

SUBJECT TO FINAL EDITING

JUDICIAL COUNCIL OF THE UNITED METHODIST CHURCH

DECISION NO. 1445

(Docket No. 1021-24)

IN RE: Petition for Declaratory Decision from the Council of Bishops on Questions Related to Calling and Holding Regular Sessions of the Jurisdictional Conference Pursuant to ¶¶ 26, 27.2, 45, 404.2, 405, 406, 407, 512, and 521.2 of the *2016 Book of Discipline*.

DIGEST

In the circumstance of this case, the Council of Bishops is authorized to set the date of regular jurisdictional conferences for the election and assignment of new bishops for the limited purpose of effectuating the continuance of an episcopacy in The United Methodist Church under ¶¶ 26, 27.2, and 45 of the Constitution. This authority may be exercised notwithstanding that the General Conference has not convened since the last election of bishops in the jurisdictional conferences. The date of assignment for all bishops is September 1 following the jurisdictional conference according to ¶ 406.1. To comply with this disciplinary requirement, the Council of Bishops must reschedule the jurisdictional conferences to a date prior to September 1, 2022, or proceed with jurisdictional conferences in November 2022 as scheduled and assign newly elected bishops on an interim basis under the provisions of ¶ 407 until they begin their assignment on September 1, 2023. Absent General Conference action, the formula and number of bishops for each jurisdiction approved by the 2016 General Conference remain legally binding and effective until replaced by a new formula.

STATEMENT OF FACTS

On March 8, 2022, the Council of Bishops [hereinafter Petitioner] voted to submit a Petition for Declaratory Decision with the following questions:

Question 1: Does the Council of Bishops have constitutional authority to set regular sessions of the jurisdictional conference to elect and assign bishops pursuant to ¶¶ 26, 27.2 and 45 of the Discipline, notwithstanding that the General Conference has not occurred since the last election of bishops in the jurisdictional conferences and the General Conference has not acted upon a report of the Interjurisdictional Committee on Episcopacy as contemplated by ¶ 512?

Question 2: If the answer to Question 1 is yes and the election and consecration of the new bishop(s) occurs after September 1, when does the assignment of the newly elected

bishop(s) begin?

Question 3: Is the assignment date of “September 1 following the jurisdictional conference” set forth in ¶ 406 altered if the election and consecration occurs before the customary July election(s) that result in assignments taking effect in approximately one to two months after election and consecration?

In a press release of March 16, 2022, Petitioner announced that “[t]hey have tentatively set **November 2-5, 2022** for Jurisdictional Conferences should the Judicial Council rule in favor of holding the regional meetings.” Posted at:

<https://www.unitedmethodistbishops.org/newsdetail/bishops-discern-ways-forward-march-15-16396297> [emphasis in original]

JURISDICTION

The Judicial Council has jurisdiction pursuant to ¶ 2610.1 of *The Book of Discipline, 2016* [hereinafter *The Discipline*].

ANALYSIS AND RATIONALE

At the center of this case is the dual question of whether Petitioner is authorized to set the date of regular jurisdictional conferences for the purpose of electing and assigning new bishops, and, if so, when the assignment of newly elected bishops begins. This petition arose out of the unprecedented third postponement of General Conference and the retirement of bishops as well as the undisputed fact that our top legislative assembly has not convened since the last episcopal elections in the jurisdictional conferences.

For jurisdictional conferences, the Constitution assigns roles and responsibilities as follows:

¶ 26. *Article IV*. — Each jurisdictional conference shall meet at the time determined by the Council of Bishops or its delegated committee, each jurisdictional conference convening on the same date as the others and at a place selected by the jurisdictional committee on entertainment, appointed by its College of Bishops unless such a committee has been appointed by the preceding jurisdictional conference.

Under this arrangement, *when* “[e]ach jurisdictional conference shall meet” is a question to be “determined by the Council of Bishops or its delegated committee,” but *where* the meeting takes place is left to the discretion of the “jurisdictional committee on entertainment.” The authority to set the date is only qualified by the stipulation that “each jurisdictional conference [convene] on the same date as the others.” Const. ¶ 26. Put differently, Petitioner is tasked with setting the date for all jurisdictional conferences, which shall meet at the same time. Apart from this stipulation, the constitutional grant of authority is unrestricted. Petitioner is, therefore, authorized to call jurisdictional conferences, notwithstanding that the General Conference has not convened since the last election of bishops in the jurisdictional conferences.

In addition, our founding document declares:

¶ 27. *Article V.* — The jurisdictional conferences shall have the following powers and duties and such others as may be conferred by the General Conferences: [...]

2. To elect bishops and to cooperate in carrying out such plans for their support as may be determined by the General Conference.

Any jurisdictional conference session called by Petitioner in accordance with ¶ 26 is empowered to “elect bishops and to cooperate in carrying out such plans for their support in as may be determined by the General Conference.” Therefore, not only the call but also the purpose is constitutionally permissible.

