

# Docket 1021-2

## Question of Law

(presented pursuant to ¶ 2608.1)

Action on RS-19-211  
NEAC 2019

*Ruling*

"I request that that RS19-211 be ruled out of order. It adds steps to the process of disaffiliation that are not authorized by Par. 2553."

*Decision of Law*

"I respectfully request a Decision of Law from the Bishop as to the authority of the Annual Conference to adopt RS 19-211 since it adds terms inconsistent with the standard form described in Par. 2553. Are the imposition of the proposed steps of disaffiliation in RS19-211 in conflict with Par. 2553?"

**JUDICIAL COUNCIL OF THE  
UNITED METHODIST CHURCH**

REPORT BY BISHOP  
SUDARSHANA DEVADHAR  
OF DECISION OF LAW

I INTRODUCTION

Resolution RS-19-211 (“RS-211”) was passed by New England Annual Conference on Thursday, June 13, 2019. See, copy of RS-211, enclosed as Exhibit A. Immediately following its passage, an annual conference member raised a question of law from the floor and immediately hand-delivered a hard copy to the bishop’s table, enclosed as Exhibit B herewith, asking whether RS-211 was lawful. By this decision, Bishop Sudarshana Devadhar has determined that RS-211 was lawful. Also, see Exhibit C regarding the minutes of the plenary session in question.

II FACTS

On February 26, 2019, General Conference approved amended petition 90066 and thereby enacted a new ¶ 2553 to the 2016 Book of Discipline (“Discipline”) providing a detailed process for any local church to disaffiliate from the United Methodist Church. Immediately following the General Conference vote, the Council of Bishops filed with the Judicial Council a Petition for Declaratory Decision as to the constitutionality, meaning, application, and effect of Petition 90066, as amended.

In a decision dated April 25, 2019 “J.C. Dec. 1379”, the Judicial Council ruled that General Conference did have the constitutional power to permit a so-called “gracious exit”, but that any such legislation must require, as a minimum, the following:

- 1) The disaffiliation resolution must be approved by a two-thirds majority of the professing members of the local church present and voting;
- 2) The terms and conditions, including effective date, of the written agreement between the annual conference and the exiting local church must be established by the conference board of trustees in accordance with applicable church law and civil laws; and
- 3) The disaffiliation agreement must be ratified by a simple majority of the members of the annual conference present and voting. J. C. Dec. 1379.

III ANALYSIS AND RATIONALE

(a) RS 211 Proposes an Addition to ¶ 2553, Which Does Not Conflict With, Negate or Eliminate Any Part of ¶ 2553.

In general, RS 211 created an additional step, in the form of a discernment period, for New England churches seeking to disaffiliate. This additional step is in full accord with ¶ 2553 and J.C. Dec. 1379; it does not conflict with, negate, or eliminate any part of ¶ 2553, and in fact incorporates ¶ 2553 in two separate plans. The discernment period which RS 211 adds to ¶ 2553 includes the following:

- (1) The disaffiliating church must seek an assessment of the impact of its disaffiliation upon church, community and conference by consulting the conference trustees, treasurer, chancellor, benefits officer and board of community development;
- (2) The disaffiliating church must hold at least four “listening sessions”, advertised and open to all members and to the public, to solicit their input, facilitated by the District Superintendent. Findings of the sessions are to be prepared in a report;
- (3) The disaffiliating church must prepare a statement articulating its theological and missional foundations in seeking to disaffiliate for reasons of conscience related to “human sexuality”;
- (4) The discernment period must be no less than eight (8) months; and
- (5) Following the discernment period, and the preparation of its two written statements, the church conference may then be called, and its required 2/3 vote, the preparation of the disaffiliation agreement, and the majority vote of annual conference, all are to proceed expressly as provided in ¶ 2553 and J.C. Dec. 1379.

RS 211, Exhibit A.

As can be seen by comparing RS 211 with J.C. Dec. 1379’s three minimum requirements, RS 211 proposes an additional step to ¶ 2553, but does not conflict with, negate or eliminate any part of ¶ 2553.

(b) Because RS 211 Adds to ¶ 2553, But Does Not Conflict With, Negate or Eliminate Any Part of It, RS 211 Is Constitutionally Valid and Lawful.

(i). ¶ 2553 Must Be Read as Establishing Minimum Requirements.

