

CABC - Marriage Policies for Churches

April, 2006

The following are suggestions for CABC congregations to use in developing policies regarding marriage:

In response to the need for clearly stating our understanding of marriage, many congregations are reviewing their church documents and policies to be sure that their intentions are clearly expressed. The following pages attempt to digest some of the complex advice currently available and provide a map for how you might proceed.

It is important for churches and religious organizations to articulate their identity and beliefs through their constituting documents. For unincorporated churches, these will include their constitution, by-laws, and policies that are not included in the by-laws. For incorporated churches the constitution includes the letters patent, the general operating by-laws and policy statements which reflect the practical position of the church on a particular issue.

The church constitution should include the articles of faith that describe the nature of the congregation. It may include scripture passages such as those alluded to in the Apostle's Creed, and identify those beliefs common to the believers who form the membership of the congregation.

General operating by-laws of the church should define membership in the church. The by-law could also contain authorization for the establishing and implementing of operating policies for the church, together with an effective procedure to carry out church policies where applicable.

A policy statement regarding marriage should indicate that it is to be applied in accordance with the articles of faith described in the constitution. The policy may include a definition of marriage, guidance for the minister(s) of the church, and expectations regarding church facilities. Churches are cautioned to utilize neutral statements and avoid negative or pejorative wording or wording that distinguishes an identifiable group contrary to applicable human rights legislation.

Disclaimer: It is important to note that the contents of this document are for information only, and are no substitute for legal advice.

Acknowledgements and Other Sources

This document has been adapted with permission from a Baptist Convention of Ontario and Quebec document, "BCOQ – Marriage Policies for Churches," available online at <http://www.baptist.ca/acrobat/guides/marriage-policy-outline-o5.pdf> . Only a few minor changes have been made.

A more comprehensive description of the above issues is available in a bulletin from the Carter & Associations legal firm at: <http://www.carters.ca/pub/bulletin/church/2003/chchlb01.pdf>

CABC – Developing Church Policies to Protect Religious Freedoms

April, 2006

Developing Church Policies

Policy development can be seen as tedious work. If it is seen as just a matter of word-smithing and legalese, the process can distract an organization from accomplishing its goals. On the other hand, if a church's policies are unfamiliar, unclear, or poorly designed, it can face greater problems in the area of liability risk management.

Policy development can be a discipleship opportunity for the entire congregation. It is an opportunity to reflect on the mission of the church and how that mission can be accomplished in today's world. Developing policy in a Christian context should begin with study of the Bible, plus the doctrinal and mission/vision statements of your church. The process can help your staff and membership to reflect on how to enhance the message and ministry of your church. Since the issue of human sexuality may involve discipline policies for members and employees, it is vital from a legal standpoint that everyone impacted by the policies you develop should be fully aware of their implications.

Issues about human sexuality can be controversial and raise questions of discrimination; they will be more effective if they are integrated, enforceable, fully authorized, and widely known:

- Integrated** - Wherever possible, these policies should refer to the organization's foundational documents, which for Christian organizations may include a standard of faith contained in the letters of patent for a corporation, its bylaws, or in trusts associated with property.
- Enforceable** - Policies, if they are to afford any protection at all, must be developed such that they will not be applied in a discriminatory fashion. If a congregation turns a blind eye to one kind of policy infraction, but rigidly enforces another, they are likely to find trouble.
- Fully authorized** - New policies should be ratified by the membership at a properly called business meeting.
- Widely known** - *Lifestyle* policies for new members and employees must be presented to them prior to receiving membership or employment, and the earlier in the process the better. *Facilities Use* policies should be included in the initial contact with potential users.

Marriage Policies - Content

All policies should support ministry rather than hinder it. Therefore, they should be:

- Positive** – Policies should not be arbitrarily exclusionary, but should reflect the

goodness of the institution of marriage as God has established it. It should clearly state what marriage is. A statement excluding homosexuals may address one concern, but will not be sufficient should other forms of “marriage” be created in the future.

