REQUEST FOR)
A DECLARATORY DECISION ON THE)
MEANING AND APPLICATION OF ¶¶ 2718.3)
& 2718.4 OF THE *2016 BOOK OF DISCIPLINE*)

The Council of Bishops of The United Methodist Church (“the Council”) respectfully requests the Judicial Council to issue a declaratory decision as follows:

Jurisdiction

The Judicial Council has jurisdiction pursuant to ¶ 2610.1 of the *2016 Book of Discipline*.

Standing

The Council has standing to request a declaratory decision pursuant to ¶ 2610.2b of the *2016 Book of Discipline*. The Council voted to request this declaratory decision on July 17, 2017.

Requested Decisions

A. Paragraph 2718.3 of the *2016 Book of Discipline* provides as follows:

The order of appeals on questions of procedures in an administrative process shall be as follows: from the decision of the conference relations committee to the administrative review committee who has original jurisdiction over the administrative matter, and from the administrative review committee to the central conference or jurisdictional appeals committee in which the appellant holds membership, and from the jurisdictional appeals committee to the Judicial Council.

B. Paragraph 2718.4 of the *2016 Book of Discipline* provides as

follows in relevant part:

When an appeal is made on questions of procedure in an administrative process:

(a) In all cases of appeal, the appellant shall within thirty days give written notice of appeal and at the same time furnish to the officer receiving such notice a written statement of the grounds of appeal, and the hearing in the appellate body shall be limited to the grounds set forth in such statement.

(b) The appellant body shall return to the convening officer of the administrative hearing and to the appellant a written statement of the grounds of its action.

...

(e) The right to prosecute an appeal shall not be affected by the death of the person entitled to such right. Heirs of legal representatives may prosecute such appeal as the appellant would be entitled to do if living.

...

(g) The appellate body shall determine one question only: Were there such errors of Church law as to vitiate the recommendation and/or action of the administrative body? This question shall be determined by the records of the administrative process and the arguments of the official representatives of all parties. The appellate body shall in no case hear witnesses. It may have legal counsel present for the sole purpose of providing advice to the appellate body.

(h) If the appellate body determines that any error has occurred, it may recommend to the appropriate person or body that action be taken promptly to remedy the error, decide the error is harmless, or take other action. The appellate committee shall not reverse the judgment nor remand the case for a new hearing on account of error

plainly not affecting the result. All decisions of the appellate committee shall require a majority vote.

...

C. The Council respectfully requests a decision of law on the following questions:

Requested Decision No. 1: Do ¶¶ 2718.3 and 2718.4 allow an administrative appeal on a question of procedure before there is action by the clergy session of annual conference either approving or disapproving the recommendation for involuntary change of status?

Requested Decision No. 2: If an administrative appeal is allowed pursuant to ¶¶ 2718.3 and 2718.4 before any action on the recommendation for involuntary change of status by the clergy session and an administrative appeal is timely filed, does the appeal automatically stay the recommendation pending a decision by the appellate committee(s)?

Requested Decision No. 3: If an administrative appeal pursuant to ¶¶ 2718.3 and 2718.4 is taken, does the clergy person remain in good standing and therefore entitled to an appointment pending the outcome of an appeal?

Rationale

Paragraphs 2718.3 and 2718.4 were added to the Book of Discipline to provide for an administrative appeal right in response to the Judicial Council's ruling in Memorandum 1276. In the situation where the Board of Ordained

Ministry recommends that a pastor's status be changed to involuntary leave of absence, involuntary medical leave, involuntary retirement, or administrative location, any such recommendation for involuntary change of status is not final until it is approved by the clergy session of annual conference pursuant to ¶¶ 354.4, 356, 357.3 and 359.2. In addition to the vote required by these paragraphs of the Book of Discipline, in Memorandum 1276, the Judicial Council stated:

The clergy session was the final administrative body to consider the clergyperson's involuntary retirement, and the record does not show that the clergyperson made any appeal to that body.

