



JUDICIAL COUNCIL OF THE UNITED METHODIST CHURCH
 CONSEIL JUDICIAIRE DE L'ÉGLISE 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: _____
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 (relevant portions only)
 - List of names and addresses of interested parties, including e-mail
 - Other relevant materials (e.g. conference rules, resolutions, policies, reports)
- Eight (8) hard copies must be submitted via USPS or other delivery service to:
 Secretary of the Judicial Council, 5556 N. Sheridan Road, #610, Chicago, IL 60640, USA
 - Electronic copies in both Word and PDF (with security features disabled) must be submitted to:
 secretaryjudicialcouncil@gmail.com

IN THE JUDICIAL COUNCIL OF THE UNITED METHODIST CHURCH

**IN THE MATTER OF THE)
CONSTITUTIONALITY AND)
MEANING, APPLICATION AND)
EFFECT OF CERTAIN PETITIONS)
ADOPTED AS THE TRADITIONAL)
PLAN)**

**REQUEST FOR DECLARATORY DECISION AS TO THE
CONSTITUTIONALITY, MEANING, APPLICATION
AND EFFECT OF CERTAIN PETITIONS ADOPTED
AS THE TRADITIONAL PLAN**

The Council of Bishops of The United Methodist Church ("COB") submits this request for declaratory decision as to the constitutionality, meaning, application and effect of certain petitions adopted as the Traditional Plan by the 2019 General Conference.

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 May 7, 2019. A copy of the minutes of the COB meeting authorizing this request is attached hereto as Exhibit A.

Interested Parties

The COB is an interested party. It does not know who else should be designated as an interested party in this matter.

Factual Background

In Decision 1378, the Judicial Council addressed the constitutionality of all of the petitions adopted at the 2019 General Conference as the Traditional Plan. The only designated interested parties were delegates to General Conference. The COB was not designated as an interested party in that matter and was not allowed to file an amicus brief.

In the concurrence of Beth Capen, she stated as follows in relevant part:

I write separately because the process herein has resulted in an awkward inability to flush out and further refine the previous findings under JCD 1366 and 1377. The majority opinion has done well in setting forth the competing factors in making the determination as to whether the legislation bundled and adopted as “The Traditional Plan” ought to continue to be treated as one piece of legislation, or whether we are obligated to sever the petitions.

...

As such, when this set of petitions came before the Judicial Council for a third time, there was a pragmatic determination that the next inquiry ought to be whether General Conference had actually made any amendments to the petitions since the Council’s issuance of JCD 1366 and 1377 and, if so, whether those amendments effected their constitutionality.

In any event, the procedural path that was taken has provided a result that is far less satisfactory than one might expect, albeit not altogether surprising. There has been, perhaps, a desire to remain consistent within the context of these Decisions relating to the Special Session. However, in doing so, the net result is that we have failed to flush out through a deeper level of judicial scrutiny, the problems that are inherent in that which remains.

Some of the petitions that were adopted conflict with the Discipline, some lack constitutional authority, and some contain a provision which violates the constitutional authority vested in the annual conference versus the role of the episcopacy.

Presumably these matters will end up before the Council again in one form or another. Hopefully General Conference will be proactive in reconciling these problems.

Thus, issues that were raised by the delegates filing briefs and the issues that would have been raised if amicus briefs had been allowed, were neither recognized nor addressed by the Judicial Council in Decision 1378.

The COB has identified numerous issues regarding the constitutionality, meaning, application and effect of the petitions adopted as the Traditional Plan that need to be addressed for the benefit of The United Methodist Church as all of its constituent parts live within the Traditional Plan. However, rather than submit all of those issues, it has determined that many of the questions it has identified are best addressed in the context of specific factual situations in which they arise

within an annual conference. Therefore, this request for declaratory decision is limited to the following questions.

Questions Presented

Question 1: Does the expanded definition of self-avowed practicing homosexual in Paragraph 304.3 (Petition 90032) apply to persons who have already been ordained under previous definitions of that term? If so, does the expanded definition constitute impermissible and unconstitutional *ex post facto* legislation held to be improper in Judicial Council Decision 219? If it does not apply to persons ordained before the effective date of the legislation, does the expanded definition violate the principle of legality by applying different standards to persons of the same class or status?

Question 2: Is the expanded definition of self-avowed practicing homosexual in Paragraph 304.3 unconstitutional because the categories of "living in a same-sex marriage, domestic partnership or civil union" do not allow for the presumption that a person is "practicing" to be rebutted as provided for in Judicial Council Decision 1341? If not, may a person be charged and found guilty of being a self-avowed practicing homosexual pursuant to Paragraph 2702.1b by simply proving that the person is "living in a same-sex marriage, domestic partnership or civil union"?

Question 3: Is the phrase "or has failed to certify it carried out the disciplinarily mandated examination" in Paragraph 415.6 (Petition 90036) unconstitutional on the ground that the certification requirement in Petition 90038 was ruled unconstitutional in Decisions 1366 and 1377?

Question 4: If the binding civil law in an annual conference provides that no person, including persons serving as ordained clergy, can be suspended without pay (e.g., the employment law in a central conference) or the respondent is appointed to an extension ministry (in which the person is paid by an entity other than the church, such as a school or the military), can a person found guilty of a chargeable offense under Paragraphs 2702.1(b) or (d) be assessed a mandatory minimum penalty of one (1) year's suspension "without pay" pursuant to Paragraph 2711.3 (Petition 90042)?

Question 5: If the answer to the foregoing question is "no," does that part of Paragraph 2711.3 violate the principle of legality, rendering it unconstitutional for all persons because it cannot be applied equally to all persons found guilty of the same offense?

WHEREFORE, the Council of Bishops requests the Judicial Council for a declaratory decision as to the foregoing questions regarding the Traditional Plan as adopted by the 2019 General Conference.



BISHOP MANDE MUYOMBO
SECRETARY
COUNCIL OF BISHOPS

EXCERPT FROM COB MINUTES

Exhibit A

Minutes from Council of Bishops Meeting – Executive Session

May 7, 2019

Chicago, IL

Motion to request declaratory decision regarding the Traditional Plan.

Motion moved.

Motion 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 the Traditional Plan as passed by General Conference 2019.



Bishop Mande Muyombo
Secretary, Council of Bishops