

## **Opinion on the Legal Impacts of Proposed Article II Changes**

Adrienne Walker, UUA General Counsel and Parliamentarian

June 22, 2024

Today, the General Assembly will be discussing whether to adopt the proposed revisions to Article II of the Unitarian Universalist Association's Bylaws. This statement shares with you my legal opinions, reasoning and understanding on a few key points relating to the legal impact of the revisions to Article II to the UUA, individual UU's and member congregations if they are approved, or lack to achieve the requisite two-thirds affirmative vote of the General Assembly. Let me state at the outset that I write as an attorney. My statements and legal conclusions are rooted in Massachusetts corporate law, which is the primary law that governs the UUA. These legal conclusions are not informed by my faith or personal beliefs about whether the revisions to Article II should or should not be adopted – all of which are personal to me and were not considered in analyzing the legal impact of the revisions to Article II.

**First**, how does Article II fit into the UUA's Bylaws? A corporation's bylaws set forth the main business structure and procedures by which the corporation will operate and conducts its business. As a matter of Massachusetts corporate law, the UUA's Bylaws must state its purpose to conduct its business in its bylaws – this is reflected within Article II. While certainly significant, Article II is one of the 15 Articles in the UUA's Bylaws. Two important aspects of corporate law are that (i) the Bylaws must be read as a whole document in a way that gives meaning to each provision in the entirety, and (ii) a specific provision in a bylaw takes priority over a general one.

**Second**, what is the impact to member congregations if the General Assembly approves the revisions to Article II? There is no direct or immediate legal impact to member congregations. Nothing in the revisions to Article II will change the UUA's current relationship to its member congregations. This is because Article III of the Bylaws – and not Article II – are the provisions that relate to member congregations, associate member organizations, and affiliate organizations. But as a reminder, this is a legal answer – the importance and power of the Article II discussions are about the UUA's theological foundation and purpose as the Association actively engages with its members to live into the proposed shared Values.

**Third**, will the revisions to Article II put the UUA in a different position of authority over member congregations? My answer is no. When reading the full Bylaws with the revisions to Article II -- and applying the legal rule that specific provisions take priority over general statements -- it is clear as a matter of law that Article III, Section C-3.2 applies to member congregation polity. This section starts by saying that "Nothing in these Bylaws shall be construed as infringing upon the congregational polity or internal self-government of member congregations." In addition – to be recognized as a certified member congregation, Article III, Section C-3.5 requires an annual statement regarding three (3) areas of business operations of a member congregation, and does not require any certification of adherence to any of the UUA's Bylaws, including Article II.

The independence of member congregations is affirmed in proposed Article II at Section C-2.5, which provides that congregational freedom is central to Unitarian Universalist heritage, and congregations may establish their own statements of purpose and covenants. The sole requirement in Article II upon member congregations is that they may not require that their individual members adhere to a particular creed.

As to individual UU's beliefs, the Bylaws have no role in it. The Bylaws relate to the relationship between the Association and its members, which are congregations, not individuals. The proposed Article II revisions recognize an individual's right of conscience as central to UU heritage, and expressly provides

that an individual participating in a UU member congregations will not be required to adhere to a particular creed.

Today is a discussion of Article II, and not Article III. Any change to the UUA's Bylaws requires a formal process outlined at Article XV, including to any C Bylaws such as at Article III. Notably, amendments to any C Bylaws - other than Article II - requires a two-step approval process over two consecutive General Assemblies. While there is an engaged Bylaws Renewal Team that presented to the General Assembly on Thursday, any proposals to amend C Bylaws must comply with the amendment process at Article XV of the Bylaws.

**Finally**, did the process to consider revised Article II comply with the UUA's Bylaws? My answer is yes. As I just outlined in my prior point, the process to amend the Bylaws is stated in detail at Article XV. There is a specific provision at Section C-15.1(c) that addresses the process to amend Article II. Here, the facts and timing are important.

In June 2020, the Board adopted the Article II Study Commission charge and completed appointments to the Study Commission in July 2020. The Study Commission began its work in the Fall of 2020 and has 2 years to prepare its report, which the Board clarified in December 2020 would culminate in a report and first-step vote at the 2023 General Assembly. The Study Commission submitted its report to the Board in the January 2023 and, consistent with Section C-15.1 of the Bylaws, the Board placed the report on the agenda for the next regular General Assembly in June 2023.

Once added to the 2023 General Assembly Agenda, the Bylaws set forth specific processes to propose and consider amendments to the Article II proposal at both the 2023 and 2024 General Assemblies, including at mini-assemblies held thereto. A review of the facts and timeline confirm my opinion that the amendment process to consider the final proposal to revised Article II has complied with the Bylaws.

As to the impact of today's vote. If the proposed Article II revisions (including the one amendment that was approved at this General Assembly) pass by the requisite 2/3 vote, then the revisions will be immediately operative and included into the Bylaws.

However, if the vote fails, while ongoing study and conversation is possible, no formal discussion at General Assembly of this proposal or any similar proposal would be permitted until 2026.