

JUDICIAL COUNCIL OF THE UNITED METHODIST CHURCH CONSEIL JUDICIAIRE DE L'EGLISE METHODISTE UNIE RECHTSHOF DER EVANGELISCH-METHODISTISCHEN KIRCHE CONSELHO JUDICIAL DA IGREJA METODISTA UNIDA CONSEJO DE LA JUDICATURA DE LA IGLESIA METODISTA UNIDA



Report by Bishop on Decision of Law

This form	is to	be i	used	for	(please	check	one):
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Reporting of decisions of law made by bishops in response to questions of law submitted to them in writing during the regular business of a conference session (¶ 56.3 Const. and ¶ 2609.6 The Book of Discipline 2016).
☐ Reporting of episcopal decisions on questions of law when such decisions are appealed by one-fifth of the members of the conference (¶ 56.2 Const. and ¶ 2609.7 The Book of Discipline 2016).
Name of Bishop: Rev. Dr. Karen Oliveto
Address: 6110 S. Greenwood Plaza City: Greenwood Village
State/Province: CO ZIP/Postal Code 80111 Country: USA Phone(303)733-0083 Fax: E-mail: bishopoliveto@mtnskyumc.org
Annual Conference: Mountain Sky Date of session: 6/13-15/1@omtwdsyysar) Question(s) of Law: In Response to a Question of Law regarding the Constitutional Foundation for Inclusiveness in The UMC and the Petition for Non-Compliance by the Mountain Sky
Conference with Restrictions on Minstry to/by/for LGBTQ persons
Authorities Cited (Indicate paragraph or decision number where applicable): Constitution: 4,104 Book of Discipline: 243 Judicial Council Decision(s): 358, 1020
Signature: Ko-Pll Bishop of The United Methodist Church Date: 7/11/19 (month/day/year)

The following must be attached:

- o Decision of Law, including facts, rationale and ruling
- o Text of the written request for decision
- o Minutes of annual conference proceedings (relevant portions only)
- List of names and addresses of interested parties
- o Other relevant materials (e.g. conference rules, resolutions, policies, reports)
- > Eight (8) hard copies must be submitted via USPS or other delivery service to: Clerk Price of the Judicial Council, 5556 N. Sheridan Road, #610, Chicago, IL 60640, USA
- > Electronic copies in both Word and PDF (with security features disabled) must be submitted to: secretary@umcjudicialcouncil.org.

DECISION OF LAW

In Response to a Question of Law regarding the Constitutional Foundation for Inclusiveness in The United Methodist Church and the Petition for Non-Compliance by the Mountain Sky Conference with Restrictions on Ministry to/by/for LGBTQ Persons

STATEMENT OF FACTS

At the 2019 Mountain Sky Annual Conference session, a question of law was asked regarding petition MSC-10: *All Are Welcomed*. The petition passed with a 97.8% majority in legislative committee and moved to the consent calendar which was adopted by the body.

The question of law asked:

In light of paragraph 604 of The Book of Discipline which states, "The annual conference, for its own government, may adopt rules and resolutions not in conflict with the Discipline of the (sic) United Methodist Church..." and in light of Judicial Council Decision No. 1120 (October 30, 2009), which states that "...an annual conference may not legally negate, ignore, or violate provision of the Discipline, even where disagreements are based upon conscientious objection to those provisions...", is it lawful for the Mountain Sky Conference of the (sic) United Methodist Church to consider and adopt petition MSC-10? (Complete copy attached.)

The petition included eight actions:

- 1. Resolved, That we, the members of the Mountain Sky Conference of The United Methodist Church, cannot and will not comply with the strict requirements of the Traditional Plan adopted at the 2019 General Conference;
- 2. Resolved, That we reject and will not enforce the punitive and exclusionary policies in The Book of Discipline focused against gay and lesbian persons, their partners, allies, or their friends as a faithful, biblical witness to the love of God revealed in Jesus Christ;
- 3. Resolved, That we will welcome all persons into the full life of our congregations and annual conference, regardless of gender identity, sexual orientation, or where they are on their faith journey;
- 4. Resolved, That we will support the clergy of the Mountain Sky Conference who, as a matter of Christian conscience and pastoral faithfulness, choose to conduct same-sex unions and that we will take no disciplinary action against them on this matter;
- 5. Resolved, That we will affirm calls to ministry based solely on the discernment of the gifts and graces necessary to fulfill that call;

