

SUBJECT TO FINAL EDITING

JUDICIAL COUNCIL OF THE UNITED METHODIST CHURCH

DECISION NO. 1362

IN RE: Petition for Declaratory Decision from the Commission on the General Conference regarding the meaning, application, and effect of ¶¶ 13, 14, 15, 34, 35, 36, and 511 of *The Book of Discipline 2016* in relation to a violation of the General Conference Rules of Order.

DIGEST OF CASE

The General Conference has the constitutional authority to remove by vote a delegate of the body for a violation of the rules of ethics as printed and passed in the Plan of Organization and Rules of Order for the General Conference, provided that the total number of delegates is between 600 and 1,000, and each annual conference has at least one clergy and one lay delegate seated. It is immaterial whether or not a reserve delegate is available to be seated as long as these constitutional requirements are met.

JURISDICTION

The Judicial Council has jurisdiction pursuant to ¶ 2610.1 of *The Book of Discipline 2016* [hereinafter *The Discipline*]. The General Commission on the General Conference has standing to file this Petition for Declaratory Decision under ¶ 2610.2(c) of *The Discipline*.

STATEMENT OF FACTS

On July 14, 2018 the General Commission on the General Conference [hereinafter Petitioner], acting through its Secretary Kim Simpson, filed a Petition for Declaratory Decision, which reads in relevant parts:

Law

The General Conference shall be composed of lay and clergy delegates elected by the annual conferences in a fair and open process (¶ 13), and the General Conference shall have a fixed ratio of representation (¶ 15) calculated with eligible clergy and lay delegates according to the prescriptions set forth in *The Book of Discipline 2016* (¶¶ 35-36). Additional delegates to jurisdictional or central conference shall be the reserve delegates to the General Conference; furthermore, reserve clergy and lay delegates to the jurisdictional or central conferences may act as reserve delegates to the General Conference when it is evident that not enough reserve delegates are in attendance at the General Conference (¶ 34). The Commission shall take necessary measures to assure full participation of all General Conference delegates (¶ 511.4d).

The General Conference has the Plan of Organization and Rules of Order for the purpose of helping “the General Conference be a means of grace, discerning God’s will and striving for Christ-like wisdom in all of our decisions” (Preamble, Plan of Organization and Rules of Order). The Committee on Ethics reviews all matters concerning alleged violations of the rules that are referred to it, either by the Office of the Secretary of the General Conference or directly by a one-fifth vote of the Plenary, and reports its findings to the Plenary with recommended action (Plan of Organization VII.C.).

Requested Decision

The Commission on the General Conference of The United Methodist Church respectfully requests a decision of law on the following question: **Does the General Conference of The United Methodist Church have the authority to remove, by vote, a delegate of the body for a violation of the rules of ethics as printed and passed in the Plan of Organization and Rules of Order for the General Conference:**

- A) when there is a reserve delegate available to be seated?
- B) when there is no reserve delegate available to be seated?[emphases in original]

An oral hearing was conducted on October 23, 2018 at the Placid Hotel in Zurich, Switzerland. Appearing on behalf of the Petitioner were Stephanie Henry, Rev. Gary Graves, and Sara Hotchkiss and on behalf of the Council of Bishops Bishop Kenneth H. Carter and Bishop Cynthia Fierro Harvey and William Waddell, Esq.

ANALYSIS AND RATIONALE

The General Conference is the highest legislative body in our connection. As such it has “full legislative power over all matters distinctively connectional” under ¶ 16 of the Constitution. We hold that within this constitutional grant of power is included the authority to make rules for the organization, conduct of legislative business, and the imposition and enforcement of sanctions for ethics rule violations, which are matters distinctively connectional. By virtue of their adoption of the Plan of Organization and Rules of Order for the General Conference, the delegates have agreed to comply with its provisions and, in doing so, given permission to the body to sanction any violation thereof.

The limits to this authority are described in ¶¶ 13.1 and 15 of the Constitution. Paragraph 13.1 states that the “General Conference shall be composed of not less than 600 nor more than 1,000 delegates, one half of whom shall be clergy and one half lay members, to be elected by the annual conferences.” In addition, ¶ 15 requires that the total number of delegates be computed on a two-factor basis: (1) number of clergy members in the conferences and (2) number of professing members in the conferences, “provided that each annual conference, missionary conference, or provisional annual conference shall be entitled to at least one clergy and one lay delegate in the General Conference.”

In JCD 687, the Judicial Council said:

The Constitution gives no guidelines by which to judge the appropriateness of Par. 602 [now ¶ 502] other than that the final result be between 600 and 1000 and be half clergy and half lay.

Further, in JCD 1274, the Judicial Council ruled:

The Constitution and legislative enactments of the General Conference authorize the Commission on General Conference to remedy the situation if the two factor [*sic*] basis specified in ¶ 15, Article III produces a number of delegates below 600 or above 1,000.

