

Legal Counsel

for Churches

October | 2026

Corporate Governance for Churches & Their Leaders

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When Your Church Gets An Activist Director

Corporate shareholders want to see their investments grow in an organization. They look for a viable strategy, sustainable vision, and strong financial performance. When the company fails to deliver on shareholder expectations, investors may look to install new directors who will be more effective.

In the corporate world, these new board members are often called Activist Directors. Activist directors are individuals elected to the company board by a block of shareholders who want to see change. This often happens when shareholders believe the company is heading in the wrong direction. Activist directors are sometimes met with resistance from incumbent directors.

We usually think of activist directors in the context of corporate takeovers. Nonprofit organizations such as churches can attract activist directors as well. These individuals are often motivated for the same reasons as for-profit activists. Both want to see changes occur in the institution.

When an activist director seeks a board seat, emotions can run high. The current board may be offended that others think they can do a better job. The activist candidates often must find public fault with the current board to validate their candidacy. How a church handles an activist's campaign can be a delicate governance matter.

The rise of an activist candidate does not altogether have to be a negative occurrence.

A church member who identifies weaknesses in the ministry may offer value that benefits the whole congregation. If their intentions are sincere, an activist director may initiate a useful dialog that leads to better outcomes.

Activist directors also tend to be some of the church's more outspoken members. It could be counterproductive to try silencing dissident voices. These individuals' passion for the ministry can be a useful catalyst for productive change.

An activist candidate may need information from the church to mount a campaign for a vacant board seat. The candidate may request a list of church members, financial reports, and board minutes. North Carolina law gives church members a right to inspection. Unless a church's bylaws state otherwise, members may openly ask for and receive data needed for their campaign.

Inspection laws often require members seeking information to have a "proper purpose". Court rulings are not specific on what determines a purpose to be proper. In general, a purpose that appears to be a fishing expedition and having no justification may be rejected. A purpose that is reasonably connected to an activist candidate's campaign could likely be considered a proper purpose by a court.

Church leaders may ask what happens if an activist candidate lands a seat on the board. The new director must receive the same

onboarding process as other new directors. All new directors should receive training, access to corporate information, and tools to be an effective board member.

In some instances, an activist director joins a board over dissatisfaction with a single issue. Once elected, the new director learns church governance requires attention to many more matters. Activist directors should be educated on the entire scope of governance responsibilities. This exposure is necessary for a director to live up to his fiduciary duties.

An activist director can bring new energy to a church board. The board should harness the new director's enthusiasm as an opportunity to focus on process improvement. Such energy can be helpful to inspire innovation and new thinking on a board. An activist director that is embraced and given ownership in the governance process can develop into an instrumental leader.

The church should treat an activist candidate the same as it would a person supported by the board's nominating committee. Candidates should stick to the facts around an opponent's relevant qualifications and experience with church matters. Non-relevant statements could be construed to be defamatory.

Churches should look on the bright side if an activist director joins the board. Anyone with the passion to compete for a board seat could be a valuable resource for the ministry. ■

Little Known NC Laws Church Leaders Should Know



Church leaders generally understand that churches are subject to laws concerning employment, taxes, contracts, child protection, and property ownership. What is less commonly understood is that North Carolina law contains a surprising number of provisions that specifically mention churches, religious bodies, places of worship, or religious institutions.

1. North Carolina Has an Entire Chapter of Law Devoted to Religious Societies

Many church leaders are shocked to learn that the North Carolina General Statutes contain an entire chapter entitled “Religious Societies.” Chapter 61 traces some of its provisions back more than two centuries.

Under Chapter 61, a church, congregation, religious society, denomination, conference, synod, convention, or similar ecclesiastical body may appoint and remove trustees in the manner the religious body considers appropriate.

Trustees may receive donations and purchase, hold, and manage real and personal property for the church. They are accountable to the church or congregation for the management of that property.

A church trustee is not simply an honorary position. Trustees can have significant responsibilities concerning the legal ownership and disposition of church property. Churches should make sure their bylaws, corporate records, deeds, trustee appointments, and actual practices are consistent.

2. North Carolina Gives Church Officials a Measure of Personal Liability Protection

North Carolina law also contains a protection that many church board members do not know exists.

A trustee, director, or officer of a religious society generally receives individual immunity from civil liability for monetary damages arising from that service, subject to several important exceptions.