- Resolved, That we will work to build God's Beloved Community, a connection that has
 room for all and condemnation for none, among persons of good will that the Reign of
 God may come upon the earth;
- 7. Resolved, That we will commit ourselves to robust and thorough dialogues of life and faith, and to building bridges of understanding and trust between persons who have been divided on this issue, that our common love of God in Christ may be affirmed, lived out, and witnessed to the world;
- 8. Resolved, That we will embrace and support the desires of churches who choose not to perform same sex marriages or desire not have LGBTQIA+ persons as clergy as requested by the local church without repercussions or decreased level of support from the annual conference. (Complete copy attached.)

DISCUSSION

Actions 1, 2 and 4 were cited as the basis for questioning whether it is lawful for the Mountain Sky Conference of The UMC to consider and adopt petition MSC-10. Actions 1 and 2 would prevent compliance with or enforcement of disciplinary requirements and policies that deny the sacred worth and inclusion of LGBTQ persons called to ordered ministry. Action 4 would prevent enforcement of disciplinary restrictions on same-sex unions.

The tension raised by this question of law is embedded in the Book of Discipline itself as the General Conference has adopted restrictions on ministries within The UMC with/by/for LGBTQ United Methodists. Until 1972, no such restrictions on LGBTQ ordination or same-sex unions existed and all ministries within the church reflected the inclusionary principles in Article 1V of Division One of the Constitution:

[A]ll persons are of sacred worth. All persons without regard to race, color, national origin, status or economic condition, shall be eligible to attend its worship service, participate in its programs, receive the sacraments, be admitted as baptized members, and upon taking vows declaring the Christian faith, become professing members in any local church in the connection. In The United Methodist Church no conference of other organizational unit of the Church shall be structured so as to exclude any member or any constituent body of the Church because of race, color, national origin, status, or economic condition. (2016 Discipline, ¶ 4.)

In 1972, General Conference adopted the Social Principles of the newly formed UMC.

In its original form, Paragraph 72(C) was labeled "Human Sexuality" and read in relevant part as follows:

Human Sexuality. — We recognize that sexuality is a good gift of God, and we believe persons may be fully human only when that gift is acknowledged and affirmed by themselves, the church, and society. We call all persons to disciplines that lead to the fulfillment of themselves, others, and society in the stewardship of this gift. Medical, theological, and humanistic disciplines should combine in a determined effort to understand human sexuality more completely.

Although men and women are sexual beings whether or not they are married, sex between a man and a woman is to be clearly affirmed only in the marriage bond. Sex may become exploitive within as well as outside marriage. We reject all sexual expressions which damage or destroy the humanity God has given us as birthright, and we affirm only that sexual expression which enhances that same humanity, in the midst of diverse opinion as to what constitutes that enhancement. Homosexuals no less than heterosexuals are persons of sacred worth, who need the ministry and guidance of the church in their struggles for human fulfillment, as well as the spiritual and emotional care of a fellowship which enables reconciling relationships with God, with others, and with self. Further we insist that all persons are entitled to have their human and civil rights ensured.

The original language in Paragraph 72(C) neither condoned nor condemned homosexuality. The original language reflected the new denomination's commitment to be in ministry to *all* persons. The original language acknowledged that LGBTQ persons were *already* sacred and *already* within the life and ministry of the church.

However, during plenary session of the 1972 General Conference, an amendment from the floor was offered to the final line of Paragraph 72 that purported to declare Church doctrine and reversed the constitutional commitment to inclusion of all persons: "though we do not condone the practice of homosexuality and consider this practice incompatible with Christian teaching." No discussion occurred on what constituted "practice" or on what parts of Christian teaching this was based. By simple majority vote, the General Conference approved the amendment. From that moment on, The UMC took a course that veered away from its

constitutional declaration that all persons are of sacred worth and its constitutional commitment to be in ministry with/by/for all persons, including homosexuals.

Subsequent General Conferences built upon that one sentence an increasing marginalization of LGBTQ United Methodists. Restrictions were placed on the ordination of LGBTQ persons called to ordered ministry. LGBTQ candidates were somehow less sacred than others. These restrictions are in direct tension with the constitutional declaration of the universal sacred worth of all persons.

