

# 1021-14

## **Request for a Ruling of Law from a member of the Arkansas Annual Conference**

In light of Discipline Paragraphs 604.1 and 2553 as well as Judicial Council Decision #886:

Does the board of trustee “policy regarding local church request for disaffiliation proposed by the Arkansas conference board of trustees for ratification.” vote recently adopted by the Arkansas Annual Conference invalidly negate, ignore, or violate church law?

QUESTION:

Is Section 6.b.i in violation of the Disciple paragraph 2553?

**Arkansas Annual Conference  
Request for Ruling of Law  
Paragraph 2553  
June 30, 2021**

**Bishop Gary E. Mueller**

**Statement of Facts**

The Arkansas Annual Conference, meeting in regular session June 2-4, 2021, was asked by the Conference Board of Trustees to ratify guidelines for its use in negotiating any proposed settlement agreement with a congregation that has voted to disaffiliate from the denomination using ¶2553 of *The Book of Discipline of The United Methodist Church*. Since the request came from the Board of Trustees, it was properly before the Conference.

The Minutes of the Annual Conference reflect the legislative record and the conference's vote,

***Proceedings***

***of the Nineteenth Session of the Arkansas Conference***

***Wednesday, June 2, 2021***

***Bishop Gary E. Mueller, Presiding***

***Reverend Clark Atkins, Secretary***

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***FRIDAY AFTERNOON.***

*The session was called back to order by Bishop Mueller. Karensa Bray, St. James UMC-Little Rock, led the conference in the Prayer for Annual Conference.*

**REPORTS**

- ***Board of Trustees (continued)***
  - *Legislation: An updated Disaffiliation Policy report from the Conference Board of Trustees was presented. A motion was made by Rev. Matthew Johnson of Central UMC in Rogers to amend the legislation by striking all of Section 6.B.iii.*

*Rev. Bud Reeves made a motion to amend the amendment. The Reeves amendment moved to strike the sentence in the updated Disaffiliation Policy report "In no event shall the negotiated amount be less than 10% of the estimated market value (net of liabilities) of real property, personal property, mineral and other rights of the local church." There was one speech in favor and one speech against the amendment to the amendment. The amendment to the amendment was **ADOPTED** by a vote of 230-204.*

*Under consideration now is the Johnson amendment (amended by Reeves) which is the language of the original Disaffiliation Policy report as printed on lines 10-11 on page 41 of the PCJ to strike the language in Section 6.B.iii: "Payment for the value of real property, personal property, and mineral and other rights as may be negotiated by the Conference Trustees." There were four speeches in favor and four speeches against the*

amendment. A vote in favor of the amendment would strike the entirety of 6.B.iii. A vote against would keep the first sentence of 6.B.iii. The amendment was **ADOPTED** by a vote of 266-241.

Rev. Angie Gage, pastor of Cherokee Village UMC, made a motion to amend section 6.B.i (lines 7-8 on page 41 of the PCJ) by striking the entire statement of "Repayment of district, annual conference, or general conference grants made in the last 10 years, excluding benevolence grants." There were four speeches in favor and three speeches against the amendment. The amendment was **NOT ADOPTED** by a vote of 222-280.

The entire report, as amended, is now under consideration. The entire report was **ADOPTED** by a vote of 348-147.

The following is the complete text of the document that was adopted:

**Principles Regarding Local Church Requests for Disaffiliation  
Proposed by the Arkansas Conference Board of Trustees  
for Ratification by the Arkansas Annual Conference**

*In response to actions taken by the 2019 called General Conference, it is possible that local churches will seek to leave The United Methodist Church through the process of Disaffiliation. The Arkansas Annual Conference hereby clarifies the principles governing its review process of any such request. We believe these to be fair to all.*

*As of this date, ¶2553 of the Book of Discipline governs procedures by which a local church can be granted permission to disaffiliate from The United Methodist Church and depart with its property and other assets. We are aware that ¶2553 may be revised by future General Conferences and that other proposals may supersede these Disciplinary paragraphs in the future.*