Judicial Council Decision 823 addressed the question of an Annual Conference’s power to add to General Conference legislation and set out two threshold requirements which must be met, should it undertake to do so. First, it must be clear that the General Conference legislation was intended to establish minimum requirements: “In cases where the General Conference clearly states that standards, conditions and qualifications are minimal, the Annual Conference may under ¶31<sup>1</sup> of the Constitution expand these requirements. . . “. J.C. Dec. 823

In ¶2553, the “minimal requirements” language is to be found in the Judicial Council’s instruction to General Conference, rather than in the General Council’s legislation, as occurred in J.C. Dec. 823. But the circumstances of ¶2553 as set forth in Dec. 1379, make it clear that the legislation must still be properly seen as setting forth minimum standards for Annual Conferences.

In J.C. Dec. 1379, the Judicial Conference takes note of the following constitutional caution:

“However, under the principle of enumerated powers, “all matters distinctly connectional” over which the General Conference has full legislative power, must be

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<sup>1</sup> The ¶31 passage referred to in J.C. Dec. 823 read, “The annual conference is the basic body of the church and as such shall have reserved to it the right to vote on all constitutional amendments, on the election of clergy and lay delegates to the General and the jurisdictional or central conferences, on all matters relating to the character and conference relations of clergy members; and on the ordination of clergy and such other rights as have not been delegated to the General Conference under the Constitution, with the exception that lay members . . . (etc). “This article, with the reservation of rights language intact, was re-numbered ¶33 in the 2004 Book of Discipline, and has retained that number in the 2008, 2012 and 2016 editions of the Discipline.

expressly listed in the Constitution. Constitution, ¶16. Since the disaffiliation of local churches is not mentioned among the enumerated powers of the General Conference, this subject matter has “not been delegated to the General Conference under the Constitution”, and therefore, the final decision concerning exiting local churches belongs to the annual conference as part of its “reserved rights.” Constitution. ¶133<sup>2</sup>. [emphasis in original] J.C. Dec 1379 at 4.

Stated differently, the power to legislate regarding disaffiliating churches is a power that constitutionally resides, at the inception, as a reserved right of the Annual Conferences. It follows, therefore, that if the Judicial Council permits General Conference to legislate “minimum standards” within the powers constitutionally reserved for Annual Conferences, such legislation must of necessity be read as setting “minimum standards” for Annual Conferences. Were that not the case, General Conference legislation would risk unconstitutionally occupying the entire field of a power reserved for Annual Conferences.

If the 2019 Special General Conference did not recognize this constitutional restriction explicitly, it certainly did so implicitly. ¶12553 as passed by 2019 General Conference states that “Annual Conferences may develop additional standard terms (for the disaffiliation agreement) that are not inconsistent with the standards of this paragraph”. Dec. 1379, at 2. The disaffiliation agreement is the heart and soul of the entire disaffiliation process established by General Conference in ¶12553. The disaffiliation agreement is a requirement of ¶12553.4 and must include:

“The terms and conditions for that disaffiliation shall be established by the board of trustees of the applicable annual conference, with the advice of the cabinet, the annual conference treasurer, the annual conference benefits officer, the director of connectional ministries, and the conference chancellor.” J.C. Dec. 1379 at 2.

If, as here, 2019 General Conference has expressed its intent that the “terms and conditions” of disaffiliation, required to be set forth in the written disaffiliation agreement, may be modified by “additional standard terms that are not inconsistent with the standard terms of this paragraph”, it is implicit that General Conference must have intended that the disaffiliation process itself, and not just the agreement memorializing it, may also be modified by additional terms “not inconsistent with the standard terms” of ¶12553. To infer any other conclusion would be to revoke both General Conference’s expressed intentions in ¶12553.4, as well as the proper exercise of an Annual Conference’s reserved powers under (current) ¶133 of the Constitution.

(ii). R.S. 211 Does Not Impermissibly Conflict With, Alter or Negate ¶12553.