Many have questioned whether the General Conference unlawfully created doctrine by enacting legislation purporting to declare what is or is not compatible with Christian teaching. (See, for example, briefing on Docket No. 1017-11: Petition for Declaratory Decision from the California-Pacific Annual Conference regarding the legality of the language added to The Book of Discipline 2016 ¶ 161.G stating "... and considers this practice incompatible with Christian teaching" in particular if it violates the First and Second Restrictive Rules (Constitution ¶¶ 17-18). The Judicial Council declined to rule on the merits of Cal-Pac's petition, Memorandum No. 1354, October 27, 2017.)

Doctrine can only be changed by constitutional amendment. *Decision 358*. In Decision 358 the Judicial Council noted that our doctrinal standards and General Rules (now in 2016 *Discipline*, ¶ 104) are "basic documents in the life and structure of our Church . . . [and] are given even greater protection than the Constitution itself."

Subsequent General Conferences added restrictions on same-sex unions. As LGBTQ

United Methodists sought to be married in their churches, they were turned away due to these added restrictions. The restrictions on the rite or ceremony of marriage are in direct tension with our doctrinal standards and General Rules.

Article XXII of the Articles of Religion of The Methodist Church (¶ 104) states:

"It is not necessary that rites and ceremonies should in all places be the same, or exactly alike, for they have been always different, and may be changed according to the diversity of countries, times and men's manners, so that nothing be ordained against God's Word...every particular church may ordain, change or abolish rites and ceremonies, so that all things may be done to edification."

In the Mountain Sky Conference, LGBTQ persons have long been valued and valuable members of the Body of Christ. The recently adopted Traditional Plan hampers the historic commitments of this conference and punishes pastors and the conference for seeking to ensure that the rite of marriage within the church — legal in the United States — is made available to all the church's members.

Paragraph 243 of the Book of Discipline sets forth the basic tasks of the local church:

The local church shall be organized so that it can pursue its primary task and mission in the context of its own community--reaching out and receiving with joy all who will respond; encouraging people in their relationship with God and inviting them to commitment to God's love in Jesus Christ; providing opportunities for them to seek strengthening and growth in spiritual formation; And supporting them to live lovingly and justly in the power of the Holy Spirit as faithful disciples.

This paragraph continues by setting forth the basic responsibilities of the local church.

These responsibilities include "seeking inclusiveness in all aspects of its life." This direction clearly includes offering the rite or ceremony of marriage to all persons, regardless of sexual orientation.

If an entire group of people are denied the church's ministries simply because of their status as LGBTQ persons, our churches are not only violating basic principles established throughout the Book of Discipline, but also the very first of John Wesley's General Rules: *Do No Harm.* (2016 Discipline, ¶ 104, p. 78.)

General Conference has codified language in the Book of Discipline that does great harm and violates basic foundational principles of the denomination. The question of law highlights the tension created by these disciplinary restrictions on LGBTQ ordination and same-sex unions.

With sincere regret and shared pain, I am forced to rule that actions 1, 2, and 4 are contrary to the Book of Discipline and out of order. However, the remaining petition is in order and remains lawful.

Bishop Karen Oliveto Mountain Sky Conference of The United Methodist Church July 12, 2019

INTERESTED PARTIES

Copy mailed to:

RULING

Rev. Joel Kershaw 625 S. 8th Ave. Brighton, CO 80601 Richard A. Marsh Conference Chancellor Marsh Law PC 636 Coffman St. #200 Longmont, CO 80501 Bishop Karen Oliveto
Mountain Sky Annual Conference
United Methodist Church

This letter is to request a ruling on a question of law, pursuant with Article VII of the United Methodist Constitution (paragraph 51), regarding petition MSC-10 to the 2019 session of the Mountain Sky Annual Conference.

The petition in question calls upon the members of the Mountain Sky Conference to act in violation of the Book of Discipline of the United Methodist Church when it:

- 1) states that we "...cannot and will not comply with the strict requirements of the Traditional Plan adopted at the 2019 General Conference..."
- 2) states that we "...reject and will not enforce the punitive and exclusionary policies in The Book of Discipline..."
- 3) states that we "...will take no disciplinary action against..." clergy charged with violations in accordance with Paragraphs 2701 and 2702 of the Book of Discipline.

