

Legal Counsel

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Corporate Governance for Churches & Their Leaders

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May Churches Allow Dual Memberships?

Recently, a question coincidentally arose with several church clients. The issue focused on whether an individual can belong to more than one church at the same time.

The question of dual membership may be a novel issue for some churches. It may be helpful for church leaders to discuss its policy on this matter before a situation arises.

It is often assumed new members have severed their affiliation with a previous church. Some churches request a letter or documentation from the former church to document the membership transfer.

For new members who were formerly a part of a nonaffiliated church, there may be no coordination in the membership transfer. Consequently, exclusive memberships may be accepted at face value.

For churches that are formally affiliated through a denomination or hierarchical structure, membership transfers may be scripted. For these institutions, specific procedures may govern how members move from one church to another.

Some churches observe a type of provisional membership often called “watch care.” This membership type applies to a person when they are traveling from their

home church for an extensive period. Such persons may be college students, persons whose jobs require extensive assignments away from home, or members of the military.

Let’s look at this question from a legal point of view. To our knowledge, there is no government mandated prohibition to dual church memberships. A person can belong to as many churches as he/she wishes.

On the other hand, churches may limit membership to individuals who are loyal only to that ministry. The reason often given is to promote singularity among the congregation by having members who are committed to that church institution.

An important legal consideration may depend on the type of church structure. Some churches are considered unincorporated associations. In such instances, the law regards these members as being engaged in a joint enterprise.

When a church has been incorporated, members’ participation in the governance of the ministry could vary. The governing documents should outline what roles members and other officers play in the church. Some church officers have fiduciary duties to the ministry. This means, these officials must be loyal to the church.

In some instances, a church could find itself as a counter party to another church in a contract negotiation. If the deal requires the approval of the churches’ congregations, dual memberships could present conflicts of interests. Conflicting interests may complicate or negate the transaction.

To carry out its wishes for loyal membership, church leadership should publicize its policy. The policy may be included in the church bylaws or constitution.

If the bylaws are silent on membership matters, the church governing officials may develop policies that specify the rules. It is most important that the existing and future members understand this important rule making issue.

If dual membership is allowed, the church may decide what membership rights apply to such persons. For instance, a dual member may have limited privileges and voting rights. Rights include inspection of corporate records, holding church office, and/or invitation to participate in business meetings.

In summary, a church may allow dual membership if it so wishes. Whatever rule church leadership and the congregation agrees upon, the policy should be published and well-reasoned. ■

Insurance Claims Can Be Difficult to Claim



All churches should have some form of insurance to insulate them from risks. These policies may include protection against property damage due to various kinds of perils. The property may include buildings, vehicles, equipment, and records.

Insurance policies may provide recovery from other risks. A key man life insurance policy provides financial resources in a leadership transition. Disability insurance protects church employees from the harm of on-the-job injuries. Business continuity insurance helps the church operate after a disaster.

Insurance coverage is an important tool for risk mitigation. However, insurance is only as useful as the church's access to claims when a covered event occurs. It is important for church leaders to manage their insurance programs before and after a claim is filed.

Let's face a fact. Insurance companies are in business to make money for their stockholders. Like most companies, profits can be increased by limiting expenses. For insurance companies, reducing claims is a way to lower expenses and make more money.

When an insurance company denies a claim, it often leaves the church unprepared for the cost of recovering from a calamity. In some instances, the church relied on the insurance company assertions the policy coverage was adequate. Occasionally, the church learns the policy limits were too low to cover the property value.

Often the person who approves the claim payout is not the agent who sold the policy to the church. The relationship the church has with the sales agent may not be helpful

when a loss has been suffered. Church officials should expect the claims process could become prickly.

When damage happens, insurance companies will look for a reason to void the claim. If the insurance company finds the church shares fault, the claim may be denied.

Reasons an insurance company may deny a claim also include nonpayment of premiums, insufficient documentation, damage from an excluded cause, neglect, and misrepresentation. When the church submits an application for insurance, be particularly careful to ensure every bit of information is exactly accurate. An innocent error could cause a claim to be rejected.

The time to manage the claims process is before a misfortune occurs. This begins with a fundamental understanding of the insurance sales process. In nearly every instance, the insurance representative owes loyalty to the insurance company. This is not to disparage the insurance agent. Often these are friendly people who mean well and want to help the church.

Understanding insurance policies can feel daunting at first. Insurance policies include many pages of terms and conditions. In some instances, the church board should consider hiring an independent professional to examine the insurance proposal. This person should work for the church and have no conflicts of interests. An independent expert can help the church officers fully understand what they are buying.