Nothing in RS 211 conflicts with, negates, or eliminates any aspect of ¶ 12553 as informed by J.C. Dec. 1379. The three (3) minimal requirements which the Judicial Council imposed upon General Conference, remain fully intact, and occur following the call of the church conference by the District Superintendent. RS 211 does not impermissibly conflict with, negate or eliminate any part of ¶ 12553 because the discernment period required by RS 211 must occur BEFORE the church conference is called. The minimal provisions of ¶ 12553 governing the church conference vote, the preparation of the disaffiliation agreement, and annual conference vote, will all take place AFTER the RS 211 discernment

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<sup>2</sup> This refers to ¶133 in the 2016 Book of Discipline, the currently-effective edition.

period.<sup>3</sup> Therefore, the General Conference's legislation, creating ¶ 2553, as accepted by the Judicial Council, remains undisturbed by New England Annual Conference RS 211.


Where General Conference has established required standards, conditions or qualifications, an Annual Conference, pursuant to its reserved powers under Discipline ¶ 33, may lawfully act to expand General Conference legislation, but may not enact anything which conflicts with, negates or eliminates any aspect of General Conference legislation. J.C. Dec. 823 at 2 (April 24, 1998). New England Annual Conference's RS 211 represents a lawful exercise of an Annual Conferences' reserved powers under ¶ 33.

#### IV DECISION OF LAW

I find that RS 211 is consistent with the implied, if not expressed, intent of 2019 General Conference. ¶2553 must, of necessity, be read as setting forth minimum standards for Annual Conferences, which retain the reserved constitutional right to enact additions not inconsistent with ¶2553; and further I find that RS 211 is not inconsistent with ¶2553 because it does not impermissibly conflict with, negate or eliminate any aspect of ¶2553.

Accordingly, I find that new England Annual Conference RS 19-211 is lawful.

Respectfully Submitted,



Sudarshana Devadhar  
Resident Bishop  
New England Annual Conference  
United Methodist Church

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<sup>3</sup> See, RS 211, para.1: "Before a District Superintendent may call for a church conference, the local church or ministry setting shall undergo a discernment period of no shorter than eight months."

**RS – 19 – 211 - NEW ENGLAND ANNUAL CONFERENCE PROCEDURE FOR LOCAL  
CHURCH/MINISTRY SETTING DISCERNMENT ABOUT DISAFFILIATION FROM THE UNITED  
METHODIST CHURCH**

(Submitted by: Rebecca Girrell, Lebanon, NH, Effie McAvoy, York-Ogunquit, ME, Vicki Woods, Newport, ME, Allen Ewing-Merrill, Portland, ME, Sara Ewing-Merrill, Portland, ME, Bonnie Marden, Chelmsford, MA, Hope Luckie, Winchester, MA, Sean Delmore, White River Junction, VT, René A. Perez, Holden, MA, Ralph Howe, Pittsfield, MA, Pat MacHugh, Weston, MA)

(Adopted Thursday Afternoon, June 13, 2019)

Because the 2019 Called Session of the General Conference approved the minority report for petition 90066, "Minority Report on Disaffiliation," and the Judicial Council ruled in decision 1379 (April 25, 2019) that the petition is constitutional as amended, and

Because this new paragraph in the *Discipline*, 2553, allows for a local church to disaffiliate from the denomination "over issues related to human sexuality," and states that "annual conferences may develop additional standard terms that are not inconsistent with the standard form of this paragraph," and

Because such a decision has significant impact on the local church or ministry setting, the community in which the ministry is located, the Annual Conference, and the strategy and witness of the Church of Jesus Christ in contexts local and regional, and therefore must be undertaken with the greatest sensitivity to matters both spiritual and temporal,

Therefore, the New England Annual Conference approves the following procedure to be included in our Conference Policies and Procedures, governing the process and conditions for churches and ministry settings within New England in discernment about disaffiliation from The United Methodist Church:

1. Before a District Superintendent may call for a church conference for disaffiliation, the local church or ministry setting shall undergo a discernment period of no shorter than eight months.
2. During this discernment period, the local church/ministry setting shall seek assessments of the impact of this action upon the church, community, and Conference from *at least* the NEAC Trustees, Cabinet, Treasurer, Council on Finance and Administration, Chancellor, Benefits Officer, and the Conference Board of Congregational and Community Development evaluating the strategic missional impact of the church/ministry setting. These conference entities must make an initial response to the request within 30 days or will be deemed to not impede the discernment process of the local church. The church/ministry setting shall also develop a statement articulating their theological and missional foundations in seeking disaffiliation for reasons of conscience "related to human sexuality."
3. The local church or ministry setting shall hold a minimum of four listening sessions, advertised to and open to the full professing membership, at least two of which are also advertised to and open to those beyond professing membership, who participate in the ministries of the church/ministry setting. These sessions shall solicit the input of these constituents, and shall report the findings of the assessments named in (2.) above. The sessions shall be facilitated by the District Superintendent or their designee, and may not be facilitated by the pastor, the hired or appointed staff, or any member or constituent of the church/ministry setting.

