

The Important of a Good Constitution and Bylaws

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Every church needs to have a document that sets forth how the organization will operate. Most frequently, this document is referred to as the church constitution, but its name is not the major concern. The existence and the accuracy of the document are legally imperative to protect a church's tax-exempt status.

Since no two churches operate the same way, the constitution should be written to reflect each church's specific needs and practices. At minimum, it should include general provisions on:

--Name and purpose. The purpose statement should be broad in scope. In fact, it should be so broad that it covers both present active ministries and potential future ministries. In addition, to protect the church's tax-exempt status under Section 501(c)(3) of the federal tax code, the ministry purpose must (1) be religious, charitable, scientific, testing, for public safety, literary or educational; and (2) not involve the church in partisan political campaigns or substantial legislative activity.

Statement of faith

It is critical that the church constitution state clearly and unequivocally what the church believes as a matter of Biblical faith. The constitution should indicate that the Bible controls all church matters. It is also wise to establish which version of the Bible the church will use as its official standard.

The statement of faith should list what the church considers to be the key Biblical teachings regarding:

- The inerrancy and inspiration of Scripture;
- Salvation;
- The Trinity;
- Baptism;
- The purpose of the church;
- The second advent of Christ;
- Heaven and Hell;
- Creation;
- A Christian's relationship to civil government;

--Divorce and remarriage;

--Missions; and

--Lawsuits between believers.

Scriptural references should be included with each statement of belief.

In addition, some social issues create more litigation than others, so it has become necessary for churches to declare in writing their positions on such issues as homosexuality, same-sex marriage and abortion.

Membership qualifications

The church constitution should clearly define the qualifications for church membership. It is also legally imperative that a termination provision for church membership be included. For example, automatic removal from membership rolls any person (other than college students, military personnel, shut-ins, missionaries or evangelists) who has not attended a regular church service in the preceding six months. The Christian Law Association discourages the use of an "inactive member" status.

Membership rights and disputes

The church constitution should clearly state that members have no contract, property or civil legal rights in the property or other ministry affairs of the church. This provision is important for churches seeking to maintain their tax-exempt status. Section 501(c)(3) of the federal tax code provides that no part of the net earnings of a tax-exempt organization may inure to the benefit of any private shareholder or individual.

A provision is needed to demonstrate how personal disputes between a church member and the church will be resolved. Based on 1 Corinthians. 6:1-8, this provision should limit the resolution of disputes between brethren to a Biblically based Christian process and restrict access to litigation in the civil courts. Thus, the church constitution should provide that "all members of this church agree to submit to binding arbitration any matters which cannot otherwise be resolved, and expressly waive any and all rights in law and equity to bringing any civil disagreement before a court of law."

Church officer selection and authority

The church constitution should include how the pastor and deacons or other church officers are selected, their terms of office and so on. At minimum, the church corporation needs to have a president, a secretary and a treasurer. If other titles are preferred--such as pastor or deacon--the church constitution needs to identify the corporate function of the ministry name. (For instance, the pastor is generally stated to be the president of the corporation.)

The church constitution should also address the procedures for nominating and electing officers, the terms of service for each officer, their duties, the procedure for removing an officer before the end of his elected term, and the procedure for filling a vacancy if an officer's full term is not served.

The church leadership should be given sufficient authority to effectively lead and conduct the ministries of the church. It is unwise to create such an elaborate set of checks and balances that none of the church leadership has sufficient liberty to do anything on behalf of the church and its ministries.

An official spokesman for the church should also be expressly designated. If for some reason the church comes to the attention of the media or a governmental entity, there should be no confusion as to who in the church may speak on its behalf.

Licensing or ordination

The church constitution should set forth the qualifications for a candidate for licensing or ordination as a minister of the Gospel as stated in 1 Timothy 3:1-7 and Titus 1:6-9. A procedure for how and whether the candidate should be presented to the church for licensing or ordination should also be established.

Meetings

The church constitution should provide for the frequency and location of meetings. Separate sections should be written for meetings for worship and meetings for church administration. The worship section should cover meetings for public worship, Bible study and prayer, and the time for observing the ordinance of the Lord's Supper. The administration section should cover regular, special and annual meetings for the conduct of church business. This section should also define the ministry's fiscal year.

It is important that the church constitution carefully spell out the rules and procedures for all church administration meetings. This procedure should include:

- Frequency of regular meetings;
- The number of eligible voters required for a quorum;
- The practice of opening and closing meetings with prayer;
- Who is to preside at meetings;
- The order of business on the agenda;
- The process for calling special meetings; and
- Setting the annual meeting date.

The Christian Law Association does not recommend the use of Robert's Rules of Order because they are too specific and inflexible. It is preferable for the church to create its own workable rules based upon the Bible and common sense.

Church discipline

A church that intends to exercise church discipline must have the Biblical guidelines for doing so carefully outlined in its constitution. Specific reference to the governing Scriptures is recommended, namely Matthew 18:15-20; 1 Corinthians 5:1-13; Galatians 6:1; 1 Thessalonians 5:14; 2 Thessalonians 3:6, 10-15; 1 Timothy 5:19-20; and Titus 3:10-11.

Discipline guidelines should provide:

--The steps for approaching an offending party with the goal of restoration;

--A hearing before a discipline committee with a recommendation to the church members; *Ongoing opportunity for repentance and restoration; and

--In the case of members who refuse to repent, a process for removal from church membership.

Once these guidelines are established, they should be meticulously followed when exercising church discipline.

Financial matters

The church constitution should contain a provision specifying who may authorize an unbudgeted expenditure, and what amount may be expended without special authorization.

Contributions designated by the contributor for a specific purpose impose a "trust" obligation upon the recipient church to use the funds for that purpose only. (For example, if a designation is made for the building fund, the amount designated must be used solely for the purpose of that building fund.) To avoid being required to ask the donor for permission to use the funds for a purpose other than the designated purpose, the constitution should contain a specific provision making a gift designation advisory rather than mandatory in nature. This would allow all designated contributions to remain subject to the exclusive control and discretion of the pastor and the Board of Deacons.

Amendments

It is important that a church constitution provide for an amendment process. This allows the church to be flexible in addressing new concerns and developments. Churches should make the amendment process simple. Typically, the provision should provide for "a majority vote of the members present and voting at any regular church administration

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meeting." In addition, notice of the proposed amendment must be submitted in writing within a specified number of days before the vote is taken.