*Paragraph 2553 of the Book of Discipline requires approval of the annual conference for a church to disaffiliate. While other approvals may be necessary as well, the following sets out the basic steps and requirements established by the Arkansas Conference Board of Trustees for the annual conference to approve disaffiliation:*

1. *When a request to disaffiliate is first received by a district superintendent, the request shall be forwarded to the Bishop, members of the appointive cabinet and the conference chancellor for review to determine if the request is based on at least one of the limited requirements found in ¶2553.1, namely:*
2. *"...reasons of conscience regarding a change in the requirements and provisions of the Book of Discipline related to the practice of homosexuality or the ordination or marriage of self-avowed practicing homosexuals as resolved and adopted by the 2019 General Conference..." or*
  - a. *"...the actions or inactions of its annual conference related to these issues which follow."*

*The review will determine if the reasons of conscience are related to specific changes in the Book of Discipline as identified in ¶2553.1. Similarly, "actions or inactions of the*

*annual conference” must also clearly relate to the specific changes in the Book of Discipline as identified in ¶2553.1.*

*2. If it is determined that the request for disaffiliation is not founded on at least one of these requirements the request will not be considered further, and written notice of the decision with explanation shall be given to the church pastor and Trustees Chair by the District Superintendent.*

*3. If the request for disaffiliation is found to be based on ¶2553.1 criteria, the pastor and appropriate church leadership team shall be instructed to lead a process of discernment open to all members of the local church over a period no less than three months. Approval of the discernment process must be made by the Appointive Cabinet upon recommendation by the church’s District Superintendent. As part of the discernment process the church seeking disaffiliation must:*

*a. distribute and review information from the Center for Administrative Services concerning tithe, unfunded pension liability, and other costs related to standard terms as defined in Step 6 below.*

*b. hold at least three “listening sessions,” advertised and open to all members of the local church to solicit their input, with at least the first being facilitated by the District Superintendent or designee. Attendance shall be taken at each session. Findings of the sessions are to be prepared in a report including the attendance roll.*

*c. prepare a statement articulating its theological and missional foundations in seeking to disaffiliate for reasons of conscience related to “human sexuality.”*

*4. Upon completion of the discernment process, the two written reports will be delivered to the church’s District Superintendent. Upon certification by the superintendent that the process of discernment has been completed and that a majority of the local church professing members are in favor of the request for disaffiliation, the DS shall authorize a church conference following the provisions of ¶246.8, ¶248 and ¶2553.3.*

*5. If disaffiliation is affirmed by a two-thirds majority of the professing members of the local church present at the duly called church conference (¶2553.3) the process may move forward. An official written attendance report shall be included with the minutes. If the two-thirds majority is not reached, this process leading to disaffiliation ends.*

*6. The Conference Board of Trustees, in conjunction with the cabinet, annual conference treasurer, annual conference benefits officer, director of connectional ministries, and conference chancellor, will work with designated church leaders to prepare a Disaffiliation Agreement between the Arkansas Conference and the local church trustees in accordance with all provisions of ¶2553.4. The Disaffiliation Agreement shall contain at least:*

*. All provisions of ¶2553 including:*

*i. A clear effective date of disaffiliation,*

*ii. A recognition of the validity and applicability of ¶2501 (the Trust Clause,) notwithstanding the release of property therefrom,*

