

YOUR CHURCH

EMPLOYER & SMALL BUSINESS

- Employment Process & Policies
- Employee Handbook
- Employment Taxes, Benefits & Insurance
- Clergy Considerations
- Tax Exempt Status
- Governance
- Church Insurance & Risk Management
- Miscellaneous Matters
- Resources

This booklet was written to assist churches in their understanding of their responsibilities as both a small business and employer.

Insurance Board was established in 1981 in California as a not-for-profit organization administering property and liability insurance programs for churches and related entities of the United Church of Christ. Since that time, Insurance Board has welcomed five denominations into the program: the Christian Church (Disciples of Christ), Presbyterian Church (U.S.A.), Alliance of Baptist, Evangelical Lutheran Church in America, and the Reformed Church in America.

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Resources



Introduction

As a church leader you may wish to focus your attention on ministry and devotional activities. Yet every year, there are many “business” concerns that your church must consider. This resource provides an outline of those issues to which you, as a church leader, must attend. You may find the detail below exhausting, yet it is not exhaustive. Additional details will require your attention depending upon the extent of your ministry and other variables, including congregational polity.

While we generally think in terms of “separation of church and state,” in fact, churches are subject to Federal and State oversight in several areas, including labor law, taxation, judicial precedents and some insurance, not to mention building and zoning codes. To make matters more complicated, there is no uniformity among the

states in the treatment of these matters. Therefore, throughout this document you will be reminded to check State laws and regulation. You may need legal counsel licensed in your state to resolve some matters unless you can find clear and concise answers using online resources.

A link is provided here to all state government websites: <http://www.usa.gov>

This resource is not provided as legal advice. It is delivered with the understanding that the publisher and contributors are not engaged in rendering legal, accounting, tax or other professional service. Legal counsel or other expert assistance will surely be required to resolve some matters presented below.





Employment Process and Policies



It is essential to address employment formally, regardless of whether you have one, five, or ten employees. While there are legal obligations that must be met, documenting other important details about employment is crucial for both legal protection and fairness. This process starts with hiring and extends to termination, including situations involving pastoral staff. Please refer to our [SafeConduct Hiring and Leadership Policy and Procedure Template](#) for additional considerations. To access the resources mentioned throughout this guide, please scan the QR code.

Bylaws

To avoid turmoil in the future, it is worth considering who will have authority to hire the pastor and other employees as well as terminate them. Your church's bylaws may state who has hiring authority within the church for specific employee roles. In the absence of specific authority provided in corporate documents, a congregational vote

may be required. Regardless, your bylaws and other documents, such as employment policies or handbooks, will be governing. Failure to comply with the letter of governing documents because it is inconvenient or "messy" will result in lawsuits, either from the employee or disenfranchised members of your congregation.

Employment Interviews

When a church decides to hire new employees, Federal and State law restricts the criteria that may be used to hire these persons. For example, some states prohibit conducting credit checks or inquiring about credit history of potential employees. State and federal laws prohibit employers from discriminating based on race. While churches have been held to be free to exercise a hiring preference for those who share religious beliefs, churches may not discriminate for other reasons not related to job qualification. This prohibition against discrimination applies lay positions.

The special relationship between a church and its minister is protected by the First Amendment's guarantee of freedom of religion. Courts have been reluctant to let employment laws interfere with this unique relationship. This guarantee sometimes acts to free a church from application of some

employment laws. For example, while questions about an applicant's family status may be prohibited during secretarial interviews, a church would be free to make such an inquiry of a potential minister. While some characterize this First Amendment freedom as allowing discrimination in the hiring of ministers, it is more properly understood as deference to churches in the choice of their minister for any reason: it would be contrary to the First Amendment for a court to order a church to hire a particular minister. A sense of justice within the church, however, may encourage interviews for ministerial positions to be free from discrimination.

During job application interviews, care must be exercised in asking questions. Adhering to the guidelines issued by the Federal Equal Employment Opportunity Commission (EEOC) is a best practice in conducting interviews.



The EEOC suggested some general rules as to questions that may be asked during an employment interview. For example, you may ask:

- Are you able to perform specific job-related functions?
- Can you meet the attendance requirements of the job?
- How many days of leave did you take last year?
- Do you use illegal drugs?

According to the EEOC, you may not ask the following questions during a job interview:

- Do you have a chronic illness or disability?
- How many days were you sick last year?
- Have you ever filed a workers' compensation claim?
- Have you ever been injured on the job?
- How much alcohol do you drink? Have you been treated for alcohol problems?
- Do you have any mental health problems?
- Are you taking prescription drugs?
- Have you ever been addicted to drugs?
- How often did you use illegal drugs in the past?

In addition to the EEOC list, some questions have been found to be discriminatory by courts and other administrators. These questions, also, should not be asked in the interview or on the application:

- Age, year of graduation or dates of school attendance.
- Height or weight, color of eyes, hair, complexion.
- Non-job-related handicaps.
- Marital status, questions about spouse, domestic partner, children or children's ages.
- Who to contact in emergency or for a credit reference.
- Does one own a car?
- Whether applicant owns a home, rents, lives with parents.
- Hobbies, activities and memberships in organizations not related to job performance.
- Military, litigation, or conviction records; many states have laws restricting what employers may ask about criminal history.

Additional information may be found at <https://www.eeoc.gov>.

Background Checking/Screening

The church's offer of employment to any employee should be contingent on the successful completion of a background check. It is basic due diligence and quite normal for any employer to conduct a background check on a prospective employee. Because some states have restrictions on when a background check can be performed in the hiring process, and because background checks cost money, it is a best practice (and in some states a legal requirement) to perform a background check only after an offer of employment has been made.

Background checking services are available through Insurance Board (IB). Information can be found at <https://www.insuranceboard.org/safety-central/abuse-prevention/>.

Federal laws (the Fair Credit Reporting Act) dictate a specific process that employers must follow in conducting background checks and using the results to make employment decisions, as well as communicating the results to prospective employees. This law applies even if you are not specifically checking a prospective employee's credit. Using a professional screening provider is recommended, as the provider will assist you with the appropriate process. Failing to follow the Fair Credit Reporting Act may result in legal liability to the church.

Note that background checking services provided by many state agencies are inferior as they check only the resident state records. It is important to understand what resources state agencies check as compared to other private companies.



Other Screening

Certain employment or volunteer responsibilities require extra screening: handling money or other financial transactions for the church, working with or having access to children or other vulnerable persons, and operating a motor vehicle on behalf of the church.

For those handling money, and where state law permits, a credit check may be appropriate in addition to a criminal records check. Past convictions for theft related crimes should be disqualifiers and if ignored may void your crime insurance coverage with respect to that person.

When hiring staff or recruiting volunteers in child-serving roles, a comprehensive criminal background check is the standard of care. Insurance Board's SafeConduct™ Workbench provides resources in this regard within its self-assessment tool and its SafeConduct™ Policy Template. You can find this information at <https://www.insuranceboard.org/safety-central/abuse-prevention/>.

If employees and volunteers are operating church vehicles, Motor Vehicle Record (MVR) checks are in order. These can be obtained through IB's background checking resource. This standard should also apply to volunteers who regularly carpool using their own vehicles for church activities. IB's website also provides sample vehicle use

Hiring

Employment begins with an "offer letter" or "contract," which specifies the terms of employment and any conditions. As a matter of justice, the prospective employee deserves to know the terms of employment to include such details as salary/wage, working hours, job description, reporting relationship and such details not otherwise contained in an employee manual, for example,

policy documents under <https://www.insuranceboard.org/safety-resources/transportation/>.

Churches commonly use the "six months" rule to screen volunteers, defined either as "membership" or "association" with the church. That is, individuals must be known to the church to qualify for volunteer service. When such a standard has been created, it must be enforced without exception. The practice of predators is to bounce from one organization to the next when they have been nearly caught or to establish themselves where they see procedural weaknesses. Having to wait six months can be intolerable to potential predators. Churches should also consider using a volunteer application that asks for references, unrelated to the volunteer, for volunteer positions where the volunteer is working with children, has access to church financial information or other sensitive information, or has control over church assets (such as keys to church real or personal property), along with the appropriate criminal background check. If a church asks for references, the church must check the references. Even where a volunteer is employed in the community in a similar position (accountant, teacher, childcare worker, etc.), a church cannot cede its responsibility to conduct its own due diligence.

vacation or time away from work, and other conditions such as background/reference checks. In the event of a later dispute about terms of employment, without written specifics as described above, a court would look at every past practice, all writing (including e-mail), minutes and similar records to determine the terms.



