

Chapter Seven

JUDICIAL ADMINISTRATION

Section I. The Judicial Council

¶ 2601. Duties and Responsibilities of the Judicial Council—The Judicial Council is the highest judicial body in The United Methodist Church. The Judicial Council shall have authority as specified in the Constitution, ¶¶ 55-57, and in ¶¶ 2609-2612.

¶ 2602. Members—1. Composition and Term—The Judicial Council shall be composed of nine members and should reflect the diversity of The United Methodist Church, including racial, age, ethnic, gender, jurisdiction and central conferences, and congregational size. In the year 2000 and each sixteen years thereafter, there shall be elected three laypersons and two ordained clergy other than bishops. In 2004 and each eight years thereafter, there shall be elected two ordained clergy other than bishops and two laypersons. In 2008 and each sixteen years thereafter, there shall be three ordained clergy other than bishops and two laypersons. The laypersons shall be professing members of The United Methodist Church. Elections shall be held at each session of the General Conference for only the number of members whose terms expire at such session. A member's term of office shall be eight years. A member may serve a maximum of two consecutive eight-year terms, with a minimum of four years before reelection to the council.

2. Nominations and Election—Members of the council shall be nominated and elected in the manner following: At each quadrennial session of the General Conference, the Council of Bishops shall nominate by majority vote three times the number of ordained ministers and laypersons to be elected at such session of the General Conference. The number to be elected shall correspond to the number of members whose terms expire at the conclusion of such session. Each of the jurisdictions and the central conferences as a group shall be represented by at least one nominee, but it shall not be a requirement that each of the jurisdictions or the central conferences as a group be represented by an elected member.¹ At the

¹ See Judicial Council Decision 540.

same daily session at which the above nominations are announced, nominations of both ministers and laypersons may be made from the floor, but at no other time. The names of all nominees, identified with the conference to which each belongs, and a biographical sketch that does not exceed one hundred words shall be published by the Daily Christian Advocate at least forty-eight hours prior to the time of election, which shall be set by action of the General Conference at the session at which the nominations are made; and from these nominations the General Conference shall elect without discussion, by ballot and majority vote, the necessary number of ministerial and lay members.

¶ 2603. Alternates—There shall be six alternates for the clergy members and six alternates for the lay members, and their qualifications shall be the same as for membership on the Judicial Council. The term of the alternates shall be for four years.

The alternates shall be elected in the following manner: From the clergy and lay nominees remaining on the ballot after the election of the necessary number of members of the Judicial Council to be elected at sessions of the General Conference, the General Conference shall by separate ballot, without discussion and by majority vote, elect the number of clergy and lay alternates to be chosen at such session of the General Conference.

¶ 2604. Vacancies—1. If a vacancy in the membership of the council occurs during the interim between sessions of the General Conference, a clergy vacancy shall be filled by the first-elected clergy alternate and a lay vacancy by the first-elected lay alternate. The alternate filling such vacancy shall hold office as a member of the Judicial Council for the unexpired term of the member whom the alternate succeeds. In the event of any vacancy, it shall be the duty of the president and secretary of the council to notify the alternate entitled to fill it.

2. In the event of an absence of one or more members of the council during a session of the Judicial Council, such temporary vacancy among the clergy members may be filled for that session or the remainder thereof by the clergy alternates in order of election who can be present, and such temporary vacancy among the lay members by the lay alternates in order of election who can be present; but inability or failure to fill a vacancy does not affect the validity or any action of the council so long as a quorum is present.

¶ 2605. Expiration of Term—The term of office of the members of the council and of the alternates shall expire upon the adjournment of the General Conference at which their successors are elected.

¶ 2606. Ineligibility of Members—Members of the council shall be ineligible to serve as delegates to the general, jurisdictional, or central conference or to serve in any general, jurisdictional, or central conference board or agency.²

¶ 2607. Confidentiality and Ex Parte Communication—1. The members of the Judicial Council will not permit discussion with them on matters pending before them or that may be referred to them for determination, save and except before the Judicial Council in session. Questions of procedure may be raised with the presiding officer or secretary of the Judicial Council. While strictly observing the intent of the preceding paragraph, a member of the council to whom a case has been assigned by the president may request that the secretary secure from persons and agencies concerned directly or indirectly with the case pertinent facts, briefs, and statements shall be sent promptly by the secretary of the council to other members of the council as is deemed necessary.³

2. Prior to the decision of a case in question, members of the Judicial Council shall not discuss with any party matters of substance pending in the judicial process unless all parties are privy to the discussion. Nor shall members of the Judicial Council or staff allow to be published or communicated, including electronic communications, to third parties any matters of substance pending in the judicial process.

The Judicial Council shall in all cases in which a decision or memorandum is issued set forth the specific provisions of the Constitution or the Discipline that provide the basis of the decision and the rationale that led to the conclusion.

¶ 2608. Organization and Procedure—1. The Judicial Council shall provide its own method of organization and procedure, both with respect to hearings on appeals and petitions for declaratory decisions. All parties shall have the privilege of filing briefs and arguments and presenting evidence under such rules as the council may adopt from time to time; provided that at the time of filing, copies of such briefs are delivered to all parties of record. The council shall employ a part time clerk to assist the council in all matters designated by the council as needed, but no more than an average 20 hours per week, and shall in consultation with GCFA provide an office for the clerk suitable to maintain records and conduct business as the council shall direct.

Funds for the operations of the clerk's office shall be appropriated by the General Conference. In selecting the location of the clerk's office, consideration shall be given to a location that provides visibility and reasonable accessibility to the church and parties. The council shall also give consideration to visibility and accessibility to the church and parties in selecting the places it holds sessions.

2 See Judicial Council Decision 196; and Decision 3, Interim Judicial Council.

3 See Judicial Council Decision 763.

2. Time and Place—The council shall meet at the time and place of the meeting of the General Conference and shall continue in session until the adjournment of that body, and at least one other time in each calendar year and at such other times as it may deem appropriate, at such places as it may select from time to time. Seven members shall constitute a quorum except on questions of the constitutionality of acts of General Conference in which case a quorum shall be nine members or alternates duly seated according to the rules established by the Judicial Council. An affirmative vote of at least six members of the council shall be necessary to declare any act of the General Conference unconstitutional. On other matters, a majority vote of the entire council shall be sufficient. The council may decline to entertain an appeal or a petition for a declaratory decision in any instance in which it determines that it does not have jurisdiction to decide the matter.

¶ 2609. Jurisdiction and Powers—1. The Judicial Council shall determine the constitutionality of any act of the General Conference upon an appeal by a majority of the Council of Bishops or one-fifth of the members of the General Conference.

2. The Judicial Council shall have jurisdiction to determine the constitutionality of any proposed legislation when such declaratory decision is requested by the General Conference or by the Council of Bishops.

3. The Judicial Council shall determine the constitutionality of any act of a jurisdictional or central conference upon an appeal by a majority of the bishops of that jurisdictional or central conference or upon an appeal by one-fifth of the members of that jurisdictional or central conference.⁴

4. The Judicial Council shall hear and determine the legality of any action taken by any body created or authorized by the General Conference or any body created or authorized by a jurisdictional or central conference, upon appeal by one-third of the members thereof or upon request of the Council of Bishops or a majority of the bishops of the jurisdictional or central conference wherein the action was taken.

5. The Judicial Council shall hear and determine the legality of any action taken by any body created or authorized by a General Conference or any body created or authorized by the jurisdictional or central conference on a matter affecting an annual or a provisional annual conference, upon appeal by two-thirds of the members of the annual or provisional annual conference present and voting.⁵

6. The Judicial Council shall pass upon and affirm, modify, or reverse the decisions of law made by bishops in central, district, annual, or jurisdictional

4 See Judicial Council Decision 338.

5 See Judicial Council Decision 463.

conferences upon questions of law submitted to them in writing in the regular business of a session; and in order to facilitate such review, each bishop shall report annually in writing to the Judicial Council on forms provided by the council all the bishop's decisions of law. No such episcopal decision shall be authoritative, except in the case pending, until it has been passed upon by the Judicial Council, but thereafter it shall become the law of the Church to the extent that it is affirmed by the council. Normally, the bishop shall rule before the close of the annual conference session during which the question was submitted, but in no case later than thirty days after the close of the session. The annual conference secretary shall enter in the annual conference journal an exact statement of the question submitted and the ruling of the bishop.⁶

7. The Judicial Council shall hear and determine any appeal from a bishop's decision on a question of law made in a central, district, annual, or jurisdictional conference when said appeal has been made by one-fifth of that conference present and voting.⁷

8. The Judicial Council shall have power to review an opinion or decision of a committee on appeals of a jurisdictional or central conference if it should appear that such opinion or decision is at variance with the Book of Discipline, a prior decision of the Judicial Council, or an opinion or decision of a committee on appeals of another jurisdictional or central conference on a question of Church law. In the event the committee on appeals decision appears to be at variance with the decision of another committee on appeals, then the following procedure should be followed:

- a) Any party to the opinion or decision may appeal the case to the Judicial Council on the ground of such conflict of decisions; or
- b) The committee on appeals rendering the last of such opinions or decisions may certify the case to, and file it with, the Judicial Council on the ground of such conflict of decisions; or
- c) The attention of the president of the Judicial Council being directed to such conflict or alleged conflict of decisions, the president may issue an order directing the secretaries of the committees on appeals involved to certify a copy of a sufficient portion of the record to disclose the nature of the case and the entire opinion and decision of the committee on appeals in each case to the Judicial Council for its consideration at its next meeting.