- iii. *Acknowledgement that the local church shall pay any unpaid conference tithe for the 12 months prior to disaffiliation, as well as an additional 12 months of conference tithe,*
  - iv. *Acknowledgement that the disaffiliating local church shall have the right to retain its real and personal, tangible and intangible property,*
  - v. *Agreement that all costs for transfer of title or other legal work shall be borne by the disaffiliating local church,*
  - vi. *A stipulation that the local church shall contribute withdrawal liability in an amount equal to its pro rata share of any aggregate unfunded pension obligations to the annual conference as determined by the General Board of Pension and Health Benefits, (§2553.4.g)*
  - vii. *A statement that the local church shall either satisfy all other debts, loans, and liabilities, or assign and transfer them to its new entity, prior to disaffiliation, (§2553.4.e)*
  - viii. *Agreement that all payment shall occur prior to the effective date of departure, and (§2553.4.f)*
  - ix. *Acknowledgement that all transfers of property shall be made prior to the effective date of departure.*
    - a. *Additionally, the following standard terms will be applied:*
      - . *Repayment of district, annual conference or general church grants made in the past ten years, excluding benevolence grants,*
      - i. *Remaining salary support for the current appointive year (if applicable), and*
7. *Upon acceptance of the disaffiliation agreement by the local church, the Conference Trustees will request a vote of approval for disaffiliation at the next Annual Conference. A simple majority of Annual Conference members present and voting shall ratify the motion for disaffiliation, contingent upon all provisions of the agreement being fulfilled before release of claim can occur (§2529.1(b)(3); see JCD 1379).*
8. *Upon an affirmative vote of approval by the annual conference, the Arkansas Conference shall release any claims that it may have under §2501 and other paragraphs of The Book of Discipline, or under the agreement, provided that:*
- . *The disaffiliating local church has reimbursed the annual conference for all funds due under the agreement,*
  - a. *There are no other outstanding liabilities or claims against The United Methodist Church as a result of the disaffiliation, and*
  - b. *All other provisions of the agreement have been fulfilled.*

*This proposal is now submitted by the Arkansas Conference Board of Trustees for ratification by the Arkansas Annual Conference.*

*Reverend Tony Griffin  
President, Arkansas Conference Board of Trustees*

At 5:08 pm, approximately an hour before the final adjournment of the 2021 Arkansas Annual Conference Session on June 4, the Reverend Jeff Warrick emailed the following request for a ruling of law to the Secretary of the Annual Conference, the Reverend Clark Atkins, and Bishop Gary Mueller (printed as received):

***Bishop Mueller***, *In light of Discipline Paragraphs 604.1 and 2553 as well as Judicial Council Decision #886 Does the board of trustee " policy regarding local church request for disaffiliation proposed by the Arkansas conference board of trustees for ratification. " vote recently adopted by the Arkansas Annual Conference invalidly negate, ignore, or violate church law?*

*QUESTION:*

*Is Section 6bi in violation of the Disciple paragraph 2553?*

*Our new policy states that*

*"Additionally, the following standard terms will be applied:*

*I. Repayment of district, annual conference or general church grants made in the past 10 years, excluding benevolent grants,"*

*I question the legitimacy of this expectation, especially since the record shows that GC2019 made a conscious choice to REMOVE the following language from what was proposed for Para 2553: "All grants received by the local church from the annual conference or its ancillary organizations within five (5) years from the date of disaffiliation shall be repaid."*

*I believe these are important question for not only United Methodists in Arkansas, but throughout the connection.*

*Submitted by:*

*Jeff Warrick*

*Sent from my iPhone*

### **Rationale and Ruling**

The request for the ruling of law is proper since it was presented in writing, addresses business undertaken during the Annual Conference Session and was submitted prior to the adjournment of the Conference.

It is important to note that the document ratified by the Annual Conference is called 'legislation' in the minutes, 'policy' in the question of law, 'the basic steps and requirements established by the Arkansas Conference Board of Trustees' in the body of the document and 'Principles Regarding Local Church Requests for Disaffiliation Proposed by the Arkansas Conference Board of Trustees' in the document's title. Not surprisingly, the exact nature and role of the document has caused some confusion.

Judicial Council Decision 1379 ruled "... (2) the terms and conditions, including effective date, of the agreement between the annual conference and the exiting local church be established by the conference board of trustees in accordance with applicable church law and civil laws.... " The Board of Trustees cannot give the Annual Conference the authority to establish the terms and conditions,

and the Annual Conference cannot mandate the terms and conditions that the Trustees establish. This does not preclude, however, the Board of Trustees from seeking guidance from the Annual Conference as part of its decision making process. In this instance, this is exactly what occurred. The Conference Board of Trustees exercised its disciplinary authority and chose to utilize the guidance of the Annual Conference that resulted from the ratification process in setting requirements for terms and conditions for the repayment of certain grants during a 10 year period of time.