Americans with Disabilities Act (ADA)

In general, churches are not subject to the ADA since the Federal law only applies to employers with fifteen or more employees. States may have corresponding statutes with different thresholds for compliance. For example, the Oregon threshold is 6 or more employees. Know the law in your jurisdiction. Despite the statutory exemptions that may be available to small employers, churches will usually feel a moral responsibility to respond to the goals

of the Act. The U.S. Department of Labor sponsors the Job Accommodation Network (JAN), a free consulting service, to help employers reasonably accommodate persons with disabilities. Go to this link: <https://askjan.org>.

The EEOC provides information regarding “reasonable accommodation” at this link: <http://www.eeoc.gov/policy/docs/accommodation.html>.



Employee Handbook

Ideally your church has a detailed Employee Policy Manual. This manual will normally cover the following subjects:

- Employer responsibilities
- Equal employment opportunity and non-discrimination policy and objectives
- Sexual harassment and other types of harassment (note: some states have laws requiring employers to include certain provisions in their anti-harassment policies; know the law in your jurisdiction)
- Exempt and non-exempt employees, including temporary and part-time
- Trial (probationary) period
- Employment at will
- Independent contractors
- Wage and salary administration
- Work week, pay periods and overtime
- Employee performance evaluation
- Termination of employment
- Time-away-from work, including vacations, personal leave, sick leave and family and medical leave, military leave and jury duty
- Employee welfare and pension benefits including workers compensation
- Complaint and grievance procedures
- Disciplinary procedures
- Information technology including internet, computer and electronic and social media
- Dress code, and more



In general, each church should have written personnel policies that are followed. Clear and strong personnel policies will establish mutual expectations between employee and employer and help prevent disputes. Churches should consider consulting with human resource experts or an employment attorney knowledgeable about churches for assistance in drafting or updating policies. However, the best drafted policies may not answer every personnel issue to arise. Personnel policies may be written with some flexibility, and should note the policies are not a contract of employment and are subject to change.

While a church with few employees will have difficulty creating such a comprehensive manual, it is still deemed necessary to have personnel policies. Unwritten, a church's policy becomes a combination of all the ad hoc personnel acts taken in the past. For example, did you give the secretary paid time off when a parent died? You must then give all employees such leave under the same conditions. In general, the more employees your church has, the more structure you require to both (1) provide justice and equity for your employees, and (2) protect your church from the turmoil and expense of employment claims.

Note on Remote Workers: Most churches will employ individuals who live in the same state in which the church is located. If a church decides to hire an employee who works remotely from a different state, know the employee may be entitled to the employment laws and subject to the tax laws of the state in which they are performing the work.

Of all the possible employment disputes, several stand out as most critical and contentious.

Termination – One of the most common causes of employment litigation is a botched termination, whether initiated by the employer “with cause” or a “voluntary resignation” by the employee. While these may be difficult, highly emotional events, they must be handled dispassionately and strictly by the rules. There are two imperatives:

- Get legal or human resources professional advice before terminating an employee “for cause” (performance, attendance, insubordination).
- Know the laws of your state regarding entitlement to wages, accrued vacation or other benefits when employment is terminated.

In addition, an employee may be entitled to other protections at the time of termination. For example, in most

cases, employers are prohibited from terminating employees in retaliation for actions taken by the employee such as complaining about an employer's violation of law or regulation.

Family, Medical or Disability Leave – Both Federal and State laws (including workers' compensation) apply to leave from work, along with non-occupational disability insurance terms. It is important to know when Federal and State leave laws apply and how they integrate with your church's vacation and leave benefits. Leave denied improperly or used as a pretext for termination may result in employment practices litigation along with government agency discrimination claims. While the Federal FMLA statute may not apply to your church, many states have state and family medical leave that may apply to your church. Some of these laws provide for paid leave, and require employers and employees (through payroll deduction) to pay into a state insurance fund, which is the source of the funds from which the employee is paid.

Sick Leave – Some states and/or municipalities now require paid sick leave for larger employers and unpaid sick leave for all other employers. In addition, posted notice of sick leave and quarterly accounting on employee pay stubs may be required.

Vacation, Jury and Other Leave – There is usually no requirement that an employer pay salary for any of these forms of leave. Jury leave is required by law, but absent a policy, the time off may be without pay. Some states, such as New York, may require certain employers to provide some compensation. There is no legal requirement that vacation (with or without pay) be provided absent an established policy to do so, though some states have enacted laws requiring employers to provide paid leave that can be used for certain purposes or any purpose. The church's desire to be a just employer should dictate establishment of policies in these areas. Church leave policies must be coordinated with non-occupational short and long-term disability benefits you may provide. Failure to do so may result in payment of duplicate benefits at your own expense.

Internet, computer and electronic and social media – Policies should address the proper use of electronic communication and media and prohibit use in discriminatory, harassing or obscene manners. Employees and volunteers must also be apprised of trademark and copyright laws. Access to corporate social media accounts should be limited to select individuals.



Wages and Working Hours

The Fair Labor Standards Act, the federal statute establishing minimum wage and overtime pay requirements, likely does not apply to a church unless the church is operating a business or a school, preschool, or daycare that brings it within the application of the statute. State laws on minimum wage and overtime may apply and they may be stricter or more demanding than Federal statutes. State/City minimum wages vary greatly. The U.S. Department of Labor provides a schedule of State laws at this link:

<https://www.dol.gov/whd/minwage/america.htm>.



Watch out for a “trap” when your church pays an employee a lump sum for a service. For example, suppose you pay a person \$15 per service for childcare. If that person is at work more than two hours, and the effective wage falls below the state minimum wage, it is no defense that you told the person not to stay beyond two hours. Provide a timecard to employees requiring that they complete it.

Most states provide for payment of 150% of regular salary for all hours worked over 40 hours/week for “non-exempt” (from overtime) employees. Hourly employees are almost always “non-exempt” and entitled to overtime pay. The calculation may be done on a daily or weekly basis depending on the state. The hours cannot be averaged over multiple weeks.

Note that employment practices liability insurance often excludes coverage for violation of labor laws of this kind, to include back pay and penalties owed.

Required Posters

Employment regulations require the posting of certain notices, both federal and state regulations. The U.S. Dept. of Labor provides help in identifying these requirements based on specific employer characteristics, on its elaws – FirstStep Poster Advisor at: <http://www.dol.gov/elaws/posters.htm>.

Answer a series of questions to determine your requirements by state. Typically, requirements cover:

- Wages and hours
- Equal employment opportunity
- Occupational safety and health
- Family medical leave
- Fair labor standards
- Whistleblower protection
- Uniformed services employment and re-employment
- Similar postings depending upon specific state regulations such as sick leave requirements



Employment or Benevolence?

One employment law trap that often catches churches occurs when an employee becomes unable to work. At that point, the church wants to help the person, usually a loved, long-time employee, maybe a member. Often the church is tempted to continue the person's wages, even though the person cannot work. There are several reasons this should not be done:

- 1. Policy precedent** – Such an action can establish a disability policy precedent for your church. Other church employees with similar fact situations would be entitled to expect similar treatment.
- 2. Stewardship** – To address justice concerns for employees and provide stewardship of church assets, the risk should be managed with disability insurance (including workers' compensation), which provides a sum certain benefit to the employee and economy to the church.
- 3. Tax Implications** – Payments to an employee of the church are taxable and must be added to Form W-2 wages. You are obligated to withhold payroll taxes like the payment was wages, even if the payment is made indirectly, as to an employee's doctor. It gets even more complicated if such a payment is made to a "control person," such as a pastor or business manager. It is best practice to consult your employment tax advisor to be sure you understand what workers' compensation medical and disability benefits an employee may already be receiving if the disability is work related.

Churches should properly distinguish between services rendered to the church and its desire to support a distressed employee. Employment needs to be kept separate from benevolence. In the worst case, churches end up with ineffective operations because they are unable to fill a needed position while an employee is on a paid leave. In the long run, underwriting this risk with a disability policy makes both excellent business sense while being properly compassionate to the needs of employees.

Employee or Independent Contractor?

This is an area of the most misunderstanding and abuse: "Is the janitor our employee or an independent contractor?"

The answer is usually that the person is your employee, despite what you say or what your "contract" says. Recent publicity around this issue has made it a "hot button" for the labor and taxation agencies that regulate in this area. Whether a worker is an employee or an independent contractor is not the choice of either the employer or the worker. It is a classification defined by law. Misclassifying a worker as an independent contractor when they should be classified as an employee may result in penalties that must be paid by the employer as well as loss of potential employment-related benefits to the worker.

