



Ohio West Area
THE UNITED METHODIST CHURCH

Resident Bishop

Gregory V. Palmer

*Executive Assistant to
Bishop Gregory V. Palmer*

Rev. Linda Middelberg

*Administrative Assistant
to the Bishop*

Cyndy Garn

*Cabinet Administrative
Coordinator*

Jill Philipp

June 30, 2022

UMC Judicial Council
c/o LaNella Smith
Assistant to the J.C. Secretary
1215 Shady Lane
Durham, NC27712

Dear Council,

Please receive this Report on my Decision of Law,
respectfully submitted to you.

This Decision of Law was in response to a request made by
Rev. John Edgar at our most recent Annual Conference,
June 4, 2022.

Please feel free to contact me if you have any
questions.

In shared ministry,

+Gregory V. Palmer

32 Wesley Boulevard
Worthington, Ohio 43085
phone 614.844.6200
fax 614.781.2625

www.westohioumc.org
facebook.com/westohioumc
twitter.com/westohioumc
youtube.com/westohioumc



JUDICIAL COUNCIL OF THE UNITED METHODIST CHURCH
 CONSEIL JUDICIAIRE DE L'EGLISE METHODISTE UNIE
 RECHTSHOF DER EVANGELISCH-METHODISTISCHEN KIRCHE
 CONSELHO JUDICIAL DA IGREJA METODISTA UNIDA
 CONSEJO DE LA JUDICATURA DE LA IGLESIA METODISTA UNIDA



Report by Bishop on Decision of Law

This form is to be used for (please check one):

- Reporting of decisions of law made by bishops in response to questions of law submitted to them in writing during the regular business of a conference session (§ 56.3 Const. and § 2609.6 *The Book of Discipline 2016*).
- Reporting of episcopal decisions on questions of law when such decisions are appealed by one-fifth of the members of the conference (§ 56.2 Const. and § 2609.7 *The Book of Discipline 2016*).

Name of Bishop: Gregory V. Palmer

Address: 32 Wesley Blvd City: Worthington

State/Province: Ohio ZIP/Postal Code 43085 Country: United States

Phone: 380-223-9182 Fax: 614-807-1007 E-mail: wocbishop@wocumc.org

Annual Conference: West Ohio Date of session: 06/04/2022 (month/day/year)

Question(s) of Law: In keeping with Paragraph 51, Article VII and Paragraph 2609.6 of the Book of Discipline, I request that presiding Bishop Palmer decide the following question of law:

Do any sections of Recommendation 8 violate portions of the Book of Discipline including Paragraphs 2548.2 and 2553?

Authorities Cited (indicate paragraph or decision number where applicable):

Constitution: _____ Book of Discipline: P2548.2, 2553

Judicial Council Decision(s): JCD 1052, 1262

Signature: Gregory V Palmer Digitally signed by Gregory V Palmer
Date: 2022.06.29 14:33:13 -04'00'
Bishop of The United Methodist Church

Date: 06/29/2022
 (month/day/year)

The following must be attached:

- Decision of Law, including facts, rationale and ruling
 - Text of the written request for decision
 - Minutes of annual conference proceedings
 - List of names and addresses of interested parties
 - Other relevant materials (e.g. conference rules, resolutions, policies, reports)
- Thirteen (13) hard copies must be submitted via USPS or other delivery service to:
**UMC Judicial Council, c/o LaNella Smith, Assistant to the J.C. Secretary,
 1215 Shady Lane, Durham, NC 27712**
- Electronic copies in both Word and PDF (with security features disabled) must be submitted to: secretary@umcjudicialcouncil.org.

Bishop's Decision of Law

John Edgar Request

Bishop's Decision of Law

Syllabus

1. Paragraph 2548.2 of the United Methodist Book of Discipline (“*Discipline*”) is not a mechanism for disaffiliation or schism.

Request for Decision of Law

On Saturday, June 4, 2022, at the West Ohio Annual Conference’s virtual annual conference, Reverend John Edgar submitted the following written request for a decision of law:

In keeping with Paragraph 51, Article VII and Paragraph 2609.6 of the Book of Discipline, I request that presiding Bishop Palmer decide the following question of law:

Do any sections of Recommendation 8 violate portions of the Book of Discipline including Paragraphs 2548.2 and 2553?

Decision of Law

On Saturday, June 4, 2022, during the legislative session of the West Ohio Annual Conference’s Annual Conference, Reverend John Edgar presented the above-referenced written request for a decision of law in connection with Recommendation #8 found on pages 106-108 of the Book of Reports. Recommendation 8 concerns paragraph 2548.2 of the *Discipline* and is titled, “A Path for West Ohio Congregations Separating Under Paragraph 2548.2.” After a brief recess, I ruled Recommendation 8 out of order and summarized my concerns. What follows is my written decision of law.

Although the Conference in the past has expressed an openness to exploring paragraph 2548.2 as a mechanism for disaffiliation, the Council of Bishops has continued to examine the history, text and purpose of 2548.2 to discern whether it in fact presents a viable path of disaffiliation. This examination has yielded a number of questions and uncertainties, including whether the provision could be used to facilitate an *en masse* schism to a nascent movement that has not been recognized as an evangelical denomination by the United Methodist Church. These and many other questions about the purpose and application of paragraph 2548.2 caused the Council of Bishops to request from the Judicial Council an expedited Declaratory Decision on a number of questions in connection with paragraph 2548.2. (Docket 0522-2.)

As I have continued to examine the matter, including the history and intent behind paragraph 2548.2 as set forth in the Declaration of Lawrence E. Hillis, which was attached as Exhibit C to the Council of Bishop’s request for a declaratory decision and which is attached hereto as Exhibit A, as well as the arguments in the Council of Bishop’s Opening Brief, which is attached hereto as Exhibit B, I conclude that paragraph 2548.2 is not a mechanism for disaffiliation or schism.

With the above in mind, I now turn to Reverend Edgar's question of law, which asks: "Do any sections of Recommendation 8 violate portions of the Book of Discipline including Paragraphs 2548.2 and 2553?" I note at the outset that Recommendation 8 makes every effort to be aspirational in nature by encouraging the Annual Conference to recognize paragraph 2548.2 as a mechanism of disaffiliation or schism and begin the process of implementing a pathway to those ends. Although Annual Conferences are free to adopt aspirational legislation, such legislation cannot attempt to negate, ignore, or contradict the *Discipline*. (JCD 1052, 1262.) Because I have concluded that paragraph 2548.2 of the *Discipline* is not a mechanism for disaffiliation or schism, I must therefore further conclude that Recommendation 8 is out of order. By encouraging the Annual Conference to recognize and use paragraph 2548.2 as mechanism for disaffiliation or schism, it encourages actions that negate, ignore, or contradict the *Discipline*. Accordingly, it is out of order.

Having decided that Recommendation 8 violates paragraph 2548.2 of the *Discipline*, I conclude that the question of whether it also violates paragraph 2553 is moot. However, to the extent that the question is not moot, I would hold that Recommendation 8 does not violate paragraph 2553, as paragraphs 2548.2 and 2553 concern different subject matters and do not overlap, much less conflict.

Respectfully Submitted,

A handwritten signature in cursive script, reading "Gregory V. Palmer".

**Gregory Vaughn Palmer, Bishop
The West Ohio Annual Conference
of the United Methodist Church**

Exhibit A

Declaration of Lawrence E. Hillis

(Exhibit C of Council of Bishop's Request)

DECLARATION OF LAWRENCE E. HILLIS

I, Lawrence E. Hillis, hereby make this declaration in connection with the request for a declaratory decision of the Council of Bishops of the United Methodist Church (“COB”) regarding Paragraph 2548.2 of the 2016 Book of Discipline.

1. I am an independent research consultant engaged by the General Commission of Archives & History of the United Methodist Church.

2. I have personally conducted research into the historical contexts of fraternity and comity to assist the UMC in understanding Paragraph 2548.2 of the 2016 Book of Discipline. I have also researched the enactment of the predecessor paragraphs of Paragraph 2548.2 and how that paragraph relates to other paragraphs in the Discipline, including the current 2016 Book of Discipline. Primary and secondary sources reviewed in my research and supporting my analysis in this declaration are attached to Dr. Ashley Boggan Dreff’s Authentication by Custodian of Records.

3. The following represents my research based on the records of the General Commission of Archives & History and other relevant sources.