At the heart of the question of law as asked is whether the following statement in Section 6bi 'invalidly negates, ignores or violates' church law as contained in ¶2553 of *The Book of Discipline*:

*Additionally, the following standard terms will be applied:*

*1. Repayment of district, annual conference or general church grants made in the past ten years, excluding benevolence grants,*

¶604.1 states that while the annual conference has important authority, it must act in harmony with *The Book of Discipline* in respect to the exercise of its powers,

*¶ 604. Powers and Duties—1. The annual conference, for its own government, may adopt rules and regulations not in conflict with the Discipline of The United Methodist Church, provided that in exercise of its powers, each annual conference shall act in all respects in harmony with the policy of The United Methodist Church with respect to elimination of discrimination.<sup>43</sup> (See ¶ 4, Article IV.)*

Judicial Council Decision 886 stipulates that annual conferences may not knowingly undertake actions that violate *The Book of Discipline*, even if they are undertaken for reasons of conscience,

#### ***Digest of Case***

*The Discipline is the law of the Church which regulates every phase of the life and work of the Church. As such, annual conferences may not legally negate, ignore, or violate provisions of the Discipline with which they disagree, even when the disagreements are based upon conscientious objections to those provisions.*

¶2553 contains a long list of requirements and terms for settlement with congregations that vote to disaffiliate. Nowhere does it state that only the provisions contained in the paragraph can be included. Likewise, nowhere does it prohibit provisions from being added. If it did, section 6bi likely would be in violation of church law. But it does neither. In fact, ¶2553.4a anticipates that additional terms and requirements may be added, "Annual conferences may develop additional standard terms that are not inconsistent with the standard form of this paragraph." As such, section 6bi of the Conference Board of Trustees guidelines does not negate, ignore or violate church law as contained in ¶2553, ¶604 or Judicial Council Decision 886.

Judicial Council Decision 1379 (modifying 1377) addresses the minimum requirements of ¶2553,

#### ***Digest of Case***

*....Any legislation of the General Conference permitting the "gracious exit" of a local church must require at a minimum that (1) the disaffiliation resolution be approved by a two-thirds majority of the professing members of the local church present and voting at the church conference, (2) the terms and conditions, including effective date, of the agreement between the annual conference and the exciting local church be established*

*by the conference board of trustees in accordance with applicable church law and civil laws, and (3) the disaffiliation agreement be ratified by a simple majority of the members of the annual conference present and voting.*

Two phrases from this decision are critical. The first is, ....*Any legislation of the General Conference permitting the "gracious exit" of a local church must require at a minimum....* The second is, ....*the terms and conditions, including effective date, of the agreement between the annual conference and the exiting local church be established by the conference board of trustees in accordance with applicable church law and civil laws....*

When taken together, and in the context of the totality of ¶2553, it seems clear that the General Conference has given the Annual Conference Board of Trustees considerable latitude to negotiate the terms of settlement which will be presented to the annual conference for approval when a congregation has voted to disaffiliate, as long as those terms do not violate church law. Since no church law has been violated, the Conference Board of Trustees has the right to implement section 6bi and seek repayment of certain monies in a negotiated settlement with an exiting church.

**Ruling: I rule that Section 6bi of the document, *Principles Regarding Local Church Requests for Disaffiliation Proposed by the Arkansas Conference Board of Trustees for Ratification by the Arkansas Annual Conference*, that requires the Arkansas Annual Conference Board of Trustees to seek "repayment of district, annual conference or general church grants made in the past 10 years, excluding benevolent grants" does not invalidly negate, ignore, or violate church law contained in ¶604.1, ¶2553 and Judicial Council Decision 886, and may be utilized by the Board of Trustees to craft a settlement agreement with a congregation disaffiliating under the provisions ¶2553.**



# **1021-14**

Arkansas ¶2553 Ruling

Interested Parties/Persons To Whom Copies Should Be Provided

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Asked the Question of Law

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