

Churches are frequently faced with requests from outside groups to use their facilities. It can be a challenge for churches to balance their desire to be a good neighbor in the community with the time and space demands – and legal liabilities – that come from allowing others to use their facilities.

For example, one church allowed the local school district to offer evening classes on church premises. A participant from the community fell while going down the steps, fracturing both ankles and resulting in multiples surgeries and permanent disability. She sued the church for negligence and ultimately recovered \$550,000.

So how should a church respond to facility usage requests from outside groups? The following are some practical considerations:

1. **Set Expectations.** Develop a “Facility Usage Policy” that addresses questions such as who will be permitted to rent the facility, the costs involved, set-up and clean-up responsibilities, sales during events, behavioral expectations and childcare arrangements. For example, for tax reasons, churches should avoid allowing their premises to be used for political purposes. Similarly, churches need to carefully consider to what extent they will allow the facility to be rented to for-profit enterprises. Some churches decide to limit rental of their facilities to groups and/or events that further the mission and vision of the church.

A fee schedule should be established, which should reflect fair rental value of the facilities and address related expenses, such as custodian or childcare expenses. This schedule may include a security deposit to protect against property damage. Responsibility for set-up and clean-up of the facility should be thought through before the event. Sales of goods or wares at events on church premises raise tax considerations that should be addressed with the church’s tax attorney or accountant before being permitted.

The policy should address behavioral issues, such as the church’s expectations regarding drinking, smoking, participants’ conduct and treating the property with care. Finally, consider childcare arrangements for outside events. Some churches require that the group use (and pay for) childcare providers screened and selected by the church, while others allow groups to make their own childcare arrangements. There are pros and cons to each approach.

2. **Document Facility Usage Requests.** With the church’s policy in place, a simple facility request form should be used to gather details about the event, obtain contact information and document the process. Many churches require a member to sponsor an outside group. For groups unknown to the church, references from places where the group has held events in the past should be requested.

3. **Maintain an Approval Process.** A mechanism should be in place for church leaders to approve or deny facility usage requests from outside groups. Approval from a body or team, rather than a single individual involved in bringing the request, is important to provide a broader perspective on the event and to address how it relates to the church mission, as well as competing facility concerns. Informal uses of the building, which are not disclosed to church leaders, can have significant safety, liability, tax or financial consequences and should be avoided. Documentation of approval or denial of the request should be maintained.

4. **Use a Facility Usage Agreement.** Once the group has been approved, confirm the event in writing and have the group sign a Facility Usage Agreement. The purpose of the agreement is several fold: It will confirm the costs involved; specify the time(s) the facility will be available to them; and set out your church's expectations for the groups' use of the facilities. Most importantly, the agreement should include a release from liability, a "hold harmless" clause in which the outside group agrees to indemnify the church for any injuries or damages that may occur while they are using the church, and a provision regarding additional insured protection for the church.

A sample facility usage and hold harmless agreement is included with this packet of materials. It is strongly recommended that an attorney review your facility usage agreement.

5. **Make Sure They're Insured.** When an outside group comes in to use the church's facility, there's no reason to put your church's insurance claims history – and potentially your insurance premiums – on the line. The other groups' insurance policy, not yours, should be at risk. To do this, check that the group has insurance coverage limits that are at least equal to or higher than the church's insurance policy limits and require them to name the church as an additional insured on their insurance policies. Then, follow through to have them provide proof that they have done this.

A certificate of insurance *that lists your church as an additional insured* (not just as a "certificate holder") or even better, an endorsement (change) to their policy naming the church as an additional insured is evidence of insurance. A sample Certificate of Insurance with instructions on reading and understanding the certificate is included with this packet.

6. **Premises Inspection.** Prior to an outside group using the church's facility, conduct an inspection of the premises, documenting any existing conditions that could possibly lead to an accident or injury to outside users. Potential areas would include slip and fall exposures and life safety concerns such as blocked hallways, exits, etc. If deficiencies are found, take necessary steps to correct them. Also, conduct a walkthrough with a representative from the outside group immediately before and after the event. This will help settle any disputes if there are any damages to the church property.

Keep Your Church Protected

In the end, the decision to deny a facility request or to require items such as a facility usage agreement or proof of insurance can be uncomfortable for a church. Still, it is better for the church to be prepared on the front end than to be surprised on the back end. While it can be a good outreach opportunity for the church to allow community groups to hold their functions at the church, be careful as to what types of events you allow.

(Updated 05.09.16)

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