The Judicial Council shall hear and determine the question of Church law involved but shall not pass upon the facts in either case further than is necessary to decide the question of Church law involved. After deciding the question of Church law, the Judicial Council shall cause its decision to be certified to each

6 See Judicial Council Decisions 747, 762, 763, 799, 879, 978.

7 See Judicial Council Decision 153.

of the committees on appeals involved, and such committees on appeals shall take such action, if any, as may be necessary under the law as determined by the Judicial Council.

d) All opinions and decisions of jurisdictional and central conference committees on appeal shall be sent to the secretary of the Judicial Council within thirty days after a decision. These decisions shall be made available to those who are involved in trials when needed and for those preparing for trial, but not otherwise.

9. The Judicial Council shall have other duties and powers as may be conferred upon it by the General Conference.

10. All decisions of the Judicial Council shall be final. However, when the Judicial Council shall declare any act of the General Conference then in session unconstitutional, that decision shall be reported to that General Conference immediately. This legislation shall take effect immediately upon passage by the General Conference.

¶ 2610. Declaratory Decisions—1. The Judicial Council, on petition as hereinafter provided, shall have jurisdiction to make a ruling in the nature of a declaratory decision as to the constitutionality, meaning, application, or effect of the Discipline or any portion thereof or of any act or legislation of a General Conference; and the decision of the Judicial Council thereon shall be as binding and effectual as a decision made by it on appeal.⁸

2. The following bodies in The United Methodist Church are hereby authorized to make such petitions to the Judicial Council for declaratory decisions: (a) the General Conference;⁹ (b) the Council of Bishops; (c) any body created or authorized by the General Conference on matters relating to or affecting the work of such body; (d) a majority of the bishops assigned to any jurisdiction on matters relating to or affecting jurisdictions or the work therein; (e) a majority of the bishops assigned to any central conference on matters relating to or affecting the central conferences or the work therein; (f) any jurisdictional conference on matters relating to or affecting jurisdictions or jurisdictional conferences or the work therein; (g) any body created or authorized by the jurisdictional conference on matters relating to or affecting the work of such body; (h) any central conference on matters relating to or affecting central conference or the work therein; (i) any body authorized or created by a central conference on matters relating to or affecting the work of such body; and (j) any annual conference on matters relating to annual conferences or the work therein.¹⁰

8 See Judicial Council Decisions 106, 172, 301, 434, 443, 454, 463, 474, 566.

9 See Judicial Council Decision 889.

10 See Judicial Council Decisions 29, 212, 255, 301, 309, 382, 452, 535.

3. When a declaratory decision is sought, all persons or bodies who have or claim any interest that would be affected by the declaration shall be parties to the proceeding, and the petition shall name such parties. Except for requests filed during the General conference, any party requesting a declaratory decision shall file a brief statement of the question involved with the secretary of the Judicial Council. After receiving such request, the secretary of the Judicial Council shall submit a brief statement of the question involved to Newscope, or any publication specified by notice in Newscope, to be included—without cost—in the next edition. The Judicial Council shall not hear and determine any such matter until thirty days after such publication in Newscope. The same information shall also be printed in *The Interpreter* and be published at the official United Methodist Web site (www.umc.org) or its successor. If the president of the council determines that other parties not named by the petition would be affected by such a decision, such additional parties shall also be added, and the petitioner or petitioners, upon direction of the secretary of the Judicial Council, shall then be required to serve all parties so joined with a copy of the petition within fifteen days after such direction

by the secretary of the Judicial Council. In like manner, any interested party may, on the party's own motion, intervene and answer, plead, or interplead.¹¹

¶ 2611. Precedential Value—The decisions of the Judicial Council of The Methodist Church heretofore issued shall have the same authority in The United Methodist Church as they had in The Methodist Church, persuasive as precedents, except where their basis has been changed by the terms of the Plan of Union or other revisions of Church law.

¶ 2612. Notification and Publication—The decisions of the Judicial Council on questions of Church law, with a summary of the facts of the opinion, shall be filed with the secretary of the General Conference and with the bishop, chancellor, and secretary of each annual conference. Publication of decisions shall be as follows:

1. Within ninety days following each session of the Judicial Council, the digest of decisions of the Judicial Council shall be published in Newscope and *The Interpreter* or their successor publications. This requirement for published notice may also be complied with by posting the digests of decisions on official United Methodist Internet Web Sites.

2. The decisions of the Judicial Council rendered during each year shall be published in the General Minutes.

3. The decisions of the Judicial Council shall be at the official United Methodist Web site (www.umc.org or its successor).

11 See Judicial Council Decision 437.

4. When the Judicial Council shall have declared unconstitutional any provision of the Book of Discipline, the secretary of the Judicial Council shall notify the chairperson of the Committee on Correlation and Editorial revision which phrase or sentence was found to violate the Constitution so that it will not appear in the next edition. All such deletions also shall appear in the Advance Daily Christian Advocate (or successor publication) of the next General Conference for information purposes.

Section II. Investigations, Trials, and Appeals

Fair Process in Judicial Proceedings

¶ 2701. Preamble and Purpose—The judicial proceedings and the rights set forth in this paragraph commence upon referral of a matter as a judicial complaint from counsel for the Church to the committee on investigation. The judicial process terminates at the end of any appeal or right of appeal. The judicial process shall have as its purpose a just resolution of judicial complaints, in the hope that God's work of justice, reconciliation and healing may be realized in the body of Jesus Christ. The following procedures are presented for the protection of the rights of individuals guaranteed under Section III, Article IV, of our Constitution and for the protection of the Church. The presumption of innocence shall be maintained until the conclusion of the trial process. Special attention should be given to ensuring racial, ethnic, age, and gender diversity of boards, committees, and courts and the timely disposition of all matters.¹²

1. Rights of the Complainant (the person filing the complaint)

a) Right to Be Heard—In any judicial proceeding, the complainant shall have a right to be heard before any final action is taken.

b) Right to Notice of Hearings—Notice of any hearing shall advise the complainant about proposed procedures, with sufficient detail to allow the complainant to prepare. Notice shall be given not less than twenty (20) days prior to the hearing. The complainant shall have the right to be present at any judicial process hearing.

c) Right to Be Accompanied—The complainant shall have the right to be accompanied by another person to any interview or hearing to which they are subject. The person accompanying the complainant may be an attorney, but shall not have the right to voice.

d) Right to be Informed of Resolution—The complainant shall have the right to be informed of the disposition of the complaint of the judicial proceeding as

12 See Judicial Council Decision 695.

part of a holistic process of healing. Church officials are encouraged, as may be permissible, to include rationale.

2. Rights of the Respondent

a) Right to Be Heard—In any judicial proceeding, the respondent (the person to whom the procedure is being applied) shall have a right to be heard before any final action is taken.

b) Right to Notice of Hearings—Notice of any judicial process hearing shall advise the respondent of the reason for the proposed procedures, with sufficient detail to allow the respondent to prepare a response. Notice shall be given not less than twenty (20) days prior to the hearing. The respondent shall have the right to be present at any judicial process hearing.

c) Right to Be Accompanied—The respondent shall have a right to be accompanied by a clergyperson in full connection pursuant to § 2706.2. The clergy person accompanying the respondent shall have the right of advocacy. The respondent shall be entitled to choose one assistant counsel without voice who may be an attorney.

d) Right Against Double Jeopardy—No bill of charges shall be certified by any committee on investigation after an earlier bill of charges has been certified by a committee on investigation based on the same alleged occurrences.

e) Right of Access to Records—The respondent and the Church shall have access to all records relied upon in the determination of the outcome of the committee on investigation, trial court, or appeal committee or body.¹³

3. Rights of the Church

a) Right to Be Heard—In any judicial proceeding, the Church shall have the right to be heard before any final action is taken.

b) For other rights and responsibilities of the church and counsel for the church see § 2706.

4. Process and Procedure

a) Failure to Appear or Respond—In the event that the respondent fails to appear for any judicial process hearing, refuses mail, refuses to communicate personally with the bishop or district superintendent, or otherwise fails to respond to requests from official judicial committees, such actions or inactions shall not be used as an excuse to avoid or delay any Church processes, and such processes may continue without the participation of such individual.

b) Communications—In any judicial proceeding, under no circumstances shall one party or counsel, in the absence of the other party or counsel, discuss substantive matters with members of the pending hearing, trial, or appellate body while the case is pending. Questions of procedure may be raised and discussed ex

13 See Judicial Council Decisions 691, 765.

parte, but only with the presiding officer or secretary of the hearing or appellate body.

c) Healing—As a part of the judicial process, the bishop and cabinet, in consultation with the presiding officer of the pending hearing, trial, or appellate body then sitting, shall provide for healing if there has been significant disruption to the congregation, the annual conference, or the context of ministry by the judicial matter. This may include a just resolution process for unresolved conflicts, support for victims, and reconciliation for all who are involved. This process may also include the sharing of information by the bishop or a cabinet member about the nature of the complaint without disclosing alleged facts underlying the complaint that might compromise the judicial process.

d) Immunity of Participants—In order to preserve the integrity of the Church's judicial process and ensure full participation in it at all times, the resident bishop, the cabinet, the presiding officer of the trial, trial officers, trial court, witnesses, counsels, assistant counsels, advocates, complainant, committee on investigation and all others who participate in the Church's judicial process shall have immunity from prosecution of complaints brought against them related to their role in a particular judicial process, unless they have committed a chargeable offense in conscious and knowing bad faith. The complainant in any proceeding against any such person related to their role in a particular judicial process shall have the burden of proving, by clear and convincing evidence, that such person's actions constituted a chargeable offense committed knowingly in bad faith. The immunity set forth in this provision shall extend to civil court proceedings, to the fullest extent permissible by the civil laws.