In light of paragraph 604 of The Book of Discipline which states, "The annual conference, for its own government, may adopt rules and regulations not in conflict with the Discipline of the United Methodist Church..." and in light of Judicial Council Decision No. 1120 (October 30, 2009), which states that "...an annual conference may not legally negate, ignore or violate provisions of the Discipline, even where the disagreements are based upon conscientious objection to those provisions...", is it lawful for the Mountain Sky Conference of the United Methodist Church to consider and adopt petition MSC-10?

Yours in Christ.

Rev. Joel T. Kershaw

Eider, Mountain Sky Conference

Petition MSC-10 Page 1 of 4

Posted to Web: 05/29/2019 Assigned to: Hearing Group C

PETITION to the 2019 MOUNTAIN SKY CONFERENCE

TITLE: All Are Welcome

ACTION TO BE VOTED ON:

1 2 3	Whereas, The Mountain Sky Conference of The United Methodist Church and its antecedent bodies have been intentionally inclusive, purposefully collaborative, creatively experimental, boldly diverse, and outwardly focused for more than 100 years;
4 5	Whereas, we encourage diverse ministry settings, a gracious approach to contextual ministry, and a rich theological dialogue;
6	Whereas, following the wisdom of 1 John, we choose to love well and trust that perfect love casts out fear;
7	Whereas, we are convinced it is not necessary to think alike in order to love alike;
8 9	Whereas, we have been ordaining the people of God into representative ministry without regard for sexual orientation since 1982;
10 11	Whereas, we have been blessed by the leadership of Bishop Karen Oliveto, the first openly lesbian bishop in the United Methodist connection; and
12 13	Whereas, we find the punitive and prohibitive language of the Traditional Plan adopted at the 2019 General Conference not in keeping with Christian teaching; now, therefore, be it
14 15	Resolved, That we, the members of the Mountain Sky Conference of The United Methodist Church, cannot and will not comply with the strict requirements of the Traditional Plan adopted at the 2019 General Conference;
16 17 18	Resolved, That we reject and will not enforce the punitive and exclusionary policies in The Book of Discipline focused against gay and lesbian persons, their partners, allies, or their friends as a faithful, biblical witness to the love of God revealed in Jesus Christ;
19 20	Resolved, That we will welcome all persons into the full life of our congregations and annual conference, regardless of gender identity, sexual orientation, or where they are on their faith journey;
21 22 23	Resolved, That we will support the clergy of the Mountain Sky Conference who, as a matter of Christian conscience and pastoral faithfulness, choose to conduct same-sex unions and that we will take no disciplinary action against them on this matter;
24 25	Resolved, That we will affirm calls to ministry based solely on the discernment of the gifts and graces necessary to fulfill that call;
26 27	Resolved, That we will work to build God's Beloved Community, a connection that has room for all and condemnation for none, among persons of good will that the Reign of God may come upon the earth; and
28 29 30	Resolved, That we will commit ourselves to robust and thorough dialogues of life and faith, and to building bridges of understanding and trust between persons who have been divided on this issue, that our common love of God in Christ may be affirmed, lived out, and witnessed to the world.
31 32 33	Resolved, That we will embrace and support the desires of churches who choose not to perform same sex marriages or desire not have LGBTQIA+ persons as clergy as requested by the local church without repercussions or decreased level of support from the annual conference.

Petition MSC-10
Page 2 of 4

Posted to Web: 05/29/2019 Assigned to: Hearing Group C

RATIONALE (Not debatable):

As the Mountain Sky Conference, we are committed to being accountable to the triune God, to our communities of faith, and to each other. We are intentionally inclusive, purposefully collaborative and in partnership with one another, creatively on the experimental edge of ministry, and an outwardly focused church. We are committed to welcoming people of all gender identities and sexual orientations as "persons of sacred worth" into the life of The United Methodist Church.

Our annual conference is united by a history of people who gave everything so that God's grace might be known across our ministry settings. We remember and honor the legacy of Methodists who partnered to build hospitals, schools, and new faith communities. We remember and honor the legacies of William Wesley Van Orsdel, his friend John Wesley Iliff, and so many others who worked to create space where all might know the love of God. We remember the legacy of theological education and the commitment to inclusive ministry that has helped to define our annual conference.

