

## JUDICIAL COUNCIL OF THE UNITED METHODIST CHURCH

### DECISION 1256

***IN RE: Review of a Bishop's Decision of Law in the Greater New Jersey Annual Conference Regarding a Resolution That Authorizes the Council on Finance and Administration, the Primary Task Team and its Executive Committee, the Personnel Committee, and the Bishop to Take Certain Actions Between Sessions of Annual Conference***

#### DIGEST

The Bishop's three rulings are affirmed. (1) The Strategic Ministry Plan errs in authorizing the Conference Council on Finance and Administration and the Primary Task Team to adjust the conference budget between sessions of the Annual Conference. That portion of the Strategic Ministry Plan is null, void, and no effect. (2) The Annual Conference can authorize other entities to adjust staffing as needed between sessions of the Annual Conference. (3) The Annual Conference can authorize other entities to assign staff responsibilities between sessions of the Annual Conference.

#### STATEMENT OF FACTS

During the 2013 Session of the Greater New Jersey Annual Conference, May 30 - June 1, 2013, the conference approved a strategic ministry plan and the ministry for the Superstorm Sandy. As part of the strategy, the conference approved *A Future with Hope* Mission Fund Campaign to raise \$12 million, \$7 million of which was for Superstorm Sandy Relief, and elected a board of directors for the nonprofit corporation, *A Future with Hope, Inc.* Mr. John Bishop was elected President of the Board of Directors of *A Future with Hope Corporation*. By virtue of serving on the General Council on Finance and Administration of The United Methodist Church he is a

member of the Greater New Jersey Annual Conference Council on Finance and Administration and also serves as its president.

On Friday, May 31, 2013, a clergy member of the Annual Conference submitted in writing four questions of law to the presiding bishop. The Conference Secretary read these four questions into the record. They related to items discussed during the Annual Conference session.

Initially, the bishop did not submit these questions to the Judicial Council for deliberation because of his understanding that ¶ 2609.6 of the *2012 Discipline* mandated support by one-fifth of the annual conference before such matters were submitted. After further reflection, the bishop determined that all decisions of law raised in the regular business session of an annual conference were to be submitted to the Judicial Council, with or without a vote of the annual conference. On July 20, 2013, the bishop filed his decisions on the questions of law.

In addition, the Bishop provided the complete Daily Proceedings of the 2013 Annual Conference, an outline of the pre-conference journal, a copy of the resolution establishing *A Future with Hope* Campaign Fund, a copy of the Strategic Ministry Plan resolution, a copy of the Strategic Ministry Plan, and a Sandy Relief Case Statement (information about *A Future with Hope* corporation, including the budget and the funding campaign).

A clergy member of the annual conference filed an *amicus curiae* brief. In turn, the bishop submitted a response to that *amicus* brief.

In response to a request from a member of the Judicial Council, the conference treasurer provided a copy of the 2012 Annual Conference budget; the 2012 budget vs. actual report, the 2013 budget; the 2013 budget vs. actual report as of September 30, 2013; the 2014 annual conference budget; the 2014 budget for A Future with Hope, Inc.

This decision pertains to the first question submitted. Question 1 reads:

May the Annual Conference as the Basic Body in the Church

1. Approve a resolution to adopt the Strategic Ministry Plan, *Greater New Jersey Annual Conference, Pre-Conference Journal*, p. 29, lines 5-7, and authorize the Conference Council on Finance and Administration and Primary Task Team between sessions of the Annual Conference to "review and organize the conference budget in alignment with the plan and allocate/negotiate any necessary shifts within the budget to carry out the plan?" (Pre-Conference Journal, p. 45, lines 10-12);
2. May it authorize the Personnel Committee, the Council on Finance and Administration, and the Primary Task Team, between sessions of the Annual Conference, to "review present staffing and organization and change as necessary...to implement the plan? (Pre-Conference Journal, p. 45, lines 10-12);
3. May it authorize the Primary Task Team Executive Committee and Bishop, between sessions of the Annual Conference to "assign staff to the plan so that each goal and strategy has a staff person assigned?" (Pre-Conference Journal, p. 45, lines 13-14)

The Decision of the Bishop is as follows:

1. The Annual Conference, as the Basic Body in the Church, Par. 33, has the authority to adopt a Strategic Ministry Plan. It may not however, delegate to another body, duties which the Discipline confers on the Annual Conference. Decision 831 and all relative decisions thereafter affirmed its ruling that "An Annual Conference cannot re-structure in such a way as to constitute an unauthorized delegation of its authority to a committee". The Strategic Ministry Plan Team made this recommendation by following The Greater New Jersey Conference rule adopted in 2006 delegating authority to the Primary Task Team to act on behalf of the annual conference between sessions. This Conference rule is not in compliance

with the Discipline. Further, the 2009 and 2010 legislation creating and granting a Primary Task Executive Committee with the authority to act in between sessions of Primary Task Team and make decisions on behalf of the annual conference is also not in compliance with the Discipline.