5. A Just Resolution in Judicial Proceedings—A just resolution is one that focuses on repairing any harm to people and communities, achieving real accountability by making things right in so far as possible and bringing healing to all the parties. Special attention should be given to ensuring that cultural, racial, ethnic, age and gender contexts are valued throughout the process in terms of their understandings of fairness, justice, and restoration. During the just resolution process, the parties may be assisted by a trained, impartial third party facilitator(s) or mediator(s), in reaching an agreement satisfactory to all parties. Processes that seek a just resolution are encouraged at any time, including through the judicial proceedings. After the referral of a matter as a judicial complaint from counsel for the church to the committee on investigation, if a process seeking a just resolution is used, the appropriate persons, including the counsel for the Church and the counsel for the respondent, should enter into a written agreement outlining such process, including any agreement on confidentiality. If resolution is achieved, a written statement of resolution, including terms and conditions, shall

be signed by the same persons who signed the written agreement outlining the process, and they shall agree on any matters to be disclosed to third parties. If the resolution results in a change of ministerial status, the disclosure agreement shall not prevent the disciplinary disclosures required for possible readmission.

Chargeable Offenses and the Statute of Limitations

¶ 2702. 1. A bishop, clergy member of an annual conference (¶ 369), local pastor,¹⁴ clergy on honorable or administrative location, or diaconal minister may be tried when charged (subject to the statute of limitations in ¶ 2702.4)* with one or more of the following offenses: (a) immorality including but not limited to, not being celibate in singleness or not faithful in a heterosexual marriage;** (b) practices declared by The United Methodist Church to be incompatible with Christian teachings,¹⁵ including but not limited to: being a self-avowed practicing homosexual; or conducting ceremonies which celebrate homosexual unions; or performing same-sex wedding ceremonies;** (c) crime; (d) failure to perform the work of the ministry; (e) disobedience to the order and discipline of The United Methodist Church; (f) dissemination of doctrines contrary to the established standards of doctrine of The United Methodist Church; (g) relationships and/or behavior that undermines the ministry of another pastor;¹⁶ (h) child abuse;*** (i) sexual abuse;¹⁷ (j) sexual misconduct*** or (k) harassment, including, but not limited to racial and/or sexual harassment; or (l) racial or gender discrimination.¹⁸

* The statute of limitations went into effect as law on a prospective basis starting on January 1, 1993. All alleged offenses that occurred prior to this date are time barred. See Judicial Council Decisions 691, 704, and 723.

** The language beginning “including but not limited to . . .” first appeared in the 2004 Book of Discipline, effective January 1, 2005.

*** This offense was first listed as a separate chargeable offense in the 1996 Book of Discipline effective April 27, 1996. See Judicial Council Decision 691.

2. A bishop, clergy member of an annual conference, or diaconal minister may be brought to trial when the appropriate body recommends involuntary termination.¹⁹

3. A professing member of a local church may be charged with the following offenses, and, if so, may choose a trial: (a) immorality; (b) crime; (c) disobedience to the order and discipline of The United Methodist Church; (d) dissemination of

14 See Judicial Council Decision 982.

15 See Judicial Council Decisions 702, 984, 985.

16 See Judicial Council Decision 702.

17 See Judicial Council Decisions 736, 768.

18 See Judicial Council Decision 986.

19 See Judicial Council Decision 767.

doctrines contrary to the established standards of doctrine of The United Methodist Church; (e) sexual abuse; (f) sexual misconduct;* (g) child abuse; (h) harassment, including, but not limited to racial and/or sexual harassment; (i) racial or gender discrimination; or (j) relationships and/or behaviors that undermine the ministry of persons serving within an appointment.

4. Statute of Limitations—No judicial complaint or charge shall be considered for any alleged occurrence that shall not have been committed within six years immediately preceding the filing of the original complaint, except in the case of sexual or child abuse and in the case of immorality or crime, when the alleged occurrence(s) include allegations of sexual abuse or child abuse, there shall be no limitation (§ 2704.1a).**

Time spent on leave of absence shall not be considered as part of the six years.

*This offense was first listed as a separate chargeable offense in the 2000 Book of Discipline, effective January 1, 2001. See Judicial Council Decision 691.

See note * on p. 754.

5. Time of Offense—A person shall not be charged with an offense that was not a chargeable offense at the time it is alleged to have been committed. Any charge filed shall be in the language of The Book of Discipline in effect at the time the offense is alleged to have occurred except in the case of immorality or crime, when the alleged occurrence(s) include allegations of sexual abuse or child abuse. Then it shall be in the language of The Book of Discipline in effect at the time the charge was filed. Any charge must relate to an action listed as a chargeable offense in the Discipline.

Procedures for Referral and Investigation of a Judicial Complaint

¶ 2703. Composition of the Committee on Investigation

1. When respondent is a bishop—There shall be a committee on investigation elected by each jurisdictional or central conference. Nominations shall be made by the College of Bishops in consultation with the jurisdictional episcopacy committee. Further nominations may be offered from the floor of the jurisdictional or central conference. The committee shall consist of four clergy in full connection and three professing members (with not more than one person from each annual conference, if possible), and six alternate members, three of whom shall be clergypersons in full connection and three of whom shall be professing members. If additional members or alternates are needed, they may be named by the College of Bishops. Committee members shall be in good standing and should be deemed of good character. The committee should reflect racial, ethnic, and gender diversity. The committee shall elect a chairperson and organize at the jurisdictional or

central conference. Seven members or alternates seated as members of the committee shall constitute a quorum.

2. When respondent is a clergy member of an annual conference, a clergy member on honorable or administrative location or a local pastor—There shall be a committee on investigation consisting of four clergy in full connection, three professing members, and six alternate members, three of whom shall be clergy in full connection and three of whom shall be professing members.²⁰ The committee shall be nominated by the presiding bishop in consultation with the board of ordained ministry (for clergy members) and the conference board of laity (for professing members) and elected quadrennially by the annual conference. If additional members or alternates are needed, the annual conference may elect members to serve for the remainder of the quadrennium. Committee members shall be in good standing and should be deemed of good character. The committee should reflect racial, ethnic, and gender diversity. The committee on investigation shall elect a chair and organize at the annual conference. None of the members or alternates shall be members of the board of ordained ministry, the cabinet, or immediate family members of the above. Should a member of the committee on investigation have been a party to any of the prior proceedings in a case that finally comes before the committee, he or she shall be disqualified from sitting on the committee during its consideration of that case, and his or her place shall be taken by an alternate member. Seven members or alternates seated as members of the committee shall constitute a quorum.

3. When respondent is a diaconal minister—In all cases, the pastor, district superintendent or bishop should take supervisory steps to resolve any grievances or complaints. There shall be a committee on investigation consisting of not fewer than four diaconal ministers or professing members of the church, three clergy in full connection, and ten alternate members, five of whom shall be diaconal ministers or professing members and five clergy in full connection. Nominations shall be made by the bishop in consultation with the board of the laity (for professing members) and with the board of ordained ministry (for clergy in full connection and diaconal ministers) and elected quadrennially by the annual conference. If additional members or alternates are needed, the annual conference may elect members to serve for the remainder of the quadrennium. Committee members shall be in good standing and should be deemed of good character. The committee should reflect racial, ethnic, and gender diversity. The committee on investigation shall elect a chair and organize at the annual conference. Seven members or alternates seated as members of the committee shall constitute a quorum.

4. When respondent is a layperson—In all cases, the pastor or district superintendent should take pastoral steps to resolve any complaints. If such pastoral

²⁰ See Judicial Council Decision 887.

response does not result in resolution and a written complaint is made against a professing member for any of the offenses in ¶ 2702.3, the pastor in charge or co-pastors (¶ 205.1) of the local church, in consultation with the district superintendent and the district lay leader, may appoint a committee on investigation consisting of four professing members and three clergy in full connection (both clergy and professing members must come from other congregations, exclusive of the churches of the respondent or the complainant). Committee members shall be in good standing and should be deemed of good character. The committee should reflect racial, ethnic, and gender diversity. When the pastor in charge is (or co-pastors are) bringing the charge, the district superintendent, in consultation with the district lay leader, shall appoint the committee on investigation. Five members shall constitute a quorum.