Changes in church law can only be made by the General Conference.

Therefore, any guidelines, policies, procedures, or rules in respect of the exercise of the authority granted the Commission on General Conference in ¶ 511.5(e) should be by legislative enactment and not judicial decision.

Those two provisions are the only limits established by the Constitution, setting the floor as well as the ceiling for any General Conference action related to ethics rules violations.

DECISION

The General Conference has the constitutional authority to remove by vote a delegate of the body for a violation of the rules of ethics as printed and passed in the Plan of Organization and Rules of Order for the General Conference, provided that the total number of delegates is between 600 and 1,000, and each annual conference has at least one clergy and one lay delegate seated. It is immaterial whether or not a reserve delegate is available to be seated as long as these constitutional requirements are met.

Ruben Reyes was absent.

Warren Plowden, first lay alternate, participated in this decision.

Dissenting Opinion

I respectfully dissent from my colleagues pursuant to my reading of and interpretation of ¶ 33 as well as the other paragraphs of the Constitution.

Neither General Conference nor any other body may vote to remove an annual conference's duly-elected General Conference delegate from their delegation. Only the Annual Conference has the authority to determine which qualified individuals will comprise the delegation that will act on behalf of that annual conference at General Conference. The Constitution specifically sets forth this authority of the annual conference as a **right**. Moreover, the Constitution delineates this right as one which is ***reserved to the annual conference***.

This right which is exclusively reserved to the annual conferences is a Constitutionally protected right which cannot be altered, diminished, or negated by General Conference nor any other body in The United Methodist Church. It is through its election of the individual General Conference delegates that the annual conference determines the composition of its delegation; a removal of even one of the duly-elected delegates changes the composition of the delegation that was originally elected by the annual conference. That fact is unaltered even when the vacancy is filled by an alternate.

This exclusive right of the annual conference – to elect the specific individuals that comprise their General Conference delegation – has been constitutionally protected since the inception of this denomination. The most pertinent portions of the Constitution provide as follows:

¶ **33. Article II.**—The **annual conference** is the basic body in the Church and as such **shall have reserved to it the right to vote** on all constitutional amendments, **on the election of clergy and lay delegates to the General** and the jurisdictional or central **conferences**, on all matters relating to the character and conference relations of its clergy members, and on the ordination of clergy...

¶ **34. Article III.**—The **annual conference shall elect clergy and lay delegates to the General Conference** and to its jurisdictional or central conference in the manner provided in this section, Articles IV and V.⁷⁰ The persons first elected up to the number determined by the ratio for representation in the General Conference shall be representatives in that body. Additional delegates shall be elected to complete the number determined by the ratio for representation in the jurisdictional or central conference, who, together with those first elected as above, shall be delegates in the jurisdictional or central conference. The additional delegates to the jurisdictional or central conference shall **in the order of their election** be the reserve delegates to the General Conference.⁷¹ The annual conference shall also elect reserve clergy and lay delegates to the jurisdictional or central conference as it may deem desirable. These reserve clergy and lay delegates to the jurisdictional or central conferences may act as reserve delegates to the General Conference when it is evident that not enough reserve delegates are in attendance at the General Conference.⁷²

¶ **35. Article IV.**—The clergy delegates to the General Conference and to the jurisdictional or central conference shall be elected from⁷³ the clergy members in full connection and shall be elected by the clergy members of the annual conference or provisional annual conference who are deacons and elders in full connection, associate members, and those provisional members who have completed all of their educational requirements and local pastors who have completed course of study or an M. Div. degree and have served a minimum of two consecutive years under appointment immediately preceding the election.⁷⁴

¶ **36. Article V.**—The lay delegates to the General and jurisdictional or central conferences shall be elected by the lay members of the annual conference or provisional annual conference without regard to age, provided such delegates⁷⁵

shall have been professing⁷⁶ members of The United Methodist Church for at least two years next preceding their election, and shall have been active participants in The United Methodist Church for at least four years next preceding their election,⁷⁷ and are members thereof within the annual conference electing them at the time of holding the General and jurisdictional or central conferences.⁷⁸

None of the other paragraphs in the Constitution that address or provide for various aspects of General Conference, confer a right to remove an annual conference's duly-elected General Conference delegate from its delegation. Indeed, the Constitution specifies that General Conference's exercise of power is *subject to the limitations and restrictions of the Constitution of the Church*:

¶ 16. *Article IV*.—The General Conference shall have full legislative power over all matters distinctively connectional, and in the exercise of this power shall have authority as follows:²⁵

...

16. To enact such other legislation as may be necessary, subject to the limitations and restrictions of the Constitution of the Church.³⁹

Neither General Conference nor any other body may vote to remove an annual conference's duly-elected General Conference delegate from their delegation. Only the Annual Conference has the authority to determine which qualified individuals will comprise the delegation that will act on behalf of that annual conference at General Conference.

Beth C. Capen