



## Judicial Council Decisions Summary

### Decision - 1378 - Traditional Plan

#### Constitutional

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**¶ 304.3 Qualifications for Ministry – Footnote: Expands definition of “self-avowed practicing” to include someone who is living in a same-sex marriage, domestic partnership, or civil union.**

1. “Self-avowed practicing homosexual” is understood to mean that a person openly acknowledges to a bishop, district superintendent, district committee of ordained ministry, Board of Ordained Ministry, or clergy session that the person is a practicing homosexual; **or is living in a same-sex marriage, domestic partnership or civil union, or is a person who publicly states she or he is a practicing homosexual.** See Judicial Council Decisions 702, 708, 722, 725, 764, 844, 984, 1020, 1341.

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**¶ 304.5 – Qualifications for Ordination: Full examination of candidates based on ¶ 340.1-3. Bishop to declare any “unqualified candidate” out of order and not eligible to be acted upon.**

5. In all votes regarding license, ordination, or conference membership, the requirements set forth herein are minimum requirements. Each person voting is expected to vote prayerfully based on personal judgment of the applicant’s gifts, evidence of God’s grace, and promise of future usefulness for the mission of the Church. **The District Committee on Ordained Ministry and the Board of Ordained Ministry shall not approve or recommend any person for candidacy, licensing, commissioning, or ordination who does not meet the qualifications of ¶ 304.1-3, based on the full examination and thorough inquiry into the person’s fitness by the committee and board (see Judicial Council Decisions 1343 and 1344). The bishop presiding in the clergy session shall rule any such unqualified candidate out of order and not eligible to be acted upon.**

*Note: This petition reflects Judicial Council Decisions 1343 and 1344. GBHEM has previously published an official response to JCDs 1343 and 1344.*

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**¶ 415.6 – Specific Responsibilities of Bishops – Presidential Duties: Bishops cannot consecrate “self-avowed, practicing homosexual” bishops even if the bishop is duly elected. Bishops cannot commission or ordain deacons or elders who are “self-avowed, practicing homosexuals” even if the person has been recommended by the BOM and elected by the Clergy Session.**

6. To consecrate bishops; to ordain elders and deacons; to commission deaconesses, home missionaries, and missionaries; and to see that the names of the persons commissioned and consecrated are entered on the journals of the conference and that proper credentials are furnished to these persons. **Bishops are prohibited from consecrating bishops who are self-avowed, practicing homosexuals, even if they have been duly elected by the jurisdictional or central conference. Bishops are prohibited from commissioning those on the deacon or elder track if the Board of Ministry has determined the**



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**individual is a self-avowed, practicing homosexual or has failed to certify it carried out the disciplinarily mandated examination, even if the individual has been recommended by the Board of Ordained Ministry and approved by the clergy session of the annual conference. Bishops are prohibited from ordaining deacons or elders if the Board of Ministry has determined the individual is a self-avowed, practicing homosexual or has failed to certify it carried out the disciplinarily mandated examination, even if the individual has been recommended by the Board of Ordained Ministry and approved by the clergy session of the annual conference.**

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***¶ 2711.3 – Power of Trial Court – Penalties: Conducting same-sex weddings/unions. First offense requires one-year suspension without pay; second offense – membership terminated, and credentials revoked.***

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. **Except, where the conviction is for conducting ceremonies which celebrate homosexual unions, or performing same-sex wedding ceremonies under ¶ 2702.1(b) or (d), the trial court does not have the power to and may not fix a penalty less than the following:**

**a) First (1st) offense – One (1) year’s suspension without pay.**

**b) Second (2nd) offense - Not less than termination of conference membership and revocation of credentials of licensing, ordination, or consecration.**

**The penalty fixed by the trial court shall take effect immediately unless otherwise indicated by the trial court.**

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***¶ 2715.10 – Appeal Procedures: Church can now appeal a trial outcome based on egregious errors in church law (right of appeal previously limited to respondent).***

10. The Church shall have no right of appeal from findings **of fact** of the trial court. **The Church shall have a right of appeal to the committee on appeals and then to the Judicial Council from findings of the trial court based on egregious errors of Church law or administration that could reasonably have affected the findings of the trial court. When the committee on appeals or the Judicial Council shall find egregious errors of Church law or administration under this part, it may remand the case for a new trial, along with a statement of the grounds of its action. This is not to be double jeopardy.** 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 **or central conference** committee on appeals **and then to the Judicial Council** 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 **or the Judicial Council** 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.