¶ 2704. Referral of Original Complaint to Counsel for the Church, Who Shall Prepare Judicial Complaint and Supporting Material for Consideration by Committee on Investigation

1. When respondent is a bishop

a) Judicial Complaint—A complaint based on allegations that a bishop has committed one or more of the offenses listed in ¶ 2702 shall initially be served on the president and secretary of the College of Bishops. Upon receipt of the complaint the president of the College of Bishops shall forthwith deliver a copy of the complaint to the respondent bishop, notify active bishops of the existence and nature of the complaint, and refer the complaint to an elder in full connection within the same jurisdictional or central conference, who shall serve as counsel for the Church. Counsel for the Church shall represent the interests of the Church in pressing the claims of the person making the complaint. Counsel for the Church shall have the right to choose one assistant counsel without voice who may be an attorney. The counsel for the Church shall draft and sign the complaint as a judicial complaint, forward it to the jurisdictional or central conference committee on investigation (¶ 2704), and represent the Church in the judicial process. The fair process provisions in ¶ 2701 shall apply to this judicial process. The statute of limitations in ¶ 2702.4 should be considered prior to the referral of a judicial complaint.²¹

b) If a written complaint is made against a bishop for any of the offenses in ¶ 2702.1, the counsel for the Church, as appointed under ¶ 2704.1a, shall prepare, sign, and forward the judicial complaint and all documentary evidence under consideration to the chairperson of the committee on investigation, the person making the original complaint, and the bishop being

²¹ The statute of limitations for bishops went into effect as law on a prospective basis on April 27, 1996. All alleged offenses that occurred prior to this date are time-barred. See Judicial Council Decisions 691, 704, and 761.

charged (respondent). The respondent shall be given an opportunity to submit to the committee on investigation a written response to the judicial complaint within thirty days of receipt of the judicial complaint. The chairperson shall convene the committee on investigation within sixty days of receiving the judicial complaint.

c) If five or more members of the committee on investigation so recommend, the jurisdictional committee on the episcopacy may suspend the respondent pending the outcome of the judicial process.

d) For the purpose of this paragraph, the United Methodist bishops of the central conferences shall constitute one College of Bishops.

2. When respondent is a clergy member of an annual conference, clergy on honorable or administrative location or a local pastor

a) **Judicial Complaint**—If the bishop determines that the complaint is based on allegations of one or more offenses listed in § 2702.1, the bishop shall refer the complaint to the counsel for the Church, who shall be appointed by the bishop. The counsel for the Church shall be a clergyperson in full connection and shall have the right to choose one assistant counsel without voice who may be an attorney. The counsel for the Church shall draft and sign a judicial complaint, attaching as exhibits all relevant written materials, including but not limited to information from the supervisory process and a suggested list of witnesses as deemed appropriate, forward the judicial complaint to the committee on investigation and represent the Church in the judicial process. The statute of limitations in § 2702.4 should be considered prior to the referral of a judicial complaint.

b) If a written complaint is made against a clergyperson for any of the offenses in § 2702.1, the bishop shall appoint a clergyperson in full connection as counsel for the Church (see § 361.1d[1]). Counsel for the Church shall prepare, sign, and refer the judicial complaint, with all relevant material, to the chairperson of the conference committee on investigation and represent the interests of the Church in pressing the claims of the person making the original complaint in any proceedings before the committee. A copy of the complaint and documentary evidence under consideration shall be sent to the respondent, the person making the original complaint, and the bishop. The respondent shall be given an opportunity to submit to the committee on investigation a written response to the judicial complaint within thirty days of receipt of the judicial complaint. The chairperson of the conference committee on investigation shall have sixty days to convene the committee on investigation after receiving the judicial complaint.

c) If five or more members of the committee on investigation so recommend, the bishop may suspend the person charged from all clergy responsibilities

pending the outcome of the judicial process. The respondent retains all rights and privileges as stated in ¶ 334.

3. When respondent is a diaconal minister

a) If a written complaint is made against a diaconal minister for any of the offenses in ¶ 2702.1, the supervisory response should be initiated and a just resolution process may be used. (See ¶ 361.1(b) for a discussion of a just resolution.) If the supervisory process does not result in resolution, the respondent's district superintendent may appoint a clergyperson in full connection or diaconal minister as counsel for the Church. Counsel for the Church shall prepare, sign, and refer the judicial complaint, with all relevant material, to the chairperson of the conference committee on investigation for diaconal ministers and represent the interests of the Church in pressing the claims of the person making the original complaint in any proceedings before the committee. A copy of the complaint and documentary evidence under consideration shall be sent to the respondent, the person making the original complaint, and the bishop. The respondent shall be given an opportunity to submit to the committee on investigation a written response to the judicial complaint within thirty days of receipt of the judicial complaint. The chairperson of the conference committee on investigation shall have sixty days to convene the committee on investigation after receiving the judicial complaint.

b) If at least two-thirds of the committee on investigation so recommend, the bishop may suspend the person charged from all professional responsibilities pending the outcome of the judicial process.

4. When respondent is a layperson

a) In all cases, the pastor or district superintendent should take pastoral steps to resolve any grievances or complaints. Such steps may include a just resolution process. See ¶ 361.1(b) for a discussion of a just resolution. If after such steps have been taken and have not resulted in a resolution and a written complaint is made against a layperson for any of the offenses in ¶ 2702.3, the pastor in charge or co-pastors (¶ 205.1) of the local church, in consultation with the district superintendent and the district lay leader, may appoint counsel for the Church, who shall be a United Methodist. Counsel for the Church shall prepare, sign, and refer the judicial complaint, with all relevant material, to the chairperson of committee on investigation.

b) If five or more members of the committee so recommend, the pastor may suspend the charged professing member from exercising any Church office pending outcome of the judicial process.

c) All complaints against a professing member under ¶ 2702.3 shall be submitted in writing, signed by the person(s) making the original complaint, and

delivered to the pastor in charge of the local church of which the respondent is a member, and a copy shall be sent to the respondent.

d) The member shall be given an opportunity to submit to the committee on investigation a written response to the judicial complaint within thirty days of a receipt of the judicial complaint and the appointing of the committee and before consideration of the judicial complaint by the committee.

e) The district superintendent shall preside at all meetings of the committee, shall be given a copy of the judicial complaint and any response, and shall have the right to be present and to speak at all meetings of the committee.

¶ 2705. The Form of the Judicial Complaint—The judicial complaint shall be prepared and signed by counsel for the Church. The complaint should explain to the committee on investigation the alleged events surrounding and relating to one or more chargeable offense(s). All relevant documents and other exhibits supporting the judicial complaint may be attached; and a true copy of the complaint and reproducible documents and exhibits shall be sent by counsel for the Church to the respondent and his/her counsel at the same time as they are sent to the Committee on Investigation. The judicial complaint should include the appropriate chargeable offense(s) based on the list in ¶ 2702 and proposed specifications.

¶ 2706. Committee on Investigation—Procedures

1. Introduction—The role of the committee on investigation is to conduct an investigation into the allegations made in the judicial complaint and to determine if reasonable grounds exist to bring a bill of charges and specifications to trial. If so, it shall prepare, sign and certify a bill of charges and specifications. The committee's duty is only to determine whether reasonable grounds exist to support the charges. It is not the committee's duty to determine guilt or innocence.

2. Parties and Counsel—The parties are the respondent and the Church.

a) Counsel for the Church—Counsel for the Church shall be appointed as provided in ¶ 2708.7. Counsel for the Church shall be entitled to choose one assistant counsel without voice who may be an attorney.

b) Committee on Investigation—The committee on investigation may have legal counsel present, who shall not be the conference chancellor, for the sole purpose of providing advice to the committee.

c) When respondent is a bishop, a clergy member of an annual conference, clergy on honorable or administrative location, a local pastor, a clergyperson, or a diaconal minister—A respondent who is a bishop, a clergyperson, or a diaconal minister shall be entitled to select a clergyperson in full connection to serve as respondent's counsel. A respondent shall be entitled to choose one assistant counsel without voice who may be an attorney.

d) Investigation of a respondent who is a layperson—A lay respondent shall be entitled to select a lay member or clergyperson to serve as respondent's counsel. A respondent shall be entitled to choose one assistant counsel without voice who may be an attorney.

3. Preliminary Meeting—Basic procedural decisions shall be made in a preliminary meeting. During this meeting, the respondent and the respondent's counsel, the person making the original complaint, and the counsel for the Church shall have the right to argue procedural points before a decision is made by the chair. All advance procedural decisions and such unanticipated decisions as may come in the course of the meeting of the committee on investigation shall be rendered in writing so as to be available for consideration in all further possible stages of the case.