4. **Fraternity Defined:**

a. In the ecumenical context, “fraternity” designates the principles and practices through which different ecclesial bodies formally recognize one another and establish a mutually acknowledged mode of relationship. In its simplest form, fraternity involves the cessation of political and ecclesial hostilities, such as those longstanding military and para-military conflicts between Protestants and Catholics. Moving beyond the mere cessation of violence, fraternity can extend to a shared recognition of a common “familial” inheritance or through joint membership in a larger ecumenical body. In either case, the establishment of fraternity does not necessitate further cooperative action.

b. Throughout the history of Methodism, the recognition of fraternity between ecclesial bodies has traditionally been expressed through the exchange of fraternal delegations to the General Conference. While not holding any voting power, these delegates have customarily been invited to offer remarks reaffirming good relations between the two bodies. In this context, there is significant historical precedence to suggest that the General Conference reserves the power to establish fraternal relations through the vesting of authority to fraternal delegations whose actions require ratification at a subsequent General Conference. So too, there have been occasions in which the General Conference has rejected fraternal delegations sent by another ecclesial body, thereby establishing or reaffirming a condition of “no relation,” if not outright hostility.

5. **The Joint Commission on Fraternal Relations: MEC Schism 1844 to 1880:**

a. In 1844, the Methodist Episcopal Church (MEC) entered schism over slavery. Just a year prior, numerous reformers and abolitionists had separated to form the Wesleyan Methodist denomination in what was, up to that point, the most significant separation in the denomination’s history. That departure spurred the remaining abolitionists with the MEC to take a stronger stance at the 1844 General Conference. The conflict found its spark in Bishop James O. Andrew, who had recently inherited enslaved people. While slavery had been a significant issue over the decades, at no point had the issue risen to the level of the episcopacy. As a result of the heated debates that followed,



a committee of nine was formed to assess the situation. The recommendation they brought back to the body involved the establishment of a second General Conference to be held in Louisville, Kentucky, two years later. It was affirmed and adopted that all annual conferences and local churches that supported slavery would attend that conference, and affiliate there as the Methodist Episcopal Church, South (MECS) (The Methodist Experience in America [MEA], 185-191).

b. In the following years, something akin to a 'cold war' raged between the two General Conferences, with circuit riders from both bodies intruding upon the other's territory. So too, major conflicts over church property and land deeds emerged that rose as far as the supreme court. Multiple families brought suits against the MECS, arguing that land on which church property rested had been deeded exclusively to the Methodist Episcopal Church, and post-schism, the new church had violated the deed and forfeited their claim to it (MEA, 192-194).

c. In an effort to reconcile, the MECS commissioned the Rev. Dr. Lovick Pierce to carry a formal letter to the 1848 General Conference of the Methodist Episcopal Church as a delegate. Pierce's letter was read to the body on May 3, 1848, and subsequently referred to the Committee on the State of the Church (MEC Journal of the General Conference 1848 [MEC, JGC 1848], 16). Two days later, on May 5th, after careful deliberation, the Committee recommended that the General Conference adopt the following preamble and resolution:

Whereas, a letter from Rev. L. Pierce, D. D., delegate of the Methodist Episcopal Church, *South*, proposing fraternal relations between the Methodist Episcopal Church and the Methodist Episcopal Church, *South*, has been presented to this conference, and whereas, there are serious questions and difficulties existing between the two bodies, therefore,

Resolved, That while we tender to the Rev. Dr. Pierce all personal courtesies, and invite him to attend our sessions, This General Conference does not consider it proper, at present, to enter into fraternal relations with the Methodist Episcopal Church, *South* (MEC, JGC 1848, 21).

The report was passed unanimously, and the extent of the schism between the two ecclesial bodies was confirmed. It would be more than twenty years and a Civil War before the two Churches would reconsider the state of their relationship (MEA, 251-257).

d. In the wake of the war and the emancipation of enslaved persons, a growing sentiment emerged that it might be possible to reunite the various schisms of the MEC now that the ostensible reason for their division had been resolved. However, before any conversation about cooperation or reunification could proceed, the General Conference of the MEC would need to reestablish formal fraternity with the MECS. However, this would not be a simple process, as the General Conference had not yet established a formal protocol. They resolved the problem over several subsequent General Conferences according to the following timeline:

1868: The MEC formed "The Committee of Introduction" to examine the credentials of delegates from other ecclesial bodies prior to reception and presentation (MEC, JGC 1868, 356-357).

1872: The General Conference of the MEC adopted a report from the Committee on the State of the Church, "That the General Conference will appoint a delegation, consisting of two ministers and

one layman, to convey our fraternal greetings to the General Conference of the Methodist Episcopal Church, South, at the next ensuing session” (FFPGC, 19).

1874: The MEC delegation arrived in Louisville and was recognized and accepted by the General Conference of the MECS. After extensive remarks, the subject of the communication from the Fraternal Delegates was referred to a committee of nine who affirmed and reciprocated their goodwill (FFPGC, 34-35). The General Conference of the MECS subsequently appointed a Commission “to meet a similar Commission authorized by the General Conference of the Methodist Episcopal Church, and to adjust all existing difficulties” (FFPGC, 40).

1876: The General Conference of the MEC received a delegation from the MECS, having been approved by the Committee on the Reception of Fraternal Delegates (formerly the Committee of Introduction). A series of remarks were presented, including a letter from Dr. L. Pierce, the original delegate from 1848, after which the General Conference of the MEC unanimously adopted a resolution recognizing “their coming as the harbinger of a more intimate union between the two chief branches of Methodism” (FFPGC, 57). Subsequently, the MEC resolved to appoint a Commission “to meet a similar Commission authorized by the General Conference of the Methodist Episcopal Church, South, and to adjust all existing difficulties” (FFPGC, 58).

On August 16, 1876, the Commissioners appointed by the MEC and the MECS met in Cape May, New Jersey, in order to “remove all obstacles to formal fraternity” (FFPGC, 59). To do so, the Joint Commission needed to establish several principles and rules whereby all remaining conflicts between the two bodies could be resolved – as opposed to continuing to litigate them on an individual basis. The predominant issue at stake was revealed in the “Order of Business:”

- I. To agree upon a formal declaration of the basis as to relations confessedly “closer than those that usually bind Churches together” now existing between the two Churches.
- II. To establish rules under which the difficulties as to property shall be adjusted.
- III. To investigate or provide for the investigation and adjustment of the specific cases of adverse property claims before the Joint Commission (FFPGC, 66).

Subsequent rules for adjusting contested claims to church property were drafted and adopted (FFPGC, 69-70). After these rules were adopted, numerous cases were addressed by the Joint Commission, and rulings were dispensed as to which denomination would receive the deed (FFPGC, 72-75). Having settled these cases, the Joint Commission drafted a report detailing the entirety of the proceedings and forwarded them to the Board of Bishops of the MEC and the College of Bishops of the MECS.

The content of this report can be found in the *Formal Fraternity Proceedings of the General Conferences of the Methodist Episcopal Church and of the Methodist Episcopal Church, South, in 1872, 1874, and 1876, and of the Joint Commission of the Two Church on Fraternal Relations, at Cape May, New Jersey, August 16-23, 1876*, from which I have been citing, on pages 77 through 83 (as FFPGC).

