

RiskReporter

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A publication of Church Mutual Insurance Company

Reducing legal liabilities

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PROTECTING
THE GREATER
GOOD

**Church
Mutual**
INSURANCE COMPANY

Dear policyholder,

America is more litigious than ever before. Knowing where your organization stands in terms of its legal liabilities will help you be prepared for potential pitfalls.

Liability lurks everywhere, from everyday occurrences to more inherently hazardous activities.

While you may not be able to avoid all legal risk, or anticipate every legal threat, there are steps you can take to reduce liability.

This issue of Risk Reporter will present four common topics with legal liability implications and recommend measures you can take to protect your organization.

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How the ADA applies to your organization

The Americans with Disabilities Act (ADA) makes it illegal to discriminate against disabled individuals in both hiring practices and public accommodations. However, there are exceptions for places of worship.

According to the most recent data from the U.S. Census Bureau, 27.2 percent of people living in the United States (85.3 million people) had a disability in 2014.

Is your organization complying with the ADA? Do you have to?

What does the ADA specify for worship centers?

There are a few areas of the ADA legalese that spell out exceptions for religious entities.

- ADA Title III Technical Assistance Manual, Section III-1.5000 Religious entities: *"Religious entities are exempt from the requirements of Title III of the ADA. A religious entity, however, would be subject to the employment obligations of Title I if it has enough employees to meet the requirements for coverage."*

Consult with your local legal counsel to comprehend the implications of the ADA for your space. While you may be in compliance with the federal law listed above, there may be state legislation similar to the ADA.

What does Title I say about hiring practices?

Houses of worship are subject to ADA requirements as an employer if they have more than 15 employees.

- ADA Title I – Employment states: *"No covered entity shall discriminate against a qualified individual on the basis of disability in regard to job application*

procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment."

- You may not ask about an applicant's disability before a job offer is made.
- You are required to make reasonable accommodation to the known physical or mental limitations of otherwise qualified individuals with disabilities.

How does Title III address public accommodations?

Houses of worship are legally exempt from the requirement to make building modifications to accommodate disabled guests.

However, many exempt organizations voluntarily follow the ADA requirements in an effort to be inclusive and support disabled persons. Examples include parking spaces, accessible bathrooms, ramps and expanded doorways.

Houses of worship are not required by federal law to allow service animals on-site. However, other state laws may apply — please verify with your local legal counsel.

Resources to find out more

For clarification on how ADA requirements may or may not apply to your organization, contact the free U.S. Department of Justice ADA Information Line at 800-514-0301.

For more information on this topic, please see an expanded article at <https://www.churchmutual.com/13470/ADA-and-your-organization>.

Helpful tips for sanctuary congregations

Over the past few years, immigration and undocumented workers in the U.S. have become a hot-button topic. Church Mutual Insurance Company understands that for many communities, this has also become a social justice issue.

Some Church Mutual policyholders have chosen to take part in the *sanctuary* movement by providing *safe harbor*, or shelter, to undocumented immigrants at risk of apprehension by immigration authorities.

The sanctuary movement is an ever-changing issue that will likely continue to evolve on federal, state and local levels. Policyholders wishing to engage in safe harbor-related activities must recognize and understand the risks involved.

Is it legal for faith groups to provide sanctuary?

If an organization has decided to provide safe harbor, it's important to have all the latest legal information.

The potential repercussions are serious — those involved in knowingly harboring an undocumented immigrant may risk facing criminal prosecution.

The differences based on region are difficult to sort out. If your faith group is considering providing sanctuary to undocumented immigrants, please be sure to check with your local legal counsel for concrete advice specific to your area.

What other risks are involved?

There may be other liability factors involved in housing people at your facility, including:

- Slips, trips and falls.
- Possible illness or food poisoning.

- Risks involved in providing living accommodations in a building not equipped for such arrangements.
- Additional safety and security exposures for church employees, members, church groups, guests and temporary residents.

Tips if you are considering offering sanctuary

- Ask local municipal authorities about any restrictions preventing the worship center from providing living accommodations to people on a long-term basis.
- Ask the local fire department to conduct a survey of the living area to determine if it is code compliant.
- Establish and post rules for temporary residents.
- Individuals should be over 18 years of age or accompanied by a parent or legal guardian.
- Restrict access to designated areas of the worship center where money and valuables are kept.
- Determine how you will ensure sanctuary seekers are clear of any sex-related charges or convictions, felonies, and have no outstanding arrest warrants.
- Determine how the existing child and youth areas of your organization be separated from sanctuary/living areas.

Thoroughly discuss all potential legal considerations and consequences with local legal counsel. If you then proceed, take time to create policies and procedures for your sanctuary-related activities.

For more information on this topic, please see an expanded article at <https://www.churchmutual.com/13471/Providing-safe-harbor>.





Do you have any attractive nuisances on-site?

Quick definition: An attractive nuisance is any object, structure or condition that is both intriguing and potentially dangerous to individuals, especially children.

For a religious organization, this could include a playground or large trees with low climbing branches. For a school, it may be playing fields or courts. For a camp or retreat center, it could include an obstacle course or a dock leading to water access.

Unauthorized users are drawn to fun or recreation

Local residents or the general public may perceive these attractive nuisances as common areas or public places. However, if someone is injured on your property you may be held legally responsible, especially if the injury is a result of negligence. Negligence isn't intentional, but it can include inadequate lighting, trip and fall hazards, unsafe equipment or more.