4. After the discernment period, the church conference, and an affirmative 2/3 vote of the professing members present, the Disaffiliation Agreement may be formulated in accordance with ¶2553, and shall include the recommendations and assessment from the Conference bodies named in (2.) above. It shall also include provision for how the community previously served by the church/ministry setting shall be served by The New England Annual Conference moving forward.
  
5. When presented to the Annual Conference for a vote, the Disaffiliation Agreement must be accompanied by a full report of the outlined process, the assessments and recommendations named in (2.) above, a summary of the financial and missional impact to the community, conference, and wider Church of the assets and ministries under consideration, and a recommendation for how the community previously served by the church/ministry setting shall be served by The New England Annual Conference moving forward.

SUBJECT TO FINAL EDITING

THE JUDICIAL COUNCIL OF THE UNITED METHODIST CHURCH

MEMORANDUM NO. 1382

**IN RE:** Review of a Bishop's Ruling on a Question of Law in the New England Annual Conference as to Whether the Conference Disaffiliation Policy and Discernment Process Are Permissible Under the Discipline or Are in Conflict With ¶ 2553.

We grant the motion of the Bishop of the New England Annual Conference for stay of the decision pending the resolution of the request of the Council of Bishops for declaratory decision on the implications of illegal votes relating to Petition 90066 (Docket No. 1019-19).

Docket No. 1019-9 is deferred to the next meeting of the Judicial Council.

Lidia Romao Gulele was absent.  
Warren Plowden, first lay alternate, participated in this decision.

November 1, 2019

[Docket 1019-9](http://s3.amazonaws.com/Website_Properties/who-we-are/judicial-council/judicial-council-dockets/docket-1019-09.pdf)

[http://s3.amazonaws.com/Website\\_Properties/who-we-are/judicial-council/judicial-council-dockets/docket-1019-09.pdf](http://s3.amazonaws.com/Website_Properties/who-we-are/judicial-council/judicial-council-dockets/docket-1019-09.pdf)



SUBJECT TO FINAL EDITING

JUDICIAL COUNCIL OF THE UNITED METHODIST CHURCH

**MEMORANDUM NO. 1412**

***In Re:* Review of a Bishop's Ruling on a Question of Law in the New England Annual Conference as to Whether the Conference Disaffiliation Policy and Discernment Process Are Permissible Under the Discipline or Are in Conflict with ¶ 2553**

The original submission of this docket item was two weeks after the adjournment of the annual conference. Thereafter a motion for a stay was granted. The matter has now returned to the Docket for a review of the Bishop's Decision of Law. However, this matter is being deferred to the next interim session of the Judicial Council, with instructions for the New England Annual Conference Secretary to submit to the Judicial Council, within thirty [30] days of the date of this Memorandum, the official record of the 2019 New England Annual Conference, including the minutes of the daily proceedings, adopted resolutions, questions of law and rulings of law.

DIGEST

Deferred to the next interim session of the Judicial Council.

May 5, 2021

[Docket 0420-7](https://www.umc.org/-/media/umc-media/2020/01/24/18/11/judicial-council-docket-0420-07.ashx)

<https://www.umc.org/-/media/umc-media/2020/01/24/18/11/judicial-council-docket-0420-07.ashx>

**Docket 1021-02**  
New England Annual Conference  
**Interested Parties & Persons To Whom  
Notice Should Be Given**

**Rev. Thomas Bentum**  
(Raised the Question)  
**PastorBentum@gmail.com**

Bentum Brief submitted by Rev. Boyette kbminlaw@att.net

**Rev. Rebecca Girrell**  
(Presented the Resolution)  
**pastorbecca.umc@gmail.com**

**Rev. John Blackadar**  
Secretary of the Annual Conference  
**Secretary@neumc.org**

**Bishop Sudarshana Devadhar**  
Resident Bishop, Presiding  
**bishop@neumc.org,**  
**bishopsoffice@neumc.org**