1880: The General Conference of the MEC, having received the report from the Joint Commission on Fraternal Relations, adopted the resolution as final. Importantly, Bishop Simpson presented the

decision as a point of order, stating, "It is the judgement of the Chair that, while he believes the action was designed to be final, yet he thinks the General Conference must decide the question for itself" (MEC, JGC 1880, 160)

e. This historical analysis of the Joint Commission on Fraternal Relations between 1848 and 1880 speaks directly to Questions 1, 2, and 3 as presented by the Council of Bishops to the Judicial Council. Reviewing the precedent suggests that the power to recognize another ecclesial body as a fraternal denomination is strictly reserved to the General Conference. In various situations, this power has been temporarily vested in the Committee on the State of the Church, an appointed Commission on Fraternal Affairs, or the episcopacy. At present, the General Conference continues to reserve the power to recognize another ecclesial body as a fraternal "denomination," as well as any subsequent categorization as an "evangelical denomination." The authority to begin relevant negotiations has been vested in the Ecumenical officer of the Council of Bishops in between General Conferences. However, all activities of the Ecumenical officer of the Council of Bishops pertaining to the negotiation of denominational level agreements or membership in ecumenical organizations require ratification by the subsequent General Conference before becoming actionable, per ¶ 431.1 of the 2016 Book of Discipline. (See following statements on the vested comity powers of the Ecumenical officer of the Council of Bishops in the following section on comity.) At present, in conjunction with the Council of Bishops, the Ecumenical officer of the Council of Bishops is authorized to conduct negotiations with any ecclesial body they desire, but no action resulting from such activities can be taken until a fraternal and ecumenical relationship between the two bodies is affirmed and ratified by the General Conference.

f. Having established fraternity through the cessation of hostilities and the adjudication of the numerous contested property claims, by 1924, the MEC and MECS were moving towards the establishment of a denominational comity agreement. According to the 1924 *Book of Discipline*, ¶ 581, "Comity and Cooperation with the Methodist Episcopal Church, South," it was resolved,

That we heartily reciprocate the desire of the Methodist Episcopal Church, South, to facilitate such adjustments or exchanges of territory, as may be practicable, with a view to the best economy of our resources and to the highest degree of comity and cooperation between our two branches of Methodism in their mutual purpose and work for the kingdom of God.

g. At the following General Conference in 1928, the *Book of Discipline* adopted a paragraph pertaining to home missions and comity, which reads,

¶ 491.6 These societies may, wherever it is desirable, create a Comity Commission, composed of the District Superintendent, and of Ministers and Laymen in equal numbers, for the purpose of meeting and conferring with like Commissions, or bodies, of other evangelical denominations, to make such arrangements and agreements as may be necessary either to vacate, or take over, or exchange Charges or properties, in order to promote the religious care and welfare of such communities. Such arrangements and agreements shall be made with due regard for the denominational investments and interests involved in such properties, and shall be subject to the approval of the Annual Conference.

Based on the preceding discussion of the historical context of the concept of fraternity and establishing its connection to comity, we now address the concept of comity.

6. Comity Defined:

a. At the intersection of religion, politics, and economics, “comity” designates the principles and practices through which different ecclesial bodies (and the government) formally work together to respond to social issues despite differences in doctrine, polity, and policy. Comity cannot exist without a preceding recognition of fraternity, either directly through fraternal delegations or mutual membership in an ecumenical organization. In plain speech, while Protestants have always been very good at schism and competition, comity agreements are how we cooperate toward a common, equitable, and mutually beneficial good.

b. Between 1941 and 1949, the acclaimed sociologist of religion H. Paul Douglass was commissioned to undertake a rigorous analysis of comity practices by member denominations of the FCC, after which he presented “The Comity Report,” published in 1950. There, offering his own understanding of the principles of comity, Douglass affirmed a resolution by a joint session of the Executive Committees of the Federal Home Missions Councils:

...comity should be interpreted constructively as involving the formulation of a comprehensive strategy of church extension and maintenance for regions and communities, applying equally to the self-supporting and to mission-aided churches, for the primary purpose of ensuring a well-rounded Christian ministry according to our highest standards and ideals to the entire population.

Reflecting on that definition, Douglass noted that “this version is in deliberate contrast with older concepts defining comity narrowly as ‘mutual cooperation, respect, and goodwill’” (Draft Comity Report [DCR], 4). Further on, he affirmed that comity should “not be the legalistic adjudication of controverted cases one at a time, but the blueprinting of a master plan within which all specific situations may be happily provided for,” citing “*General Principles of Comity*, Council of Churches of Greater Cincinnati, 1948” (DCR, 5).

c. In addition to clarifying the principles of comity, “The Comity Report” offered an analysis of their implementation between 1941 and 1949. Regarding these comity practices, particular attention should be paid to section 8 of the report, “Working Philosophy” (DCR, 13-17), and section 11, “Comity as Planning and Adjustment” (DCR, 27-29). The former offers a practical definition and assessment of the “allocation” of territorial fields for church extension, noting that “the adequate development of all churches involves their access to a sufficient supporting constituency, reasonably available to them and relatively homogenous” (DCR, 15). Going beyond the establishment of new churches, the latter section details the further necessity of the “adjustment” of already existing churches, which “will involve the abandonment and removal of churches, their merger, and the adoption of radically new types of activity” (DCR, 28). As such, in practice, comity should be understood to include not simply cooperation in the allocation of protected territories for church extension so as to avoid competition but the ongoing relocation, abandonment, merger, or federation of existing churches that no longer adequately serve the community in which they reside. Furthermore, the draft of the 1949 Comity Report was found in the records of the General Board of Global Ministries, from 1949, at the repository of GCAH. The published “Comity Report” of 1950 (cited here as CR) contains the same philosophies of comity but includes additional case studies and recommendations. It is evident from a comparison of these two documents (the draft versus the published) that Douglass was in direct contact with the five mainline Protestant denominations and worked as a consultant for The Methodist Church. During this period, multiple member denominations of the FCC introduced paragraphs to their respective law books regarding comity

agreements. The 1948 *Book of Discipline's* ¶ 256 (predecessor to ¶ 2548) appears alongside these other case studies in the final publication of the 1950 "Comity Report." Importantly, as will be addressed later, Douglass explicitly links ¶ 256 to ¶ 276 in that case study, thereby reaffirming the intent of the paragraph by contextualizing it within the ecumenical comity principles of the era.

d. According to the 2016 Book of Discipline, the powers to adopt comity principles, establish comity agreements, and ratify membership in an ecumenical comity organization are reserved to the General Conference. Those comity principles, comity agreements, and ecumenical comity organizations currently embraced by the United Methodist Church are enumerated in Part VI, "Organization and Administration," Chapter Three, Section IX "Ecumenical Relationships," ¶ 431 – ¶ 442.

e. According to the 2016 Book of Discipline, per ¶ 431.2, the General Conference vests the authority to maintain and oversee existing comity agreements in the Ecumenical officer of the Council of Bishops. So too, per ¶ 431.4, the General Conference vests the power to select, and thereby duly authorize, all representatives to ecumenical organizations in the Council of Bishops. When a proxy is needed, the Ecumenical officer of the Council of Bishops retains sole authority to name such proxies.

f. According to the 2016 Book of Discipline, per ¶ 431.1, the authority to enter into ecumenical negotiations with an ecclesial body not yet recognized as being in a fraternal or comity relationship with the United Methodist Church is vested in the Council of Bishops. However, as a reserved power of the General Conference, all proposed denominational level agreements and permanent membership in ecumenical organizations must be approved and ratified by the General Conference before coming into effect.

g. According to the 2016 Book of Discipline, the *responsibility for the practical implementation* of those comity principles and comity agreements ratified and established by the General Conference of the United Methodist Church is vested in the Annual Conference, to be directed under the supervision of the Ecumenical officer of the Council of Bishops or a proxy as determined by the Ecumenical officer of the Council of Bishops. The Annual Conference holds no power, vested or reserved, to enter into fraternal or comity agreements of its own volition. Nor does the Annual Conference hold power, vested or reserved, to secede from a fraternal relationship, comity agreement, or membership in an ecumenical body that has been ratified and established by the General Conference. The particular comity practices that the Annual Conference is authorized to implement are enumerated in Part VI, Chapter One, Sections II-IV, "Cooperative Parish," "Ecumenical Shared Ministries," and "Churches in Transitional Communities," ¶ 206 – ¶ 213.

h. According to the 2016 Book of Discipline, the transfer of church property via ¶ 2548.2 "under an allocation, exchange of property, or comity agreement" can only be invoked by the Annual Conference under the specific powers vested to it by the General Conference and detailed in ¶ 209. In turn, any such action must conform to the comity principles and comity agreements already established and ratified by the General Conference, under the supervision of the Ecumenical officer of the Council of Bishops, a duly authorized representative selected by the Council of Bishops, or a proxy selected by the Ecumenical officer of the Council of Bishops.

i. For a record of the evolution of this vested power of the General Conference, see the History Note of the Records of the General Commission on Christian Unity and Interreligious

Concerns (GCCUIC), produced by GCAH in 2001. See also “The General Commission on Christian Unity and Interreligious Concerns Summary Report to the 2012 General Conference,” in which “the board members of GCCUIC unanimously agreed and took action to propose legislation to incorporate GCCUIC into the Council of Bishops” (Advance Daily Christian Advocate [ADCA] 2012, Vol. 2., 1215). Interestingly, in line with other analyses that suggest that “evangelical denomination” should be appropriately interpreted along the lines of “ecumenical partner,” that report also states, “To be ecumenical is to be evangelical.” (ADCA 2012, Vol. 2., 1214). Along these lines, see also the “Report of the Federal Council of Churches of Christ in America” (Quadrennial Report to the General Conference [QRGC] 1948, 649-651).

