

Legal Counsel for Churches

Corporate Governance for Churches and Their Leaders



Developing A Church Ethics Policy



News reports often mention the misbehavior of public figures. While bad conduct can happen in any organization, there are instances where a church can minimize inappropriate conduct. A Church Ethics Policy can help a ministry set the right expectations for their staff, officials and volunteers.

A Church Ethics Policy should recognize the reputation and integrity of the church is one of its most valuable assets. Each employee or volunteer bears a special responsibility to conduct business and personal affairs in a prudent way. Activity contrary to the Ethics standards could damage the reputation of the church in the eyes of the community.

The Church Ethics Policy should instruct church employees and volunteers to avoid any activity that is intended to advance personal interests at the expense of the church. Personal interest includes the interest of the individual's relatives or any entity in which the individual or his/her relative has a significant financial stake. These concerns are generally called conflicts of interests.

A conflict of interest, whether deliberate or inadvertent, undermines the public's trust in the church. People associated with the church must avoid conduct that conflicts with one's duty to the church.

A conflict of interest occurs when one advances personal interest at the expense of the church's interests. One must not

use his or her position for personal gain or for the benefit of family, friends, or outside organizations. Such a conflict can also arise when one inadvertently engages in activities that compete with or damage the church.

The Ethics Policy should define who is a relative. A relative may be an individual's grandparents, parents, aunts, uncles, siblings, first and second cousins, children and their respective spouses or romantic partners.

Church officials should not use their office or position with the church for private gain or personal advantage or for the advantage of any relative, associated organization or third party. This can happen when a church official is given improper preferential treatment by companies doing business with the church.

One of the most egregious examples of a personal gain that can give the wrong appearance is the receipt of gifts. Receiving or soliciting anything of value as a gift, gratuity, favor, loan or discount from another organization that seeks to do business with the church is generally not advised.

The Ethics Policy may require employees and volunteers to disqualify themselves from any church decision that relates in any way to their personal interests. The Policy may prohibit employees and volunteers from being present during any deliberation or participate in any decision related to the transaction.

A Church Ethics Policy may also address self-dealing. Self-dealing is any action of an employee or church volunteer that is self-

serving in nature. A self-dealing situation occurs when a person's personal interests are actively placed before the interests of the church. This goes beyond a mere conflict of interests. To eliminate the occurrence of self-dealing, employees and volunteers must not participate in any church transaction when they have a personal or financial relationship with the other party.

The Ethics Policy should address confidentiality as a fundamental principle of the church's integrity. A church often receives highly personal information from its members. Private information about members should be entitled to the same care as any church property. To protect the privacy of members, church employees and volunteers must closely follow the Ethics Policy.

Church employees, officials and volunteers should be given a copy of the Ethics Policy when they begin to work for the church. A best practice used by many organizations is to require anyone subject to the Church Ethics Policy to annually acknowledge in writing their agreement to the Policy.

Church officers, employees and volunteers are encouraged to report violations of laws and policies, including the Ethics Policy.

An Ethics Policy can be an effective way for churches to help ensure the right conduct among its staff and volunteers. ■



What's Next?

Risks Often Come by the Dozen.

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How to Avoid Affinity Investment Fraud

In some respect, a church operates like any other business. It must be concerned about the bottom-line. For this reason, a church should watch its revenue, monitor its expenses and keep an eye on its properties. To get the most from its assets, a church might look for ways to increase its revenue.

One place a church might look for higher earnings is the investment of its idle cash. Some churches keep their extra cash in a local bank account. Given today's interest rate environment, the rate of return is probably low. If a church wants to get a higher yield, it might consider investments that pay better rates.

Looking for higher yields is not a bad idea. However, higher yields come with higher risks. There is a certain level of risk that comes with any investment. The risk is exasperated when the investment advisor helping the church is untrustworthy.

Let's face it. Most churches are generally trusting institutions. You might be prone to give a person the benefit of the doubt in most instances. But when it comes to investments, trust should be proven. The church must be sure that an investment advisor is qualified and dependable.

Unfortunately, some investment brokers are dishonest. These individuals seek to

capitalize on the trusting nature of churches. They may have the impression that church officials are less sophisticated and will take the broker's word for an investment scheme. Often the person bringing the investment scheme is someone with knowledge of your church.

This type of scheme is called Affinity Investment Fraud because of the unique nature of the church. The fraudster often knows something about your church. He/she may be a church member, family of a church member or have spent time cultivating a relationship with one of the church officers. This individual uses the personal connection to gain a sense of confidence with the church. The hope here is the church will let down its guard and do business with the investment advisor.

Affinity investment fraudsters like working with groups that have a strong connection. Affinities among members of churches, families, ethnic groups and fraternities/sororities can make these groups a target. For this reason, church officials should exercise proper due diligence for all transactions.

There are ways a church can protect itself from Affinity Investment Fraud. Here are a few tips you and your church should consider for defending itself against this risk.

Check Backgrounds | Always check the background of an investment advisor before doing business with him or her. Investment professionals are required to register with the NC Secretary of State. There you will find information about qualifications and other submissions. If the investment solicitor is not listed with the Secretary of State, be wary.

Too Good To Be True | Some investment claims can be exaggerated. The church should consider that few investments come with real guarantees. Investment pitches that promise extraordinary high rates of return are a red flag for concern. If an investment advisor says there is no risk in the instrument, be particularly suspicious.

Security Registrations | Some investments are securities. This is important because securities are regulated instruments. As a result, the offer or sale of securities must be registered with the Securities and Exchange agency. In some instances, an exemption from registration may apply. In any event, the church should inquire about an investment's registration. Registered investments allow the church to verify some of the claims of the investment offer.

Resist Affinity Lure | Church officials should exercise reasonable care when considering any investment instrument or offer. While a church relationship can be comforting for some dealings, church officials should ask the right questions of any party. The church should be cautious to not allow its personal relationships mask affinity fraud. ■

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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