We are deeply grieved by the passage of the Traditional Plan at the 2019 General Conference. This plan will continue and amplify the harm done to our LGBTQ+ siblings and nullify our witness to Christ's love for all. To embrace or accept the policy of exclusion and punitive penalties embedded in the Traditional Plan would be to betray the best parts of our legacy and tradition. We reject the division and vitriol of the Traditional Plan. These restrictive regulations will forcibly exclude so many of God's children who are LGBTQ+. When we baptize children, we vow to be a community of love and grace. To uphold the Traditional Plan would require that we abandon our vows to generations of LGBTQ+ Methodists. The Traditional Plan has and will continue to define the United Methodist presence in the world by exclusion and hate rather than by Christ's love and God's grace.

In contrast, both the Simple Plan and One Church Plans, which were presented at the 2019 General Conference, enable us to follow our mission as United Methodists with open hearts, open minds, and open doors. John Wesley stated that the First Rule of the United Societies was "Do No Harm." Already we are doing this in many of our churches. The Administrative Council of Columbia Falls United Methodist Church adopted the Simple Plan for its mode of operation. In this way we can lead by example, embrace Bishop Karen Oliveto, and support the clergy and laity in all of our churches.

The Mountain Sky Conference is defined through our diverse ministry settings and a gracious approach to contextual ministry. It is through our distinctive ministries and rich theological dialogue that we fulfill Wesley's call to love alike even though we may not think alike. Our commitment to Christ's call and our connection is imperative for the health of the church now and into the future. We are decidedly better, more faithful, and more effective together. As such, we will continue to devote our best efforts and energy to a connection that has room for all and condemnation for none. We will stand in solidarity with the leadership of the Western Jurisdiction in stating our intention to not comply with the exclusionary provisions of the Traditional Plan passed by the 2019 General Conference.

EVALUATION (Not debatable):

- When all decisions, actions, and policies of the Mountain Sky Conference are consistent with the love of God revealed
- 2 in Jesus Christ, this petition will have accomplished its purpose.

DAILY PROCEEDINGS

The Second Session of Mountain Sky Conference of the United Methodist Church Billings Hotel and Conference Center Billings, MT

Bishop Karen P. Oliveto — Presiding

Mark Calhoun — Conference Co-Secretary

Elizabeth McVicker — Conference Co-Secretary

PLENARY SESSION Saturday, June 15, 2019 - 11:00 A.M

OPENING PRAYER: Jayden Stella from Smoky Hill United Methodist Church in Centennial, Colorado opened us in prayer.

SECOND LEGACY YELLOWSTONE LAY BALLOT: Following prayer, the second ballots to elect a Lay delegate to General Conference were cast.

SECOND LEGACY YELLOWSTONE CLERGY BALLOT: Following prayer, the second ballots to elect a reserve clergy delegate to General Conference were cast.

SECOND LEGACY ROCKY MOUNTAIN LAY BALLOT: Following prayer, the second ballots to elect 2 Lay delegates to General Conference were cast.

SECOND LEGACY ROCKY MOUNTAIN CLERGY BALLOT: Following prayer, the second ballots to elect 2 Clergy delegates to General Conference were cast.

INTRODUCTIONS: Youngsook Kang introduced Bob Wilmouth, President of the Rocky Mountain College in Billings, Montana. Bob Wilmouth briefly addressed the body and recognized Kim Woeste, Chaplain of the Rocky Mountain College.

Youngsook Kang introduced Tom Wolfe, President of The Iliff School of Theology, who briefly addressed the body.

RETAKE OF SECOND LEGACY ROCKY MOUNTAIN CLERGY BALLOT: Following prayer, a retake of the second ballot to elect 2 Clergy delegates to General Conference were cast.

CONSENT CALENDAR A, CONCURRENCE WITH OR WITHOUT AMENDMENTS:

(Accepted with 80% of members present or voting)

MSC-01 Minimum Compensation

99.4% approval • With Amendments:

Line 15: Add after "conference parsonage standards"

... as found in Section 5 of the approved Plan of Union of the Mountain Sky Conference.

