

# Legal Counsel

for Churches

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Corporate Governance for Churches & Their Leaders

M SMITH | LAW<sup>PLLC</sup>



## Advancement Departments Can Help Churches

Traditionally, churches rely on tithes, offerings, and occasional fund-raising efforts to support their ministry. However, as financial demands increase and opportunities for engagement expand, some church leaders should explore Advancement as a new idea for fund-raising.

An Advancement Department is a structured team within a church that is dedicated to securing and managing financial opportunities, fostering relationships with stakeholders, and enhancing the church's overall visibility and impact. This can include fund-raising, donor management, communications, and marketing.

In the nonprofit sector, including universities, foundations and hospitals, advancement departments play a vital role in ensuring financial sustainability and expanding their reach. There are lessons here to be learned for church leaders.

For churches, an Advancement Department could focus on growing and sustaining resources for both immediate operational needs and long-term initiatives. This department could manage fund-raising campaigns, organize events, cultivate donor relationships, and implement strategic communication efforts to strengthen engagement with the congregation and the broader community.

As churches grow, their financial needs may outpace traditional income streams. Maintaining buildings, supporting staff, and funding ministry programs require strategic financial management. An Advancement Department could help diversify and increase financial support, introducing planned giving, capital campaigns, and endowment funds.

Churches thrive on relationships, and an Advancement Department would be a dedicated arm for nurturing these connections. Through personalized donor engagement, churches can develop strong, long-term partnerships with their members and external supporters.

An Advancement Department can help churches expand their mission beyond their immediate congregation. By securing funds for outreach programs, social services, and community development, churches can increase their presence and influence in society. Whether it's feeding the hungry, providing shelter, or supporting local education, Advancement Departments can enable churches to serve more people.

Not every church has the size or budget to justify an entire department dedicated to advancement. Smaller congregations may struggle to find the resources to hire staff or allocate funds to launch such an initiative. In these cases, churches might consider having

a volunteer-led advancement committee or partnering with consultants to get started.

Some may worry if introducing an Advancement Department in churches could shift the focus from spiritual growth to financial gain. It's important for churches to ensure that their fund-raising efforts and financial strategies remain aligned with their core mission and values.

Churches must be careful to avoid an overly commercial approach that could alienate their congregants or create an impression of excessive focus on money. Advancement efforts should prioritize mission-driven goals rather than appearing as mere fund-raising ventures.

The decision to create an Advancement Department in a church depends on various factors, including the size, vision, and financial goals of the congregation. For churches with extensive ministries, outreach programs, and financial needs, an Advancement Department can offer significant benefits.

Churches must carefully balance the need for financial resources with their mission and ensuring that advancement efforts align with the values of their community. An Advancement Department may help church leadership align their mission and programs with new financial capacity. ■

# Getting A New Organization Started on the Right Foot



Occasionally, we are called upon by clients to help form a start-up organization. In some instances, the engagement is for a brand new church. Sometimes, an existing church wants to form a companion institution or subsidiary.

Existing churches often consider forming an additional organization for different reasons. For some, the risk of managing a line of business can be better controlled in a separate corporation. For example, activities such as a school, day care, and community development ventures can be separated from the church's main business. This separateness allows leaders to segment risks to a particular company.

Forming a new corporation can be an exciting time for a church body. There are aspirations for the needed services the church will offer to the community. The organizers have good ideas on what results they want to achieve. After the decision to begin has been made, next comes the organizing process.

Creating a new corporation in North Carolina requires filing a document called the Articles of Incorporation with the NC Secretary of State. This form asks questions such as the purpose of the corporation, the name(s) of the organizers, and identity of the registered agent and corporate officers.

Each corporation needs a governing board. The board can be one person or several individuals. The typical officers of the board include the chairperson, secretary,

and treasurer. Additional officers can be added as needed.

Corporations should be choosy about who sits on the board of directors. The directors should be persons who understand the business of the organization. The board members must be loyal to the institution. We have learned that diversity of skills and experience often lead to better strategies.

Each director should be chosen for the specific skills needed by the organization. A well-balanced board has directors whose credentials complement each other. Skills needed for a board may include finance, marketing, communications, leadership, legal, and regulatory disciplines.