The Internal Revenue Service (IRS) provides the following general rules:

An individual is an independent contractor if the payer has the right to control or direct only the result of the work and not what will be done and how it will be done. The earnings of a person who is working as an independent contractor are subject to Self-Employment Tax, paid directly by the worker.

An individual is not an independent contractor if they perform services that can be controlled by an employer (what will be done and how it will be done). This applies even if they are given freedom of action. What matters is

that the employer has the legal right to control the details of how the services are performed.

The IRS officially uses a 20-factor test to determine whether a worker is an independent contractor or an employee. In practice they focus on the following, the worker must:

- Have a written agreement
- May suffer a loss or make a profit under the agreement: this is different than simply being paid for the work
- Have a separate place of business—if not having a separate place of business, pay fair market rent for those facilities used on the employer's premises
- Have a significant investment in facilities and tools
- Have their services available to the public or is paid exclusively on commission



States may have additional criteria.

As should be apparent, only rarely will a worker in and around a church meet the requirements to be treated as an independent contractor. Clergy, even though they are treated as self-employed for purposes of the Social Security tax (see below), are nearly always employees of the church who should be provided a W-2 annually.

An improperly classified worker poses financial risks for your church. If you have not provided workers' compensation for a worker who is found to be an employee, and the employee is injured, your church will be found to be not complying with workers' compensation statutes. Usually, you will be denied common law defenses in defense of the injury claim and serious financial consequences may follow to include payment of higher benefits. General liability policies will exclude coverage for injuries arising during employment by your church. Hiring of an independent contractor will be addressed later.

For more information, consult one of these references:

- Employer's Tax Guide (Circular E), IRS Publication 15, and Employer's Supplemental Tax Guide, IRS Publication 15-A
- Employment Taxes, IRS Publication 937
- Tax Guide for Churches and Religious Organizations, IRS Publication 1828
- Tax Guide for Small Business, IRS Publication 334



Employment Taxes, Benefits and Insurance

Taxes & Statutory Insurance

While your church is tax-exempt, your employees certainly are subject to multiple levels and kinds of taxation, both federal and state. And you are obligated as an employer to withhold taxes and forward them to federal and state (and sometimes local) agencies as they require.

Social Security (FICA) – Churches are subject to the provisions of the Social Security Act. Understand that IRS has the power under IRC Section 6672 to recover amounts not properly withheld from both the employer and “responsible persons” that would be required to collect or insure collection. This could mean personal financial liability for members of the Board or similar church bodies who decide to not pay the required withholdings. This statute also covers failure to properly withhold income tax (see below). See IRS Publications 15, 334, and 1828, previously referenced.

Other Tax Withholding – Federal and State Tax – In addition to FICA contributions, church employers are also required to withhold Federal and State income tax and city income tax. The responsibility includes requiring employee preparation of Forms W-4 (Employee's Withholding Allowance Certificate), and employer preparation and distribution of Forms W-2 (Wage and Tax Statement).

Summary Tax Reporting Tips

1. Obtain an Employer Identification Number (EIN); the employer's equivalent of a Social Security Number (SSN). Your church's EIN is separate from the denominational EIN or group ruling EIN that may be provided by your church's denomination for tax-exempt identification purposes. Denominational EINs must not be used to submit payroll taxes or other church business to governmental agencies.
2. Determine the employment status of each church worker as an "employee" or "independent contractor."
3. Obtain the SSN of each employee.
4. Have each employee complete a Form W-4 (both federal and state equivalents).
5. Compute each employee's taxable wages.
6. Determine the amount of income tax to withhold from each employee's wages.
7. Withhold FICA from non-clergy employees.
8. Deposit taxes withheld, which include income tax on employee wages, and employer and employee shares of FICA wages. Federal tax payments must be made electronically with the IRS.

Form I-9 – Employment Eligibility Verification – For all persons hired since November 6, 1986, employers must have a Form I-9, showing that the person is eligible for employment in the United States. It is recommended that all I-9s be kept together in a separate folder from personnel files. For more I-9 information, see Handbook for Employers – Document M-274, U.S. Department of Justice, U.S. Citizenship and Immigration Services, <https://www.uscis.gov/i-9-central/handbook-employers-m-274>.

Unemployment Insurance – Unemployment benefits are provided under State programs but mandated by Federal legislation. Federal law specifically exempts "services performed in the employ of a church" from the definition of covered employment. This means that in most cases, churches are not required to pay into unemployment insurance programs, nor do church employees receive unemployment benefits when their employment is involuntarily terminated. Church employees are entitled to unemployment benefits in states where coverage has been expanded or where churches are permitted to voluntarily participate in the unemployment system. Be certain that you know what your state requires or permits. For example, in Oregon, the Supreme Court, rather than the legislature, has held that Oregon churches are not exempt from contributions to state unemployment insurance. The premium must be paid on both clergy and other employees. In other states, notably Missouri, the employer may be required to provide notice to employees that they are not covered by unemployment insurance.

Because church employees are typically not eligible for unemployment benefits, consider whether your church should adopt a policy that provides a severance package that includes pay and benefits continuation for a period of time to church workers who are involuntarily

terminated through no fault of their own, such as position elimination or restructure. Employees who resign or who are terminated for cause are generally not provided a severance package, unless it is in exchange for a release of legal claims against the church under appropriate circumstances. Consult your church's attorney for more information.

Workers' Compensation – Every state has a compulsory workers' compensation law with widely varying exceptions for certain employment, such as churches and small employers. Some states mandate benefits to volunteers, while others make it optional or exclude volunteers. Therefore, it is important to investigate and understand what your state requires or permits. A link to state workers' compensation laws is provided here: <https://injury.findlaw.com/workers-compensation/workers-compensation-laws-by-state.html>.

As a matter of justice and considering there is considerable physical risk to some church employment, your church must consider whether to provide workers' compensation benefits where it is optional. In most states, workers' compensation is purchased from standard insurance companies, while in a few states, it is a State-run program (Ohio, North Dakota, Washington, Wyoming). Premium is based upon payroll, job classification and prior loss experience.

Independent Audit – It is recommended that the above payments and all financial transactions be subject to an annual independent audit. First, failure to make payments or pay premiums may result in fines or other financial risk to your church. Likewise, an ongoing embezzlement may be concealed by failing to pay these obligations. Board members are personally exposed to liability of 100% of uncollected and unpaid taxes.



Welfare & Pension Plans

As a matter of good stewardship and justice, churches are urged to consider providing life, disability and health care coverage for employees. Such programs benefit the employee and prevent the dilemma a church faces when a treasured employee becomes disabled or ill. Benefits provided to employees, including life insurance, health care, disability plans and similar benefits, are referred to as “welfare plans.” These are normally obtained by small employers through a variety of insurance products.

While commercial insurance resources are available, your church should consider those plans offered by your denomination. Your denominational programs provide the benefit of group bargaining power which may result in better terms and lower costs compared to similar products purchased individually.

When these benefits are provided, employers are required to provide Summary Plan Descriptions Discrimination Rules also apply:

Summary Plan Description – This document will be provided by insurers or your denomination’s Pension Board and must be distributed to all employees. This normally occurs annually.

Discrimination Rules – “Discrimination” rules are imposed by insurers to prevent “adverse selection”, that is, to prevent participation only by those who are already ill. Typically, for an employer to qualify, insurers will require that 80% of all eligible employees participate in a plan. Other non-discrimination rules are imposed by federal statutes as a means of preventing disparate treatment of similar employees or better treatment of executives. There will be tax implications when a benefit is purchased for only a few employees or not all.



Pension Plans

Some denominations served by Insurance Board provide pension plans for clergy and lay employees along with other welfare benefit plans. Links are provided below to the Pension Board website for each denomination. Summary Plan Descriptions are available from those resources. It is important to understand other discrimination rules that apply. For example, non-discrimination rules will require that all employees in the same class be provided the same benefits.

- Pension Boards, United Church of Christ – www.pbucc.org
Annuity Pension Plan, Tax-Sheltered Annuity 403(b)(9) plan; Medical, prescription drugs, vision, dental, flexible spending, life & disability.
- Pension Board of the Christian Church (Disciples of Christ) – www.pensionfund.org
Defined benefit pension and Tax-Deferred Retirement Account, a 403(b)(9) plan and Roth IRA. Clergy and Lay eligibility. Roth IRA. Medical, prescription drugs, vision, dental, flexible spending, Medicare supplement plans.
- Board of Pensions, Presbyterian Church (USA)(PCUSA) – www.pensions.org
Defined benefit pension and Retirement Savings Plan (defined contribution), a 403(b)(9) plan. Clergy and Lay eligibility. Medical, prescription drugs, dental, death & disability, long-term care, employee assistance.



