

Legal Counsel

for Churches

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Corporate Governance for Churches & Their Leaders

M SMITH | LAW^{PLLC}



Does Your Church Have A Gift Acceptance Policy?

Churches accept charitable gifts from their members, corporate donors and the public. However, all gifts are not the same. For this reason, church leadership should discuss what practices may be put in place to manage different kinds of gifts.

Churches should solicit and accept gifts that are consistent with their core ministries. Cash donations and other forms of support are generally welcomed from individuals, partnerships, corporations, foundations, government agencies, or other entities interested in furthering the church's cause.

A Gift Acceptance Policy can help a church manage the expectations of donors and serve as guidance on how to handle donations.

Accepting some types of gifts may run counter to the church's charter. This may occur if the donor demands certain statements from the church. Consequently, church officials should weigh whether they should accept gifts with strings attached.

Some gifts may lead to legal obligations that the church is not otherwise prepared to handle. For instance, a gift of real property may raise property tax issues; gifts of motor vehicles or boats may prompt concerns about disposal of hazardous waste or licensing rules. The church may not be equipped to

either use or dispose of certain types of gifts (i.e. obsolete computers).

Marketable securities, such as stocks and bonds, may be gifted to the church. This process may be made electronically by way of an account maintained at one or more brokerage firms. The gift transfer may also be physical with the transferor's endorsement or signed stock power attached. Marketable securities may be sold promptly upon receipt or held if consistent with the church's investment policies.

Churches may receive inheritances through revocable trusts, commercial annuities, and retirement plans. Donors are often encouraged to make bequests to the church under their wills. The church should work with the donor to make the appropriate arrangements.

The church can accept gifts of life insurance where the church is named as both beneficiary and/or irrevocable owner of the insurance policy. The church may request the donor agree to pay, before due, any future premium payments owing on the policy.


The church should review and determine whether to accept any gifts of tangible personal property considering several factors. Is the property marketable? Are there any

unacceptable restrictions imposed on the property? Are there any carrying costs for the property for which the church may be responsible? Is the title to the property clear?

All gifts of real estate should be subject to careful review by the church. Prior to accepting a gift of real estate other than a personal residence, the church may require an initial environmental review by a qualified environmental firm. If the initial review reveals a potential problem, and the church accepts the gift, it could be responsible for any hazardous waste disposal.

Other questions with real estate gifts include whether there are covenants, conditions, reservations, easements, encumbrances, or other limitations associated with the property. Additionally, there may be carrying costs (including insurance, property taxes, mortgages, notes, or the like) or maintenance and repair expenses associated with the property?

The church should seek the advice of legal counsel in matters relating to acceptance of some gifts. A legal review is recommended for: 1) gifts that are subject to restrictions, 2) requires the church act in any fiduciary capacity, and 3) gifts committing the church to financial or other obligations. ■



What Your Church Board Needs to know This Year.

The year 2024 ushers in a new era of challenges and opportunities. These conditions demand a fresh perspective from church leaders. As a result, it is important for your church to be focused on the matters that are most important to your ministry.

Church leadership, like other organizations, should be aware of various factors to effectively lead the ministry and navigate the challenges of the times.

In this article, we explore key areas that church boards should focus on in 2024 to ensure resilience, innovation, and ethical leadership.

Spiritual & Moral Leadership

Upholding the core beliefs and teachings of the faith community is essential to a church. Leaders must ensure all decisions align with the moral and ethical teachings of their faith. This focus is important to capitalize on Constitutional First Amendment protections.

Community Engagement & Outreach

Churches are recognized as nonprofit institutions by the Internal Revenue Service. For many, the purpose extends to performing charity to the community. Engaging and supporting the local community through charitable activities and social programs is an essential role.

Financial Stewardship

Financial discipline is an important legal duty for church leaders. Maintaining prudent financial practices and communicating financial information clearly to the congregation is crucial. Ethical fund-raising practices to support church initiatives and community projects demonstrates the board's intention to be good stewards.

Technology & Communication

For many ministries, maintaining an effective online presence through a website and social media platforms is important for reaching a broader audience. For some, virtual worship services and online congregational engagement has become an indispensable ministry outlet.

Crisis Management & Preparedness

Organizational leaders learn from past experiences. This has been particularly true from the pandemic. These experiences help the church board develop contingency plans for future crises. Having processes in place to address internal risks within the congregation is important for management.

Legal & Regulatory Compliance

All organizations must be vigilant about regulatory compliance. This includes churches. Legal requirements related to religious organizations includes tax regulations, local ordinances, non-profit reporting and corporate governance.

