

# Risk Reporter

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## Under cover

### Protect your religious organization against employment-related claims

Claims against employers, for such things as wrongful termination, discrimination, sexual harassment and emotional distress, are a serious concern for organizations of all sizes. In 2012, the U.S. Equal Employment Opportunity Commission reported nearly 100,000 charges filed for workplace harassment alone, with payments exceeding \$365 million. In addition to being time-consuming and costly, employment practices liability claims have the potential to damage the reputation and morale of a congregation.

"Employment liability is becoming progressively complex, and the costs for litigation and settlements are increasing annually," said Richard Rossignol, an employment law expert and founder and principal of RTR Consulting – The Human Resources Experts. "Organizations need to understand the different types of employment-related claims in order to best protect themselves and mitigate their risk."

The majority of employment-related claims fall into three categories:

- **Wrongful termination** — An employee is dismissed for reasons that are discriminatory and unlawful.
- **Discrimination** — Unfair treatment of an employee based on race, age, gender, disability, religion or other considerations.
- **Harassment** — Offensive discriminatory conduct in the workplace. This includes unwelcomed sexual advances and other verbal or physical conduct of a sexual nature, as well as verbal or physical conduct that degrades, offends, bullies or belittles an individual.

"Preventing employment liability claims begins with an understanding of expectations between the employer and employees as well as clearly outlined policies and procedures," Rossignol said.

### Employment policies and training

Every organization should have an employee handbook that outlines basic expectations of employees, general benefit information and employment policies, such as the antiharassment policy, antidiscrimination policy, family medical leave policy and workers' compensation policy.

All new employees should receive a copy of the handbook as well as training about expectations or policies included in the handbook.

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## ( Under cover )

Require all employees to sign a document stating they read and received a copy of the handbook. This document should be kept in the employee's personnel file.

"Employee handbooks should be reviewed and updated annually," Rossignol said. "It is important to involve legal counsel when developing, reviewing and updating your handbook. Employment laws vary from state to state, and the laws change frequently."

In addition to training new employees on expectations and policies, managers and supervisors should receive regular training on topics such as interview skills, performance review procedures and methods to help prevent and identify instances of harassment and discrimination.

### Reporting and resolving complaints

Establish guidelines on how employees should report instances of discrimination and harassment. The guidelines should identify an appropriate contact person, other than a direct supervisor, and offer employees several ways to report a complaint. All complaints must be investigated in a timely and professional manner.

"If an employee feels bullied or harassed, (he or she) should feel confident that (his or her) complaint will be addressed," said Susan Heathfield, management consultant and editor of the human resources section on <http://www.about.com>.

"Many organizations I've worked with get into trouble because human resources or management does not act on complaints — they ignore the complaint or take no action."

With any complaint, an investigation should be conducted analyzing eyewitness accounts along with any evidence that is available. If there are possible conflicts of interest that make it difficult for an employer to make a decision free of bias, an outside investigation should be conducted.

After the investigation is complete, immediate action should be taken, resulting in either discipline or dismissal of the complaint. All steps of the process should be clearly documented — from the initial complaint through the final judgment and action.

"Should the employee proceed with a lawsuit, it will reflect favorably in court that the offending employee was punished swiftly for the unfavorable conduct," Heathfield said. "Or if the employee proceeds with a lawsuit for a dismissed complaint, having the paperwork that led to the final decision is imperative."

### Managing terminations

Terminations are a regular part of business practice. However, organizations need to take steps to ensure terminations are handled in a manner that minimizes their risk of litigation.

"Reducing your risk for a wrongful termination suit begins long before the decision to dismiss an employee is made," Rossignol said.

"Consistent records and careful documentation should be maintained from the time an employee is hired until (his or her) employment ends," Heathfield said. "This includes everything from regular performance reviews to any disciplinary action."

Consistency also is important regarding any corrective action or performance improvement plans.

"Follow a fair and consistent process for dealing with any type of performance-related issues," Heathfield said. "The process should be outlined in the employee handbook and might include multiple steps, such as oral or written warnings, a formal final warning and eventual termination."

Before taking any final action, perform a careful review of the employee's personnel file to confirm that proper procedures were followed and that the reasons for dismissal are clearly documented.

Seek legal counsel for any dismissals that include an employee who has previously filed a work-related complaint, as well as long-term employees and employees in a protected class.

"Above all, careful documentation is the key to avoiding a wrongful termination claim," Rossignol said. "Well-organized and credible documents can demonstrate fair treatment, deter litigation, ensure employee honesty and, should litigation occur, demonstrate the employer's actions."

### Employment practices liability insurance

Clear employment policies and management training can help prevent claims, but they will not protect an organization once a claim is filed. Employment practices liability insurance, or EPL, can provide insurance coverage for defense costs and indemnification connected with claims of discrimination, harassment and wrongful termination.

Most general liability policies exclude employment-related claims, requiring a separate EPL policy or coverage form to be purchased. Consider the following areas when reviewing policies:

- Types of claims covered
- Types of employees covered
- Damages covered
- Premiums, deductibles and coinsurance payments required
- How claims will be handled and paid

Our customers can find more information about employment practices liability by visiting [www.churchmutual.com](http://www.churchmutual.com). Click on Safety Resources, then Workforce Management to download or order the DVD *Wrongful Termination. Harassment. Discrimination. Avoiding Employment Law Pitfalls*.

- For more human resources tips and information, visit <http://www.humanresourcesabout.com>.



## Managing Your Risks

### Self-inspections can help protect your aging building

Time, weather conditions and wear and tear take their toll on a building as it ages. Walls crack, windows leak, steps crumble and roofs deteriorate.