4. Hearing before the Committee on Investigation

a) If possible, the respondent and the person(s) bringing the original complaint shall be brought face to face, but the inability to do this shall not invalidate an investigation. Notice of the hearings shall be given to all parties, and the person(s) bringing the original complaint and they all shall be permitted to be present during testimony, but not during deliberations. Proceedings in the investigation shall be informal. No oaths shall be taken. All procedural decisions shall be made by the chairperson.

b) Interview of witness prior to or outside of hearing—The chairperson shall have the power, whenever it is appropriate in the committee's own discretion, to appoint a member(s) of the committee to interview any witness(es), provided that all parties may be present (without voice) and that three days notice of the time and place of such interview shall have been given to all parties. The person(s) so appointed shall create a verbatim record of the interview and certify the record by signature for transmittal to the chairperson.

c) Examination of witnesses—The committee on investigation may call and question such persons or request such written information, including but not limited to materials from the supervisory process, as it deems necessary to establish whether or not there are reasonable grounds for formulating a charge or charges. The committee may receive from the counsels suggested lists of persons to be questioned, sources of written material or questions. There shall be no right of cross-examination by either the respondent or the person(s) bringing the original complaint.

d) Evidence—The committee should only consider testimony or evidence which is relevant and reliable. The chairperson or presiding officer, after consultation with counsel for both parties, shall rule on challenges to relevance and reliability. The introduction of any material relating to events barred by the statute

of limitations (§ 2702.4) as evidence, as preface to evidence, or as build-up for evidence in the procedures of the committee on investigation or the trial proceedings shall be permitted when the presiding officer, after consultation with counsel for both parties, rules that such material is relevant and reliable.

e) Verbatim transcript—There shall be a verbatim record of all proceedings of the committee on investigation, except when the committee meets in executive session. The term executive session shall mean the committee meeting alone or with its legal counsel. If the complaint is dismissed or returned to the bishop, no verbatim record need be transcribed and the record that exists will be sent to the conference secretary for retention.

5. Bill of Charges and Specifications, Deliberations, Vote, and Referral—A vote on each charge and each specification shall be taken separately. It is incumbent on each member of the committee to base his or her vote solely on whether reasonable grounds exist to support the charges. If there are members who are unwilling to uphold the Discipline for reasons of conscience or otherwise, such members must step aside in this matter and either alternate members or others who are willing to uphold the Discipline must be appointed to the Committee to enable it to complete its responsibility.²²

a) Bill of Charges and Specifications—A charge is one of the chargeable offenses listed in § 2702. A charge shall not include more than one such chargeable offense. More than one charge against the same person may be presented and tried at the same time. Each charge must be written, with specifications that support the charge. Each charge must be accompanied by one or more specifications of fact. Each specification, standing alone, must allege a factual occurrence that, if found to be true, would support a finding of guilty on the related charge. The specifications should be as specific as possible with information such as date, place, and specific events alleged to have occurred.

b) Finding of reasonable grounds by committee and referral of bill of charges and specifications for trial

(1) When respondent is a bishop—A vote to adopt any charge or specification shall require five votes. Any bill of charges and specifications adopted shall be sent to the bishop charged, to the secretary of the jurisdictional or central conference, to the president and secretary of the College of Bishops, to counsel for the Church, and to the chairperson of the jurisdictional committee on the episcopacy.

(2) When respondent is a clergyperson other than a bishop—
A vote to adopt any charge or specification shall require five votes. Any bill of charges and specifications adopted by the committee on investigations shall be sent by the chairperson within five days to the respondent, the person making the

22 See Judicial Council Decision 980.

complaint, the secretary of the annual conference, the counsel for the Church, and the resident bishop.

(3) When respondent is a diaconal minister—A vote to adopt any charge or specification shall require two votes. Any bill of charges and specifications adopted shall be sent to the respondent within five days, the secretary of the annual conference, the chairperson of the board of ordained ministry, the respondent's district superintendent, counsel for the Church, and the resident bishop.

(4) When respondent is a layperson—A vote to adopt any charge or specification shall require five votes. Any bill of charges and specifications adopted by the committee shall be sent to the person charged, the recording secretary of the charge conference, counsel for the Church, the pastor(s), and the district superintendent.

c) Findings other than reasonable grounds by committee or other actions

(1) If the committee on investigation determines that there are no reasonable grounds for charges, it may dismiss the judicial complaint. When deemed appropriate, it may also refer matters of concern to the proper referring Church official (to the president or secretary of the College of Bishops in the case of bishop, to the resident bishop in the case of a clergyperson or diaconal minister, or to the pastor or co-pastors in the case of layperson) for administrative or other action. Notification of these actions, should be given to the respondent, the person making the original complaint, counsel for the Church and the proper referring Church officials.

(2) If the committee on investigation determines that the judicial complaint is not based upon chargeable offenses, or for other good cause, the committee may refer the complaint to the proper referring Church official (see ¶ 2706.5c[1] above) for administrative or other action. Such referral will not constitute a dismissal or double jeopardy under ¶ 2701.5. Notification of these actions should be given to the respondent, the person making the original complaint, counsel for the Church and the proper referring Church officials.

(3) Upon recommendation of the counsel for the Church and the counsel for the respondent, the committee may refer the matter to the resident bishop as deemed appropriate for a process seeking a just resolution. The bishop shall institute such a process and may use the assistance of a trained, impartial third party facilitator(s) or mediator(s). Such referral will not constitute a dismissal or double jeopardy under ¶ 2701.5. The appropriate persons, including the counsel for the Church and counsel for the respondent, should enter into a written agreement outlining the process, including any agreements on confidentiality. If resolution is achieved, a written statement, affirming such resolution, including any terms and conditions, shall be signed by the same persons who signed the written agreement

outlining the process, and they shall agree on any matters to be disclosed to third parties. If the resolution results in a change of ministerial status, the disclosure agreement shall not prevent the Disciplinary disclosures required for readmission. The written statement affirming such resolution shall be given to the bishop for further action(s) to implement the agreement, if any. If the process does not result in resolution, the matter shall be returned to the committee.

6. Special Investigations—In the event that jurisdiction in a judicial proceeding is ended as a result of the death of, or surrender of credentials by, the respondent in cases where the chargeable offense includes those listed in ¶ 2702.1(h), (i), or (j), the Committee on Investigation may be convened at the request of the presiding bishop to make pastoral inquiry into the charges. The inquiry shall:

- (a) not be judicial in nature;
- (b) be empowered to receive witnesses and to consider evidence; and
- (c) make a report of the inquiry to the body where the respondent's membership was held, including recommendations if any.

Trials

¶ 2707. Fundamental Principles for Trials—Church trials are to be regarded as an expedient of last resort. Only after every reasonable effort has been made to correct any wrong and adjust any existing difficulty should steps be taken to institute a trial. No such trial as herein provided shall be construed to deprive the respondent or the Church of legal civil rights, except to the extent that immunity is provided as in ¶ 2701.9. All trials shall be conducted according to The Book of Discipline in a consistent Christian manner by a properly constituted court after due investigation.

¶ 2708. General Organization and Pre-Trial Procedures

1. Officers of the Court—Officers shall consist of a presiding officer (see ¶¶ 2712.2, 2713.2, 2714.2), who shall appoint a secretary and such other officers as deemed necessary. The presiding officer may have legal counsel, who shall not be the conference chancellor, at the expense of the annual conference holding the trial, for the sole purpose of advice to the presiding officer during the trial.

2. Time and Place of Trial—The official charged with convening the trial shall also fix the time and place for the trial and will notify the presiding officer, the respondent, counsel for the Church and the person making the original complaint. In all cases, sufficient time shall be allowed for these persons to appear at the given place and time and for the respondent to prepare for the trial. The presiding officer shall decide what constitutes “sufficient time,” but in no case shall this time be less than twenty days.

3. Pre-Trial Motions and Referrals—All appeals of any procedural or substantive matters that have occurred prior to referral of the charges to trial must be appealed to the presiding officer of the trial court before the convening of the trial. Otherwise, the right to appeal on such matters is forfeited. All objections to and motions regarding the regularity of the proceedings and the form and substance of charges and specifications must be made before the convening of the trial court. The presiding officer may determine all such preliminary objections and motions; in furtherance of truth and justice may permit amendments to the specifications or charges not changing the general nature of the same; and may dismiss all or any part of the bill of charges upon a finding by the presiding officer (1) that all or such part is without legal or factual basis or (2) that, even assuming the specifications to be true, they do not constitute a basis for a chargeable offense. The presiding officer may refer the matter as deemed appropriate for a process seeking a just resolution to the resident bishop upon consultation with the counsel for the Church and counsel for the respondent. The bishop shall institute such a process and may use the assistance of a trained, impartial third party facilitator(s) or mediator(s). Such referral will not constitute a dismissal or double jeopardy under ¶ 2701.5. If a process seeking a just resolution is used, the appropriate persons, including the counsel for the Church and counsel for the respondent, should enter into a written agreement outlining such process, including any agreement on confidentiality. If resolution is achieved, a written statement, affirming such resolution, and any terms and condition, shall be signed by the same persons who signed the written agreement outlining the process, and they shall agree on all matters to be disclosed to third parties. Such a written statement shall be given to the presiding officer and the presiding officer shall take action consistent with the agreement. If no resolution results, the matter is returned to the presiding officer for further action.

4. Change of Venue—The respondent may request a change of venue. This shall be a written request to the presiding officer of the court within ten days of receipt of notice to appear for trial. The presiding officer shall rule upon the request after hearing arguments by the respondent and the Church. If the motion is approved, the presiding officer shall name the annual conference outside the episcopal area wherein the trial shall be held and shall notify the resident bishop of that conference, who shall convene the court. The cost of prosecution shall be borne by the conference where the case originated.

