

SUBJECT TO FINAL EDITING

## JUDICIAL COUNCIL OF THE UNITED METHODIST CHURCH

### MEMORANDUM NO. 1354

IN RE: Petition for Declaratory Decision from the California-Pacific Annual Conference regarding the legality of the language added to *The Book of Discipline 2016* ¶ 161.G) stating "...and considers this practice incompatible with Christian teaching," in particular if it violates the First and Second Restrictive Rules (Constitution ¶¶ 17-18).

### STATEMENT OF FACTS

On Saturday, June 17, 2017 during the afternoon plenary session of the California-Pacific Annual Conference, a clergy member moved that the annual conference request a declaratory decision. The text of that motion as presented follows:

The California-Pacific Annual Conference hereby petitions the Judicial Council for a declaratory decision under Para. 2610.2.j: Is the sentence in the Book of Discipline 161.G "...and considers this practice incompatible with Christian teaching" illegal because it violates the First and Second Restrictive Rules (Para 17 & 18) and in particular the First Restrictive Rule which states that the General Conference shall not "establish any new standards or rules of doctrine contrary to our present existing and established standards of doctrine" (Para 17)

The minutes of the proceedings also contain the following statement: "One-fifth of the body is required to support a request for a declaratory decision. The body voted and it was supported." The actual vote was not recorded nor were there additional minutes to indicate what matter was before the annual conference that prompted the request for a declaratory decision.

### JURISDICTION

The Judicial Council has no jurisdiction to answer questions from an annual conference that do not relate to annual conferences or the work therein. *See* Decisions 33, 301, 452 255, 535 and 1160.

Because the minutes of the proceedings also contain the following statement: "One-fifth of the body is required to support a request for a declaratory decision. The body voted and it was supported" and no vote count was recorded in the minutes, it isn't clear that the request for a declaratory decision was properly passed by the annual conference. Par. 2610.2(j) provides

annual conferences with authority for asking for a request for a declaratory decision, but does not have a provision that requires a one-fifth vote. In the absence of any specified vote, it is assumed that a simple majority vote is the requirement for a declaratory decision by an annual conference.

Furthermore, even if the record showed a majority vote, the minutes do not indicate what matter was before the annual conference that prompted the request for a declaratory decision. Under ¶ 2610, the Judicial Council has jurisdiction to make a ruling in the nature of a declaratory decision as to the constitutionality, meaning, application, or effect of *The Book of Discipline 2016* or any portion thereof or of any act or legislation of a General Conference. The Judicial Council's jurisdiction to make such a ruling upon request of an annual conference is limited by the language of ¶ 2610.2 (j) which requires that a request from an annual conference must relate to annual conferences or the work therein. Our longstanding jurisprudence has interpreted ¶ 2610 to mean that a request for a declaratory decision that comes from an annual conference must be germane to the regular business, consideration, or discussion of the annual conference and must have a direct and tangible effect on the work of the annual conference session. In Judicial Council Decision [hereinafter JCD] 452, the Judicial Council determined that to have jurisdiction, the question submitted for declaratory decision must have a direct and tangible effect on the work of the body submitting the petition. This principle has never been reversed or modified. There is no showing in the record supplied that the request for a declaratory decision was germane to annual conferences or the work therein, or that the request related to some action taken or to be taken by the annual conference. The Judicial Council has no jurisdiction to answer questions from an annual conference that do not relate to annual conferences or the work therein. *See* JCDs 33, 301 and 452. It would be improper for the Judicial Council to answer questions beyond its authority. The Judicial Council has only such jurisdiction as is expressly granted to it by the Constitution and by the General Conference. Our lodestar principle has been that we may not assume jurisdiction to render a declaratory decision unless jurisdiction has been clearly vested in the Judicial Council. *See* JCD 29. Our long-standing policy is to construe our jurisdiction strictly and with restraint. *See* JCDs 255, 535, and 1160.

## DIGEST

The record does not indicate that the voting procedure was proper, so it is not clear that the petition was duly adopted by the annual conference. In any case, the Judicial Council has no jurisdiction to answer questions from an annual conference that do not relate to annual conferences or the work therein.

Luan-Vu Tran recused himself and did not participate in any of the proceedings related to this decision.

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

October 26, 2017