Among other things, the protection may not apply where the individual was acting outside the scope of official duties, was not acting in good faith, committed gross negligence or willful or wanton misconduct, received an improper personal financial benefit, or falls within certain other statutory exceptions.

3. A Church’s Property-Tax Exemption Depends on How Property Is Used

Church leaders sometime assume that if a church owns property, the property is automatically exempt from local property taxation.

Under NC law, buildings, the land they occupy, and certain additional adjacent land may qualify for exemption when owned by qualifying religious entities and used wholly and exclusively for religious purposes.

This can become important when a church begins using part of its property for activities such as leasing space to a for-profit business, operating commercial ventures, or other unrelated businesses.

4. Churches Receive a Special Exemption Under NC’s Charitable Solicitation Law

North Carolina generally regulates organizations that solicit charitable contributions. Persons who solicit charitable contributions for a “religious institution” are generally exempt from this law.

There is an important caution. A separately incorporated ministry, foundation, community development organization, or other church-related nonprofit should not automatically assume that it qualifies for the church exemption. The statutory definition should be examined carefully.

5. NC Law Has Special Firearms Rules for Churches That Also Operate Schools

Under qualifying circumstances, North Carolina law permits a person with the required legal authorization to possess and carry a handgun on such property outside school operating hours and, under specified circumstances, while attending worship services and other religious functions. The statute also recognizes the ability of those in legal possession or control of the property to post notice prohibiting concealed handguns.

A well-governed North Carolina church should periodically review its articles of incorporation, bylaws, deeds, trustee records, property uses, facility-use arrangements, insurance coverage, employment practices, weapons policy, and financial controls, to determine whether its practices remain consistent with both its religious mission and applicable law. ■



The Moment

You realized you did not know
about all the risks you face.

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Why Churches Should List Officials on Website

For churches, transparency is not only a best practice—it is a form of protection for the organization and their leaders. One often-overlooked opportunity for clarity and legal prudence is the simple act of listing the names and photographs of a church's deacons, ministers, and other appointed representatives on its official website.

Including officials on the web site may seem like a courtesy or public relations. Publishing church officials to the public has serious implications for how agency is recognized and how liability is managed.

This article outlines why every church should consider publicly identifying key leaders online—especially in relation to the legal principle of *express agency authority*.

In legal terms, *express agency authority* is a clearly defined and intentional delegation of power. When a church explicitly identifies certain individuals as officers, agents, or leaders, third parties may feel certain they can rely on these individuals as official representatives of the church. Third parties may include vendors, donors, or the public.

A web presence—particularly the official church website—can serve as an essential public record affirming who is authorized to act or speak on behalf of the church.

When a church publishes the names and likeness of its officials, it communicates to the public exactly who holds positions of responsibility. This is especially critical when Deacons represent the church during appearances at hospitals, church members' homes and bereavement moments; when Clergy engages with community partners or speaks on behalf of the church during public events; when Staff conduct routine church business and negotiate transactions.

These activities require recognizable and legitimate authority. A public listing gives third parties confidence that the person they're working with is an official agent.

Churches can face legal liability for unauthorized actions taken by individuals who appear to represent the organization. If an unlisted or ambiguous representative binds the church to a contract or engages in misconduct, it becomes harder to defend against claims of *implied agency authority*.

Public identification enhances internal and external accountability. When members, donors, and the public know the identity of church officials, this promotes confidence that the right persons speak for the church.

Public disclosure of church officials deters impersonation or unauthorized representation

in business dealings. This recognition lowers the risk of fraud.

From a practical standpoint, having photos and names of key leaders improves communication within the church body. New members and visitors can more easily identify who to approach for spiritual support, questions about ministries, or leadership guidance.

The church should make sure this page is kept up-to-date and reviewed regularly.

Before publishing any personal information or photos, obtain written consent from each individual. Many churches include this as part of a general media and leadership acknowledgment form. Be sensitive to safety or privacy concerns, especially if a minister works with vulnerable populations or has a public safety role.



Publishing the identify of church officials is more than a modern convenience—it is a sound governance practice. It helps establish express agency authority, reduces legal ambiguity, strengthens accountability, and fosters transparency. In an era where trust and clarity are paramount, this small but strategic step can make a lasting difference in how your church witnesses and stewards its responsibilities. ■

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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