

10 LEGAL RISKS FACING CHURCHES AND CHURCH LEADERS

From Richard R Hammar's Article in Enrichment Journal

- 1. Negligent Selection of Church Workers.** Screen all staff and volunteers before allowing contact with minors. Use the same process as selecting a person for a job in business: require a detailed application with references, check references and see if the person has a criminal record, conduct an interview, require a person to work with the church for 6 months before letting them work with children, and if a volunteer or employ cross the line, immediately remove them from the position. For screening materials go to Richard R Hammar's website www.schrrechruchstaff.com
- 2. Negligent Retention of Church Staff.** A church must be alert to possibilities of misconduct, investigate even the slightest hint of misconduct, remove an employee or volunteer from a position that pose a risk of harm to others until the situation if fully investigated and do not return the person to the position if there is any doubt.
- 3. Negligent Supervision of Church Staff, Volunteers and Activities.** The work of all staff and volunteers must be supervised. A church must be alert to the possibility of misconduct; eliminate the opportunity for misconduct through policy, procedure, video cameras and always have two persons involved in interface with minors.
- 4. Counseling (Communication).** Take precautions and eliminate the possibility of misconduct by either party. See http://enrichment.ag.org/200401/200401_78_legalrisks..cfm for many suggestions by Richard Hammar. Avoid leading questions & private environments that could lead to a claim of misconduct. Use caution with all communication (leading questions and comments) that could lead to a misinterpretation of intent: verbal, written and typed documents, emails, texting, tweeting, etc.
- 5. Child Abuse Reporting.** Know the law in your state; a staff member or volunteer can be held criminally liable for not reporting a reasonably suspected incident of abuse.
- 6. Security Law Violations.** A church should see legal help before considering securities as a means of raising funds.
- 7. Employment Law.** Generally liability insurance does not provide protection from improper employment practices: wrongful termination, improper discipline, discrimination and/or harassment. Investigate and see guidance before taking action that could be perceived as being punitive or violate federal, state or local employment law.
- 8. Undue Influence on a Donor.** Churches can assist in estate planning but should not unduly influence the donor's decisions.
- 9. Personal liability of Church Boards, Trustees and Councils.** Little if any protection for gross negligence or intentional misconduct. If there is any question about potential liability seek legal counsel before taking action.
- 10. Punitive Damages for Gross Negligence.** Do your homework; seek expert advice and legal counsel where appropriate: punitive damages are awarded for gross negligence.

NOTE ANOTHER HELPFUL ARTICLE: See Six Steps for Self-protection for Churches and Church Members in article entitled Lawsuits in the Church by Peacemaker Ministries: www.peacemaker.net. Basically teach and practice peacemaking principles, provide guidelines & policies and assure operations within the law.¹

¹ *These samples are provided as input to assist you in developing procedures, but are not a substitute for considering the risks at your church and establishing your own policies and procedures to reduce those risks to acceptable levels. Transformation Ministries provides these as a convenience for its churches but directly states to you, the user that Transformation Ministries is not providing these to you as legal advice or even a substitute for legal advice. Use of these samples is at your own risk. Laws change and best practices change, sometimes rapidly. It is your church's responsibility to stay abreast of changes in laws and best practices. It is recommended you always consult with your attorney and/or CPA as part of the process of developing your policies and procedures.*