Notwithstanding that the new provisions for administrative appeal in ¶¶ 2718.3 and 2718.4 do not provide that there should be action by the clergy session adopting a recommendation for involuntary change of status before an appeal may be taken, such a requirement is rational and consistent with the judicial process set forth in the Book of Discipline. In matters involving judicial process, there is only a right of appeal as to procedural and substantive issues after a decision by a trial court. *See* ¶ 2715. By contrast, ¶¶ 2718.3 and 2718.4 could be interpreted to allow interlocutory appeals before there is any actual change of a clergy person's status that is effected by the clergy session.

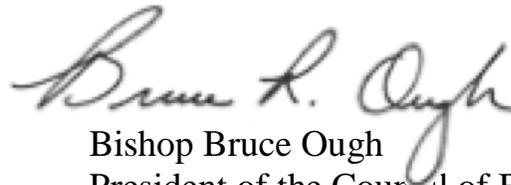
Allowing interlocutory appeals without action by the clergy session on the clergy person's status would allow appeals as to issues that may be rendered moot by the vote of the clergy session. Moreover, unless there is a requirement that the

clergy session approve the recommendation for an involuntary change of status before an appeal is permitted, a clergyperson might be able to delay any action by the clergy session and thereby delay the change of status by tactically filing one or more appeals before the clergy session can act.

The Council therefore respectfully requests that the Judicial Council declare that there must be action by the clergy session on a recommendation for an involuntary change of status before the right of appeal under ¶¶ 2718.3 and 2718.4 accrues. If the Judicial Council determines that an appeal is allowed without action by the clergy session on the recommendation for involuntary change of status, the Council requests that the Judicial Council declare that any appeal pursuant to ¶¶ 2718.3 and 2718.4 does not stay action on the recommendation by the clergy session pending the outcome of the appeal. Such a ruling will allow the annual conference to address the status of a clergy person who has been determined to be deserving of an involuntary change of status while still allowing for any procedural complaints by the clergy person to be decided on appeal. Further, by allowing the clergy session to act on a recommendation for involuntary change of status after an appeal has been lodged pursuant to ¶¶ 2718.3 and 2718.4, the annual conference would be able to address whether the clergy person is entitled to an appointment pending the outcome of the appeal. Therefore, the Council also respectfully requests that the Judicial Council declare that the clergy

person does not remain in good standing if the clergy session may act on the recommendation for involuntary change of status pending an appeal and approves the recommendation. Such approval would allow the annual conference to conclude that the clergy person is not entitled to an appointment pending the outcome of the appeal.

Respectfully submitted,

A handwritten signature in cursive script that reads "Bruce R. Ough". The signature is written in dark ink and is positioned above the printed name and title.

Bishop Bruce Ough
President of the Council of Bishops
The United Methodist Church

Council of Bishops' Petition for Declaratory Decision

Names and Addresses of Interested Parties

Bishop Bruce R. Ough
President, Council of Bishops
122 West Franklin Ave #200
Minneapolis, MN 55404
bishop@dkmnareaumc.org

Bishop Cynthia Harvey
Secretary, Council of Bishops
527 North Blvd
Baton Rouge, LA 70802
bishop@la-umc.org

Bishop Marcus Matthews
Executive Secretary, Council of Bishops
100 Maryland Avenue NE, Suite 300
Washington, DC 20002
ExecutiveSecretary@umc-cob.org



**Council of Bishops
Executive Committee
July 17-18, 2017
Chicago, IL**

**MINUTES
(Relevant portions)**

Bishops Present: Alsted, Brown, Carter, Devadhar, Dyck, Francisco, Hagiya, Harvey, Holston, Jones, Matthews, McKee, Ough, Palmer, Steiner Ball, Wallace-Padgett, Yambasu

Regrets: Mueller, Watson, Yemba

After extended conversation a motion was made by Jones and seconded to approve the request for a declaratory decision on 2718.3 and 2728.4.

ACTION ITEM

- 17E – 207 The Executive Committee approved that the COB request a declaratory decision from the Judicial Council on Decision 2718.3 and 2718.4.**