Clergy Considerations

Taxes & Compensation

Perhaps the most unique element of clergy employment is the matter of tax treatment of clergy compensation. The UCC Pension Boards and PCUSA Board of Pensions websites, referenced in the previous section, provide a variety of tax information resources in the resources sections, including a tax reporting guide for ministers and Federal reporting requirements for churches.

The best-known authority on church law and taxes is Richard R. Hammar, J.D., LL.M., CPA, who publishes the **Church Law and Tax Report**, a bi-monthly publication. A subscription to this publication is strongly recommended as a regular reference and reminder.

Middle judicatory bodies (Conferences, Regions, Presbyteries, Synods) have also adopted guidelines for clergy compensation. These guidelines should be reviewed upon hiring and during an annual salary review of all clergy. Churches are urged to review these guidelines or consult independent tax advisors, especially when dealing with Social Security and housing allowance issues.

Housing Allowance – In respect to the housing allowance, churches must annually adopt resolutions authorizing the

housing allowance in advance of the tax year their clergy take such an allowance. Ministers should be sure that the designation of a housing or manse allowance for the NEXT year is on the agenda of the church board for one of its final meetings during the current year. A housing allowance cannot be designated retroactively.

Social Security and Income Tax – Two major taxation exceptions applying to churches and clergy must be understood:

1. *Clergy are always treated as self-employed with respect to social security withholding, even though they are, in nearly all cases, W-2 employees of the church and not independent contractors. Clergy pay Self-Employment Tax (SECA), leaving the church no matching tax obligation as required for FICA.*
2. *Clergy wages are exempt from income tax withholding even if they are W-2 employees. Clergy pay estimated taxes unless they have entered into a voluntary withholding agreement with their employer.*





Standing or Authorization

Each of the denominations served by Insurance Board has established its own principles, standards and processes for authorized ministry. Insurance Board's underwriting standards require that the settled pastor be in good standing with the denomination or be actively pursuing standing.

Because each church is in covenant with churches regionally and nationally, it makes sense that churches provide for this in their constitution and/or bylaws. The following language is suggested:

This church is a member of the [name Region(CC-DOC), Presbytery(PCUSA), Conference (UCC)]. All persons serving in authorized ministries within this church shall hold standing in the [Region, Presbytery, Conference].

In addition, the call agreement of your pastor(s) should contain the following language:

Your call is contingent on your maintaining your authorization in the [Region, Presbytery, Conference] of the [your denomination]. In the event that you do not have authorization at the time of your call, it is expected that you seek it promptly. Your call is also contingent on fulfilling requirements for background checking as may be required by the [national setting of the CCDOC or UCC] [Presbytery of X]. Should ministerial standing be suspended, revoked, or transferred for any reason, this agreement can be terminated immediately by the Church Council representing our congregation.

Letter of Call/Call Agreement

As for any other employment, terms of employment must be specified in writing, especially so since there is significant variation in the character of compensation and terms of service among clergy.

These terms must include references to salary, housing or vehicle allowance, vacations, sabbatical, welfare and pension benefits and other such unique matters that are not already defined in an Employee Manual. The call agreement should be drafted to indicate only the church, and the clergy person are parties to the agreement. Representatives of regional judicatories should not sign or be party to call agreements. Ecclesiastical covenants with

regional judicatories should be a separate document and not contain terms of employment.

For example, when a manse is provided to a pastor, it should be clear that the pastor is responsible to insure their non-professional personal property, rental value, and personal liability through a homeowners (renters form) policy at their own expense.

Signed copies of the call agreement should be maintained by the church in employment records. It is recommended that an additional copy be provided to the middle judicatory body.

Other Professional Activities

Many pastors have other professional training such as in various types of counseling. While generally your church should not be engaged in non-religious counseling, in some instances such counseling may be within the bounds of your church's ministry. Clergy should not assume that professional liability insurance coverage is available to them through church insurance policies.

Insurance Board's program provides a "Religious Institution Pastoral and Counseling Professional Liability Coverage Endorsement." It applies only to counseling services within the scope of their duties or employment by your church. That is, other private counseling services are excluded and require separate coverage. Employment contracts or job descriptions must be explicit about the scope of work intended. Read your "professional liability" policy endorsements carefully.



Clergy Salary Review & Denominational Guidelines

Middle judicatory bodies of each denomination have created compensation guidelines for clergy that typically address **(1)** gross salary, **(2)** basic welfare benefits, and **(3)** time away from work. In addition, there are “expenses of ministry” normally reimbursed by the church. Because these guidelines represent a valuable precedent, creating and maintaining a compensation package within these

parameters is recommended. That is, the package should be actively reviewed at some agreed interval to assure that it continues to be equitable and just for both clergy and the congregation. Unusual provisions in a compensation package must be carefully documented so there can be no dispute. Disputes most often erupt at the time of termination and become points of employment litigation.

Loans to Clergy

Some churches wish to make loans to clergy (or other staff), usually to facilitate purchase of a home. No church should make such a loan without consultation with legal and tax counsel. Such loans have several serious implications: **(1)** Loans may create taxable income to the borrower, the extent, timing and reporting of which must be understood. **(2)** State non-profit laws may prohibit such loans (an inurement to a private individual) and result in jeopardizing the church’s non-profit status. **(3)** Provisions must be made for a loan not being repaid (or forgiven), which circumstance has further tax implications.



Tax Exempt Status

Under the IRS’s interpretation of the First Amendment of the U.S. Constitution, churches do not have to make an application to be recognized as tax exempt. The IRS lists organizations that are qualified to receive tax-deductible contributions in IRS Publication 78. Each congregation is declared exempt from income tax as a 501(c)(3) organization.

General Assembly of the Christian Church (Disciples of Christ) – Indianapolis, IN, FEIN 35-0868116

Presbyterian Church (USA) – Louisville, KY, FEIN 23-6393377

United Church of Christ – Cleveland, OH, FEIN 13-1957221

Alliance of Baptists – Tucker, GA, FEIN 56-1553828

Your church may contact your national denomination’s offices to obtain an individual certificate stating that your individual church is listed in the yearbook.

Nevertheless, you may wish to apply for an individual congregation determination letter from the IRS. While there is a cost to submit a separate application, if you operate a business in support of religious activities (day care) or a separate foundation for donations, such a ruling might be prudent. In such cases, or if there is any doubt, your church should contact a tax advisor.

You should also determine whether your State and local jurisdictions defer to the IRS ruling with respect to tax exempt status.



Political Activity

Many churches feel the call to be politically active. As a tax-exempt organization, there are certain limits to such activity. Failure to comply with these limits will lead to loss of tax-exempt status.

- Never endorse a specific candidate or give a single candidate special privileges or support in an election.
- Focus social justice activities around a variety of concerns rather than a single issue.
- Feel free to take positions on issues and communicate those positions to elected officials. In the total scope of the church's activity and budget, this cannot be called "substantial," especially since issues are often not connected to any pending legislation.
- If a church or religious organization desires to spend substantial time and energy on specific legislation, it can create a 501(c)(3) organization within the larger body. A 501(c)(3) is allowed to do as much lobbying as it wishes; however, any financial gifts it receives are not tax deductible.

Check with the organizations and networks in your denomination that address justice issues. Review the guidance provided by the IRS at the following link: <https://www.irs.gov/newsroom/charities-churches-and-politics>



Governance

Incorporation and Bylaws

Churches are urged to maintain their status as nonprofit corporations under respective State laws. This means properly filing of Articles of Incorporation with the equivalent Corporation Division of the Secretary of State's office and making annual reports, if required to do so by state law. Otherwise, the church is an "unincorporated association." In an unincorporated association, all members can be found to be personally liable for the actions of the association, unless the State has adopted laws that say otherwise.



Churches should be governed by bylaws (or a constitution). Bylaws are a contract with the church's members and establish mutual expectations of the congregation and its leaders. Bylaws should be reviewed regularly to ensure they are being followed and to ensure they are working for the church. Sometimes following bylaws strictly can prove impractical, perhaps for logistical reasons. The solution is to either change the bylaws by the designated voting process to reflect actual practice or to find the means to fulfill bylaw requirements. Not following bylaws strictly can result in litigation over contested matters, some of which are not covered by insurance. It is never proper to circumvent or ignore bylaws because it is inconvenient or "messy."

If your church has both a constitution and bylaws, it is important to understand which takes precedence over the other and to assure that, when changes are made to one, that the changes are reconciled in both documents.