There are important elements of a structure that need to be monitored closely to help protect the building, its contents and people using the facility. For safety and security reasons, regular self-inspections should be conducted to monitor and maintain roofs, electrical and plumbing systems, heating and ventilation systems, window and door openings, exterior wall materials, stairs and hallways.

To help you conduct your own self-inspections, you can request a copy of Church Mutual's *Self-Inspection Safety Checklist for Worship Centers and Related Facilities* from your service representative or download a copy at no charge on our website [www.churchmutual.com](http://www.churchmutual.com) and select Safety Resources.

The checklist is designed to help you prevent or reduce property, liability and workers' compensation losses. I suggest you make copies of the checklists included in the booklet and use them to conduct your own safety inspections. Our checklists are organized to correspond to main areas of concern in a worship center where periodic maintenance might be needed. Also, your organization's risk management committee might find these checklists useful for monitoring problems and recording progress made to improve deficient conditions.

Conducting self-inspections of your building offers one way to observe and act on potential problems before they become significant. Self-inspections also can help make your facility last longer and be a safer, more secure environment for your employees, volunteers and congregation.

**Edward A. Steele**  
Risk Control Manager



# Seasonal Spotlight

### Formal buildings and grounds inspections a must

Facility best practices already dictate that your staff is conducting informal facility inspections as they go through their daily routines. Do you still need to conduct more formal checks? The answer is a definite "yes," according to Ed Steele, Church Mutual's risk control manager.

"The daily checks are critical to address urgent issues and help you catch small problems before they turn into big ones," Steele said, "but regularly scheduled formal checks are equally important."

**Aim for monthly.** "This is the ideal — conduct them quarterly at a minimum," Steele said.

**Take a team approach.** The administrator, the person in charge of buildings and grounds and the safety committee — if you have one — should all be involved. "We all have our blind spots," Steele said. "It's valuable to see things from different perspectives."

**Use a checklist.** This ensures thoroughness and consistency. Factor in the main exposure concerns based on your facility (age, type and layout), location and security challenges. Ask for input from all departments when developing your checklist. This helps ensure you're not missing problem areas that only someone who's intimately familiar with an area or task might notice.

"Many of our customers have multiple facilities," Steele said. "They work at the corporate level to develop a standardized list, and then each facility adapts it to its needs."

Don't have a checklist? Church Mutual's self-inspection checklist is a good place to start, and you can download a copy at [www.churchmutual.com](http://www.churchmutual.com) under Safety Resources. Once there, click on Buildings and Grounds, then *Self-Inspection Safety Checklist for Worship Centers and Related Facilities*.

**Take pictures.** "These help you to accurately capture facility concerns and can be a valuable tool if you need to convince upper management that a repair or update is necessary," Steele said.

**Consider adding transportation vehicles to your checklist.** "Some facilities break out this category separately, but I typically recommend including facility vehicles in this inspection," Steele said.

**Document, prioritize and take action.** Your inspection only has value if it drives change. Develop a list of problem areas, determine what steps you'll need to correct them and rank them. "Some fixes will be easy and inexpensive while others might require a budget line item," Steele said. "And, of course, you must prioritize problems that could put residents, staff or visitors at risk."

Recognize that money isn't the answer to every issue. "Sometimes you need to change behavior or attitude," Steele said. "Work with administration or HR to determine changes in training that will address your problem areas."

# Q | A

## A Perspective

*Metal roofs are durable and energy efficient and generally require very little maintenance. When well maintained,*

*a metal roofing system*

*can last for more than*

*50 years — two to three*

*times longer than a*

*conventional roof. Risk*

*Reporter spoke with*

*Bill Hippard of the Metal Roofing Alliance*

*about the type of maintenance required*

*to keep a metal roof in excellent*

*condition year after year.*



### **Risk Reporter: What type of routine maintenance does a metal roof require?**

**Bill Hippard:** Generally speaking, metal roofs require very little routine maintenance. However, I do recommend inspecting the roof once each spring and fall as well as after any severe weather, such as hail or strong winds. When possible, inspect your roof from the ground using binoculars. If necessary, you can use a ladder to get a better view of the roof.

Begin the inspection by hosing down the roof with water. This will wash away any debris and dirt and help uncover potential issues. After the roof is clean, conduct a visual inspection to look for rust or scratches in the coating and holes in the metal. In addition, a metal roof will expand and shrink with fluctuations in temperature. If the roof was not properly installed, this could cause screws to become loose and seams to separate.

### **Risk Reporter: What types of maintenance issues can an organization attempt to address on its own without professional assistance?**

**Hippard:** Manufacturers can vary greatly in their approach to maintenance so it's best to contact them for guidance and, when necessary, professional repair regardless of how small or big the issue might be.

Your manufacturer should be able to provide specific direction for addressing minor issues such as a scratch or small hole, and can come out and properly assess and address larger issues such as separated seams or loose screws.

### **Risk Reporter: Are there any special considerations to keep in mind when performing maintenance on a metal roof?**

**Hippard:** Metal roofs do have a few unique considerations. It's best not to walk on the roof, but if it is absolutely necessary, contact your manufacturer first for proper instruction. Different types of metal roofs have different guidelines for walking on them to ensure the roof is not damaged. In addition, you should always take care not to scratch the surface of the roof. A scratch can expose the metal and create the potential for rust and corrosion.

### **Risk Reporter: Do metal roofs require a regular coating?**

**Hippard:** Today's metal roofing systems are built to last. Steel metal roofing has a "metallic coating" made of either zinc or a combination of zinc and aluminum. This metallic coating prevents rust from forming and is bonded to the steel at the factory. Most coatings or sealants will last at least 20 years.

Aluminum sheeting, on the other hand, does not require a separate metallic coating barrier since aluminum oxide, when it forms, is not noticeable in most cases. It's important to check with your manufacturer to find out what type of metal roof you have and if recoating is required.