When the Annual Conference adopted the Strategic Ministry Plan, there were amendments made to the initial plan as written in the Pre-Conference Journal. One such amendment was to require that actions done by Council on Finance and Administration and the Primary Task Team be done only if in accord with the Discipline. If actions are needed which cannot be carried out by the Council on Finance and Administration and the Primary Task Team, then these concerns must be referred to the next Annual Conference session.

2. The Annual Conference may authorize other groups in the Annual Conference to "review present staffing and organization and change as necessary...to implement the plan", as long as the approved amounts *budgeted for staff by the Annual Conference* are not exceeded. The Discipline gives the Council on Finance and Administration oversight of the Director of Administrative Services, who in turn, is responsible for office management, payroll and personnel services. Paragraphs 612, 613, and 619.
3. The Annual Conference, as noted above, sees to its own staffing between sessions. Annual Conference staff duties are modified as internally required to accomplish the operations and ministry of the Annual Conference and its programs. The Bishop would need to be included in staffing decisions, which would affect clergy-either volunteer or paid positions -and as the implementer of Annual Conference Programs, the Primary Task Team would need to be involved as well.

## **JURISDICTION**

The Judicial Council has jurisdiction under ¶¶ 51 and 56.3 of the Constitution and ¶ 2609.6 of the *2012 Discipline* as modified by Decision 1244.

## ANALYSIS AND RATIONALE

- (1) The first part of this question asks if the annual conference can adopt “the Strategic Ministry Plan” and authorize certain bodies to make shifts in the conference budget between sessions of the annual conference.

Paragraph 33 of the Constitution states that “The annual conference is the basic body in the Church...” In keeping with that principle, ¶ 613.1 calls for the conference council on finance and administration “to recommend to the annual conference *for its action and determination* (emphasis added) budgets of anticipated income and proposed expenditures...” Judicial Council decision 785 reads, in part: “An Annual Conference cannot restructure in such a way as to constitute an unauthorized delegation of its authority to a committee.”

In the bishop’s ruling on this question, he writes: “This Conference rule is not in compliance with the *Discipline*. Further, the 2009 and 2010 legislation creating and granting a Primary Task Executive Committee with the authority to act between sessions of Primary Task Team and make decisions on behalf of the annual conference is also not in compliance with the *Discipline*.” This is an appropriate conclusion.

Paragraph 610 authorizes the annual conference to structure “its ministries and administrative procedures in order to accomplish its purpose (¶ 601), with the exception of the mandated provisions...” The Greater New Jersey Annual Conference can adopt any portions of “the Strategic Ministry Plan” that do not violate disciplinary provisions. Any part of the Strategic

Ministry Plan that assigns budget responsibilities of the Annual Conference to other entities is null, void, and of no effect.

- (2) The second part of this question asks if the annual conference can authorize others to make staffing decisions between sessions of the annual conference.

Paragraph 610 states that “The annual conference is responsible for structuring its ministries and administrative procedures in order to accomplish its purpose (§ 601), with the exception of the mandated provisions of §§ 611, 635, 636, 637, 639, 640, 647, 648).” An *amicus curiae* brief argues that “program staff positions, role definitions, and financial support constitute a method by which the annual conference structures it (*sic*) ministries subject to the provisions of § 610, and need to be spelled out for approval by the annual conference session.”

To what extent is an annual conference to determine the details of expenditures (“financial support”)? For example, if an agency of an annual conference is budgeted to receive \$10,000, is it the annual conference’s responsibility to determine if the money is to be spent for paper clips or for educational materials or for staff? In terms of staff, § 613.13 gives authority to the council on finance and administration “to establish uniform and equitable policies and practices in the employment and compensation of personnel, in consultation and cooperation with other conference agencies that employ staff unless the annual conference has designated another agency to carry this responsibility.” In the instant case, the annual conference has designated the Council on Finance and Administration, the Personnel Committee, and the Primary Task

Team to carry out these functions. Subject to the fixing of appointments by the bishop (¶¶ 415.7, 416), this arrangement meets disciplinary strictures. It does not abrogate the annual conference's authority as "the basic body in the Church" (¶ 33) because staffing arrangements are not specifically given to the annual conference for administration.

(3) The third part of the question raises issues regarding the assignment of staff between session of the annual conference.

Under "Conference Leadership Next Steps," the Greater New Jersey Annual Conference's Strategic Ministry Plan (*Pre-Conference Journal*, p. 45) calls for the bishop and the executive committee of the Primary Task Team to "assign staff to the plan so that each goal and strategy has a staff person assigned."