Subsidiary Organizations

Your church may have subsidiary organizations which operate autonomously; for example, day care or pre-school, cemetery association, food pantry, etc. Especially when these are separately incorporated, it is important to establish the clear connection to the parent organization (your church) in the bylaws of the subsidiary. This is important to insurance contracts to provide comprehensive coverage at the least cost. It is important from a

management perspective to prevent subsidiaries acting independently contrary to the desires or interests of your church. It is recommended that **(1)** the parent organization be specifically represented in the managing body of the subsidiary; **(2)** that the parent retain control of the appointment of the subsidiary's governing body; and **(3)** the parent retain approval authority for changes to the subsidiary constitution/bylaws.

Clergy Standing or Authorization

See "Clergy Considerations" from earlier in this booklet.

Member Rolls

Given "congregational" governance of our participating churches and ministries, the membership roll is a very important document to be maintained. Further, church corporations generally should be membership corporations, with certain powers reserved to members, such as the election of officers, call of a pastor, and amendment of governing documents. If bylaws provide a vote to all members, that vote will control all issues in dispute within your church. On more than one occasion, churches have come to grief because the "official" membership roll of the church was not carefully maintained. This can occur when a vote of the entire membership is required, but resigned or deceased members have not been stricken from the rolls or new members properly added.

Churches should establish procedures for attaining membership and terminating membership as a provision of bylaws. Remember, a procedure formally adopted must be followed. An audit of membership rolls might be included as a part of annual audit procedures.



Member Inspection Rights

A demand from a member to inspect all the details of church financial transactions may be used as a weapon in a church management dispute, especially when it comes with a court order. There are few state statutes or defining case law that prescribe how a church may define or limit the records a member may inspect. Research of non-profit statutes in your state in this regard is encouraged. Therefore, it is advisable to include a bylaw which describes and limits which church records are open to inspection by a member.



Annual Audit

An independent annual financial audit, done by an accounting firm or by persons not having a part in daily financial transactions, is the hallmark of financial transparency, and accountability of church leadership to its members. Such an audit is made available to church members and will largely preclude demands for inspection of records.

When bylaws require an annual audit, and it is not done, church officers are open to claims for breach of fiduciary duty, especially so if it is found that financial losses have accrued because of failure to manage finances. Church embezzlements of very large sums are more common than one might think, especially so because many churches lack financial controls and permit a single person to have exclusive access to financial transactions with little oversight.

It is recommended that your board include an Audit Committee. It must be clear that your Treasurer reports to, and is not a member of, the Audit Committee.

An Audit Committee Handbook has been published by the Massachusetts Conference of the UCC. A link to it is provided on Insurance Board's website: <https://www.insuranceboard.org/wp-content/uploads/2021/02/churchfinancehandbook2018online-1.pdf>

Other financial resources from partner denominations are also available at <https://www.insuranceboard.org/safety-central/employee-volunteer-board-management/>.



Church Insurance & Risk Management

General Insurance

Annually, Trustees should review the church's insurance program. Likewise, part of an annual audit should be verification that the insurance bills have been paid, and the coverage is in force. After a loss occurs and it is found that premium has not been paid and a policy cancelled, insurance companies may not reinstate coverage to cover the loss.



Insurance is not one-size-fits all. Two broad categories of coverage apply:

1. Property:

Real and Personal Property, Business Income – Most importantly, the replacement value of buildings and equipment must be considered. It is always your responsibility to determine value, not your agent's or the insurance company's. Church property, especially those built prior to 1950, is frequently under-insured. Factors in valuation include stained glass, pipe organs and other “fine arts.” Other factors to consider are the need for flood or earthquake insurance; these are not covered by standard insurance policies.

Crime (Employee Dishonesty) – While there are several coverages within crime insurance, including forgery and credit card theft, the most important coverage is employee dishonesty. Many churches have very low limits for crime insurance, while church claims of high five and six figures are not uncommon.

Equipment / Mechanical Breakdown (Boilers) – extends coverage to include the explosion of a boiler or mechanical breakdown of equipment (normal wear and tear excluded). This coverage often includes jurisdictional boiler inspection services at no additional charge.

2. Casualty:

These include various kinds of insurance that are not standard or carried by all businesses but are appropriate to churches:

General Liability – Basic coverage for bodily injury and property damage carried by most businesses and homeowners.

Automobile Liability – Required coverage for vehicle owners. Churches have need of a special endorsement for “non-owned and hired vehicles,” to cover vehicles rented or borrowed or as excess coverage over that carried by volunteer owners. This endorsement may be added to the General Liability policy.

Directors & Officers Liability – Providing coverage to church leaders regarding their activity as decision makers. Includes coverage for libel and slander.

Employment Practices Liability – included within some D&O policies, covering wrongful acts such as gender discrimination or wrongful termination.

Sexual Misconduct Liability – This coverage is most important where there are child-serving ministries such as day care, pre-school, and nursery services.

Pastoral & Professional Counseling – Coverage for alleged wrongful acts that arise out of providing or failing to provide counseling services.

Privacy Breach Liability (Cyber) – Churches are not immune to cyber threats. Besides the liability issues of a data breach, most states require prompt notification to individuals. The penalties for failure to comply can be severe.

Other liability – Special coverages include “Cemetery Professional,” “Nurse Professional” and “Educators Professional.”

Workers' Compensation – Every state has a mandatory workers' compensation statute. Some may exempt churches and small employers. However, for the reasons given under Benevolence maintaining workers' compensation coverage for employees is strongly encouraged, both as a matter of justice and because of the financial risks posed.

Employee Benefit Liability – This coverage responds to many claims that arise out of errors or omissions in the administration of an employee benefit plan.



Regular consultation with an insurance agent who is specialized in church insurance is highly recommended. The above coverage is provided by Insurance Board's program in a single attractive package. Agents representing Insurance Board are carefully selected and highly supported with information and training. You may find an Insurance Board agent through the website at www.InsuranceBoard.org.



Risk Management

Employee Training

As the legal and business environment changes, employers must adapt employee training programs. Training in the areas noted below will serve as a deterrent to potential losses and lawsuits.

Workplace and Church Safety

In accordance with Occupational Safety and Health Standards, employers have the responsibility to provide a safe work environment. The Occupational Safety and Health Act (OSHA) applies to all businesses regardless of the number of employees. Employers should examine workplace conditions to make sure they comply with OSHA standards and regulations. Information regarding applicable standards that apply to specific industries may be obtained at www.osha.gov.

OSHA also provides guidance on mitigating workplace violence, defined as an act or threat of physical violence, harassment, intimidation or other threatening disruptive behavior that occurs at the work site. Situations of workplace violence may arise between employees or non-employees such as church members or guests. OSHA believes that a well-written and implemented workplace violence prevention program, combined with administrative controls and training, can reduce the incidence of workplace violence.

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Additionally, churches and related ministries are concerned about the physical security of their church members and buildings. Places of business and worship need to consider the best ways to respond to the potential for an active intruder/shooter situation. While every response to a physical intrusion into workplaces is contingent upon the circumstances presented, there are several important considerations that every church should assess, evaluation discuss for their respective church setting.

Such considerations should include:

- What role should ushers perform in the congregation, including being responsive to the safety and security of congregants; evacuating them using all available exits; being trained in First Aid/CPR/AED; having the ability to assess threats of unwanted visitors/intruders; or being aware of, and communicating knowledge of a specific threat or ongoing domestic dispute?
- When was the last conversation with staff/volunteers about emergency preparedness, including conducting actual drills?
- Are volunteers and staff familiar with the premises to know the best places to exit or shelter in place, if necessary?
- Are there effective ways to notify others on the premises of an imminent threat (fire alarms/public address system, etc.)? Do people know where these are?
- Where can a church find resources to assist?

Additionally, regarding guns on the premises, most experts do not recommend encouraging civilians to carry guns into a place of business or worship. Conceal carry laws vary widely by state, and individuals may find themselves in legal jeopardy if the use of a gun is not specifically authorized under the state's concealed carry law. Also, guns on the premises may confuse law enforcement officials once they arrive on the scene, which may exacerbate an already tense situation. If the church decides to provide armed security, it should be provided by an off-duty, uniformed law enforcement officer who is best trained to handle such situations and whose presence may deter an event from happening.

