

January 1, 2015

To: Susan Weaver, UUA Board of Trustees

From: Rev. Wayne Arnason on behalf of UUA Ministerial Fellowship Committee (MFC)

Re: Recommended Amendments to Rules 16, 20 and 21 of the MFC

Dear Ms. Weaver:

The Ministerial Fellowship Committee appreciates this dialogue and collaboration with the Board of the UUA and its Congregational Boundaries Working Group and Advisory Group about our Rule 21 governing procedures in ministerial misconduct cases. You have requested in an email on October 29 2014 further clarification and consideration on our recommended changes to Rule 21, and brought forward concerns that have an impact on two other Rules 16 and 20. At our December meeting the MFC discussed your emailed letter and our detailed responses follow, in italicized font, below each quoted question you raised. Where language changes to be added to your motion on MFC Rules Changes appear, they appear in **bold**.

“ 1. Rule 21A. The proposed amendment to Rule 21A states "The option to appear before the committee shall be in person or by secured teleconference software." It isn't clear whether the discretion to appear **either** in person or by secured teleconference software is held by invitee or by the MFC. A suggested clarification might be to add a sentence after "The option to appear before the committee shall be in person or by secured teleconference software," such as "**The choice between such methods of appearance shall be in the discretion of [the MFC] [the invitee].**"

*It was the MFC's intent to leave to the victim identified in the complaint the decision about appearing before the committee, and if the desire is to appear, whether to appear in person or by teleconference. Therefore the language you suggest above, with the choice "**in the discretion of the invitee**" inserted would be acceptable to us. We note the comment in the Advisory Group memo that teleconference might be a difficult medium for a victim to communicate through, and so we hope that making clear that the choice is ultimately the victim's helps respond to that concern.*

“2. Rule 21B. The Board noted that the phrase "the Committee's membership" appears twice; one should be deleted.”

Thanks for noticing this. Agreed.

“ 3. Rule 21D. The Board requests the MFC clarify in writing, in the amendment, whether the phrase "individual representative of classes of victims" is intended to permit appearance by legal counsel for classes of victims. (My own belief is that was not the intent, since the minister invited before the Executive Committee does not have the option of appearing by or with a legal representative. Similarly, the person filing the complaint is not provided an option of appearing by or with a legal representative.) “

Your belief about the MFC's intent is correct. It was not our intent to open the disciplinary proceedings of the MFC to legal counsels. We have been careful in our own

review of misconduct proceedings to create consistency between the MFC's understanding of entry into preliminary and final fellowship as a UU minister, and restriction or termination of that fellowship. In both cases, the issue is basic competency to serve. We are not engaged in a judicial process of gathering evidence, referencing case law, or proving that certain behaviors (legal or illegal) occurred. The minister named in a complaint does not have a lawyer. We would not interpret the phrase "individual representative of classes of victims" to refer to legal counsel. At this time, since there is no reference in Rule 21 that affirms or denies any role for lawyers in this credentialing procedure, the MFC does not wish to recommend to you such language, believing it opens up an inappropriate equivalency between credentialing and a criminal or civil procedure that involve attorneys. Our intent was to insert language that could help us, in the case of multiple self-identified victims, to negotiate whether all of them would be heard from individually in person, or whether a single representative of a class of victims might be able to satisfy the spirit as well as the letter of our desire to hear a personal victim impact statement while we deliberate.

"4. Comments by Advisory Group. I attach comments from members of the Advisory Group on the proposed change. One comment addresses the MFC's issue of invitations to possible victims who haven't filed a complaint. I also hope the Board's "best practices" report (discussed below) will provide further guidance on this question."

The comments by the two people from the Advisory Group are very helpful to read. Please pass on our thanks to them and the fact that their comments were directly sent to us. They are very much a part of this conversation. The comment that presents us with the greatest challenge, however, is this one:

"If the investigation uncovered more than one victim or the individual who filed the complaint stated that there were multiple victims, I do think it would be helpful for the MFC Exec to make clear (in some fashion--perhaps via the office receiving the complaint or with the help of the advocate) that they are open to hearing from anyone affected and will make accommodations as necessary to ensure that that happens."