5. Notice

a) All notices required or provided for in relationship to investigations, trials, and appeals shall be in writing, signed by or on behalf of the person or body giving or required to give such notice, and shall be addressed to the person or body

to whom it is required to be given. Such notices shall be served by delivering a copy thereof to the party or chief officer of the body to whom it is addressed in person or sent by other delivery system to the last-known residence or address of such party. Proof of notice shall be provided and becomes a part of the record of the case.

b) In all cases wherein it is provided that notice shall be given to a bishop or district superintendent and the charges are against that particular person, then such notice (in addition to being given to the accused) shall be given, in the case of a bishop, to another bishop within the same jurisdiction and, in the case of a district superintendent, to the bishop in charge.

6. Trial Scheduling and Continuances—If in any case the respondent, after due notice (twenty days) has been given, shall refuse or neglect to appear at the time and place set forth for the hearing, the trial may proceed in the respondent's absence. However, if in the sole discretion of the presiding officer there is good and sufficient reason for the absence of the respondent or another essential person, the presiding officer may reschedule the trial to a later date.

7. Counsel—In all cases, a respondent shall be entitled to appear and to select and be represented by counsel, a clergyperson in full connection of The United Methodist Church if the respondent is a bishop, a clergyperson, or a diaconal minister; and a lay or clergy member of The United Methodist Church if the respondent is a lay member. The respondent and the Church shall be entitled to have counsel heard in oral or written argument or both. The official charged with convening the court (see ¶¶ 2712.1, 2713.1, 2714.1) shall, within thirty days after receiving a copy of the charges and specifications, appoint counsel for the Church, if counsel has not been previously appointed. In the case of a trial of a bishop, clergyperson, or local pastor, counsel for the Church shall be a clergyperson in full connection (¶¶ 2704.2a, 2712.4) to represent the interests of the Church in pressing the claims of the person making the complaint.

No person who was a member of the cabinet, board of ordained ministry, or committee on investigation who earlier considered the case now before the trial court shall be appointed counsel for the Church or serve as counsel for the respondent or any of the persons bringing complaints in a case. In all cases of trial where counsel has not been chosen by the respondent, counsel shall be appointed by the presiding officer. The counsel for the Church and for the respondent each shall be entitled to choose one assistant counsel, who may be an attorney, without voice. "Without voice" means without the ability to speak to or within the hearing of the trial court.

8. Witnesses—Notice to appear shall be given to such witnesses as either party may name and shall be issued in the name of the Church and be signed by

the presiding officer of the trial. It shall be the duty of all clergy and lay members of The United Methodist Church to appear and testify when summoned. Refusal to appear or to answer questions ruled by the presiding officer to be relevant may be considered as disobedience to the order and discipline of The United Methodist Church except when refusal to answer is based on a good faith claim that answering might tend to incriminate the witness under state or federal criminal law or is based on a claim of confidential communication to a clergy person under § 341.5.

9. Witness Qualifications—A witness, to be qualified, need not be a member of The United Methodist Church.

10. Commissioned Out-of-Court Testimony—The presiding officer of any court before which a case may be pending shall have power, whenever the necessity of the parties or witnesses shall require, to appoint, on the application of either party, a commissioner or commissioners, either a clergy or a layperson or both, to examine the witnesses; provided that three days' notice of the time and place of taking such testimony shall have been given to the adverse party. The party making this request shall have the burden of showing good cause and shall bear the cost of such commissioned out-of-court testimony. Counsel for both parties shall be permitted to examine and cross-examine the witness or witnesses whose testimony is thus taken. The commissioners so appointed shall take such testimony in writing as may be offered by either party. The testimony properly certified by the signature of the commissioner or commissioners shall be transmitted to the presiding officer of the court before which the case is pending.

11. Amendments to Bill of Charges and Specifications—After consultation with counsels, the presiding officer of the trial may make amendments to the bill of charges, or request that the committee on investigation make amendments to the bill of charges; provided that they do not change the nature of the charges and specifications and do not introduce new matter of which the respondent has not had due notice. When an amendment or amendments to a bill of charges is or are denied by the presiding officer, it or they shall not be introduced in the form of testimony in the trial. Charges or specifications previously considered and dropped by the committee on investigation shall not be introduced in the trial in the form of evidence or otherwise.

12. Open or Closed Trials—The deliberations of the trial court shall be closed. All other sessions of the trial shall be closed, except upon written request to the presiding officer by counsel for the respondent, the trial shall be open. Also, the trial may be opened by the presiding officer, upon written request of either the counsel for the Church or the counsel for the person charged, to

family of the person charged, or family of the person making the original complaint, and/or to other personally significant people. Any motions to open the trial should be presented and decided prior to the date of the trial. In addition, the presiding officer may, in his or her judgment on motion of counsel for either party or on the presiding officer's own motion, declare a particular session of the court to be closed. At all times, however, in the hearing portion of the trial, the presiding officer, the members of the trial court, the person(s) making the original complaint, the person representing the Church as well as counsel for the Church, the respondent, and counsel for the respondent shall have a right to be present.

13. Combined Trials of Multiple Persons—In cases in which a number of persons have allegedly engaged in the same offense at the same time and place, their trials may be combined into one trial for that same offense. The presiding officer shall make the determination on combination of trials.

¶ 2709. Trial Convening and Organization

1. Convening of the Trial—The convenor shall notify the respondent in writing to appear at a fixed time and place no less than twenty days after service of such notice and within a reasonable time thereafter for selection of the members of the trial court.

2. Trial Pool—At the appointed time, in the presence of the respondent, counsel for the respondent, counsel for the Church, and the presiding officer, thirteen persons shall be selected as a trial court out of a pool of thirty-five or more persons selected according to

¶¶ 2712.3, 2713.3, and 2714.3. Special consideration should be given so that the pool includes persons representative of racial, ethnic, and gender diversity.

3. Selection of the Trial Court—No person shall serve as a member of the trial court who was a member of the cabinet, board of ordained ministry, or committee on investigation who considered the case in the process of coming to trial court. The counsel for the Church and the respondent shall each have up to four peremptory challenges and challenges for cause without limit. If by reason of challenges for cause being sustained the number is reduced to below thirteen, additional appropriate persons shall be nominated in like manner as was the original panel to take the places of the numbers challenged, who likewise shall be subject to challenge for cause. This method of procedure shall be followed until a trial court of thirteen members and two alternate members has been selected.

4. Alternates—The two alternate members shall sit as observers of the trial. They shall replace members of the trial court who are not able to continue to serve, so that the trial court shall always consist of thirteen members, unless the respondent and counsel for the Church agree to a lesser number.

5. Trial Court Questions—The members of the trial court, including the alternate members, may, subject to the approval of the presiding officer of the court, ask questions on matters on which evidence has been presented.

¶ 2710. Trial Guidelines and Rules

1. Authority of Presiding Officer—After the trial is convened the authority of the presiding officer shall include the right to set reasonable time limits, after consultation with counsel for the Church and counsel for the person charged, for the presentation of the case, provided such time is equal for both. The authority of the presiding officer shall be limited to ruling upon proper representation of the Church and the person charged, admissibility of evidence, recessing, adjourning, and reconvening sessions of the trial, charging the members of the trial court as to the Church law involved in the case at the beginning of the trial and just before they retire to make up their verdict, and such other authority as is normally vested in a civil court judge sitting with a jury, but he or she shall not have authority to pronounce any judgment in favor of or against the person charged other than such verdict as may be returned by the trial court, which body shall have the exclusive right to determine the innocence or guilt of the person charged.

2. Order of Trial—After selection of the trial court, each counsel may make an opening statement to inform the trial court of what the evidence is expected to be. Evidence shall then be offered by questioning of witnesses and by documents shown to be reliable. Each counsel shall have opportunity to make closing arguments before the trial court begins deliberations. Deliberations of the trial court and receiving of the verdict shall follow.

3. Oaths—The administration of oaths shall not be required. At the beginning of the trial, the presiding officer shall remind all parties of the duties and responsibilities of Church membership (¶ 218) and/or the clergy covenant (¶¶ 311.3 f and 334).

4. Entering of the Plea—At the beginning of the trial, the respondent shall be called upon by the presiding officer to plead to the charge, and the pleas shall be recorded. If the respondent pleads “guilty” to the charges preferred, no trial shall be necessary, but evidence may be taken with respect to the appropriate penalty, which shall thereupon be imposed. If the respondent pleads “not guilty” or if the respondent should neglect or refuse to plead, the plea of “not guilty” shall be entered, and the trial shall proceed. The respondent shall at all times during the trial, except as hereinafter provided, have the right to produce testimony and that of witnesses and to make defense.

5. Recess and Trial Procedures—The court may recess from time to time as convenience or necessity may require. During the time of recess, the members of the trial court shall be instructed that under no circumstance will they speak to

one another or to others about the trial or observe media reports regarding the case. When, in consultation with counsel for both parties, the presiding officer finds it advisable, the members and reserves shall be sequestered. Threatening or tampering with the trial court or officers of the trial court shall be considered disobedience to the order and discipline of The United Methodist Church. The presiding officer shall remain and preside until the decision is rendered and the findings are completed and shall thereupon sign and certify them.