Further, ¶¶ 26 and 27.2 must be read together with ¶ 45, which provides in relevant parts:

¶ 45. *Article I.* — There shall be a continuance of an episcopacy in The United Methodist Church of like plan, powers, privileges, and duties as now exist in The Methodist Church and in The Evangelical United Brethren Church in all those matters in which they agree and may be considered identical... so that a unified superintendency and episcopacy is hereby created and established of, in, and by those who now are and shall be bishops of The United Methodist Church. [emphases added]

Consequently, Petitioner is vested with this important authority because calling jurisdictional conferences for the limited purpose of electing and assigning new bishops is essential to the establishment of a unified superintendency and episcopacy and the continuance of an episcopacy in The United Methodist Church.

The General Conference has legislatively determined: “The date of assignment for all bishops is September 1 following the jurisdictional conference.” ¶ 406.1 [emphasis added, footnote omitted]. This date is based on the customary mid-July date of jurisdictional conferences. *See* JCD 781. The pandemic-related postponement of General Conference has upended the customary way of scheduling jurisdictional conferences, thereby raising the question as to whether the date in ¶ 406.1 is controlling if jurisdictional conferences are scheduled to convene *after* September 1, namely November 2-5, 2022.

Petitioner takes the legal position that bishops should be allowed to assume their duties immediately upon their election and consecration because the urgent need “to provide for the continuance of the episcopacy in that episcopal area” takes precedence over the September-1 commencement date. Opening Brief of Petitioner at 4-5. According to their interpretation, this date does not apply to jurisdictional conferences that occur after September 1. We respectfully disagree. Nothing in ¶ 406.1 suggests that jurisdictional conferences held after September 1 are exempt. Such a reading would be contrary to the plain meaning of the words “September 1 following the jurisdictional conference,” which we construe to mean *September 1 that comes after the jurisdictional conference when new bishops are elected*, which, based on the announced date of November 2-5, 2022, is **September 1, 2023**. Consequently, to comply with the clear

language in ¶ 406.1, Petitioner must reschedule the jurisdictional conferences to the customary mid-July or another date *prior* to September 1, 2022, **or** proceed with jurisdictional conferences in November 2022 as scheduled and assign newly elected bishops on an interim basis under the provisions of ¶ 407 until they begin their assignment on September 1, 2023.

A different but related issue concerns the formula and number of bishops allotted to each jurisdiction. It was argued that episcopal elections cannot be held until the Interjurisdictional Committee on Episcopacy [hereinafter Committee] has met to “recommend the number of bishops to which that jurisdiction should be entitled to the General Conference for determination by the General Conference.” ¶ 512.1 [emphasis added] What this argument overlooks, however, is the fact that this Committee *did* submit a formula that *was* approved by the 2016 General Conference, based on which the jurisdictions elected new bishops. *See* Daily Christian Advocate, Vol. 4, No. 7 (May 17, 2016), pp. 2284-2286.

In JCD 1409, the issue was whether the General Council on Finance and Administration could use a different Base Percentage for calculating the 2021 apportionments because of the pandemic-related postponement of General Conference and the economic downturn. The Judicial Council held that, “since the 2017-2020 budget and apportionment formulas, including Base Percentages, were duly enacted by the 2016 General Conference, they remain legally binding and effective until replaced by a new quadrennial budget.” JCD 1409 [emphasis added]. We hold that the same logic applies here. The formula and the number of bishops for each jurisdiction recommended by the Committee and approved by the 2016 General Conference remain legally binding and effective until replaced by a new formula.

RULING

In the circumstance of this case, the Council of Bishops is authorized to set the date of regular jurisdictional conferences for the election and assignment of new bishops for the limited purpose of effectuating the continuance of an episcopacy in The United Methodist Church under ¶¶ 26, 27.2, and 45 of the Constitution. This authority may be exercised notwithstanding that the General Conference has not convened since the last election of bishops in the jurisdictional conferences. The date of assignment for all bishops is September 1 following the jurisdictional conference according to ¶ 406.1. To comply with this disciplinary requirement, the Council of Bishops must reschedule the jurisdictional conferences to a date prior to September 1, 2022, or proceed with jurisdictional conferences in November 2022 as scheduled and assign newly elected bishops on an interim basis under the provisions of ¶ 407 until they begin their assignment on September 1, 2023. Absent General Conference action, the formula and number of bishops for each jurisdiction approved by the 2016 General Conference remain legally binding and effective until replaced by a new formula.

May 20, 2022

Concur in Part and Dissent in Part

The problem before us is difficult and not easy to reconcile with current provisions in the Discipline, primarily because the circumstances leading us to this moment were not easily foreseen nor anticipated. During the 2016-2020 quadrennium the General Conference met in regular session in April of 2016, followed by the regular sessions of the Jurisdictional Conferences in July of 2016, and then a special session of General Conference in 2019. In 2020 a global pandemic necessitated the rescheduling of the April 2020 General Conference. Eventually, the pandemic forecasts resulted in the Commission on General Conference recommending that the next regular session of General Conference be that of the 2024 General Conference.