Paragraph 33 of the Constitution says: "(The annual conference) shall discharge such duties and exercise such powers as the General Conference under the Constitution may determine." The validity and implications of this mandate have been restated many times by the Judicial Council (see decisions 38, 78, 400, 580). Has the annual conference delegated its authority when it asks the bishop and the executive committee of the Primary Task Team to make staff assignments? We do not think so.

Paragraph ¶ 613.13 gives authority to the council on finance and administration "to establish uniform and equitable policies and practices in the employment and compensation of

personnel, in consultation and cooperation with other conference agencies that employ staff *unless the annual conference has designated another agency to carry this responsibility* (emphasis added).” The designation of roles for staff falls within the definition of “practices in the employment and compensation of personnel.”

The deployment of staff, both volunteer and employed, is appropriately done by the agency with whom the staff works. Paragraph 610.2 says: “The annual conference may appoint additional committees for the purpose of promoting the work of The United Methodist Church within the bounds of said annual conference and *may prescribe their membership and their powers and duties* (emphasis added).”

Additionally, ¶ 610.1 states: “Further, conferences are permitted to create contextually appropriate structures that encourage collaboration and partnerships among all program, administrative, and financial entities.” As long as the annual conference meets the requirement of providing “clear checks and balances regarding program functions and financial/administrative functions within the annual conference” (¶ 610.1), the assignment of staff can be handled by the bishop and the executive committee of the Primary Task Team.

The Bishop appropriately corrected his misunderstanding that his decisions did not have to be submitted to the Judicial Council because they had not been appealed by a vote of at least one-fifth of the conference present and voting. The language in ¶ 2609.6 that mandated such an appeal is unconstitutional in light of ¶¶ 51 and 56.3. See Judicial Council Decision 1244.



## **DECISION**

The bishop's three rulings are affirmed. (1) The Strategic Ministry Plan errs in authorizing the conference council on finance and administration and the Primary Task Team to adjust the conference budget between sessions of the annual conference. That portion of the Strategic Ministry Plan is null, void, and no effect. (2) The annual conference can authorize other entities to adjust staffing as needed between sessions of the annual conference. (3) The annual conference can authorize other entities to assign staff responsibilities between sessions of the annual conference.

Dennis Blackwell was absent.

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

October 26, 2013

## **DISSENT**

The Bishop concedes that while the Annual Conference (AC) has authority to adopt a strategic ministry plan, it cannot re-structure in such a way as to constitute an unauthorized delegation of its authority to a committee (Decision 831 and related decisions). He justifies the present plan, however, by citing the recent amendment requiring that actions of the Council on Finance and Administration (CFA) and the Primary Task Team (PTT), be done only if in accord with the Discipline, else they must be referred to the next AC session which has to vote on the proposed change. This unduly grants the CFA and PTT advance blanket authority to determine which budget shift or change they can outright effectuate and which needs referral to the AC.

This is a vague, dangerous authorization and unsettles, let alone circumvents, the established reglementary procedure that the authority of the CFA is to recommend to the AC for its actions

and determination budgets of the anticipated income and proposed expenditures (¶ 614, formerly 613).

I take the stand that the CFA and the PTT cannot organize, re-align, allocate or negotiate any shift in the Conference budget without prior recommendation to, and approval of, the AC. The same rule applies to the Personnel Committee, Executive Committee of PTT and the Bishop with respect to any change in the present staffing, assignment of personnel and organization, even if the change is within the approved amounts budgeted for staff. They cannot be authorized in advance to act between sessions of the AC. To me, such authorization is null and void.

Although ACs are permitted the flexibility to design its structures, these structural matters need prior definition and approval by the AC sessions (¶ 610.1). Until the AC has spelled out and has given its nod on any budget or structural change, there can be no valid implementation by any official, agency, body or committee.

Thus, I hold the view consistent with a string of Judicial Council decisions too long to cite, that an annual conference cannot, by a resolution, authorize between its sessions the Conference Council on Finance and Administration (CFA) and Primary Task Team (PTT) to organize the Conference budget in alignment with a Strategic Ministry Plan and allocate/ negotiate any necessary shifts within the budget to carry out the plan. It cannot authorize between its sessions, the Personnel Committee, CFA and PTT to change present staffing and organization to implement the plan. It cannot, between its sessions, authorize the PTT Executive Committee and the Bishop to re-assign staff to the plan. **Such authorizations partake of unauthorized or**

**disallowed delegation of authority (Decisions 831, 1150).** Until the AC has defined and approved any budget or structural change, there can be no valid implementation by any official, agency, body or committee.

Ruben T. Reyes

October 26, 2013