6. **Objections**—Objections of any party to the proceedings shall be entered on the record.

7. **Exclusion of Witnesses**—No witness afterward to be examined shall be present during the examination of another witness if the opposing party objects. Witnesses shall be examined first by the party producing them, then cross-examined by the opposite party and may be questioned by members of the trial court, with the approval of the presiding officer. The presiding officer of the court shall determine all questions of relevancy and competency of evidence.

8. **Recording of Proceedings**—A verbatim record of all proceedings of the trial shall be by stenograph or other appropriate means and reduced to writing and certified by the presiding officer or secretary. The record, including all exhibits, papers and evidence in the case, shall be the basis of any appeal that may be taken.

9. **Evidence**—The introduction of any material relating to events happening before the six-year statute of limitation period as evidence, as preface to evidence, or as build-up for evidence in the procedures of the trial proceedings may be permitted when the presiding officer, after consultation with counsel for both parties, rules that such material is relevant and reliable. Documentary evidence deemed by the presiding officer to be relevant and reliable may be in the physical possession of the trial court during deliberations.

10. **Instructions and Charges**—The presiding officer shall not deliver a charge reviewing or explaining the evidence or setting forth the merits of the case. The presiding officer shall express no opinion on the law or the facts while the court is deliberating. If requested by either party's counsel, the presiding officer shall instruct the trial court on Church law applicable to the case. Instructions may be given at the beginning of the trial, during the trial, before the trial court begins deliberations or a combination of any of these. If requested by the trial court, instructions may be given during deliberations. The presiding officer shall not review or explain the evidence or comment on the merits of the case.

¶ 2711. **Power of the Trial Court**

1. **Instruction, Disqualification, Voting, and Verdicts**—The trial court shall have full power to try the respondent. The trial court shall be a continuing body

until the final disposition of the charge. If any regular or alternate member of the trial court fails to attend any part of any session at which evidence is received or oral argument is made to the trial court by counsel, that person shall not thereafter be a member of the trial court, but the rest of the trial court may proceed to judgment.

2. Votes—It shall require a vote of at least nine members of the trial court to sustain the charge(s) and nine votes also shall be required for conviction. Fewer than nine votes for conviction shall be considered an acquittal. The burden of proof for a vote to convict shall be clear and convincing. The trial court shall present to the presiding officer a decision on each charge and each individual specification under each charge. Its findings shall be final, subject to appeal to the committee on appeals of the jurisdictional conference or the central conference, as the case may be.

3. Penalties—If the Trial Results in Conviction. Further testimony may be heard and arguments by counsel presented regarding what the penalty should be. The trial court shall determine the penalty, which shall require a vote of at least seven members. The trial court shall have the power to remove the respondent from professing membership, terminate the conference membership and/or revoke the credentials of conference membership and/or ordination or consecration of the respondent, suspend the respondent from the exercise of the functions of office, or to fix a lesser penalty. The penalty fixed by the trial court shall take effect immediately unless otherwise indicated by the trial court.

¶ 2712. Trial of a Bishop

1. The president of the College of Bishops of the jurisdictional or central conference—or in case the person charged is the president, the secretary of the college—shall proceed to convene the court under the provisions of ¶ 2709.

2. The president of the College of Bishops (or in the case the person charged is the president, the secretary) may preside or designate another bishop to serve as presiding officer.

3. The trial shall be convened as provided in ¶ 2709 with the pool of thirty-five or more persons to consist of clergy in full connection named by the College of Bishops in approximately equal numbers from each episcopal area within the jurisdictional or central conference. Special consideration should be given so that the pool includes persons representative of racial, age, ethnic, and gender diversity.

4. Counsel for the Church shall be a bishop or another clergy-person in full connection.

5. The secretary of the court shall at the conclusion of the proceedings send all trial documents to the secretary of the jurisdictional or central conference, who

shall keep them in custody. If an appeal is taken, the secretary shall forward the materials forthwith to the secretary of the Judicial Council. After the appeal has been heard, the records shall be returned to the secretary of the jurisdictional or central conference.

6. A bishop suspended from office shall have claim on the Episcopal Fund for salary, dwelling, pension, and other related benefits. A bishop removed from office shall have no claim upon the Episcopal Fund for salary, dwelling, pension and other related benefits from the date of such removal.

7. For the purpose of this paragraph, the United Methodist bishops outside of the United States shall constitute one College of Bishops.

¶ 2713. Trial of a Clergy Member of an Annual Conference, Local Pastor, Clergy on Honorable or Administrative Location, or Diaconal Minister

1. The resident bishop of the respondent shall proceed to convene the court under the provisions of ¶ 2709.

2. The resident bishop shall designate another bishop to be presiding officer.

3. a) The trial for a clergy member or a local pastor shall be convened as provided in ¶ 2709 with the pool of thirty-five or more persons to consist of clergy in full connection. If there are not enough persons in appropriate categories in an annual conference to complete the pool, additional persons may be appointed from other annual conferences. All appointments to the pool shall be made by the district superintendents. Special consideration should be given so that the pool includes persons representative of racial, age, ethnic, and gender diversity.

b) The trial for a diaconal minister shall be convened as provided in ¶ 2709 and shall consist of a pool of thirty-five or more persons who shall be diaconal ministers or, when necessary, members of the Church. Special consideration should be given so that the pool includes persons representative of racial, ethnic, and gender diversity.

4. Counsel for the Church shall be a clergyperson in full connection.

5. The secretary of the court shall at the conclusion of the proceedings send all trial documents to the secretary of the annual conference, who shall keep them in custody. Such documents are to be held in a confidential file and shall not be released for other than appeal or new trial purposes without a signed release from both the clergyperson charged and the presiding officer of the trial that tried the case. If an appeal is taken, the secretary shall forward the materials forthwith to the president of the court of appeals of the jurisdictional or central conference. If a president has not been elected, the secretary shall send the materials to such members of the court of appeals as the president of the College of Bishops shall designate. After the appeal has been heard, the records shall be returned to the secretary of the annual conference unless a further appeal on a question of law has

been made to the Judicial Council, in which case the relevant documents shall be forwarded to the secretary of that body.

¶ 2714. Trial of Lay Member of a Local Church

1. The district superintendent of the person charged shall proceed to convene the court under the provisions of ¶ 2709.

2. The district superintendent may be the presiding officer or may designate another clergyperson in full connection to preside.

3. The trial shall be convened as provided in ¶ 2709, with the pool of thirty-five or more persons to consist of professing members of local churches other than the local church of the charged layperson within the same district. Appointments to the pool shall be made by the district superintendent, who may consult with the district lay leader. Special consideration should be given so that the pool includes persons representative of racial, age, ethnic, and gender diversity.

4. Counsel for the Church shall be a professing member or clergyperson of The United Methodist Church.

5. The person charged may request a change of venue. This shall be a written request to the officers of the court within ten days of receipt of notice to appear for trial. The presiding officer shall rule upon the request after hearing argument for the defense and the Church. If the motion is approved, the presiding officer shall name another district wherein the trial shall be held and shall notify the district superintendent, who shall convene the court. The thirty-five-member pool shall consist of professing members from that district. The cost of prosecution shall be borne by the annual conference.

6. If the trial court finds that the charges are proven by clear and convincing evidence, then it may impose such penalties as it may determine, including that the professing membership of the charged layperson in The United Methodist Church be terminated; provided that the trial court shall first consider other remedies that would fulfill the provisions of ¶ 221.

7. The appropriate officer of the trial shall, at the conclusion of the proceeding, deposit all trial documents with the secretary of the charge conference. If an appeal is taken, the secretary shall deliver all documents to the district superintendent. After the appeal has been heard, the records shall be returned to the custody of the secretary of the charge conference.

Appeals

¶ 2715. Appeal Procedures—General

1. In all cases of appeal, the appellant shall within thirty days give written notice of appeal and at the same time shall furnish to the officer receiving such notice (¶¶ 2716.2, 2717.1, 2718.2) and to the counsel a written statement of the

grounds of the appeal, and the hearing in the appellate body shall be limited to the grounds set forth in such statement.²³

2. When any appellate body shall reverse in whole or in part the findings of a committee on investigation or trial court, or remand the case for a new hearing or trial, or change the penalty imposed by the trial court, it shall return to the convening officer a statement of the grounds of its action.

3. An appeal shall not be allowed in any case in which the respondent has failed or refused to be present in person or by counsel at the investigation and the trial. Appeals shall be heard by the proper appellate body unless it shall appear to the said body that the appellant has forfeited the right to appeal by misconduct, such as refusal to abide by the findings of the trial court; or by withdrawal from the Church; or by failure to appear in person or by counsel to prosecute the appeal; or, prior to the final decision on appeal from conviction, by resorting to suit in the civil courts against the complainant or any of the parties connected with the ecclesiastical court in which the appellant was tried.²⁴

4. The right of appeal, when once forfeited by neglect or otherwise, cannot be revived by any subsequent appellate body.

5. The right to prosecute an appeal shall not be affected by the death of the person entitled to such right. Heirs or legal representatives may prosecute such appeal as the appellant would be entitled to do if living.

6. The records and documents of the trial, including the evidence, and these only, shall be used in the hearing of any appeal.