The responsibility for ensuring the insurance coverage is right for the church falls on the church leadership. Management should understand the coverage sold to the church. The terms of the policy, limits, costs, exclusions, disclaimers, definitions,

and requirements should be examined by someone experienced in insurance matters.

Church leaders should consider every conceivable circumstance when a claim could be filed for the policy. If the insurance is for fire protection, the church should have an off site inventory of its assets. The list,

with photographs, will help prove to the insurance company the assets the church owns. Additionally, church leaders should be mindful of the replacement cost for insured assets.

If the insurance coverage is for liability protection, the church governing board should have up-to-date policies and procedures. These documents show the leadership had acted prudently.

Some policies have a notice provision as an important term. This means if an event occurs where a claim may be file, the insurance company has a deadline to be made aware of the loss. Church leaders should put in place a process for when a potential claim becomes apparent, how it will handle apprising the insurance company.

Insurance protection should be a part of management's due diligence on a regular basis. Consider an exercise where officials imagine all kinds of risks the church faces. Next, ask the question if the church has insurance coverage. If coverage exists, the next question is if the coverage is adequate. Finally, officials should ask if the church has adequate procedures to file an effective claim.

Preparation for the time when an insurance claim may be necessary begins when all seems well. Churches should regularly inspect their coverages and internal procedures to ensure when a peril happens, the claim will be handled successfully. ■



The Moment

You realized your legal problems are over.

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Focus on Volunteer Succession!

Prepare for Vacancies in the Ministry.

Much has been written about *The Great Resignation*. This is the widespread trend in business where millions of workers are leaving their jobs to seek new opportunities.

Different reasons are driving these departures. Some employees cite family demands as a cause to rethink their personal commitments. Others have moved up their retirements for a change of pace. For many, just coping with the pressures of life and the pandemic has shifted priorities.

Every organization should be aware of its pipeline of talent when it comes to succession readiness. This applies for leaders and volunteers.

The Great Resignation does not just affect employees. These changes also impact volunteers. For churches, volunteer labor is an important source of talent. The same pressures may cause volunteers to leave.

Churches should be mindful of changes in its labor pool. Being prepared and ensuring talent continuity is an important corporate governance responsibility. Here are some areas for church leaders to ponder as you assess your readiness for leadership and volunteer succession.

Have a Succession Plan. A Succession Plan helps church management keep abreast of evolving congregation demands and the ability of ministries to keep pace. The Plan should include a list of current volunteers, the skills they offer, and an estimate for how long each person may remain in their roles.

Think Ahead. Consider today if the church needed to replace volunteers in critical positions. If you imagine a person leaving a post and you have no idea who could fill the vacancy, you have a succession risk. Have all volunteers create job descriptions. This should be the starting point for recruiting when the time arrives.

Anticipate Volunteers' Needs. Often before a volunteer leaves the job, he/she has been thinking about it long beforehand. Take time to poll volunteers about their current experiences, level of satisfaction, and frustrations. Little adjustments in processes may be necessary to help retain valuable volunteer talents.

Hire Volunteers Like Employees. Bringing a volunteer onboard can be like hiring an employee. Church management needs to interview the person to ensure all interests are mutual. The church will need

to know the volunteer has the requisite experience. The volunteer may undergo initial training just as you would to bring aboard a new employee.

Be Ready to Recruit. Church leaders should keep an eye out for future volunteers. This often requires knowing the demographics of the congregation. Ask church members to provide information on their work experience, certifications, licenses, business ownerships, and hobbies. This ready roster of potential volunteers will be helpful if a sudden need arises.

Nurture Leadership. Volunteers need support as much as church employees. Church leaders should ensure volunteers have the necessary tools to be successful. This could include access to email, procedural manuals, emergency contact information, and office supplies. Just as it applies to employees, volunteers can fail for a lack of critical infrastructure.

Volunteer Rewards. Volunteers don't receive compensation for their services. But the church can find ways to reward volunteers for their contributions. Volunteer rewards vary accordingly based on what each person values. Some may want occasional recognition. Others may appreciate a professional environment to hone their skills. Some volunteers seek to grow their skills for outside career advancements.

Volunteer succession should be a part of church management's focus. When the inevitable turnovers occur, the church will be resilient enough to adapt. ■

Legal Counsel for Churches is a service provided by M Smith Law, PLLC for members of the religious community. This periodical is intended to help churches and their officials become better prepared to address important legal and governance issues. We hope you find *Legal Counsel for Churches* a valuable resource. For each issue, we try to raise relevant issues and offer some practical alternatives. We welcome your comments and input.

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