



**Metropolitan Council Meeting**

**Spring 2017**

**Committees/Departments Reports**



**Meeting of the Metropolitan Council  
February 21 to February 23, 2017  
Committees/Departments Reports  
Table of Contents**

1.	Charity Committee Report	Archpriest Alexander Kuchta
2.	Ethics Committee	Archpriest Thomas Moore
3.	Financial/Investment Committee (See Treasurer's report)	Archpriest John Dresko
4.	Human Resources Committee	Lisa Mikhalevsky
5.	Internal Governance Committee	Archpriest Chad Hatfield
6.	Legal Committee	Angles Parks/Judge E.R. Lanier
7.	Department of Christian Education	Valerie Zahirsky
8.	Department of Christian Service and Humanitarian Aid	Donna Karabin
9.	Department of Continuing Education	Archpriest Ian Pac-Urar
10.	Department of Evangelization	Priest John Parker
11.	Department of Liturgical Music and Translations	Dr. David Drillock
12.	Department of Pastoral Life	Priest Nathan Preston
13.	Department of Youth and Young Adult	Andrew Boyd
14.	FOCA	Marge Kovach
15.	Office of Institutional Chaplains	Archpriest Steven Voytovich
16.	Office of Military Chaplains	Archpriest Theodore Boback
17.	Pension Board Report	Mary Buletza
18.	SOCA Report	ADN Joseph Matusiak

# Report of the Metropolitan Council Legal Committee

Fall Meeting of the Metropolitan Council of the Orthodox Church in America  
February 21-23, 2017

## Introduction

The Metropolitan Council Legal Committee was created by Resolution of the Metropolitan Council, and blessed by the Holy Synod, at the Spring 2008 Metropolitan Council meeting.<sup>1</sup> That Resolution, which is set forth both in the meeting minutes and in the Metropolitan Council Member Handbook, provides as follows:

*“The Metropolitan Council Legal Committee, consisting of at least three to five members, shall between meetings of the Metropolitan Council act for and on behalf of the Metropolitan Council to discharge its legal responsibilities. The Legal Committee shall work in conjunction with the General Counsel and members of the Central Administration. Responsibility for major policy and legal decisions, such as initiation of litigation and settlement of litigation, shall be retained by the Metropolitan Council as a whole. The Legal Committee shall fully and promptly report to the Metropolitan Council its activities and decisions between meetings. The Legal Committee shall act by majority vote. The Legal Committee may act by telephonic meeting or consent evidenced in writing or email, or such other means as means that the Legal Committee shall determine to be useful or appropriate.”*

(It is to be noted that, as currently configured, the Legal Committee consists of just two members, rather than the required three to five members.)

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<sup>1</sup> 10.4. MOTION – G. Nescott / Fr. M. Searfoorce: Be it resolved, that a Metropolitan Council Legal Committee, consisting of at least three to five members is hereby established. Such committee shall between meetings of the Metropolitan Council act for and on behalf of the Metropolitan Council to discharge its legal responsibilities. The Legal Committee shall work in conjunction with the General Counsel and members of the Central Administration. Responsibility for major policy and legal decisions, such as initiation of litigation and settlement of litigation, shall be retained by the Metropolitan Council as a whole. The Legal Committee shall fully and promptly report to the Metropolitan Council its activities and decisions between meetings, and Be it further resolved, that the Legal Committee shall act by majority vote. The Legal Committee may act by telephonic meeting or consent evidenced in writing or e-mail, or such other means that the Legal Committee shall determine to be useful or appropriate.

CARRIED UNANIMOUSLY

10.5. MOTION – Fr. M. Sherman / W. Peters: That Mr. Gregory Nescott be appointed the Chair of the Metropolitan Council Legal Committee. CARRIED UNANIMOUSLY

It has always been the goal of the Legal Committee to use its semi-annual reporting opportunities to ensure that each member of the Metropolitan Council is well-informed regarding matters of current legal interest or concern to the Orthodox Church in America, insofar as these matters reasonably relate to the function and role of the Metropolitan Council in the overall governance of the Church, as that role is defined in the Statute of the OCA.

## **The OCA Statute**

Delegates to the 18th All-American Council overwhelmingly adopted the proposed revisions to the Statute of the Orthodox Church in America, in a 473 to 15 vote, during the AAC's Second Plenary Session on Tuesday morning, July 21, 2015. The Revised Statute became effective November 1, 2015. Under the terms of the Revised Statute, the competencies of the Metropolitan Council have been redefined and clarified. Article V, Section 7 of the Revised Statute reads in pertinent part,

“The following matters are within the competence of the Metropolitan Council. The Metropolitan Council shall:

- a. Implement the decisions of the All-American Council and continue the work of the All-American Council between sessions in the areas of its competence;
- b. Assist the Metropolitan and the Holy Synod in implementing decisions within its competence; ...
- k. Initiate, prosecute, and defend all legal matters affecting the interests of the Church ... “

With those competencies in mind, and continuing to follow the mandate given to the Legal Committee in its enabling resolution, the following report presents the current state of various legal issues now confronting the OCA.

### **1. Status of Legal Committee**

We have been advised by Wesley Smith that he has resigned his position as Lay Delegate for the Diocese of the West and, accordingly, his position on the Metropolitan Council, due to his relocation to the DC area. We thank Wesley for his service on the Legal Committee. The Legal Committee now consists of two members, Angela Parks and Donna Dimitri.

## **2. Standing Committee on Canonical Procedure**

Chaired by His Grace, Bishop Daniel of Santa Rosa, the Committee, composed of Father Alexander Rentel, Father Nicholas Roth, Judge E.R. Lanier and Angela Parks, held its third meeting as guests of Bishop Daniel in Phoenix, AZ from February 8 through February 10. The Committee is making good progress in drafting the preliminary Standards, Norms, and Procedures for Ecclesiastical Courts, with a focus on clarity and transparency for all parties involved, while still ensuring fidelity to the Sacred Canons. The Committee is harmonizing its work with other Synodal documents, as well as creating templates and other documents that can be customized easily and used by participants in the Court process. The Committee members will continue their work separately over the next several months and intends to meet together again early next year before Great Lent to finalize the disciplinary procedures.

## **3. Moriak Litigation**

This case has been settled.

## **4. Fratello v. Roman Catholic Archdiocese of New York et al.**

With the blessing of the Holy Synod, the OCA joined this case as *amicus curiae*, which seeks to determine the parameters of the “Ministerial Exception” to immunity from claims under various Civil Rights acts.

Respectfully submitted,

Angela Parks, Chair