

**UNITED METHODIST QUESTIONS**  
TWO: Does the Judicial Council in 2021 Have a Quorum?

Some immensely important and intensely conflicted issues are dividing The United Methodist Church these days. One of the bodies to which United Methodists have looked for resolving certain types of disputes is the Judicial Council. It is the youngest, the smallest, and perhaps the least understood of the constitutional governing entities in the denomination. But there are serious concerns about its capacity to play a decisive role in the life of the church at present. It is possible that the Judicial Council cannot mount a quorum for dealing with matters on its Docket.

The Constitution establishes that the General Conference has authority to determine the number of members the Judicial Council shall have, the terms of office for the Judicial Council members, the manner for electing the Judicial Council, and the method for filling vacancies.<sup>1</sup> The General Conference enacted such legislation, most of which appears in Chapter Seven, Section I, of *The Book of Discipline*.

But there is an apparent conflict between two provisions of law in that chapter.

Paragraph 2602 says that the terms of office “shall be eight years” with “a maximum of two consecutive eight-year terms.” Paragraph 2605 says that the terms of office “shall expire upon the adjournment of the General Conference at which their successors are elected.”

Thus, the legislation in the *Discipline* is written in such a way that two paragraphs in the *Discipline* conflict if the General Conference does not elect successors in a normal quadrennial cycle. Obviously, that situation occurred in 2020.

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<sup>1</sup> Division Four, Article I, published as ¶ 55 in *The Book of Discipline 2016*.

During the fall of 2020, the Judicial Council announced that their members' terms would continue until new elections were held. But there are multiple problems with that announcement.

First, there is nothing established in the Constitution or authorized by the legislation that allows the Judicial Council to announce rulings unless those rulings involve matters that have properly been brought to the Judicial Council by entities empowered to do so under church law. The Judicial Council members might like to rule on the constitutionality of some action taken by the General Conference, but it has no authority to do so on its own motion. Some entity within church government—the Council of Bishops or the General Conference, for instance—must ask the Judicial Council to review something. Or the Judicial Council may have authority granted by the Constitution to review something, as is the case with every decision of law by a Bishop. The the Judicial Council decides if it has jurisdiction to rule on the matter and cites in its Decision a basis in church law or the Constitution for ruling on the matter. However, the *Discipline* has no legislation which allows the members of the Judicial Council to choose a case based on its own interest or its own curiosity.

Second, the announcement in the fall of 2020, which was published by the Secretary of the Judicial Council, declared a self-determination by the Judicial Council on an issue in which all but five of its members had a vested interest. The announcement extended the terms of two Judicial Council members beyond the “maximum” allowed by church law, and it extended the number of years of two additional Judicial Council members beyond the eight year terms to which they had been elected, exceeding the limit set by church law in ¶ 2602. Moreover, the announcement also extended the terms of all Judicial Council alternates beyond the four year terms to which they had been elected in 2016, exceeding the limit set in ¶ 2603.

The announcement may have violated church law. The church has a remedy for that.

However, the normal remedy is for an appropriate entity in the church government to request a decision from the Judicial Council on the matter. Obviously, that customary approach is not available for this situation. All of the alternates and all but five of the members would have a conflict of interest in considering the issue. Hence, we have a problem.

Paragraphs 2602.1 and 2605 seem to conflict. Two Judicial Council members exhausted their lawfully permissible sixteen years of consecutive service in May 2020. And two Judicial Council members exhausted their lawfully permissible term of eight years in May 2020, though each of these two is eligible for election to another term. Paragraph 2603 designates the method for electing alternates and specifies that their terms are “four years.” It is clear that the alternates’ terms all ended in May 2020, four years after their election in 2016. It appears that, under church law, there are only five members of the Judicial Council—the five elected to eight year terms in 2016—who are currently authorized by church law to serve.

In some situations, perhaps, such a judicial body could continue to function without its full complement of positions filled. But that is not the case in The United Methodist Church, for church law also specifies a quorum for the Judicial Council. In fact, church law has two different specifications for a quorum, depending on the matter that the Judicial Council is considering.

Paragraph 2608.2 defines a quorum for the Judicial Council as seven, except for any constitutional questions where “a quorum shall be nine members or alternates.” In other words, the Judicial Council can function with seven persons in the deliberations if the docketed issue involves some application of church law. But the Judicial Council must have nine persons in the deliberations if the docketed issue involves an inquiry into the constitutionality of a church law.

Without any alternates, and with four persons whose terms (or “maximum” permissible terms) ended, The United Methodist Church has only five duly elected members now serving on the Judicial Council. And five would be insufficient as a quorum.

It is quite possible, therefore, that the Judicial Council cannot issue rulings on docketed items until elections are conducted. It is quite possible, also, that any rulings—either Decisions or Memoranda—that the Judicial Council has issued since the end of May 2020 should be treated as provisional, at best. Until the General Conference elects a full complement of lay and clergy members as well as a full roster of alternates, it is quite possible that the Judicial Council should not issue any rulings.

*Bill Lawrence*

William B. Lawrence  
[wblawren@smu.edu](mailto:wblawren@smu.edu)  
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