7. The appellate body shall determine two questions only:

(a) Does the weight of the evidence sustain the charge or charges?

(b) Were there such errors of Church law as to vitiate the verdict and/or the penalty? These questions shall be determined by the records of the trial and the argument of counsel for the Church and for the respondent. The appellate body shall in no case hear witnesses. It may have legal counsel present, who shall not be the conference chancellor for the conference from which the appeal is taken, for the sole purpose of providing advice to the appellate body.

8. In all cases where an appeal is made and admitted by the appellate committee, after the charges, findings, and evidence have been read and the arguments conclude, the parties shall withdraw, and the appellate committee shall consider and decide the case. It may reverse in whole or in part the findings of the committee on investigation or the trial court, or it may remand the case for a new trial to determine verdict and/or penalty. It may determine what penalty, not higher than that affixed at the hearing or trial, may be imposed. If it neither reverses in whole or in part the judgment of the trial court, nor remands the case for a new

23 See Judicial Council Memorandum 826.

24 See Judicial Council Decision 3.

trial, nor modifies the penalty, that judgment shall stand. The appellate committee shall not reverse the judgment nor remand the case for a new hearing or trial on account of errors plainly not affecting the result. All decisions of the appellate committee shall require a majority vote.

9. In all cases, the right to present evidence shall be exhausted when the case has been heard once on its merits in the proper court, but questions of Church law may be carried on appeal, step by step, to the Judicial Council.

10. The Church shall have no right of appeal from findings of the trial court. In regard to cases where there is an investigation under ¶ 2702, but no trial is held, egregious errors of Church law or administration may be appealed to the jurisdictional committee on appeals by counsel for the Church. The committee on investigation's decision not to certify a bill of charges does not alone constitute an egregious error of Church law or administration. When the committee on appeals shall find egregious errors of Church law or administration under this part, it may remand the case for a new hearing, in which event it shall return to the chair of the committee on investigation a statement of the grounds of its action. This is not to be double jeopardy.²⁵

11. Questions of procedure may be raised with the presiding officer or secretary of the appellate body. Under no circumstances shall one party in the absence of the other party discuss substantive matters with members of any appellate body while the case is pending (cf. ¶¶ 2607, 2701.4).

12. In all matters of judicial administration, the rights, duties, and responsibilities of clergy members and diaconal ministers of missionary conferences and provisional annual conferences are the same as those in annual conferences, and the procedure is the same.

13. Contacts with members of any appellate body shall be limited to matters of procedure and shall be directed only to the presiding officer or secretary of the appellate body. Under no circumstances shall matters of substance be discussed.

¶ 2716. Appeal of a Bishop, Clergy Member of an Annual Conference, Clergy on Honorable or Administrative Location, Local Pastor, or Diaconal Minister

1. Each jurisdictional and central conference, upon nomination of the College of Bishops, shall elect a committee on appeals composed of four clergy, one diaconal minister, one full-time local pastor, and three laypersons who have been at least six years successively members of The United Methodist Church, and an equal number of corresponding alternates. This committee shall serve until its successors have been elected. No member shall participate in the hearing of an appeal who is a member of a conference in the episcopal area of the appellant. Any vacancy shall be filled by the College of Bishops.

25 See Judicial Council Decision 985.

The committee on appeals shall have full power to hear and determine appeals of bishops, clergy members, clergy members on honorable or administrative location, local pastors, and diaconal ministers from any annual conference, provisional or missionary conference within the jurisdiction or central conference. The committee shall elect its own president and secretary and shall adopt its own rules of procedure, and its decisions shall be final, except that an appeal may be taken to the Judicial Council only upon questions of law related to procedures of the jurisdictional committee on appeals, central conference committee on appeals, or under the provisions of ¶ 2609.8. A bishop designated by the College of Bishops shall convene the committee at the site of jurisdictional or central conference for the purpose of electing officers.

2. In case of conviction by a trial court, a bishop, clergy member, local pastor, clergy on honorable or administrative location, or diaconal minister shall have the right of appeal to the jurisdictional or central conference committee on appeals above constituted, provided that within thirty days after the conviction, the appellant shall notify the presiding bishop of the conference (or, when the appellant is a bishop, the president and secretary of the College of Bishops) and the presiding officer of the court in writing of the intention to appeal.

3. When notice of an appeal has been given to the presiding officer of the court, the presiding officer shall give notice of the same to the secretary of the committee on appeals of the jurisdictional or central conference and submit the documents in the case, or in case the documents have been sent to the secretary of the annual conference, instruct the secretary to send the documents to the president of the committee on appeals. The jurisdictional or central conference committee on appeals shall within thirty days give notice to the presiding bishop of the conference from which the appeal is taken (or to the president and secretary of the College of Bishops when the appellant is a bishop) and to the appellant of the time and place where the appeal will be heard. Such hearing shall occur within 180 days following receipt of notice to the committee on appeals. Both the annual conference, missionary conference, or provisional conference and the appellant may be represented by counsel as specified in ¶ 2708.7. The presiding bishop of the conference or, in the appeal of a bishop, the president or secretary of the College of Bishops, shall appoint counsel for the Church.

4. All necessary traveling and sustenance expense incurred by the committee on appeals, including any cost for legal counsel retained to advise the committee, in the hearing of an appeal case coming from an annual conference and appearing before any jurisdictional or central conference committee on appeals, shall be paid out of the administrative fund of the central or jurisdictional conference in which the proceedings arise. The president of the committee on appeals shall

approve all expenses. Expenses for counsel for the Church shall be paid by the annual conference. Such expenses for counsel for the respondent shall be paid by the respondent, unless in the interest of fairness, the committee on appeals orders the annual conference to reimburse the respondent.

¶ 2717. Appeal of a Lay Member

1. A lay member convicted by a trial court shall have the right of appeal and shall serve written notice of appeal with the pastor and the district superintendent within thirty days of conviction.

2. The district superintendent shall, on receipt of notice of appeal, give written notice to all concerned of the time and place of the convening of a committee on appeals not less than ten nor more than thirty days after such notice has been delivered.

3. The committee on appeals shall be constituted in the following manner: The district superintendent shall appoint eleven professing members of United Methodist churches within the annual conference other than the appellant's local church, none of whom shall have been members of the trial court, and who hold office either as lay leader or lay member of the annual conference. At the convening of the committee on appeals, from seven to eleven of these shall be selected to serve on the committee. The counsel for the appellant and the counsel for the Church shall have the right to challenge for cause, and the decisions on the validity of such challenges shall be made by the presiding officer, who shall be the district superintendent.

4. The findings of the committee on appeals shall be certified by the district superintendent to the pastor of the church of which the accused is a member.

¶ 2718. Other Appeals

1. The order of appeals on questions of law shall be as follows: from the decision of the district superintendent presiding in the charge or district conference to the bishop presiding in the annual conference, and from the decision of the bishop presiding in the annual conference to the Judicial Council, and from a central conference to the Judicial Council.

2. When an appeal is taken on a question of law, written notice of the same shall be served on the secretary of the body in which the decision has been rendered. It shall be the secretary's duty to see that an exact statement of the question submitted and the ruling of the chair thereon shall be entered on the journal. The secretary shall then make and certify a copy of the question and ruling and transmit the same to the secretary of the body to which the appeal is taken. The secretary who thus receives said certified copy shall present the same in open conference and as soon as practicable lay it before the presiding officer for a ruling thereon, which ruling must be rendered before the final adjournment of

that body, that said ruling together with the original question and ruling may be entered on the journal of that conference. The same course shall be followed in all subsequent appeals.

Miscellaneous Provisions

¶ 2719. 1. Any clergy members residing beyond the bounds of the conference in which membership is held shall be subject to the procedures of ¶¶ 2701-2718 exercised by the appropriate officers of the conference in which he or she is a member, unless the presiding bishops of the two annual conferences and the clergy member subject to the procedures agree that fairness will be better served by having the procedures carried out by the appropriate officers of the annual conference in which he or she is serving under appointment, or if retired, currently residing.

2. When a bishop, clergy member, local pastor, or diaconal minister is the respondent to a complaint under ¶ 361.1(d) and desires to withdraw from the Church, the jurisdictional or central conference in the case of a bishop, the annual conference in the case of a clergy member, or the district conference (where there is no district conference, the charge conference) in the case of a local pastor or diaconal minister will ask him or her to surrender his or her credentials and will remove his or her name from professing membership; in which case the record shall be “Withdrawn under complaints” or “withdrawn under charges,” whichever is appropriate.

3. When a professing member of the Church is charged with an offense and desires to withdraw from the Church, the charge conference may permit such member to withdraw his or her name from the roll of professing members, in which case the record shall be “Withdrawn under complaints.” If formal charges have been presented, such member may be permitted to withdraw, in which case the record shall be “Withdrawn under charges.”

4. In all matters of judicial administration, the rights, duties, and responsibilities of clergy members, local pastors, clergy on honorable or administrative location, and diaconal ministers of missions, missionary conferences, and provisional annual conferences are the same as those in annual conferences, and the procedure is the same.

5. For procedural purposes, the judicial process shall be governed by the Discipline in effect on the date a Bill of Charges and Specifications is received by the chair of the committee on investigation.