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***Complaint Process (¶ 362.1e, 413.3d): Complaint dismissal must be based on the complaint having no basis in law or fact; reason and notice of dismissal must be shared with the complainant.***

¶ 362.1 e) *Referral or Dismissal of a Complaint*—Upon receiving a written and signed complaint, the bishop shall, within 90 days, carry out the supervisory response process outlined above. If within 90 days after the receipt of the complaint resolution is not achieved, the bishop shall either:

(1) Dismiss the complaint **as having no basis in law or fact**, with the consent of the cabinet giving the reasons therefore in writing, **copies** of which shall be placed in the clergy person's file **and shared with the complainant**; or (2) Refer the matter to the counsel for the church as a complaint.

¶ 413.3 d) (i) If the supervisory response results in the resolution of the matter, the bishop in charge of the supervisory response and the two episcopacy committee members appointed to the supervisory process (¶ 413.3) shall monitor the fulfillment of the terms of the resolution. If the supervisory response does not result in resolution of the matter, the president or secretary of the College of Bishops may either dismiss the complaint **as having no basis in law or fact**, with the consent of the College of Bishops and the committee on episcopacy, giving the reasons therefore in writing, **copies** of which shall be placed in the bishop's file **and shared with the complainant**, refer the matter to the committee on episcopacy as an administrative complaint pursuant to ¶ 413.3e, or refer the matter to counsel for the Church pursuant to ¶ 2704.1 to prepare a complaint to forward to the committee on investigation.

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***Just Resolution (¶ 362.1, 362.1c, 413.3c, 2701.5, 2706.5c)(3): Complainant shall always be a party in a just resolution. The resolution must identify all harms and how they shall be addressed. Unconstitutional – second sentence in petition that required a commitment not to repeat the actions that were a violation.***

¶ 362.1. .... A just resolution is one that focuses on repairing any harm to people and communities, achieving real accountability by making things right insofar as possible and bringing healing to all the parties. **Just resolutions shall state all identified harms and how they shall be addressed by the Church and other parties to the complaint.** In appropriate situations, processes seeking a just resolution as defined in ¶ 362.1c may be pursued. Special attention should be given to ensuring that cultural, racial, ethnic, and gender contexts are valued throughout the process in terms of their understandings of fairness, justice, and restoration.

¶ 362.1c). Just Resolution—The supervisory response may include a process that seeks a just resolution in which the parties are assisted by a trained, impartial third party facilitator(s) or mediator(s), in reaching an agreement satisfactory to all parties.<sup>69</sup> If the bishop chooses to initiate a mediated attempt to produce a just resolution, then the bishop, the person filing the complaint, the respondent, and other appropriate persons shall enter into a written agreement outlining the process, including any agreements on confidentiality. A process seeking a just resolution may begin at any time in the supervisory, complaint, or trial process. **No matter where in the process a just resolution is achieved, the complainant(s) shall**



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**be a party to the resolution process and every effort shall be made to have the complainant(s) agree to the resolution before it may take effect.** If resolution is achieved, a written statement of resolution, including any terms and conditions, shall be signed by the parties and the parties shall agree on any matters to be disclosed to third parties. A just resolution agreed to by all parties shall be a final disposition of the related complaint.

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### **Unconstitutional**

**Episcopal Accountability – Petition 90035:** New process for bishops to be placed in involuntary relationship on matters related to sexuality. Violates ¶ 20 and ¶ 58. Process for clergy trial and appeals.

**Composition of BOM – Petition 90037:** Those nominated to serve on the BOM will not have to certify to their bishop their willingness to comply with the *Book of Discipline* in its entirety. The petition contained an open-ended and unconstitutionally vague requirement and violates the principle of legality.

**Full Examination – Petition 90038:** requiring boards of ordained ministry to “conduct an examination to ascertain whether an individual is a practicing homosexual” was ruled unconstitutional because it violates the principle of legality.

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### **Decision 1379 – Disaffiliation**

**Disaffiliation Process** – upheld, but still needs legislative work to bring the plan completely into compliance.