7. The 1948 General Conference: Comity, Ecumenicism, & Segregation:

a. The original version of ¶ 2548.2 was adopted at the 1948 General Conference as ¶ 256.2.

b. The 1948 General Conference was notable for many reasons, but one was certainly the influence of Bishop G. Bromley Oxnam. At that time, he was the preeminent champion of the ecumenical movement, was appointed secretary of the Council of Bishops, and served as President of the Federal Council of Churches of Christ in America (FCC), which, at the time, was the largest ecumenical council in existence (MEA, 380). He would later be elected president of the World Council of Churches (WCC), established later that year (MEA, 423). In 1948, Bishop Oxnam was tasked to present the episcopal address at the General Conference. There he spoke expansively of the principles of comity and especially of the practical organization of ecumenical cooperation, declaring,

Methodism shared in the organization of the Federal Council of Churches of Christ in America, and from the day of its charter membership to the present has been one of the co-operating churches in this the most significant interdenominational endeavor in the nation. We rejoice in the ever-widening service of the Federal Council which means the increasing co-operation of the churches. We urge our people everywhere to participate fully in the local and state councils, and particularly in the [FCC]. (MC, 1948 Daily Christian Advocate [DCA], 36)

Beyond the episcopal address, several resolutions of the 1948 General Conference also stridently reaffirmed The Methodist Church’s membership in the FCC and WCC (1948 Book of Discipline [BOD], 607). Throughout the 1948 General Conference minutes, references to the episcopal address regarding ecumenicism, church union, and “unity in diversity” abound. Several factors prompted these calls for unity and ecumenical cooperation, but most notable among them was the growing conflict between the United States and the Soviet Union (MEA, 419-423). Bishop Oxnam strongly believed that atheism was a slippery slope to communism, and therefore, it was in the best interest of the Church and the Nation to cooperate with ecumenical partners for the salvation of souls, regardless of their resulting denominational affiliation (MEA, 423-428).

c. Working towards this goal, the reorganization of home missions and church extension in urban areas emerged as one of the conference’s dominant themes. Throughout the post-Civil War Reconstruction Era, major demographic shifts had been taking place throughout industrial cities as people of color mass migrated north in an effort to escape Jim Crow laws and the threat of lynching (QRGC 1948, 169-171). So too, the 1940s saw an explosion of intentionally organized and mass-manufactured suburbs, such as those pioneered by William Levitt. By 1951, his company, Levitt & Sons, was the largest homebuilder in America and is remembered for the popularization of red-lining, discrimination against people of color, and conspiracy with the Federal Housing Administration to deny home loans to people of color. As noted in the quadrennial report of the “Division of Home

Missions and Church Extension,” “Section of Home Mission,” presented to the 1948 General Conference,

Since 1940, the population of the United States has been in the most fluid state in the nation’s history. [...] All of this movement was considered temporary and much of it was centered in cities. However, with the end of the war, this great percentage of the population did not return to prewar locations. The great housing projects which sprang up overnight adjacent to many of our larger cities have become, or are becoming, permanent (QRGC 1948, 169).

This mass movement of white folk out of the cities and into the newly established suburbs is known as “white flight.” Importantly, as the report continues, the Board of Missions and Church Extension recognized that “Few who occupy the new housing units will go to the center of the city for worship; and, after the first generation, this minority will almost disappear. Now is the time for us to follow our folk with a vigorous program to challenge the multitudes who otherwise will be lost to God and His Church. Cities change, people come and go, but the basic religious needs of folk are the same regardless of race, color or creed” (QRGC 1948, 171).

d. However, segregation within The Methodist Church made it nearly impossible to fulfill this aspiration. The continued existence of racial discrimination and the Central Jurisdiction made it incredibly difficult to respond to the demographic fluidity apparent in urban contexts (MEA, 391-398). As a further report from the “Commission to Consider the Relations of All Races” noted,

Because of the shifting of the Negro population to metropolitan centers, the whole Church must accept the responsibility of helping to provide adequate church facilities for our Negro people. Where Negro population has increased in centers with no Negro Methodist Church to serve it, we note the reluctance of Negro Methodists to become members of White congregations and also the reluctance of White congregations to accept Negro members, with a consequent loss (QRGC 1948, 626).

Because of conflicts over race and segregation, The Methodist Church was not properly positioned or equipped to revitalize its metropolitan congregations. Efforts to adopt the “Christian Church Race Report” addressing racial discrimination in The Methodist Church faced staunch criticism from the floor directed at legitimizing segregation and ensuring that the jurisdictional system would not be disrupted (MC, DCA 1948, 442-443). Yet, the Commission to Consider the Relations of All Races denotes that the Central Jurisdiction was a core cause of the problem, as well as “the apparent confusion regarding the establishment of Methodist churches for Negroes outside of the Central Jurisdiction” (QRGC 1948, 627). This may help explain why the Commission called upon “the whole Church,” through cooperative ecumenical efforts, to meet the various religious, political, and economic needs of people of color in the city.

e. As these dynamic social processes continued and amplified, the changes in urban social demographics significantly impacted the economic condition of cities and the churches contained within. As noted in the quadrennial report of the Division of Home Missions and Church Extension, presented to the 1948 General Conference,

In the establishment and erection of new churches in or near our large cities, we have a real challenge. The Methodist Church has no desire to compete with the other denominations. [...] In our cities many churches stand amidst “polyglot” communities. Former members have moved to the suburbs, thus creating a challenge there. But people still live near the old buildings, and Church Extension has a responsibility. These old urban churches must be maintained and many of them remodeled in order to carry on a vital program throughout the

week which will attract and minister to the throngs who dwell “where cross the crowded ways” (QRGC 1948, 164).

Throughout metropolitan areas, Methodist churches that had predominantly served white communities for hundreds of years declined precipitously in membership, resources, and the condition of their property. By 1948, many of these churches were in need of relocation, remediation, or significant renovation. Something needed to be done.

f. This is where we begin to see, at the 1948 General Conference, a sweeping ecumenical plan presented by the Board of Home Mission and Church Extension in partnership with the Committee on Lay Activities and Temporal Economy. That slate of calendar items – which contained the introduction of ¶ 256 (presently ¶ 2548) opened with a striking statement, Report No. 1, “Conserving the Property of the Methodist Church”:

We recommend that where congregations are moving out of communities where members of other races and nationalities are moving in, that these congregations, in cooperation with the Division of Home Missions and Church Extension, open negotiations with the constituents and leaders of other races and nationalities of The Methodist Church, for the purpose of conserving the property of the Methodist Church” (MC, DCA 1948, 73).

The intent of the statement seemed clear at the time, as defended by the Chairman of the Subcommittee Fred B. Noble on the occasion of its uncontested adoption, “I don’t think this needs any discussion. It is merely permissive legislation and explains itself” (MC, DCA 1948, 180). Where congregations were moving out of the city and thereby leaving behind abandoned or near abandoned church property, priority would be given to the opening of negotiations with peoples of color such that the property could continue to be used for the advancement of the shared ecumenical goals of the church.

g. To advance this broad legislative agenda, roughly ten new paragraphs were adopted and introduced into the 1948 *Book of Discipline* that addressed both comity and demographic fluidity. As a package, they prioritized ecumenical cooperation through the FCC to be conducted under the supervision of the relevant state council of churches and provided new procedures through which:

1. Underutilized church property could be discontinued, declared abandoned, and liquidated (¶ 255).
2. Or such property could be deeded to a federated church (¶ 256.1).
3. Or such property could be deeded to another “evangelical denomination under an allocation, exchange of property, or comity agreement, provided such agreement has been in writing and signed and approved by the duly qualified and authorized representatives of the evangelical denomination to which the deed is made” (¶ 256.2).
4. And that “the legislation of this whole section shall not apply to the territory of Central Conferences or Provisional Central Conferences” (¶ 257).