How to reduce risk and your liability

Look over these best practices to protect your organization from being exposed to lawsuits. These undertakings might also help the public be aware of the risks and responsibilities of their own actions.

1. **Supervision.** Every time a child or athlete is using your playground, facilities, fields or courts, a responsible adult should be supervising. This helps prevent unsafe behavior, injuries, improper use or property damage.
2. **Posted signage.** Signs posted in high-traffic areas will alert the general public to your wishes. This may


include restricting access to your grounds, posting rules and age ranges for the equipment or activity, as well as requirements that minors be supervised at all times.

3. **Open communication.** Ask your staff or neighbors to contact you if they see unauthorized, suspicious or dangerous behavior taking place on the property.
4. **Security cameras.** Video surveillance can deter unsafe behavior, as well as provide useful information if an accident occurs and your organization is sued.
5. **Property review.** Perform an inspection of your property. Start by controlling access where people enter. Install fences and motion lights. Fix safety hazards such as uneven parking lots, damaged sidewalks, holes and more throughout your property that could lead to injury.

Make sure your equipment and grounds are as safe as possible. With more people on your grounds comes more responsibility. If you'd like help conducting a safety check, contact Risk Control Central at www.churchmutual.com/8441/Contact-Risk-Control-Central.

Consider
this:

The majority of the time, attractive nuisances aren't even considered to be dangerous. Walk your property with a new eye. What do you see?



General release forms expose you to lawsuits

Recently, we've seen an uptick in the number of organizations using an overly general or annual permission slip for youth events or activities. The problem occurs when one slip is used for multiple children or events.

While it is more convenient to have one signed document for a year of events, and helps prevent forgotten slips, it opens an organization up to lawsuits.

Of course, we assume the best of intentions — no youth leader or chaperone ever wishes harm on a student. But without the proper wording on a document for each event, religious organizations can be held responsible for negligence, medical treatment and bills.

The three things needed to protect your organization:

1. Consent/permission. Specify that a parent/guardian explicitly grants permission for children to participate in the event. Create a new form for each event and for each child. Include the activity details, location, start and end times, how transportation will be provided and any other important details.

2. Liability/indemnity. Be very clear in this section that parents/guardians agree to hold the organization harmless if an accident occurs. An indemnity statement should be included on a permission slip and/or included in a separate document. Make sure the language reads that the signee understands the specific details of the event and the release of liability.

3. Medical consent. Either in the same document, or separately, medical consent allows the organization and adults on hand to seek medical treatment for the child in the event of an injury, accident, or sudden illness. Emergencies do happen, and proper language in forms allows leaders to act quickly.

Everyone wants kids to have fun. We also want your organization to be protected in the unfortunate case of an accident or emergency.

Your local legal team should review all legal forms used by your organization. Visit our website to access sample forms or use our mobile app, Church Mutual Now™, to create and manage release forms.

Consider this:

A youth group goes to a rock climbing facility and a student breaks a leg. Parents insist afterward they wouldn't have consented to such a high-risk activity. The signed form didn't explain the activity or risk of injury. The organization is held liable.

The power of Protecting the Greater Good - in the palm of your hand

As your insurance company, you know we'll always have your back; but, helping you stay in front of risks and liabilities is yet another part of the Church Mutual Insurance Company mission. That's why the new Church Mutual Now™ mobile app is loaded with a wealth of resources to help you protect your people and property.

The app provides customers with new and exclusive risk control and safety content, along with a new way to reach our Risk Control and Claims departments.

Truly a milestone for Church Mutual, this app leverages technology to provide a pivotal part of the overall customer experience.

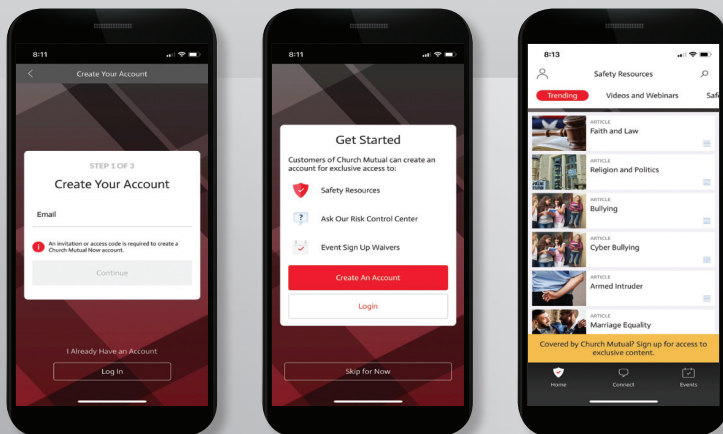
Contacting your insurance company has never been easier or more convenient. Looking for a quote? Need to file a claim, or have a question about your policy? Connect

with Church Mutual Insurance Company 24/7 through the Church Mutual Now app.

You can even manage waivers for your organization's events through the app.

Church Mutual launched the app in late 2018 as an exclusive service to our policyholders. It will continue to evolve over time, adding more features such as weather alerts, real-time notifications and links to valuable customer claim and policy information.

Scan the QR codes to visit the Apple App Store or Google Play Store and download it for free. Visit www.churchmutualnow.com to learn more.



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and click "Submit."
www.churchmutual.com/AskRCC

Our new safety resource, Ask Risk Control Central, puts you directly in touch with our Risk Control experts who are happy to help protect your people, property and organization.

Fill out the form at

Do you have a safety or risk management question?