After the corporation has been formed, the new board needs to hold its initial meeting. At this first board meeting, the board should elect its officers, choose how the organization is to operate, and ratify any pre-charter decisions.

The board may consider its banking and financial needs. Separate accounts should be opened to avoid commingling funds with the sponsoring church. To open a bank account, the board should get an EIN, Employer Identification Number, from the Internal Revenue Service. The EIN is sort of like a social security number for the organization. The EIN is needed regardless of whether the organization plans to hire employees.

The board should discuss what policies are needed for the corporation. One of the most important policies is the bylaws. The bylaws

establish the high-level rules of governance. Other policies may include a conflicts of interest agreement, director position descriptions, standing committee charters, code of ethics policy, data privacy policy, and operating rules.

Other matters for a new organization involves day-to-day concerns. The creation of a web site, marketing materials, office address, and staffing should be decided by the officials. Hiring an executive director or managing officer can be helpful to ensure day-to-day details are handled.

Once the organization has been set up, funded, and ready to open for business, the board should shift its focus to strategy. Such discussions involve setting the mission, vision, and direction of the organization. These conversations will help with forming a strategic business plan for the corporation. The result of board discussions should lead to directives that will help ensure the organization is heading in the intended direction.

There are higher level considerations for the board of a new corporation. Matters such as liability insurance, surety bond, and contracts should be carefully weighed. These issues can be thoroughly discussed by the board over a course of several meetings.

Getting a new organization started on the right foot is the responsibility of the board and management. It is important that critical conversations take place to make the right decisions for the future. ■



# The Feeling

When You realized your legal problems are over.

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## Succession Strategy Helps During Transitions

Most organizations will undergo a change in leadership. When key people retire or decide to move on, an institution's performance could suffer. The key to working through a leadership transition event is strategic succession planning.

Churches are not immune to leadership changes. It is an especially delicate time when a church's key leaders decide to step down from critical roles for the ministry. A plan that deals with this moment is necessary to make the transition smooth.

Our law firm has seen succession processes that worked well. The church leadership had a firm handle on the needs of the ministry, worked through an organized procedure, and led the congregation through an emotional season. We have also seen situations where the process could have been handled better.

When a succession event went awry, the leaders lacked a plan to follow. There was no coordination of efforts for communications, vetting candidates, conducting a search, and managing the changeover.

It is essential church leaders take a proactive approach to succession planning.

This preparation is a part of church leadership fiduciary duties. Effective corporate governance impresses upon management to be prepared for an eventual transition. This preparation will lead to better outcomes.

A church can get guidance for succession planning by hiring an experienced consultant. A trusted advisor can help the church develop a plan by identifying credentials for the future, establishing a strategic vision and establishing protocols for the transition.

Some churches seek to grow and develop internal talent for new leadership. In such instances, a development plan is implemented for a few selected candidates. These individuals are trained on the rigors of general church management. They learn about church financial manage, corporate governance, strategic planning, operations, and public relations.

Future church leaders may benefit from role assignments. Rotating emerging leaders through the various functions of the church builds valuable experience. This exposure can help up and coming leaders with the insight needed to decide if this management track is what they truly want.

Succession planning must accompany a church's strategic planning process. Thinking about how the church is growing helps determine the kind of talent needed to lead the ministry of the future. While new leaders offer an opportunity to inject a new vision for the church, the new vision often begins with a recognition of the current ministry.

Church leaders may decide in advance what kind of search they will conduct when a transition in a leadership position occurs. The search may exclusively include internal candidates. Internal candidates are likely already familiar with the church culture. The leaders may expand the search to include external prospects. Outside candidates may bring new energy and fresh approaches. Knowing the church position in advance makes it possible to act effectively.

Despite the search preferences, a church may find it beneficial to engage a development plan for its emerging leaders. The plan may offer mentoring opportunities, leadership skills, and public speaking occasions.

One of the advantages of a development plan for internal talent is the church can reap the benefits almost immediately. These budding leaders are offered the chance to put their new training to use for the ministry. The return on this training investment begins in real time.

Church leaders should keep all stakeholders in mind when working on a strategic succession plan. Taking action now can lead to a more prepared ministry when the inevitable comes about. ■

*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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Post Office Box 27461, Raleigh, North Carolina 27611 919.362.0744 (voice) 888-321.9047 (fax) maurice.smith@msmithlaw.us  
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