Taken together in their context, these provisions appear to represent a series of descending priorities wherein preference should be given to the reestablishment of a previously white Methodist church as a “Negro Methodist Church,” followed by the establishment of a Federated Church, and only then, if these more preferable situations seemed untenable, the transfer of the abandoned church property to one of The Methodist Church’s affiliated ecumenical partners under an allocation, exchange of

property, or comity agreement. In this last case, the history and language are clear that some form of reciprocity was expected as a component of such an exchange.

h. The particular language of “allocation, exchange of property, or comity agreement,” found in ¶ 256.2 (which has since evolved into its present iteration as ¶ 2548.2 in the 2016 *Book of Discipline*) was further clarified by the introduction of a new section, Chapter XIII, “Church and Community Co-operation.” These new paragraphs, ¶ 275 through ¶ 279, codified the principles of comity and ecumenical cooperation outlined by Bishop Oxnam in his episcopal address. Of particular interest to contextualizing the intent of this legislative package, ¶ 276 stated:

An effective denominational church serving every rural community is our primary objective. Federated and union churches have afforded expedient temporary service as acceptable alternatives in some fields but should obtain denominational entity as soon as possible. Mutual exchange, denominational withdrawal, and affiliated membership are among the methods most helpful. Denominational overlapping and excessive competition in overchurched areas should be adjusted. We support allocation of denominational responsibility in new fields of work to obviate the need for each church to feel it must establish a project to take care of its own constituency, naming the state council of churches, wherever possible, as the agency through which allocation agreed upon can be consummated.

While this paragraph is addressed to the rural context – which was also experiencing significant demographic change – the comity principles outlined in ¶ 276 would have applied equally to comity practices in urban contexts. Note again that the final publication of the H. Paul Douglass “Comity Report” also connects these two paragraphs in a case study. As such, it should be understood that these paragraphs provided important context to ¶ 256 and that their contemporary iterations should continue to contextualize ¶ 2548.2.

i. In the 1948 *Book of Discipline*, ¶ 256 had initially been grouped with ¶ 275 through ¶ 279 in the concluding sections of Part II, “The Local Church.” These sections have since been separated in the *Discipline* during the intervening time. In the 2016 *Book of Discipline*, the contemporary versions of the 1948 section “Church and Community Co-operation” have remained in Part VI, Chapter One, “The Local Church,” as ¶ 206 through ¶ 213, blocked out in three sections as “Cooperative Parish,” “Ecumenical Shared Ministries,” and “Churches in Transitional Communities.” In contrast, ¶ 2548 has been relocated to Part VI, Chapter 6, “Church Property.” Per these paragraphs’ historical origin and evolution, the connectional principles outlined in the 2016 *Book of Discipline*’s ¶ 206 through ¶ 213 should be understood to expressly structure the meaning of ¶ 2548.2. Perhaps more importantly, at present, ¶ 209 appears to be the only paragraph that details the circumstances under which ¶ 2547 and ¶ 2548 obtain.

j. This historical analysis of the 1948 General Conference speaks directly to Questions 5 and 6 as presented by the Council of Bishops to Judicial Council, in that ¶ 2548.2 came into existence as part of the same legislative slate in which ¶ 206 through ¶ 213 find their provenance. Both then and now, ¶ 2548.2 is not intended to be deployed in isolation from the ecumenical and connectional principles of the General Conference. At present, a principled reading of ¶ 2548.2 suggests that it only gains binding force when invoked under the express stipulations of ¶ 209:

1. "In an interdenominational local church merger, ¶¶ 2547 and 2548 shall be followed. In the case of federated and union churches, ¶ 2548 shall be followed" (152).
2. When exploring an interdenominational local church merger under ¶ 2547, ¶ 2547.6 stipulates that "where property is involved, the provisions of ¶ 2548 obtain" (769).

Moreover, as detailed in a later section addressing the 1988 General Conference, the later addition of "Pan-Methodist Commission," and its positioning in the paragraph so as to precede "or another evangelical denomination," reinforces the historical interpretation that ¶ 256 of the 1948 Book of Discipline and its subsequent iterations were always intended to prioritize the redistribution of underutilized church property to Methodists of color in order to address demographic change, and, per the constitution of the Pan-Methodist Commission itself, to "work towards mutual cooperation and understanding given past historical grievances."

8. The 1952 General Conference: The Addition of ¶ 189.3:

a. All of the above was reiterated at the 1952 General Conference, during which ¶ 256 was moved to ¶ 189, and a third subparagraph was added. This additional subparagraph reinforced the power of the Annual Conference, vested in the itinerate bishop, to force a local church to deed its property in the interest of ecumenical comity. In the event that the trustees of a local church refused to follow the instructions of the Annual Conference, as directed by the proper use of ¶ 189.2, ¶ 189.3 empowered the Board of Trustees of the Annual Conference to appropriate the powers of the local board of trustees and conduct the transfer of property. Evidence for the prior and ongoing usage of the paragraph in this manner appeared in Bishop Kent's Episcopal Address to the 1952 General Conference. While discussing the growing ecumenism of the Cold War era, and the successes of the prior quadrennial plan, Bishop Kent commented on the state of Home Missions and Church Extension, declaring,

The Yearbook of American Churches reports a total number of local churches in this country in 1940 of 244,319. In 1950, this number had grown to 281, 511. [...] The question immediately arises how many local churches Methodism contributed to this net increase of 37, 192. According to the *General Minutes*, Methodism lost a total of 2,104 local congregations between 1940 and 1950. *While we frankly recognize that the process of local unification and the abandonment or merging of many churches stranded in depleted or shifting population areas may account for this uninspiring record, there is another side to it. We have not grasped our opportunities to deploy our forces and claim new territory into which large numbers of families have moved. We have begun to grapple with this suburban situation but it is often "too little and too late" (emphasis added, MC, DCA, 1952, 72).*

b. As such, it is apparent that the comity strategies developed by H. Paul Douglass that influenced the creation of ¶ 256, and the addition of ¶ 256.2 in 1948, had been heavily used throughout the 1940s, leading to the closure, merger, or denominational transfer of more than two thousand churches as a response to churches being "stranded in depleted or shifting population areas." In this historical context, the evidence suggests that the purpose of comity agreements as expressed through ecumenical cooperation, the introduction of ¶ 256.2 and its filial paragraphs in the church law of the other Protestant denominations, and the historical use of ¶ 2548.2 between 1948 and the present day, expressly addressed properties that were (nearly) abandoned due to population shifts.

9. The 1988 General Conference: The Introduction of Pan-Methodist Commission:

a. The third sub-paragraph introduced in 1952 was removed in 1956. No significant textual changes were made to the paragraph between 1956 and 1988, though it was frequently relocated in the *Book of Discipline*, especially during the formation of the United Methodist Church in 1968. However, at the 1988 General Conference, the General Board of Global Ministries authored a petition to amend, then ¶ 2547.2, to specifically reference the Pan Methodism Commission, itself a comity agreement, having been recently formed in 1986. Accentuating the original historical context in which ¶ 256 (1948) was intended to address racial demographic shifts and indicating that the use of the paragraph in such contexts should prioritize the United Methodist Church's ecumenical relationships with Black Methodist denominations (African Methodist Episcopal, African Methodist Episcopal Zion, Christian Methodist Episcopal, etc.), the phrase "to one of the other denominations represented in the Pan-Methodist Commission" was added before the phrase "another evangelical denomination." This should be understood to denote the specific intent of the paragraph and designate priority in the allocation of properties. The reasoning for this has been substantiated in the above historical assessment of the origin of the paragraph. It also explicitly extends the 1924 Discipline's ¶ 581 comity agreement between the MEC and MECS (referenced earlier) to the historically Black denominations by naming them directly in ¶ 2547.2 of the 1988 *Discipline* (now ¶ 2548.2).

Lawrence Hillis
LAWRENCE E. HILLIS

Exhibit B

Opening Brief of the Council of Bishops

Request to the Judicial Council

Exhibit B**IN THE JUDICIAL COUNCIL OF THE UNITED METHODIST CHURCH****IN THE MATTER OF QUESTIONS RELATED TO
PARAGRAPH 2548.2 OF THE 2016 BOOK OF DISCIPLINE****DOCKET 0522-2****OPENING BRIEF OF COUNCIL OF BISHOPS**

The Council of Bishops of the United Methodist Church ("COB") submits this opening brief in support of its request for declaratory decision on ¶ 2548.2 of the 2016 Book of Discipline of The United Methodist Church ("the Discipline"):

Jurisdiction

The Judicial Council has jurisdiction in this matter pursuant to ¶¶ 2610.1 and 2610.2b.

