WHAT THE PROPOSED UMC SEPARATION PLAN MEANS FOR YOUR CHURCH
OPTIONS FOR THE LOCAL CHURCH UNDER THE PROPOSED SEPARATION PLAN

We can all agree that people do not join churches so they can become part of a conflict. Rather, people join churches as a respite to conflict in the world. Yet the denominational conflict within the United Methodist Church (UMC) continues and has become more heated and polarizing with each passing year. Some Church leaders have tried to pivot the denomination one direction, while some of the laity have responded by refusing to follow leadership and ultimately, leaving the Church.

Within moments after the 2019 special General Conference adopted the Traditional Plan, resistance and disobedience to the order and discipline of the United Methodist Church multiplied. Leaders in many annual conferences in the United States issued statements decrying the passage of the Traditional Plan, and some plainly stated they would not enforce it. Others attempted enforcement of the Traditional Plan and were castigated for doing so.

Realizing that a formal separation agreement was necessary (the terms of which needed to be approved by each major advocacy group within the United Methodist Church prior to the May 2020 General Conference), a wide range of leaders including Bishops and leaders of the representative body (who hold different theological positions) engaged in mediated negotiations to reach an agreement to split the Church. This resulted in a document called the “Protocol of Reconciliation & Grace through Separation” (“Protocol”). The group also prepared an FAQ document.

With the creation of this proposal, each pastor, church leader, and local church needs to take steps now to prepare for one of two outcomes: either the proposal passes, or it fails and the denomination falls apart at the May 2020 General Conference.

CHURCHES SHOULD BE AWARE OF THREE POSSIBLE PATHS FORWARD, IN GENERAL:

1. STAY WITH THE UNITED METHODIST CHURCH

If the local church is progressive, or if the local church decides not to act, it will stay in the post-separation United Methodist Church. No additional action is required.

2. JOIN A NEW TRADITIONAL METHODIST DENOMINATION

If the local church is traditional, it can join a newly formed traditional denomination, likely through the Wesleyan Covenant Association, and retain the full ownership of its buildings, real estate, and assets free of the United Methodist Trust Clause.

3. BE ENTIRELY INDEPENDENT

If the local church wishes to be independent of any Methodist-related denomination, it may do so but will need to follow the Taylor Disaffiliation Plan.
Dalton & Tomich, PLC, will outline the proposed plan and identify the paths that each church can follow when making a decision about its own local congregation. The Protocol still needs to be formed into legislation that will be proposed to the General Conference in May 2020 and the legislation may be amended by the General Conference during the floor debate. This eBook only addresses the Protocol as proposed by the working group in early January 2020. By doing so, we hope to help guide the future of your ministry. With crisis comes opportunity - and this is the opportunity to mold your ministry to meet the future needs of your congregation and your community.
A SUMMARY OF THE PROPOSAL

The “Protocol” envisions the creation of two denominations: the United Methodist Church (which will be a progressive denomination) and a traditional Methodist denomination that will likely be formed out of the Wesleyan Covenant Association. If the local church does not wish to join either denomination, or another new Methodist denomination that may be formed out of the General Conference, it must follow the Taylor Disaffiliation Plan, negotiate a resolution or litigate its claims.

THE FOLLOWING ARE SUMMARIES OF EACH PLAN.

AFFILIATION WITH OTHER DENOMINATIONS

Central conferences, annual conferences and local churches may vote to align with any new Methodist denomination. There is a presumption that a new traditional denomination will be birthed out of the Wesleyan Covenant Association. The traditional denomination will be assigned $25 million from the UMC. Another $2 million is earmarked by the UMC for an additional new Methodist denomination.
THE ANNUAL CONFERENCES

Whether in the Central or Jurisdictional Conferences, an annual conference may choose to vote to affiliate with a new Methodist denomination pursuant to the “Protocol.”

1. A vote must be held if 20 percent of those voting at an annual conference session support a motion to conduct such a vote.

2. Such an affiliation vote must be taken before July 1, 2021.

3. In order to affiliate with a new Methodist denomination pursuant to the “Protocol,” the vote to affiliate must be supported by 57 percent of those voting.

4. If an annual conference does not take a vote on affiliation, it remains part of the post-separation United Methodist Church.

THE CENTRAL CONFERENCES

A Central Conference may choose, with a two-thirds vote, to affiliate with a new Methodist denomination. The affiliation vote must occur no later than December 31, 2021. If no vote is taken, the Central Conference remains part of the post-separation United Methodist Church.

THE LOCAL CHURCH

A local church that desires a different affiliation than its annual conference may conduct an affiliation vote to consider a different affiliation.

1. If such a vote occurs, the church council (e.g., its Administrative Board or Council or its Leadership Board) shall determine a voting threshold of either a simple majority or two-thirds of those present and voting at a duly called church conference in order for the motion to opt for a different affiliation to be adopted.

2. The vote on a motion to opt for a different affiliation shall occur in a church conference held not more than 60 days after the request for such a vote is made by the church council.

