

JUDICIAL COUNCIL OF THE UNITED METHODIST CHURCH

DECISION 1307

IN RE: Request for a Declaratory Decision from the Arkansas Annual Conference Regarding the Participation of Non-District Superintendents In the Appointment Process

DIGEST

The power to make appointments is lodged solely in the office of bishop as stipulated by ¶ 54, *Article X*, of the Constitution. Bishops must consult with district superintendents prior to making and fixing pastoral appointments. However, the Constitution in ¶ 54, *Article X*, does not limit the consultative authority of the bishop to only the district superintendents. The General Conference is free to require consultation with other entities and the bishop is free to consult with others, including conference officers as allowed, in the process of making and fixing the best appointments for the benefit of both pastors and churches and of The United Methodist Church's mission to make disciples of Jesus Christ for the transformation of the world.

STATEMENT OF FACTS

During the business session on Wednesday, June 17, 2015 of the Arkansas Annual Conference, an elder presented the following motion requesting a declaratory decision from the Judicial Council. The motion stated:

That the Annual Conference, as empowered by ¶ 2610.2.j of *The 2012 Book of Discipline*, request of the Judicial Council a declaratory decision on the constitutionality and Disciplinary compliance of whether the participation of non- district superintendents on the Cabinet in facilitating and administering the process that leads to appointments complies with *The 2012 Book of Discipline*, (¶¶ 403.2, 424, 428, 419.2 and 608; and Constitutional ¶¶ 53 and 54).

After discussion and questions for information and clarification, the motion passed. According to the Minutes of the Annual Conference, the Annual Conference session had passed a change in the Standing Rules clarifying the structure of the annual conference. This request for a declaratory decision was in response to one of the changes made in the Standing Rules that attempted to define the "appointive cabinet". The definition and the functions were challenged in a request for a Bishop's Decision of Law. The ruling is the subject of Decision 1301. The term "appointive cabinet" is not a term defined by the *Discipline*. The term "cabinet" is defined by the *2012 Discipline* in ¶ 424.

The Bishop and three interested parties provided briefs.

JURISDICTION

The Judicial Council has jurisdiction under ¶ 2610 of the *2012 Discipline*.

ANALYSIS AND RATIONALE

The process for making appointments is a process that is defined by the *Book of Discipline*. The power to make appointments is lodged solely in the office of bishop as stipulated by ¶ 54, *Article X* of the Constitution:

The bishops shall appoint, after consultation with the district superintendents, ministers to the charges....

Bishops must consult with district superintendents prior to making and fixing pastoral appointments. *Article X* offers a clear standard of what must occur at a minimum. However, it provides no guidance concerning what encompasses consultation and whether consultation *only* involves district superintendents and the bishop.

Constitutional authority is granted to General Conference to address issues relating to the nature and scope of appointment consultation. Paragraph 16.5 states that General Conference shall have the authority:

To define and fix the powers, duties, and privileges of the episcopacy, to adopt a plan for the support of the bishops, to provide a uniform rule for their retirement, and to provide for the discontinuance of a bishop because of inefficiency or unacceptability. (JD 35, 114, 312, 365, 413)

This authority grants the General Conference the right to shape the nature of the consultation process that must be followed as bishops carry out their constitutional responsibility to make and fix appointments, as long as this does not alter the necessity of consultation with superintendents and the final authority of bishops to make and fix pastoral appointments. The General Conference has exercised this authority over the years to broaden and more clearly define the nature of consultation. The current language in ¶ 426 of the *2012 Book of Discipline* is the result of this evolving process and judicial interpretation. The Judicial Council has clarified the definition of consultation.

Consultation means that there is an exchange of ideas even though they might not be in agreement...The final authority in appointing preachers to their charges rests upon the presiding Bishop. (Decision 101)

(See also Decisions 501, 509, 701, and 1174). The process of appointment making is further explicitly delineated in ¶¶ 427- 430. In this appointment process, the notion of consultation and information gathering by the district superintendents is further explicated as they fulfill their duties as articulated in ¶¶ 403.2, 419.2 and 424 as

members of the cabinet.

The nature of consultation as it evolved through legislation by the General Conference (§§ 425-430) and as defined by Judicial Council Decisions (101, 501, 556, 701, 1174) applies to all aspects of consultation, including, but not limited to, consultation with pastors and staff/parish relations committees. As such, while district superintendents play an essential role in consultation, their consultation with the bishop is not exclusive or proprietary. This process is commonly referred to as the “consultative process.” This process does not impinge upon ¶ 54, *Article X* that mandates that the bishop must consult with the district superintendents prior to the making and fixing of pastoral appointments.

The constitutional authority granted to the General Conference also means it has the right to stipulate who may or may not be involved in the consultative process, as long as it does not violate ¶ 54, *Article X*. Thus, the General Conference has determined that the director of administrative services shall be excluded from conversations with district superintendents and the bishop concerning pastoral appointments. Paragraph 619.2 states,

*The director shall be present when the cabinet considers matters relating to conference administration related to the conference treasurer's or conference treasurer/director of administrative services' responsibilities, and other matters as cabinet and director may determine. **The director shall not be present during the cabinet discussions on matters related to the making of appointments.** (Emphasis added)*

Other than this one instance, the *Discipline* does not explicitly prohibit the bishop from consulting with additional persons beyond district superintendents, pastors, and staff/parish relations committees. It employs language that distinctly leaves open the possibility of including others as part of the district superintendents' consultation with the bishop relating to pastoral appointments. In referring to duties of the conference lay leader (§ 607.6), conference director of connectional ministries (§ 608.6.b) and director of communications (§ 609.b), all are invited to be part of the extended cabinet when “*considering other matters as the cabinet may determine.*”

Thus, the inclusion of non-district superintendents in the appointment consultation process to obtain vital information and perspectives does not violate ¶ 53 and ¶ 54, nor does it alter or diminish the superintending role of the bishop or superintendents. Such inclusion does not violate the requirements of §§ 403.2, 424, 428, 419.2, and 608.

DECISION

The power to make appointments is lodged solely in the office of bishop as stipulated by ¶ 54, *Article X*, of the Constitution. Bishops must consult with district superintendents prior to making and fixing pastoral appointments. However, the Constitution in ¶ 54, *Article X*, does not limit the consultative authority of the bishop to only the district superintendents. The General Conference is free to require consultation with other entities and the bishop is free to consult with others, including conference officers as allowed, in the process of making and fixing the best appointments for the benefit of both pastors and churches and of The United Methodist Church's mission to make disciples of Jesus Christ for the transformation of the world.

Beth Capen was absent.

Kabamba Kiboko was absent.

Randall Miller, first lay alternate, participated in this decision.

Timothy K. Bruster, first clergy alternate, participated in this decision.

October 24, 2015