Introduction

The COB filed its request for declaratory decision regarding ¶ 2548.2 in the wake of the Judicial Council's Decision 1444. That decision was a watershed opinion that affirmed the permeation of connectionalism in the United Methodist Church:

More than simply a word in the shared vocabulary of United Methodist Christians around the world, connectionalism is the universal thread out of which the temporal and spiritual fabric of the Church is providentially woven, creating the relational ligaments that wonderfully link and sustain the diverse parts of "the community of all true believers under the Lordship of Christ." Const., Preamble.

JCD 1444, pp. 3-4. Like the separation of an annual conference from the UMC, the separation of a local church is distinctively connectional within the meaning of ¶ 16 of the Discipline, and it is not a matter that is reserved to the annual conferences under ¶ 33.

As demonstrated by the Declaration of Lawrence E. Hillis attached to the COB's request for declaratory decision as Exhibit C, ¶ 2548.2 was enacted by the General Conference along with other provisions, and its context, as well as its legislative history, cannot be disregarded. The

Judicial Council has spoken on how General Conference legislation must be considered and interpreted:

It is a well-settled rule of legal construction that, in seeking to reconcile conflicting provisions in a legislative enactment, the entire legislation on the subject, or the entire act, must be considered, and that the legislative intent is to be drawn from the act as a whole and not merely from an isolated paragraph that may be in conflict with the underlying purpose and intent of the act. **Judicial Council Decision No. 13 (1942).**

Furthermore, in interpreting the meaning of an act of a legislative body, it is a well-settled principle of civil law that the proceedings attendant upon the enactment of the act may be considered in determining the true legislative intent sought to be expressed by the act. **Judicial Council Decision No. 19 (1944).**

The foregoing sets forth the following guidelines for addressing the issues raised by the COB in its request for declaratory decision:

(1) The underlying purpose and intent of ¶ 2548.2 must be ascertained from the entire legislation first enacted in 1948, including any changes thereto. The Hillis Declaration addresses the entire legislation adopted in 1948 in Part 7 at pages 7-10. The changes after 1948 are noted in Parts 8 and 9 of the Hillis Declaration;

(2) The proceedings attendant upon the enactment of ¶ 2548.2 may be considered in determining the true legislative intent. Again, the Hillis Declaration provides that information in detail. Particularly important are the historical context of ecumenicism, fraternity and comity as they apply to the context for the adoption of ¶ 2548.2. These are carefully discussed in Parts 4-6 of the Hillis Declaration at pages 1-7. The supporting documentation is provided by the Authentication by Custodian of Records attached to the COB's request for declaratory decision as Exhibit B; and

(3) General Conference legislation related to the same subject as ¶ 2548.2 should be construed together, and a construction of ¶ 2548.2 that would render other paragraphs such as those found in ¶¶ 206-213 (and particularly ¶ 209 which refers to ¶ 2548) should be avoided.

The COB respectfully submits that these guidelines readily lead to the conclusion that ¶ 2548.2 cannot be used as a legal pathway for a local church to separate from the UMC as an alternative to the pathways provided by ¶¶ 2547 or 2553. It relates only to property, and as the Hillis Declaration notes, it has never been construed by the Judicial Council or the General Conference to be a means for the local charge/local church and its membership to separate from the UMC.

The COB anticipates that there may be an argument by amici curiae that there is no prohibition to using ¶ 2548.2 as a pathway for a local church to separate and that ¶ 1504.23 (adopted in 2019) refers to ¶ 2548 among other paragraphs following the phrase “If a local church or charge in the United States changes its relationship to The United Methodist Church through closure, abandonment, or release from the trust clause” However, ¶ 1504.23 does not provide a right of separation and was enacted only to require that unfunded pension liability be paid by the local church changing its relationship “using market factors similar to a commercial annuity provider.” Based on additional annual conference resolutions related to ¶ 2548.2 provided to the COB since it filed its request for declaratory decision, it appears that one reason for attempting to use that paragraph to separate is to avoid the express requirement of ¶ 2553 that all payments required for disaffiliation under ¶ 2553 “shall occur prior to the effective date of departure.” For example, the resolution of the Arkansas Annual Conference attached hereto as Exhibit A repeats statements about interpretation of ¶ 2548.2 that are the subject of the COB’s request for declaratory decision, but also creates a mechanism for using a “withdrawal note” and “irrevocable letter of

credit” to pay the unfunded pension liability. While this mechanism is not expressly prohibited by either ¶ 1504.23 or ¶ 2548.2, it is also not authorized. Filling a gap on something as important as ¶ 1504.23’s mandate regarding unfunded pension liability should not be sanctioned by the Judicial Council when the vehicle of separation is what the COB believes to be an unauthorized misuse of ¶ 2548.2 and a violation of the clear intent of ¶ 2553’s payment of the unfunded liability (and all other required payments) before the effective date of departure.

In the context of attempted layering of interpretations of ¶¶ 2548.2 and 1504.23 under the concept of ¶ 33’s “such other rights as have not been delegated to the General Conference under the Constitution,” the annual conference resolutions attached to the COB’s request for declaratory decision and to this brief are particularly questionable from the standpoint of legality:

As a tenet of United Methodist constitutionalism, the principle of legality means that all individuals and entities are equally bound by Church law, which shall be applied fairly... It demands that all decisions and actions by official bodies and their representatives be based on and limited by the Constitution and *The Discipline*. To guide their actions, individuals must be informed with specificity and clarity as to what is prescribed and proscribed by Church law.

JCD 1366. *See also* JCD 1427 (“It must adhere to the Book of Discipline in all its endeavors.”); JCD 1250 (“All actions of a jurisdictional or annual conference must be faithful to and consistent with *The Discipline*.”). On a matter as serious as the separation of a local church from the UMC using ¶ 2548.2 contrary to its original purpose, the legislative history, and related companion legislation, the principles of legality and connectionalism preclude an annual conference or local church from creating authority *sui generis* that does not fit within the existing connectional structure, polity and law in the Discipline. To hold otherwise would allow each annual conference to set its own standards on the material issues raised by the questions in the COB’s request for declaratory decision without regard to what some other annual conference may decide. That is exactly what the core principle of legality prohibits in our connectional polity.

An analogous situation occurred in JCD 1230, causing the Judicial Council to make these statements that are equally applicable to the present issues regarding ¶ 2548.2:

However, the ambiguities and lack of objective standards of the procedures of the SCJ Committee on Episcopacy were so great that all the parties in the instant case had a different understanding of the process. If the proceedings of the SCJ Committee on Episcopacy were validated, it would create a multiplicity and variety of procedures among the several jurisdictions, establishing different standards for involuntary retirement of a bishop. In accordance with Decision 312, although the legislative history of this old paragraph of the Discipline cannot be ascertained, procedures for the process of the involuntary retirement of a bishop is a matter appropriate for further General Conference action.

(Emphasis added in italics). By contrast, the legislative history of ¶ 2548.2 is known. However, the “ambiguities,” the “lack of objective standards,” and the risk of “a multiplicity and variety of procedures among the several jurisdictions” and annual conferences is manifest.

(1) What bodies within the United Methodist Church are “duly qualified and authorized representatives of both parties concerned” who must sign and approve a comity agreement under ¶ 2548.2?

As noted in the COB’s rationale for its request for declaratory decision, the quoted language from ¶ 2548.2 does not define who is authorized to sign and approve a comity agreement and refers to “both parties concerned.” This reference is ambiguous unless interpreted and construed in its historical context. Based on the Hillis Declaration (e.g., Part 5e), the phrase “both parties concerned” can only be understood to mean a comity agreement approved and ratified by the General Conference as provided in ¶ 431.1. There is no provision authorizing the annual conference to enter into a comity agreement, and for the reasons stated above in the rationale, the annual conference should not be held to have such authority. Unless and until the General Conference acts to approve and ratify a comity agreement, only existing comity agreements may be utilized for the process outlined in ¶ 2548.2, but as argued previously and again below, ¶ 2548.2 is not an independent pathway for local church separation.

(2) What bodies within the United Methodist Church are required to determine and approve whether an entity is “another evangelical denomination” within the meaning of ¶ 2548.2?