Line 25: Add after "the following factors"

... to be negotiated among the District Superintendent, Pastor, and the Staff-Parish Relations Committee:

Line 55: Strike "maximum" and add

MSC-02 Superintendent and Treasurer Compensation 99.3% approval • No Amendments

MSC-03 The Calculation and Payment of General and Jurisdictional Apportionments

by the Local Church/Charge

90.8 % approval • No Amendments

MSC-04 Flathead Lake United Methodist Bylaws 100% approval • No Amendments

MSC-05 Permission to Sell Camp on the Boulder Property 100% approval • No Amendments

MSC-09 Moving Towards God's Good Future 95.2% approval • No Amendments

MSC-10 All Are Welcome

97.8% approval • With Amendments:

Line 31: Add

Resolved, That we will embrace and support the desires of churches who choose not to perform same sex marriages or desire not have LGBTQIA+ persons as clergy as requested by the local church without

repercussions or decreased level of support from the annual conference.

CONSENT CALENDAR B, NON-CONCURRENCE WITH OR WITHOUT

AMENDMENTS: (Accepted with 80% of members present or voting)
GC-01 Organizational Restructure of The United Methodist Church
57.4% approval • No Amendments
Requires 80% vote for Adoption by the Annual Conference

QUESTION OF LAW: During the morning session, Joel Kershaw rose to make a request of a ruling on a question of law (see below), at 11:45am, June 15, 2011, at the second session of the Mountain Sky Conference of the United Methodist Church. This request of law was delivered to Bishop Oliveto and she responded that she would take a 30 day period allowed to consider the request for a "Ruling of Law".

This letter is to request a ruling on a question of law, pursuant with Article VII of the United Methodist Constitution (paragraph 51), regarding petition MSC-10 to the 2019 session of the Mountain Sky Conference to act in violation of the Book of Discipline of the United Methodist Church when it:

- 1) Sates that we "...cannot and will not comply with the strict requirements of the Traditional Plan adopted at the 2019 General Conference ..."
- 2) States that we "...reject and will not enforce the punitive and exclusionary policies in The Book of Discipline..."
- 3) States that we..." will take no disciplinary action against..." clergy charged with violations in accordance with Paragraphs 2701 and 2702 of the Book of Discipline.

In light of paragraph 604 of the Book of Discipline which states, "The annual conference, for its own government, may adopt rules and regulations not in conflict with the Discipline of the United Methodist Church..." and in light of Judicial Council Decision No. 1120 (October 30, 2009), which states that "...an annual conference may not legally negate, ignore or violate provisions of the Discipline, even where the disagreements are based upon conscientious objection to those provisions...", is it lawful for the Mountain Sky Conference of the United Methodist Church to consider and adopt petition MSC-10?

The Rev. Joel T. Kershaw
Elder, Mountain Sky Conference
United Methodist Church

Pastor, FUMC, Brighton CO

REQUEST TO REMOVE PETITION FROM CONSENT CALENDAR: Bishop Karen Oliveto announced requests to remove MSC-03 be removed from the Consent Calendar. A hand vote was taken. It did not pass. Joel Kershaw requested a division of the house. A second count was taken. 52 votes were in favor of removal, 606 votes were not in favor of removal. It did not pass.

REQUEST TO REMOVE PETITION FROM CONSENT CALENDAR: Bishop Karen Oliveto announced a request to remove MSC-10 from the Consent Calendar. A vote was delayed until after lunch when the amendment to MSC-10 could be provided to the body.

BOARD OF TRUSTEES REPORT: JR Casner of St. Andrews United Methodist Church, Highlands Ranch, CO, shared the conference-wide property and liability insurance plan.

NOMINATIONS PROCESS FOR EPISCOPAL ELECTIONS: The body considered allowing the Annual Conference Secretary to distribute forms for the nomination of Episcopal candidates to the lay and clergy members of the next year's annual conference, provided there is to be an Episcopal election. It was approved at 91%.

INTRODUCTIONS: Bishop Karen Oliveto introduced Rev. Jay Rundell, President of Methodist Theological Seminary of Ohio in Dayton, Ohio, who briefly addressed the body.

PRAYER REQUESTS: Rev. Elizabeth McVicker asked for prayers for Handi-Jo Doloff-Holt, the family of William Modem and the family of Wayne Bettendorf. Chris Fraiser offered a prayer on behalf of these requests. Bishop Karen Oliveto dismissed us for lunch.