3. The church conference must be held in consultation with the District Superintendent who shall authorize such a church conference to be conducted.

4. Decisions about affiliation by a local church must be made by December 31, 2024.

5. If a local church does not vote, it remains a part of the Methodist denomination selected by its annual conference.

NEW METHODIST DENOMINATIONS

Those who wish to form a new Methodist denomination must register an intent to form a denomination with the Secretary of the Council of Bishops no later than May 15, 2021. It is clear that a traditionalist denomination intends to form. It is unclear whether any other denominations will form by this date.
Wespath, the pension plan provider for clergy and lay employees of entities related to the United Methodist Church, will remain in place regardless of the Methodist denomination with which they affiliate. The pension plan will transition to the new denomination. Pastors and lay employees should feel comfortable that their pensions are secure. Moving forward, local churches may wish to fund their own retirement plan for clergy and staff, but Wespath will regulate the prior balance of pensions.

However, several annual conferences of the United Methodist Church are underfunded, and they will need to reach out to their remaining local churches to satisfy the pension obligations. That means there will be a very close look by United Methodist annual conferences at church property to sell and pay for pensions.

Likewise, the liability of underfunded plans for annual conferences and local churches for pension benefits will transfer to the newly formed traditional Methodist denomination. Local churches joining the newly formed denomination may be asked to contribute to the underfunded plans.

In addition, if a local church decides to become independent, they may be faced with paying for the proportional pension liabilities as calculated by Wespath. It will not be known what the amount will be for the local church until it is asked by the annual conference for the financial obligation of the local church.
STAYING WITHIN THE UNITED METHODIST CHURCH

A local church that stays with the post-separation United Methodist Church retains its property, subject to the trust clause within the Book of Discipline. The current Book of Discipline of the United Methodist Church will be significantly revised after the May 2020 General Conference.

LEAVING THE UNITED METHODIST CHURCH FOR ANOTHER METHODIST DENOMINATION

A local church that votes to leave the denomination and affiliate with the traditionalist Methodist denomination to be formed may do so and retain its property.

Keep in mind, the local church also retains its liabilities – mortgages, debts, loans, etc. If the local church has a loan from the conference, it needs to pay it back. The “Protocol” does not address situations where the annual conference is a guarantor on a loan. The conference would likely withdraw the guarantee, if it is permitted by a lender, if the local church leaves the United Methodist Church. If the local church has a grant from the annual conference, the “Protocol” does not require the repayment of the grant.
BECOMING AN INDEPENDENT CHURCH

Local churches that opt to disaffiliate from The United Methodist Church and not become part of a Methodist denomination pursuant to the “Protocol” must comply with the Taylor Disaffiliation Plan passed at the 2019 General Conference: ¶ 2553 of the Book of Discipline of The United Methodist Church. The Taylor Disaffiliation Plan includes the following elements:

1. A local church must use this plan no later than December 21, 2023; otherwise the plan may no longer be available.

2. A local church must advise the annual conference of its intent to use the plan. The District Superintendent must then call a Church Conference, pursuant to the Book of Discipline, providing a 120-day notice to the professing members of the Church.

3. In order for the local church to approve disaffiliation, it must take a vote of 2/3 of the “professing members” present at the church conference meeting to approve the decision to disaffiliate.

4. The local church must be current with the prior 12 months of apportionments and pay an additional 12 months of apportionments.

5. The local church must pay all debts it owes to the annual conference.

6. The local church may retain its property but must pay for all title work to remove the cloud on the title from the annual conference.

7. The local church must pay a portion of unfunded pension liability as calculated and determined solely by the annual conference.

8. All of the payments to the local conference must occur prior to the actual disaffiliation.
There are four large caveats to the Taylor Disaffiliation Plan.

First, after the local church approves the disaffiliation vote, the annual conference may solely decide to add additional terms and conditions that will increase the cost of departure for the local church. Some annual conferences have interpreted this to mean it can add any amount it wishes to the cost of departure. This has resulted in forced litigation as it is less expensive to litigate a claim than to pay the amount demanded by the annual conference to free itself from the United Methodist Church and retain its assets.

Second, some annual conferences have taken the position that it only applies to local churches who are opposed to the current (2019) Book of Discipline – meaning the adoption of the Traditional Plan. Other annual conferences have concluded that it applies to local churches who wish to retain the Traditional Plan, but their annual conference has taken a position contrary to the same.

Third, the Council of Bishops have refused to endorse the Taylor Disaffiliation Plan and have filed a claim with the Judicial Council alleging that the plan is “unconstitutional,” due to irregularities in voting at the 2019 General Conference. The Judicial Council heard arguments on the claim at its meeting in the winter 2019, then adjourned a decision until April 2020 as the Council of Bishops offered no proof of the alleged voting irregularities to it.