According to the Hillis Declaration, the annual conference historically has no authority to determine that another body is “another evangelical denomination” and it is the General Conference that must make that determination. *See, e.g.*, Declaration of Lawrence E. Hillis, Parts 6d – 6i. That conclusion makes sense and is congruent with other parts of the Discipline. Pursuant to ¶ 16, the General Conference has “full legislative power over all matters distinctively connectional,” including the power “[t]o define the powers and duties of annual conferences” [¶ 16.3] and “[t]o enact such other legislation as may be necessary, subject to the limitations and restrictions of the Constitution of the Church.” Paragraph 431 gives authority to the COB to develop agreements with other denominations, which then must be approved and ratified by the General Conference. Thus, in the absence of other authority, the right to recognize “another evangelical denomination” under ¶ 2548.2 is reserved to the General Conference.

(3) What is required under the 2016 Book of Discipline to determine what is a “denomination” within the meaning of ¶ 2548.2?

As indicated by the discussion related to Question 2 above, whether the determination concerns the authority to recognize “another evangelical denomination” or a “denomination” within the meaning of ¶ 2548.2, the only authority for this important determination is the construction of ¶¶ 33 and 431.1 to hold that the authority resides ultimately in the General Conference. This conclusion is confirmed by the Hillis Declaration’s analysis of the historical and legislative context for ¶ 2548.2.

(4) Does the provision of ¶ 2548.2 that “the annual conference may instruct and direct the board of trustees of a local church to deed property to one of the other denominations represented in the Pan-Methodist Commission or to another evangelical denomination” violate the constitutional authority of an annual conference under ¶ 33 with respect to local church property, including the

“constitutionally embedded separation of executive and legislative powers” noted as “settled principles of church law and polity” acknowledged in Judicial Council Decision 1257?

As noted in the rationale section of the COB’s request for declaratory decision, an annual conference only has authority to instruct a local church to deed its property or to otherwise cause a transfer of local church property when the church has been abandoned and is being closed pursuant to ¶ 2549 or when the provisions of ¶ 2548.2 apply as intended. Our connectional system “balances and constrains the power exercised by each of the authorities individually and by all connectionally.” JCD 1312.

Using ¶ 2548.2 as an alternative pathway for separation of a local church beyond the provisions of ¶¶ 2547, 2548.1, 2549 or 2553 is not authorized by ¶ 33 or any other provision in the Discipline as discussed above in the COB’s introduction. Usurping authority violates “the constitutionally embedded separation of executive and legislative powers” (JCD 1257) and contravenes the constitutional principle of legality. JCD 1366. *Compare* JCD 1318 (“These petitions transfer that authority from the annual conference to the General Conference and that transfer is unconstitutional”). Moreover, the resolutions attached to the COB’s request for declaratory decision and as Exhibit A to this opening brief, assert authority (e.g., recognition of “another evangelical denomination” or defining what the bishop, district superintendents and district board of church location and building may decide in their discretion) not based in any provision of the Discipline and in contravention of authority expressly granted to others. That is unconstitutional as applied. *Compare* Concurring Opinion in JCD 1404 (“Intended or not, the resemblance raises concerns about the *constitutionality* of ¶ 304.5 *as applied*, which cannot be addressed here”). If used as an alternative pathway for local church separation and not as a part

of the requirements identified in the processes of ¶¶ 2547, 2548.1, 2549 or 2553, ¶ 2548.2 should be held to be unconstitutional both facially and as applied.

(5) If ¶ 2548.2 is constitutional, may ¶ 2548.2's authority to direct the local church to deed its property in accordance with that paragraph be exercised separately from any other process that results in the merger of the local church pursuant to ¶ 2547, disaffiliation pursuant to ¶ 2553, closure pursuant to ¶ 2549, or some other disposition of the local church deeding the property that results in termination of the local church as a unit of the United Methodist Church?

Paragraph 2548.2 may not be used separately as an alternative pathway for local church separation from the UMC without regard to local church closure, merger or disaffiliation under ¶¶ 2547, 2548.1, 2549 or 2553. Paragraph 2548.2 is not a pathway for local church separation and is only an adjunct provision related to the transfer of property. This conclusion is not only self-evidence from the language and context of ¶ 2548.2 but is also affirmed by the historical analysis in the Hillis Declaration, particularly Part 7j.

(6) Must “an allocation, exchange of property, or comity agreement” within the meaning of ¶ 2548.2 comply with the connectional polity of the United Methodist Church as set forth in the 2016 Book of Discipline, including ¶¶ 206 – 213 of the Discipline?

Consistent with the constitutional concepts of connectionalism (e.g. JCD 1444) and legality (e.g. JCD 1341, 1366), “an allocation, exchange or property, or comity agreement” within the meaning of ¶ 2548.2 must comply with all other applicable provisions of the Discipline. That principle has been discussed above in regard to virtually all of the questions presented by the COB in its request for declaratory decision. JCD 1250, 1427.

To hold otherwise would not only violate the foregoing decisions of the Judicial Council and the connectional polity of the UMC, but it would also contravene the intent and purpose of ¶ 2548.2 as illustrated and defined by the companion legislation adopted at the same time. *See* Hillis Declaration, Parts 7f -7j, regarding ¶¶ 206-213 of the 2016 Book of Discipline. Therefore, the

COB respectfully submits that a corollary to the requested decision about compliance is a holding that only when the processes of those paragraphs are met and only when the General Conference has approved and ratified a comity agreement with “another evangelical denomination” consistent with ¶ 431 is ¶ 2548.2 available to be used consistent with its own requirements.

(7) May a comity agreement within the meaning of ¶ 2548.2 include provisions not authorized or prohibited by the 2016 Book of Discipline?

As discussed in the introduction of this opening brief and in relation to several of the questions presented, a comity agreement, like all other acts by a body of the UMC, including the General Conference, the annual conference, and the local church, must be authorized by the Discipline. And, certainly, no body of the UMC can act contrary to the Discipline. *See, e.g.*, JCD 1250, 1341, 1336, 1427.

(8) What vote is required for an annual conference to “instruct and direct the board of trustees of a local church to deed property” under the authority of ¶ 2548.2?

Consistent with JCD 1379, the COB believes a majority vote is required under ¶ 2548.2 unless the annual conference sets a higher voting threshold.

BISHOP JONATHAN HOLSTON
SECRETARY
COUNCIL OF BISHOPS

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing brief was served upon the following persons by electronic mail on this ____ day of June 2022:

Rev. David Horton

dhorton@stlukesmethodist.org

Rev. Preston Morgan

Preston@clearlakemethodist.org

BISHOP JONATHAN HOLSTON

Text of the Written Request
From John Edgar

John Edgar:

In keeping with Paragraph 51, Article VII and Paragraph 2609.6 of the Book of Discipline, I request that presiding bishop Palmer decide the following question of law:

Do any sections of Recommendation 8 violate portions of the Book of Discipline including Paragraphs 2548.2 and 2553?

**Excerpt from Secretarial Notes
Of
Daily Proceedings
Saturday, June 4, 2022

West Ohio Annual Conference**

32 Wesley Boulevard
Worthington, Ohio 43085
phone 614.844.6200
free 800.437.0028
fax 614.781.2625

www.westohioumc.org
facebook.com/westohioumc
twitter.com/westohioumc
youtube.com/westohioumc

Annual Conference 2022
Daily Proceedings – Saturday June 4, 2022

Excerpt from Secretarial Notes
Recommendation 8

A Path for West Ohio Congregations Separating Under Paragraph 2548.2

Districts

Capitol Area North

Capitol Area South

Foothills

Miami Valley

Maumee Watershed

Northwest Plains

Ohio River Valley

Shawnee Valley

10:41 Motion #13— Reverends Greg Stover and Jeff Greenway

Greg Stover-Clergy, Shawnee Valley introduced recommendation #8 found on pages 106-108 of the Book of Reports.

John Edgar-Clergy, Capital Area South brought a point of order for a question of law asking that the bishop rule whether sections of this legislation violate The Book of Discipline at paragraphs 2548.2 or 2553. Bishop Palmer requested several minutes to review and reminded us that all of his rulings are automatically reviewed by the Judicial Council. A recess of about 10 minutes was taken for the Bishop to confer with colleagues.