The Federal Emergency Management Agency (FEMA) and Department of Homeland Security (DHS) have resources and information about what an individual should do during an active shooter incident. Those options include run/escape, hide/lockdown, or fight/counter. FEMA includes a link on its webpage to a five-minute video that evaluates these options during a shooter situation which can be accessed here: https://www.youtube.com/watch?v=5VcSwejU2D0&feature=player_embedded

Congregations and workplaces should also consider putting together a crisis management plan to be prepared should an event occur. Crisis plans must be customized to the individual organization as each has its own needs, goals, resources and definition of what constitutes a crisis.



Key Steps include:

- **Establishing a crisis management planning team.** Members of the team should include various departments and interests of the organization such as facilities management, administrative staff, and volunteer coordinators. A program coordinator should be chosen, and varying levels of authority should be given to members of the team.
- **Identifying potential disasters or crises.** Consider previous crises experienced as well as your geographic location.
- **Identifying and prioritizing critical business needs.** Consider the way the church and office function in the aftermath of a disaster/crisis, including other extensions of the ministry such as daycare, schools, soup pantry services, etc.
- **Assessing and reviewing internal resources.** The team should assess safety and security procedures, including fire prevention and evacuation plans. Additionally, information regarding insurance coverages and other emergency contact info should be obtained and stored in a manner that is readily accessible to the team in the time of need.
- **Identifying external resources.** The team should liaise with local emergency authorities, utilities, FEMA/Red Cross, IT vendors, local hospitals, insurance agents, and remediation services.
- **Identifying asset requirements for after the crisis.** Items to consider include supplies such as water, first aid, generators, protective clothing, and building materials. An alternative church location may also need to be established.
- **Coordinating communication.** Set up a phone tree along with email and text notifications for team and church members. Establish media contacts prior to the crisis and craft prewritten statements.
- **Developing the crisis management plan.**
- **Implementing the plan.** Prepare and test the draft plan, and revise as needed.
- **Understanding the obstacles.** Information gaps and communication difficulties may pop up.

Workplace Harassment

Workplace harassment is a form of discrimination that violates Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967 and the American with Disabilities Act of 1990. It is important to note that some states have broader definitions of harassment than what is defined in these statutes. Some states also mandate harassment policies, require specific information to be included in policies, and mandate state-approved anti-harassment training. Some of these requirements may apply to churches, so check the law in your jurisdiction.

The EEOC defines harassment as unwelcome conduct that is based on race, color, religion, sex (including pregnancy), national origin, gender/gender identity, age (40 years or older), physical or mental disability, or genetic information.

Prevention is the best tool to eliminate harassment in the workplace. Employers are encouraged to take appropriate steps to prevent and correct unlawful harassment. They should clearly communicate to employees that unwelcome harassing conduct will not be tolerated. They can do this by establishing an effective complaint or grievance process, providing anti-harassment training to all employees, and taking immediate and appropriate action when an employee complains. Employers should strive to create an environment in which employees feel free to raise concerns and are confident that those concerns will be addressed.

Employees are encouraged to inform the harasser directly that the conduct is unwelcome and must stop. Employees should also report harassment to management at an early stage to prevent its escalation.



Copyright Compliance

Churches are subject to the same copyright laws as all other businesses, with one exception. Churches do not need copyright permission to perform most music during a worship service. This exception covers performance of music during worship only and does not extend to photocopying or displaying sheet music or lyrics, whether projected on a screen or in a bulletin. It also does not extend to recording or livestreaming a worship service, or to playing video recordings during worship that contain other intellectual property elements like videography and graphics. For these activities, churches must have the appropriate copyright licenses for works that are not in the public domain.

In recent years many churches have started streaming their worship services through social media platforms, including Facebook and YouTube, or recording their services and posting them on the church's web page. Specific copyright licenses for music are required to comply with copyright laws. (Social media platforms may also have their own rules that will flag a church's posts for copyright infringement, hindering a church's ability to engage with its followers.)

Several licensing companies offer churches blanket copyright licenses to facilitate copying sheet music and lyrics, and provide copyright permissions to stream, record, and broadcast. The licenses cover specific catalogs of music. Each license has its own terms, which must be adhered to for the protection to apply. Companies that churches frequently use include OneLicense, CCLI, and Christian Copyright Solutions. More than one type of license may be required, depending on a church's activities.

Churches must also be aware of other copyright issues that may arise in its business. In general, a church may not use copyrighted property without permission. Almost every poem, photography, artwork, book, or other work

Cybersecurity

Cybersecurity focuses on protecting computers, networks and data from unintended or unauthorized access. Smaller enterprises with minimal IT infrastructure and policies are susceptible to privacy breaches, computer virus attacks, cybercrime and fraud. The financial and personal data collected by our ministries call for a high level of responsibility in protecting this data.

Ministries utilize IT assets in many ways such as online giving, website and social media, Wi-Fi access, cellphones, accounting and donor management software, and email.

of authorship is protected by a copyright, even if is not registered with the U.S. Copyright Office. This means that a church cannot download photos from the internet and use them on its website, stewardship materials, educational materials, or in any other way without permission from the copyright owner, and it is not always easy to determine who that is. A church cannot have a poem performed during its worship service without the permission of the copyright owner. In a world where everything is posted online, it has become very easy for copyright agents representing owners to scour the internet using automated software to find instances of copyrighted materials being used without permission. This has resulted in churches receiving demands to pay hefty licensing fees or face the threat of a lawsuit for past use.

Insurance Board has resources on copyright compliance for churches on its online learning page. The United Church of Christ's Office of General Counsel also has copyright resources for churches. Churches should develop a policy that requires employees and volunteers to be aware of and comply with copyright law. It is a justice issue for the creators of the works that are used.



Suggested best practices to keep data and networks safe include:

- Establishing IT policies and recovery plans.
- Installing antivirus protection on each computer and server.
- Ensuring all devices have individual passwords that are 8-15 characters long with upper/lower case letters, numbers, and special characters. These passwords should not be shared.
- Installing a dependable firewall that limits unauthorized access to the network.
- Separate Wi-Fi networks for church business from public Wi-Fi networks, and change passwords regularly.
- Perform regular backups of data with storage offsite (or move to cloud-based storage).
- Properly dispose of old computer equipment and hard drives, taking care to remove all data.
- Using services compliant with the Payment Card Industry Data Security Standards (PCI DSS) for online giving.
- Ensuring vendors use Secure Socket Layer (SSL) encryption to protect information.
- Restricting physical access to computers.
- Storing employee personal information in a secure place.
- Conducting criminal background checks on employees with access to Personally Identifiable Information (PII).
- Continually training staff to identify, avoid, and report social engineering and phishing schemes.
- Considering devices and items connected to the internet such as smart/Internet of Things devices.
- Setting up multifactor authentication (MFA) to boost security and keep accounts safe from hackers. Learn more by watching [this CISA video](#).
- Updating software regularly (and not delaying updates).
- Developing an incident response plan.
- Requesting cyber hygiene services if necessary. Learn more at [the CISA website](#).
- Utilizing **Vulnerability Scanning**, which continuously monitors and assesses internet-accessible network assets (public, static IPv4 addresses) to evaluate their host and vulnerability status. In addition to weekly reports of all findings, you'll receive ad hoc alerts about urgent findings like potentially risky services and known exploited vulnerabilities.
- Utilizing **Web Application Scanning**, a service that dives deep into publicly accessible web applications to uncover vulnerabilities and misconfigurations that attackers could exploit. This comprehensive evaluation includes, but is not limited to, the vulnerabilities listed in the OWASP Top Ten, which represent the most critical web application security risks. This service provides detailed reports monthly as well as on-demand reports to help keep your web applications secure.
- **Video: Strengthening Cyber Defenses: CISA's Free Vulnerability Scanning Explained:** In this video, CISA highlights the benefits of enrolling in its Vulnerability Scanning service to improve critical infrastructure cyber defenses. Learn how this service can help organizations identify vulnerabilities, sharpen their response, and significantly reduce risk—all while strengthening their defenses against evolving cyber threats.



Additional suggestions for social media pages:

- Designate users for social media pages and set a policy for what can be shared on these platforms.
 - Ensure the content aligns with your mission.
 - Provide training on how to handle negative comments, emergency situations and obscene content.
 - Compliance with the Children’s Online Protection Act is a best practice.
 - Adhere to Copyright laws.