Fourth, if a local church is thinking about leaving the denomination, joining the new Traditional Denomination (to keep its property) with the plan of leaving that denomination later, the “Protocol” provides that the pension liability will follow the local church through a lien on its property by Wespath. This element is not part of the Taylor Disaffiliation Plan; rather, it is part of the agreed-upon “Protocol.”
What this means for the local church is that it needs to decide who it wants to be and what type of ministry it wants to provide to its local church community. If the local church does nothing, it will remain with the post-separation United Methodist Church denomination. The moment the 2020 General Conference is over, the post-separation United Methodist Church will begin changing the Book of Discipline. The post-separation United Methodist denomination will be very different than what the United Methodist Church looks like today. The Trust Clause will remain, and the church’s property may, depending on what state you are located in, be subject to claim by the annual conference.

If the local church moves to the newly traditional Methodist Church, or another Methodist denomination, it needs to take steps now to ensure that it will be able to protect its property and assets from any claim by any denomination in the future. As the Bishops noted in the FAQ, the United Methodist Church will shrink. As a result, they will be looking for property to sell to fill its coffers. It is absolutely critical to take steps now to preserve the local church property.

More importantly for local churches who wish to be independent of any denomination, consult with legal counsel now to explore the options available to put you in the best position to preserve the church’s property. The failure to do so could result in the loss of property or expensive negotiations or litigation in the future.
**PROGRESSIVE CONGREGATIONS**

If the local church is a progressive or affirming church in a progressive conference and wishes to remain progressive or affirming, it does not need to do anything. It may wish to review its governing documents and title work to make sure it is compliant with the Book of Discipline. It will continue to be bound by the Book of Discipline and the Trust Clause regarding its property. One thing to keep in mind is that the United Methodist Church can always change its Book of Discipline to make it harder to leave the denomination and keep its property in the future.

If the local church is a progressive or affirming local church in a traditional conference and wishes to remain progressive or affirming, it will need to affiliate with a progressive conference to remain within the post-separation United Methodist Church. It will need to consult with professionals with respect to insurances and will need to work with legal counsel to update governing documents and title work.

If the local church is progressive or affirming in a progressive or traditional conference and wishes to remain progressive or affirming, but wishes to be independent of a denomination, it will need to seek legal counsel to help guide it through the departure process.

**TRADITIONAL CONGREGATIONS**

If the local church is a traditional local church in a traditional conference and wishes to remain traditional, it can join the new traditional Methodist denomination or another new Methodist denomination. However, it will need legal counsel to update its governing documents and change its title work to retain its property. As with the United Methodist Church, keep in mind that any Methodist Church can always change its Book of Discipline in the future to make it harder to leave the denomination.

If the local church is a traditional church in a progressive conference and wishes to remain traditional, it can join the traditional Methodist denomination. Again, in order to make sure that title remains in the name of the local church, it will need legal counsel to exit the conference and set up its new legal structure as well as secure the title to the local church property.

If the local church is a traditional church in either a traditional or progressive conference, and wishes to remain traditional, but does not want to affiliate with any denomination, it will need to seek legal counsel to help guide it through the departure process. The proposed plan of separation references the Taylor Disaffiliation Plan as a mechanism to leave the denomination; but in practice, very few conferences and Bishops follow the plan.

**SPLIT CONGREGATIONS**

If the local congregation is split between progressive and traditional members, its leadership needs to examine the local church’s articles, bylaws and the Non-Profit Corporation Act of the state in which it is located. When the time comes to vote on staying in or leaving the denomination, the church will have a clear understanding of what constitutes a proper vote, who can vote and the quorum required to vote.

**INDEPENDENT CONGREGATIONS**

If the local congregation does not wish to be affiliated with a Methodist denomination and wishes to be independent, it is incredibly important to start working now to pursue the path to independence and retain the church’s property. The very first thing to do is inventory the church’s property. We have developed this outline that will help serve as the list of documents that are needed to review when preparing to help you design a path to independence.

Next, secure a group of dedicated leaders who are willing to walk through the process on behalf of the church. And third, work with experienced legal counsel to help you through our process.

We have prepared a whitepaper for you to review that will help you discern the process. We have advised several hundred local Methodist churches across the United States as they took the necessary steps to protect their ministries while the denomination has continued to spiral from one crisis to the next.
Will the separation “Protocol” pass the Judicial Council and the General Conference in 2020? It is far from certain that it will pass in its current stage. The signatories to the “Protocol” have agreed to fully support it and one another in a joint effort to recommend the legislation is voted upon and adopted by the 2020 General Conference of the United Methodist Church. Given the joint agreement to support the “Protocol,” I suspect it will pass in some form, perhaps similar to what is being proposed.

As a law firm that has represented hundreds of local churches in property disputes within the Methodist, Episcopal and Presbyterian USA denominations, we at Dalton & Tomich, PLC, have seen what happens to local churches who wait too long to address their future. It’s important that the local church has conversations and a clear understanding of where it wishes to end up - prior to actual separation – or it will likely flounder and lose its members and property.

Take the time and the steps now to understand the plan proposed. Prepare to stay or leave, and consult with professionals familiar with this issue who do not have a personal or emotional stake in your local church. At Dalton & Tomich, PLC, we stand ready to work with you and will provide advice and guidance based on our experience with other churches in your state.

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