After calling us back into session, Bishop Palmer ruled that portions of Recommendation 8 lean greatly toward being out of alignment with The Book of Discipline. The Council of Bishops has already asked the Judicial Council for rulings on paragraph 2548.2 pertaining to about six to eight points and rulings are expected in the future. Recommendation 8 does not present harm, but he would like to review the request more fully. He also remarked that there are places where issues should be decided by Annual Conference or General Conference. Bishop Palmer indicated that he is likely to take the full 30 days to write his decision. Bishop Palmer ruled the recommendation out of order at this time. He will submit a public report on or around July 4.

11:41 Decisions of Law

Jeff Greenway-Clergy, Capital Area South requested a decision of law for a number of questions. The questions were enumerated in detail in a document submitted to the Bishop and the Conference Secretary at 10:50 p.m., Friday, June 3, 2022.

Bishop Palmer thanked Rev. Greenway for bringing the additional questions to the Annual Conference and indicated that he would respond within 30 days of the adjournment of the Annual Conference session.



West Ohio Conference
The United Methodist Church

NOTE: at about 9:45 a.m. on June 4, 2022, Rev. Greenway submitted a slight correction to the text of his question for a decision of law to the Bishop and Conference Secretary:

There will be one change—first paragraph line 8 will be changed from “separate” to “separating.”

Respectfully Submitted,

Ms. Christine Clough
Conference Secretary

West Ohio Conference of The United Methodist Church

Names and Addresses of Interested Parties

Rev. John Edgar
1370 S. 5th Street
Columbus, Ohio 43207-1116
Phone: 614-327-5468

Email: revjohnedgar@aol.com
Email: jedgar@4allpeople.net

Bishop Gregory V. Palmer
West Ohio Conference of The United Methodist Church
32 Wesley Blvd.
Worthington, Ohio 43085

Email: wocbishop@wocumc.org
Phone: 380-223-9182

Ms. Christine Clough
Annual Conference Secretary
32 Wesley Boulevard, Worthington 43082
cclough@wocumc.org

Recommendation 8

West Ohio Annual Conference

A Path for West Ohio Congregations Separating Under Paragraph 2548.2

1 *Whereas, The Book of Discipline of the United Methodist Church* provides an avenue for deeding property to “one
2 of the other denominations represented in the Pan-Methodist Commission or to another evangelical denomination”
3 (Paragraph 2548.2); and

4 *Whereas, the Protocol for Reconciliation and Grace through Separation* offers a proposal to restructure the United
5 Methodist Church by separation as the best means to resolve our differences, and allow each part of the Church to
6 remain true to its theological understanding, while recognizing the dignity, equality, integrity, and respect for every
7 person; and

8 *Whereas, prolonged uncertainty regarding if and when General Conference will meet, and whether the Protocol will be*
9 *enacted creates anxiety and distraction among United Methodist Congregations in West Ohio; and*

10 *Whereas* establishing and publishing just, fair and clear standards and processes for disaffiliation and/or separation
11 for congregations in West Ohio will reduce anxiety, create clarity, and empower local churches to make informed
12 decisions; and

13 *Whereas* this resolution is aspirational in nature and expresses an aspiration of the 2022 Session of the West Ohio
14 Annual Conference;

15 *Therefore, be it resolved,* that the 2022 Session of the West Ohio Conference encourages the Board of Trustees of the
16 West Ohio Conference and all officials of the Annual Conference to give due consideration to the following principles,
17 policies and processes in engaging congregations desiring to separate from The United Methodist Church and
18 affiliate with “one of the other denominations represented in the Pan-Methodist Commission or to another evangelical
19 denomination” under Paragraph 2548.2.

20 **General Provisions**

- 21 1. The Global Methodist Church be designated by the West Ohio Annual Conference as “another evangelical
22 denomination” under Paragraph 2548.2
- 23 2. Congregations separating to join one of the denominations represented in the Pan-Methodist Commission
24 or other evangelical church be permitted, at their sole discretion, to choose Paragraph 2548.2 as their
25 preferred path of separation.
- 26 3. Congregations disaffiliating to an independent status be required to use the provisions of Paragraph 2553.
- 27 4. Any required payments for unfunded pension liability shall be based on Wespath calculations of the
28 aggregate unfunded liability of the Annual Conference. Allocation of a proportional share of that liability to
29 the local church shall be determined using the West Ohio Conference apportionment formula applied to the
30 aggregate unfunded liability in like manner that the apportionment formula is applied to the annual total
31 amount apportioned in the West Ohio Conference. The liability shall include unfunded obligations related

1 to The United Methodist Church's pre-1982 pension plan, the Ministerial Pension Plan, and/or the Clergy
2 Retirement Security Program.

- 3 5. The Bishop of the West Ohio Area be urged to convene one or more Special Sessions of the Annual Conference
4 for the purpose of considering disaffiliations prior to the next regularly scheduled Annual Conference.

5 **Policies And Provisions In The Administration Of Paragraph 2548.2**

6 A standard agreement should be used by the West Ohio Conference Board of Trustees with local churches separating
7 under 2548.2. No additional payments or sums should be required of the local congregation which are not included
8 in the standard agreement. In addition, with respect to items required for conformity to legal standards (transfer of
9 name, assets and liabilities, trademark integrity, etc.) it is recommended the agreement include the following terms
10 and provisions:

- 11 1. The local church retains all its assets and liabilities.
- 12 2. The local church be current in apportionments for the period of 12 months preceding the effective date of
13 separation. Payment of unpaid amounts for the 12 months preceding separation shall be made preceding
14 the effective date of such separation.
- 15 3. The local church repays previously documented loans from the Annual Conference, and be current as
16 of the date of separation in all ordinary required payments to the West Ohio Conference (e.g. health care
17 insurance, regular pensions payments, etc.)
- 18 4. The local church makes the West Ohio Conference whole for the local church's proportional share of the
19 unfunded liability with the following stipulations;
- 20 a. On the date of exit the withdrawal payment should be defined to be an amount certain. No
21 additional withdrawal payments for pension should be required, regardless of how the annual
22 conference uses the received funds, or the impact of their increase/decrease in value over time.
- 23 b. A choice of methods for payment at the time of exit, or payment over time should be provided as options
24 for congregations to choose. These methods should not include interest charges to the congregation, but
25 might include a reasonable annual administrative fee. Payment should be secured and guaranteed by the
26 congregation by a promissory note and lien or other legal instrument which includes defined due process
27 for both the conference and the congregation. Some alternatives could include:
- 28 • Promissory Note and Lien with payments required from the exited congregation when Wespath
29 requires the annual conference to make an additional infusion against the unfunded liability.
 - 30 • Promissory Note and Lien¹ with a defined payment schedule for the congregation covering 10
31 to 25 years.

1 In these latter alternatives the lien functions as a mortgage against the property and/or assets of the congregation and gives the annual conference legal remedy should the congregation fail to meet payment obligations. Appropriate due process provisions should also be included to protect the congregation if legal remedy is required by the conference. This is more legal recourse than the conference would have for the churches who remain in the UMC.

- 1 • A down payment upon exit with a Promissory Note and lien for the balance due.
- 2 • The option of payment in full prior to exit for those congregations who desire to do so.
- 3 5. Congregations fulfilling the payment of the pension withdrawal in full will be immediately released from the
- 4 lien and further obligations.
- 5 6. The goal of the withdrawal payment is to provide a reasonable level of insurance to the conference against
- 6 future risks, not to function as an exit penalty.
- 7 7. If the conference reaches fully funded status, all outstanding payments should be cancelled.
- 8 8. In the event that a future General Conference of the UMC grants authority for Wespath to transfer the
- 9 aggregate unfunded liability of disaffiliating and/or separating local churches into a Wespath pension plan
- 10 under the Global Methodist Church or other denomination, the balance owed on the Promissory Note will
- 11 be considered fulfilled and any lien against local church property or other assets will be released.
- 12 9. No additional sums should be required as payment to obtain release of all the congregation's property and
- 13 assets from the trust clause.
- 14 10. The local church should make the decision to separate under Paragraph 2548.2 at a church conference
- 15 duly called according to the provisions of *The Book of Discipline* and relevant Judicial Council Decisions.
- 16 The district superintendent shall approve the request of the Church Council, and shall preside or choose
- 17 another elder to preside at a church conference to take place no later than sixty days after the request to
- 18 separation under Paragraph 2548.2 is received in writing.

Submitted by:

Gregory Stover

J. Bradley Martin

Bryan Bucher

Michael Slaughter

Jeff Greenway

Ann Steiner

Chris Steiner