The Advisory Group members do seem to appreciate that we are trying to both honor the rights and voices of victims and operate within the limits of the budgets that the Board assigns the MFC for disciplinary procedures. We believe that the new language we've proposed in Rule 21 D does express our openness to hearing from anyone affected and to make accommodations within the limits of UUA resources to ensure that this happens. If the Board wishes to give us a message that the UUA will bear any cost involved in accommodating expenses and volunteer time for appearances of multiple victims before the MFC Exec beyond our budgeted limits, we would be glad to draft language for the rule based on that new information.

The comment above from the Advisory Group does, however, suggest that a reference should be included in Rule 20 to our understanding that multiple victims or classes of victims could be involved. Here is our proposal for such a reference, inserted at the end of the first paragraph of Rule 20:

"The assessment shall include any statements by the person filing the complaint about any other victims, or classes of victims, that should receive consideration if the complaint is referred to the MFC."

"4. Appearance by Complainant in Other Misconduct Investigations. Rule 21 addresses the investigation process in cases of complaints brought against ministers in Final Fellowship. I don't know if the MFC discussed whether similar invitations to appear could be provided in complaints brought against ministers in Preliminary Fellowship (Rule 16) or candidates (Policy 20B (relating to candidates' meeting with Ministerial Credentialing Director and Director of Ministries and Faith Development)). The MFC doesn't need to respond now to this question; the Board will more fully raise it in its "best practices" report (discussed below)."

We agree that the same provisions for appearance by victims before the MFC Executive Committee at the time that the Executive Committee is deliberating about a complaint against a minister in preliminary fellowship should apply. Here is some language that we would recommend adding to Rule 16 B at the end of the first paragraph:

The Executive Committee shall also invite the person filing the complaint to consider meeting personally with the Executive Committee, accompanied by an advocate designated by the Office of Ethics and Safety. The option to appear before the committee shall be in person or by secured teleconference software. All expenses involved in the travel and appearance of the person filing the complaint, or individual representatives of classes of victims, will be borne by the Committee.

"5. Policies. I simply note that once the proposed Rule 21 amendments are approved, for consistency the applicable MFC policies should be similarly amended."

Of course, we agree. This would also apply to Policy 20 B cited in # 4 above related to candidates appearing before the MFC for a disciplinary complaint that has victims.

"6. "Best Practices" Report. The Board in October charged the Congregational Boundaries Working Group to "provide to the Board and the Ministerial Fellowship Committee a set of best practices for receiving, investigating and resolving complaints of clergy sexual misconduct." (full charge attached.)

Recognizing the MFC's and staff's considerable expertise, efforts, and dedicated concern for professional ministry and congregations in this area, we'd like to structure this as an observations-and-response dialogue, rather than a set of final recommendations by the Working Group.

The Board plans to engage a consultant to review the draft before it goes to the Board (Debra Haffner has expressed a willingness, provided someone with more focus on

victim impact, such as Rev. Deborah Pope-Lance, also reviews.) It would help to have a staff member review a draft, particularly to avoid any misstatements. Although a target date for the report is the January Board meeting, it may not reach the Board before March.”

The Ministerial Fellowship Committee would welcome the opportunity to work with you during 2015 on a set of best practices for receiving, investigating, and resolving complaints of clergy sexual misconduct. We extend an invitation to you and to Moderator Jim Key to join the MFC Executive Committee on Wednesday morning April 8, 2015 to hear our input about best practices. I'd be glad to discuss this with you in more depth at your convenience.

Please let me know whether you can now work with the original changes to the MFC Rules and the new ones suggested in this letter. If I can be of help compiling all this into motions I would be glad to assist. We trust you will inform us following the January meeting whether any of these recommendations are approved by the UUA Board so that we can update our Rules and make them publicly available in the new form.

With much appreciation for your work, I remain

Faithfully yours

Rev. Wayne Arnason

Chair, Ministerial Fellowship Committee