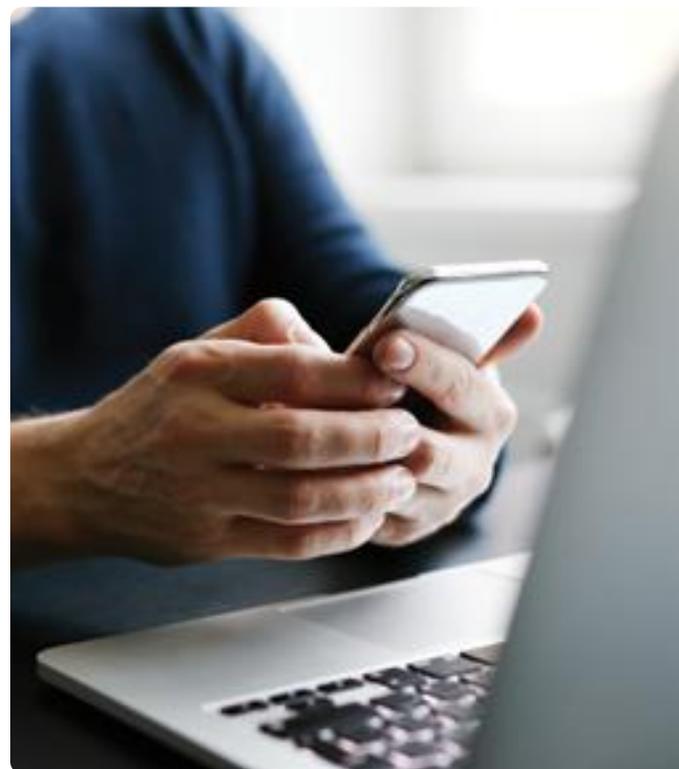
Should your church be the victim of a data breach the following steps should be taken and legal counsel consulted:

1. Isolate the breach by isolating the servers and computers; disconnect to all other systems to prevent the malware from spreading.
2. Call IT Security Professionals to help with next steps which should include identifying vulnerabilities and deploying security solutions.
3. Notify authorities such as local law enforcement who may advise contacting the U.S. Computer Emergency Readiness Team (US-CERT) out of the Department of Homeland Security IRF Incident Reporting Start - IRF, Internet Crime Complaint Center Home Page - Internet Crime Complaint Center (IC3).
4. Inform church members of the breach so that they may take additional precautions to guard against identity theft.
5. Debrief with staff regarding the incident including lessons learned which should be incorporated into additional training for staff.

Generative Artificial Intelligence

The use of generative artificial intelligence (“genAI”) tools, like ChatGPT, image generators, and music generators, is increasingly common. These tools can conduct research, draft documents and communications, analyze data, and produce music and images. GenAI tools also carry legal and ethical risks. Churches should not be afraid of the technology but must be attentive to its responsible use. For some churches, this may mean it does not permit the use of these tools, and other churches may come to different conclusions. Churches are advised to develop a policy about the use of genAI, applicable to employees and volunteers, to establish mutual expectations and requirements in the use of the technology.

At the time this publication is being updated in 2025, lawsuits by copyright owners of text, images, and music used to train genAI tools are ongoing in the courts. These lawsuits allege copyright infringement in both the use of the copyrighted materials in the training, and in the output from the genAI tools, which can be confusingly similar to existing works. The use of these tools in producing materials for the church may result in copyright claims or allegations of plagiarism. Policies should require human review and responsibility for copyright infringement.



GenAI tools have been trained on works that perpetuate race, gender, and sexual orientation discrimination. Churches should be aware that genAI tools can produce outputs that reflect that discrimination. Additionally, laws have been passed in some jurisdictions that limit the use of AI in human resources decision-making, and churches may be subject to those laws. Policies should require thorough review of outputs for discriminatory effect.

GenAI outputs may also provide inaccurate, misleading, or false information in response to a user's prompts, and the quality of the output may depend on the skill of the user in developing the prompts. Churches should be aware that data security and privacy of members, donors, and outreach mission users can be compromised in some uses of genAI. Having a policy may mitigate these risks.

Finally, using genAI to draft church resources, communications, sermons, or other theological materials without disclosing its use may lead to feelings of distrust if the congregation becomes aware of its use. A church may believe that works should be created and stewarded by human minds and hearts, guided by the movement of the divine spirit. A church should consider its ministerial ethics codes, theological beliefs, resolutions, and other statements of witness in developing a policy on the use of genAI technology.

For more information on policy development and a checklist that churches can use, see Insurance Board's webinar, *Generative Artificial Intelligence for Churches* on Insurance Board's Webinars page.



Church Tenants and Facilities Use Agreements

While offering church facilities to the community may be a part of your church's ministry, some tenants need to be treated at arm's length. While their respective missions may be compatible with those of your church, their clients and employees may view your church as any other landlord.

For permanent tenants with employees, whether or not rent is paid, a formal lease is recommended, one which **(1)** provides a release and indemnification to your church for accidents that result from their operations, **(2)** outlines insurance requirements for the tenant and **(3)** requires "additional insured" status on the tenants' policies. Certificates of insurance are documentation of fulfilling your requirements and demonstrate financial means to defend a claim under the lease.

The following is provided as sample indemnification language to be included in an agreement with the "Tenant." It is best to consult with your attorney prior to entering into such agreements.

Sample - Mutual Indemnification/ Hold Harmless Wording:

"User agrees to hold harmless, indemnify and defend Owner (including Owner's agents, employees, and representatives) from any and all liability for injury or damage, including, but not limited to, illness, exposure to infectious/ communicable disease, bodily injury, personal injury, emotional injury, or property damage which may result from any person using the above-described premises, its entrances and exits, and surrounding areas, for User's purposes, regardless of whether such injury or damage results from the negligence of the Owner (including Owner's agents, employees and representatives) or otherwise."

Sample - Insurance Clause:

Tenant agrees to have and maintain the policies set forth below entitled "Insurance Requirements." All policies, endorsements, certificates, and/or binders shall be subject to approval by "Church" as to form and content. These requirements are subject to amendment or waiver only if so, approved in writing by "Church."

Sample - Insurance Requirements:

Note: These are minimum limits and should be adjusted upward as reflective of the particular activity being conducted by "Tenant."

Commercial General Liability (ISO CGL CG 00 01) covering CGL on an “occurrence” basis, including products and completed operations, property damage, bodily injury, and personal & advertising injury with limits no less than \$1,000,000 per occurrence, \$3,000,000 aggregate.

An alternative is available when a third party has limited use of church facilities, a Tenants and Users Liability Insurance Program (TULIP). This coverage allows a third party to obtain liability insurance specifically for the use of your church protecting the entity as well as the church. This coverage, available from Insurance Board, is appropriate for informal groups, such as non-member weddings, and other one-time events.

When renting your church facilities, consult with a tax advisor to avoid “unrelated business income tax” (UBIT). See IRS Publication 1828, Tax Guide for Church and Religious Organizations, which discusses criteria to avoid UBIT.

Also consult with your insurance agent to be certain that insurance requirements are consistent with your church coverage and can be fulfilled in practice. Requiring tenants to have insurance coverage as part of a lease or facilities use agreement means someone at the church must have the responsibility of asking the tenant for these documents and ensuring the coverages are up to date.

Independent Contractors – As discussed under “Employee or Independent Contractor?”, the bar is high for a person to be considered an independent contractor. The risk and expense of litigating whether a person is an independent contractor is not worth the reward of avoiding hiring expense, employment taxes and benefits.

If your church’s legitimate intent is to hire an independent contractor, then you must take the initiative to make it so by taking several documented steps. Therefore, place the burden on an independent contractor to act as such by requiring the following:

- **Business license** – Require documentation of a business license as may be required by the state or a local jurisdiction.
- **FEIN or SSN** – If there are other employees, require a FEIN (Federal Employer Identification Number) as demonstration the contractor will be paying employment taxes. Otherwise, require a SSN for a sole proprietor.
- **Trade license** – For construction or trades, require an appropriate license. States vary greatly on requirements for licensing of construction and building trades. For example, the State of Oregon licenses contractors through the Construction Contractors Board. The State of Ohio licenses only certain trades (electric, HVAC and a few others), while residential and general contractors are licensed at the local level.
- **Workers’ compensation** – Require proof of carrying workers’ compensation insurance. In states where very small employers are exempt from the statute, either require the coverage or consult an attorney regarding necessary contract terms to protect your church from a contractor employee’s injury claim.
- **IRS Form 1099** – Make it clear that you will be preparing an IRS Form 1099 for services exceeding \$600 during the calendar year. A FEIN or SSN will be required to complete a Form 1099. See “Information Returns” in IRS Publication 334 – Tax Guide for Small Business.
- **Contract with indemnity agreement** – Engage contractors or other service providers only with a written contract which contains a “hold harmless and indemnity agreement” and which requires that your church be provided “additional insured” status on insurance policies. It is recommended that your church have a purchase order form that includes payment terms and the hold harmless and indemnity agreement. Consultation with an attorney in your state is encouraged to get the terms right.
- **Proof of insurance** – Vendors and contractors should provide proof of insurance for “General Liability,” “Products & Completed Operations Liability” and “Workers’ Compensation.” Coverage for “Automobile Liability” should be required for vendors using vehicles on your property, such as snow removal companies. While proof of insurance for vendors is good to have, a Certificate of Insurance does not benefit your church directly unless it includes “additional insured” status in connection with a contract. Proof of insurance is of greatest value when it is tied to your contract or purchase order indemnity agreement. General Liability and Automobile Liability limits of at least \$1,000,000 are recommended.