This is the only time since the inception of The United Methodist Church that General Conference has not convened in regular session every four years, consistent with the denomination's quadrennial calendar. Similarly, the Jurisdictional Conferences did not convene for their regular session in July of 2020 and thus no bishops were elected to succeed those who were anticipating retirement on August 31, 2020. The Bishops in the United States simply remained in their assigned annual conferences and episcopal areas pending the convening of a delayed Jurisdictional Conference. Initially the quadrennial conferences were rescheduled to 2021 but thereafter had to be rescheduled to 2022 pursuant to the pandemic forecasts. By the time it was determined that the next regular session of General Conference would not occur until 2024, the number of active bishops serving in the United States had already grown thin. As of the date of this decision there are currently 13 bishops who are serving not only as resident bishops in their assigned annual conference, but they are also serving as an interim Bishop in a second annual conference. There is a fourteenth annual conference that is being served by an interim Bishop who came out of retired relationship to assist.

Of the North Central Jurisdiction's ten annual conferences, three have lost their resident Bishop. One of those three conferences is being served by the previously-referenced Bishop who had been in a retired relationship. The other two annual conferences have been assigned interim Bishops that are already serving as resident bishops elsewhere in the Jurisdiction. Furthermore, one of those two bishops serving as resident bishop and interim bishop had to recently go on temporary medical leave (this temporary vacancy is not included among the 14 annual conferences without a resident bishop).

Likewise, of the ten annual conferences in the Northeast Jurisdiction there are also three annual conferences that no longer have a resident bishop. Of the seven remaining active bishops, three of them are now serving not only their own episcopal area, but also serving as interim Bishop to one of the three annual conferences that lost its resident bishop within the last two years.

The eleven annual conferences in the South Central Jurisdiction (one of which is yoked with the Oklahoma Missionary Conference) also includes three annual conferences that no longer have a resident bishop. Thus, three of the eight active bishops have had their workload doubled when they became interim bishops in order to fill those vacancies.

Although the Southeast Jurisdiction has fourteen annual conferences, of which two are yoked, there are four annual conferences which lost their resident bishop. Thus, four of the nine remaining resident bishops are now serving a second episcopal area as interim Bishop.

There are normally five resident bishops in the Western Jurisdiction. However, when that number decreased to four, one of the resident bishops was assigned a second episcopal area to serve in addition to pre-existing assignment.

It is against this backdrop that the Council of Bishops made this request for a declaratory decision. My preference would be to acknowledge the strain on the episcopacy and then make a one-time limited exception to permit elections for this one moment in time. Initially it appeared that it would be simpler to simply call for a Special Session of Jurisdictional Conference for the heavily affected Jurisdictions. However, even in that instance the Discipline's language provides for the election of bishops only if the vacancy was created within the first two years of a bishop taking office in the episcopal area. Most, if not all, of the current vacancies do not satisfy that requirement.

However, I also am not comfortable writing a decision which might appear to be applicable at virtually any point in any future quadrennium. I believe that this decision should be very clearly limited to this one moment in time. This is particularly important given that the circumstances that currently exist should *not* require that the September 1st commencement date apply to any bishops which might be elected this year. A closer look at the Judicial Council's Analysis in Decision 781 provides much clarity on this issue:

... Prior to 1976 newly-elected bishops were appointed to an episcopal area where their duties began immediately. Since 1976, the appointment to an episcopal area is effective on September 1 of the year of election. From 1976 to 1988, bishops were paid salary and other expenses from the Episcopal Fund from the date of consecration. Beginning in 1988 and continuing to the present, the salary has been paid from September 1 of the year of election.

Par. 15 requires that the General Conference establish a “uniform rule” for the retirement of bishops. Par 509.1 provides for bishops to be retired on August 31 following the regular session of the Jurisdictional Conference.

Because of this provision, it is logical for the *Discipline* to provide in Par.507.1 that September 1 of the same year is the date on which all episcopal assignments made at Jurisdictional Conference become effective. The approximately six-week period between election and consecration and September 1 enables a newly-elected bishop to conclude matters at the prior appointment and made an orderly transition to assumption of the duties of the episcopal area. This is analogous to the way clergy members of an Annual Conference receive new appointments at the Annual Conference session but move to the new appointment at a later date. [Judicial Council Decision 781]

It appears in Decision 781 that the constitution's requirement in ¶ 15 that the **General Conference to establish a “uniform rule” for the retirement** of bishops (which General Conference set as August 31st) is the basis for the subsequent provision that their successors begin on September 1st. In these current circumstances the Jurisdictional Conferences would not be electing **successors** to Bishops currently serving. Instead, they would be electing Bishops for Conferences that currently have no resident bishop. As such, and in light of these very unusual circumstances, in this one limited instance, it is logical that the September 1st date would be of no effect given that the episcopal office is not currently occupied. Thus, I dissent from the proposition that newly elected Bishops must assume their office on September 1st because it serves no purpose in these circumstances. Rather, I would suggest that it is much more logical, for the limited purpose of this current situation and for Jurisdictional Conferences held in 2022 only, that just as we had done prior to 1976, we permit the newly-elected bishops to begin their duties immediately following their assignment.

Beth Capen
May 20, 2022