High on the list of legal compliance is a church's obligations to private contracts. Many ministries are obliged to obey legal agreements. Such contracts may include equipment rentals, venue leases, and vendor services. Each contract should be reviewed annually to ensure risks are managed.

Leadership Development

Training and talent management are important roles for which the church board should be mindful. This involves investing in training programs, fostering a supportive work culture, and managing the volunteer force. By prioritizing the needs of their workforce, churches can enhance productivity, attract top talent, and improve employee retention rates.

Sustainability & ESG Factors

Increasingly, boards integrate ESG (Environmental, Social, and Governance) considerations into their decision-making processes. This involves setting clear sustainability goals, measuring, reporting environmental impacts, ensuring supply chain transparency, and promoting diversity and inclusion within the organization.

Resilience & Risk Management

With the world facing geopolitical uncertainties, shifting economic conditions, climate change, and public health risks, many boards focus on building organizational resilience. This includes scenario planning, stress testing, and developing robust crisis management protocols. Church boards can work closely with their staff and volunteers to identify and address risks effectively.

Data Governance & Privacy

Data continues to be a valuable asset for churches. Leaders need to prioritize data governance and privacy. Ensuring compliance with evolving data protection regulations and safeguarding members' information is important. Boards should invest in cybersecurity measures, educate employees about data privacy best practices, and regularly assess the church's data management processes.

In 2024, your church board should be mindful of its role in shaping the future of the organization. By embracing digital transformation, integrating ESG factors, enhancing resilience, safeguarding data, and prioritizing employee well-being, boards can guide their churches' performance toward sustainable growth and positive societal impact. ■

The Feeling

When You realized your legal problems are over.

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Aligning Church Board and Pastor

An Essential for Organizational Success

The business world is constantly evolving. New technology, disruptive forces, and social pressures affect every organization, including churches. To succeed, church boards and their executive management teams must work together.

In the dynamic landscape of modern business, effective communication, and collaboration between a church's board and its Pastor are vital for sustained success. The relationship between the board and the Pastor can significantly influence the church's strategic direction, financial performance, and overall corporate governance. Here, we delve into the importance of aligning the board with the Pastor and explore strategies to foster a cohesive and productive partnership.

1. Shared Vision and Goals: A harmonious Board & Pastor relationship begins with a shared vision for the church. The board and the Pastor must align on long-term goals, business strategies, and the church's mission. When everyone is working towards a common objective, decision-making becomes more intentional, promoting a unified direction for the ministry.

2. Open and Transparent Communication:

Transparent communication is the cornerstone of a successful Board & Pastor alliance. Regular board meetings, strategy sessions, and updates help ensure everyone is on the same page. Pastors must be open to feedback, and board members should feel comfortable expressing their concerns. Constructive dialogue fosters trust and strengthens the working relationship between the two parties.

3. Clearly Defined Roles and Duties:

Clearly delineated roles and responsibilities are essential to avoid conflicts and ensure accountability. Boards should establish governance policies outlining the Pastor's authority and areas requiring board approval. Pastors, in turn, should respect the board's oversight role and involve them in major decisions, especially those concerning strategy or significant financial commitments.

4. Strategic Board Composition: The composition of the board plays a pivotal role in aligning with the Pastor. Diverse board members bring a wealth of experience and perspectives, enriching strategic discussions. It's crucial to have a mix of industry experts,

independent directors, and individuals with different backgrounds to provide well-rounded guidance to the Pastor.

5. Board Education and Development:

Continued education of board members is vital to stay abreast of industry trends, emerging technologies, and best practices. Workshops, seminars, and training sessions can enhance the board's understanding of the challenges faced by the Pastor and the church, fostering empathy and informed decision-making.

6. Performance Evaluation and Feedback:

Regular performance evaluations for both the board and the Pastor are essential. Constructive feedback surveys identify areas for improvement and reinforce positive behavior. Honest assessments enable the Pastor and the board members to grow individually and collectively, enhancing their effectiveness in steering the church forward.

7. Adaptability and Flexibility: The business landscape is ever shifting. Boards and Pastors must be adaptable and flexible in their approach. Willingness to adjust strategies in response to market changes or internal challenges ensures the church remains resilient and competitive.

Aligning the board with the Pastor is an ongoing process that requires commitment, communication, and collaboration. When the board and the Pastor work cohesively, the church is better equipped to navigate challenges, take advantage of opportunities, and achieve sustainable growth. ■

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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