Contact your insurance representative. Churches should contact their local insurance representative when any claim related issue arises. Certain issues should always be referred to your local agent:

- Official contact from the Federal EEOC or your state's agency overseeing employment matters.
- Receipt of "demand letter" from a lawyer or any other source.
- Learning of any issue at the church covered by insurance.
- When in doubt, contact your agent.

Insurance Board Loss Control Services – Independent contractors and church tenants are only two of many risk management challenges your church may face. Insurance board risk managers are available, providing you with guidance and best practices in mitigating risks.

To access service, go to our website: <https://www.insuranceboard.org/safety-central/>



Miscellaneous Matters

The New Regulatory and Judicial Paradigm

In times past, government officials, judges and tax collectors steered clear of the operations of churches. NO MORE! To the extent that any operations or actions of a church are not purely ecclesial, courts and other government officials feel free to inquire, regulate and assess a church as if it were any other business or employer.

While steering clear of most clergy employment matters, courts will intervene in employment matters in which the litigated matter falls neatly within the bounds of laws covering labor practice or various forms of discrimination. Therefore, church leaders must be prepared and willing to view church affairs as business.



Child and Elder Abuse Reporting

State laws vary widely in defining who is a “mandatory reporter” of “suspected child and/or elder abuse.” While some states provide that virtually everyone is a “mandatory reporter,” others narrow the responsibility to persons having professional responsibilities related to children or elders. Some states provide some exceptions for clergy while some make no exception at all. Understand also that “abuse” is broadly defined to include all physical or sexual abuse or neglect of a child or elder and financial abuse of elders.

Each church must have a well-articulated abuse prevention program which includes clear guidance on reporting that assures that “mandatory reporters” get the information they must have. Regardless of the specifics of state law, Insurance Board’s position is that all volunteers, must assume responsibility for directly reporting suspected child abuse to law enforcement or child welfare authorities.

Comprehensive resources related to abuse prevention are located on Insurance Board’s website:

<https://www.insuranceboard.org/safety-central/abuse-prevention/>

Volunteer Protection Act & Good Samaritan Laws

The Volunteer Protection Act protects volunteers acting for a non-profit organization from personal liability for his or her simple negligence while acting on behalf of the organization. Each state has also passed corresponding Good Samaritan legislation that may include special conditions.

Even though Good Samaritan laws and the Volunteer Protection Act protect individuals from injury and negligence claims, lawsuits will be filed and the costs to defend them will be high. If insured by Insurance Board’s program, your church’s general liability insurance will provide a defense to your church, its employees, your leaders and your volunteers regarding bodily injury claims resulting from your church’s activities. Directors and Officers coverage will defend leaders for wrongful acts while engaged in the business of your church. Prompt claim reporting is essential.

Donation Acknowledgement

Churches should issue receipts for donations received, especially cash. IRS regulations now require that the donor have documentation of all cash donations, regardless of the amount. Most charities issue receipts for all contributions, no matter the size.

A church, or any charity, can only acknowledge an amount of cash contributed. As for goods, the receipt can describe the goods received but cannot set any value. It is up to the donor to assign a value and defend it with IRS. Personal services donated to a church or other charity cannot be deducted, so generally are not described in a receipt and, if reference is made, should never be given a value.

Also, providing receipts and acknowledgements of cash donations from church members is an important element of financial transparency and they create an audit trail. The receipt process should be included and verified in a periodic independent financial audit.

For further information regarding donation receipts, consult IRS Publication 1828, Tax Guide for Churches and Religious Organizations. For the rule regarding

services donated, consult IRS Publication 526, Charitable Contributions. All IRS publications can be downloaded at the IRS website: www.irs.gov.

The IRS prohibits charitable organizations from accepting charitable contributions to the organization for the benefit of a particular individual. Further, churches should not accept charitable contributions from a donor who insists the church must pass the contribution through to another organization or individual. While churches can accept donations with restrictions, the restrictions cannot be unlawful. Churches are encouraged to develop a gift acceptance policy to avoid accepting gifts that are difficult or expensive for the church to administer in accord with the donor’s intent. For example, a donation restricted to the use of purchasing a new piano must be used for that purpose; if the church acquires a new piano through a gift or decides not to replace the piano, the church cannot use the money for a different purpose without either going back to the original donor for agreement (not the donor’s heirs or administrators), to the state Attorney General, or to the probate court.



Land Use Issues, Property Tax, Etc.

Church exemptions from property taxation are granted by the state, not grounded in the U.S. Constitution. As such, state statutes control these exemptions. Churches, even though property tax exempt, are subject to all local land use and property tax regulations. Churches should be careful to meet state and local regulations. Special care should be taken when filing property tax (real & personal property) reports so as not to jeopardize tax exempt status.

Major improvements to exempt church property may trigger requirements to retrofit and bring buildings to current code, which may include electrical upgrades, life safety improvements (alarms and exits), ADA compliance or other environmental improvements. Such costs are commonly a significant recovery cost component after a major casualty loss, such as a fire or wind loss.

In addition, improvements to the property or leasing to other entities (including non-profit lessees) may generate a requirement to apply for a new property tax exemption. Before making significant improvements or leasing your property, understand how such changes may affect your tax-exempt status. Failure to do so can result in loss of property tax exemption for all a church's property.

Final Note

Aspiring to a position of leadership in your church is a worthy calling. Being a member of your church's governing body, especially, entails great responsibility even though you are unpaid. The issues cited above represent a fiduciary responsibility and must be taken seriously. As a leader you have an obligation to inquire about these matters and have answers from church staff (or other volunteers) that will assure you these things have been done.

Likewise, while principally the spiritual leader, and perhaps not having explicit management authority, clergy have a role in encouraging good management and good decisions.

Some churches benefit from having significant business expertise as membership – accountants, attorneys, insurance agents, human resource professionals, financial advisors and such. Whether or not you have these resources, you are encouraged to reach out to your denominational legal and other employment related resources available to you, your insurance agent and Insurance Board.



Resources

Publications

- The Church Guide to Employment Law, Julie L. Bloss, JD, CEBS, Christian Ministry Resources, P.O. Box 1089, Matthews, NC 28106, tel. (704) 841-8066.
- Loss Control Manual - Vol 5 - Management, Insurance Board, (Downloadable from website under Safety Solutions, Church Management)
- Department of Justice, U.S. Citizenship and Immigration Services, M-274 - Handbook for Employers
- IRS Publications
 - 15-A - Employer's Tax Guide
 - 334 - Tax Guide for Small Business
 - 526 - Charitable Contributions
 - 937 - Employment Taxes
 - 1828 - Tax Guide for Churches and Religious Organizations

Links

- Department of Labor
 - Minimum Wage Laws - <https://www.dol.gov/whd/minwage/america.htm>
 - Required Posters - <http://www.dol.gov/elaws/posters.htm>
- EEOC, Reasonable Accommodation - <http://www.eeoc.gov/policy/docs/accommodation.html>
- Insurance Board - www.insuranceboard.org
- Internal Revenue Service - www.irs.gov
- Job Accommodation Network - <http://askjan.org/>
- OSHA - <https://www.osha.gov/SLTC/workplaceviolence/>
- Disaster Preparedness and Crisis Management
 - FEMA - <https://www.fema.gov/faith-resources>
 - https://www.youtube.com/watch?v=5VcSwejU2D0&feature=player_embedded
 - <https://www.FEMA.gov/media-library/assets/documents/33007>
 - Insurance Board resources
 - [Microsoft Word - A Disaster Preparedness Manual for Churches \(2019.6.18\)](#)
 - [Severe Weather Safety Resources - Insurance Coverage](#)
- Pension Boards
 - Pension Boards, United Church of Christ - www.pbucc.org
 - Pension Board of the Christian Church (Disciples of Christ) - www.pensionfund.org
 - Board of Pensions, Presbyterian Church (USA)(PCUSA) - www.pensions.org



Scan the QR code to access the resources mentioned throughout this booklet.





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