

Court won't rule in advance on protocol legislation

By Linda Bloom

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The United Methodist Church's top court will not rule in advance on the constitutionality of proposed legislation that would provide a way for some to separate from the denomination.

In [Memorandum 1407](#), the Judicial Council declined jurisdiction in response to a request from the United Methodist Council of Bishops about the proposed Protocol of Reconciliation and Grace Through Separation.

The protocol legislation will remain in the hands of the next General Conference. The denomination's top legislative meeting — postponed twice because of the pandemic — [is now rescheduled for Aug. 29-Sept. 6, 2022](#).

[The Protocol of Reconciliation and Grace Through Separation](#), made public in January 2020, was created by a diverse group of representatives from United Methodist advocacy groups and several bishops.

The self-appointed group created the plan after a [contentious 2019 special General Conference in St. Louis](#) reinforced church bans on same-gender weddings and “self-avowed practicing” gay clergy, while leaving the divisions in the denomination unresolved.

In Memorandum 1407, the Judicial Council noted that since the Council of Bishops has neither approved nor endorsed the proposed protocol it is seeking a declaratory decision “as an interested party but not in its capacity as a governing body of the Church.”

With no record of the protocol being adopted either by General Conference or the bishops, it is “simply proposed legislation and stands in the same position for jurisdictional purposes as any other proposed legislation” not adopted by those bodies, the court said.

To determine the timeliness of the bishops' petition, the Judicial Council said it considered the authorship and history of the proposed legislation and whether “it rests upon contingent future events.” The court also found the authors of the protocol to be “fundamentally different” from the

Commission on a Way Forward, a group authorized by the 2016 General Conference.

“Until the General Conference has the opportunity to consider and *act* on all proposals, including the Protocol, we must avoid interfering with the legislative process through premature adjudication,” the Judicial Council said in its ruling.

Departing the United Methodist Church

By Keith Boyette - April 16, 2021

With the recent further postponement of the General Conference of The United Methodist Church to August 29 – September 6, 2022, a number of local churches are evaluating whether they should depart from the UM Church now rather than waiting until the General Conference occurs. The General Conference will consider legislation implementing the Protocol for Reconciliation and Grace through Separation. If it is adopted it would provide for a restructuring of the denomination, resulting in a post-separation UM Church and most likely two additional churches, the Global Methodist Church and the Liberation Methodist Connexion.

Under the terms of the [Protocol legislation](#), central conferences, annual conferences, and local churches could choose to align with one of the new denominations. If they did so, they would be released from the trust clause of the UM Church and so retain all their assets, properties, and buildings. Additionally, as they aligned with a new church they would not have to pay the UM Church for current or past apportionments, or a lump sum payment for their proportionate shares of future unfunded pension liabilities. Rather, payment for future pension liabilities would continue to be made by a congregation on a monthly or annual basis just as they come due now.

These terms would only apply if local churches aligned with one of the new denominations. Churches that choose to withdraw from the UM Church to become independent would not receive these benefits.

The process outlined in the Protocol legislation is the least complex and most economical pathway for a church to take once it decides it wants to separate from

the UM Church. However, this pathway cannot be taken until the Protocol legislation is adopted.

The theologically diverse members of the Protocol Mediation Team which crafted the legislation continue to be committed to its adoption. They covenanted “to fully support this Protocol and each other in [their] joint effort to seek its implementation.” Furthermore, they agreed to “recommend the Protocol’s implementing legislation to be voted upon and adopted, [and they agreed] not [to] participate in or support legislation or other efforts that are inconsistent with the principles and terms of the Protocol and the implementing legislation.”

Recently, four members of the team (Bishop Thomas Bickerton, Bishop Christian Alsted, Jan Lawrence, and Keith Boyette) met with Wisconsin Annual Conference delegates and alternates to the General and Jurisdictional Conferences. The four members reiterated their continued support for the Protocol legislation as they shared its provisions with the delegates.

At one point during the meeting, a delegate asked what would happen if the Protocol legislation was not adopted. Bishop Bickerton responded, “It is frightening to think about what would happen if the Protocol is not passed. The failure to adopt the Protocol would leave the church mired in a continuation of the conflict that has undermined the health, vitality, and witness of the UM Church for years. I believe that the Protocol is the best way to peaceably resolve the conflict. We have a clear choice – a continuation of the conflict that has been clearly demonstrated at the recent gatherings of the General Conference or an amicable and orderly separation that clearly witnesses to the world the Christ-like way to deal with irreconcilable conflict.”

I am often asked, “Other than the Protocol, are there alternative ways for local churches to withdraw from the UM Church?” Yes, there are other potential pathways out of the denomination.

At the 2019 special General Conference a process to exit the denomination was adopted; it is outlined in [paragraph 2553](#) of the UM Church’s *Book of Discipline*. However, this process is complex, time-consuming, and it is likely to be quite expensive for most local churches. Consequently, few churches have used the pathway. Unlike realignment under the Protocol, the process for disaffiliation requires the approval of the local church’s annual conference. It also requires the church to pay all its current year’s apportionments plus an additional year of

apportionments. In addition, the church must immediately pay 100 percent of its proportionate share of its annual conference's unfunded future pension liability, typically a six- or seven-figure number. Some annual conferences have suggested the church may have to pay all or a portion of the value of its building to receive the building released from the trust clause.

If a church were to initiate this disaffiliation process now, it would not complete it until the next meeting of its annual conference, most likely in May or June 2022, just months before the General Conference's consideration of the Protocol.

The Wesleyan Covenant Association has advised churches against pursuing disaffiliation because of its complexity, cost, and uncertainty.

There are two additional provisions in the *Discipline* that may be used for churches to exit. Under paragraph 2549, the annual conference can close a local church and then sell the assets of the church to the former congregants constituted as a new church not affiliated with the UM Church. The price of such a sale would likely be the approximate value of those assets if sold in an arm's length sale. If the annual conference chooses to proceed in this way, the entity purchasing the assets would likely not have to pay a sum for the closed church's proportionate share of the unfunded future pension liability.

Under paragraph 2548.2, a local church can deed a church's property to another evangelical denomination under a comity agreement. Such a transaction has to be approved by the annual conference. In one instance where this occurred, the local church was required to pay their proportionate share of the unfunded future pension liability as part of the transfer of the property. In the spirit of the Protocol, this provision could be a vehicle for the UM Church to use now to implement an amicable separation.

In that event, the Global Methodist Church could be legally formed and recognized as another evangelical denomination. The comity agreement between the UM Church and the Global Methodist Church could incorporate the terms of the Protocol permitting the property to be transferred without any payment, and the withdrawing church and the other evangelical denomination (e.g., the Global Methodist Church) could agree to pay the future pension liability as it becomes due.

Paragraphs 2548.2 and 2549 are ambiguous and have been rarely used. These provisions and paragraph 2553 all require annual conference approval and potentially require payment of sums of money that would not be required to be paid under the Protocol's implementing legislation. Because the time and complexity required to navigate the process for using these pathways would take a local church to within months of the convening of the 2022 General Conference, the WCA continues to counsel churches to wait to see if the Protocol legislation is adopted before unnecessarily spending precious financial resources.