- Comprehensive** - Ideally a Christian organization will create an integrated policy that spells out its theology and policy around a broad range of marital issues—including common law relationships, marriage preparation, divorce and remarriage, interfaith marriage, and so on. Such an action will result in a more balanced and consistent approach to all these issues.

Questions to Consider in Drafting Policies:

- Do you need to update lifestyle statements for employees, volunteers, or members?
- Do you rent your facilities for weddings or receptions?
- Does your staff have responsibilities for solemnizing marriages or arranging for marriages?
- Do you provide marital or premarital counseling?

Commitment to Identity and Outreach

Your policies should reflect your commitment to the identity and outreach of your church. The following three statements can serve as starting points for framing your policies. Think critically and carefully about what your policies must contain.

- Definition of Marriage:** - We resolve that as a matter of belief, doctrine and religious practice, our congregation and denomination reserves the term “marriage” for the covenant relationship between one man and one woman to the exclusion of all others.
- Staff Participation in the Solemnization and Celebration of Marriage** - We resolve that members of our leadership, staff or clergy will be allowed to arrange for, officiate at or take part in the solemnization or celebration of a marriage only when it conforms to our denominational and congregational statement(s) on marriage.
- Use of Facilities** - This congregation reserves the right to rent or allow use of our premises only by individuals or groups, which are not incompatible with our goals, values and statements, and for purposes which are not incompatible with our goals, values and statements.

Note - A more cautious approach would be to restrict the use of your facilities to activities initiated by the leadership and organized by members which correspond to the charitable objects

of the organization. However many churches, campgrounds and retreat centers do wish to make their facilities available to the community for some activities. This requires a much more nuanced policy, and increases the chance that discrimination may be alleged.

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Acknowledgements and Other Sources

The above document is adapted from the EFC document “EFC Guide – Developing Church Policies to Protect Religious Freedom,” which is available online at: <http://www.evangelicalfellowship.ca/social/marriage.asp>

A helpful article on church discipline policies is “A Legal Analysis of Church Discipline in Canada and Church Discipline Update” by Terrance S. Carter, which is available online at <http://www.carters.ca/pub/article/church/1995/discplin.pdf>

CABC – Sample Marriage Policy
April, 2006

Any Town Baptist Church Marriage Policy

Purpose:

This policy is to provide direction to our pastoral staff with regard to marriages performed as part of their pastoral duties at Any Town Baptist Church.

Policy Statement:

The Any Town Baptist Church believes that:

- God ordained marriage as a voluntary union for life of one man and one woman (Genesis 2:24; Matthew 19: 5-6; Ephesians 5:31; Romans 1: 26-27; 1 Corinthians 6:9);
- Sexual intimacy is legitimate only within the bounds of marriage (Hebrews 13:4);
- Christian marriage is not simply a contract between two persons, but is a covenant ratified in the presence of God (Malachi 2:14);

All pastoral staff members are required to adhere to the church's policy, and will therefore not officiate or co-officiate at marriages that could reasonably be considered to be contrary to this policy.

All pastoral staff members have the right to refuse to solemnize a marriage, if doing so would be contrary to his or her religious beliefs.

The Any Town Baptist Church, as a part of the Convention of Atlantic Baptist Churches, recognizes and supports the intent behind the resolutions on Marriage such as the Statement on the Solemnization of Marriage with its Appendices, which was approved by the 2005 Convention Assembly.

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Acknowledgement and Other Sources

This document is adapted from a BCOQ document which is available online at http://baptist.ca/acrobat/guides/marriage_policy_outline_05.pdf

Other sample marriage policies may be found at the same site.

CABC - FACILITY RENTAL POLICY GUIDELINES

April, 2006

What is it?

Churches and camps that own their land and buildings frequently have the opportunity to rent the facilities or properties to various groups or individuals. In doing so, the church or camp needs to be assured that the renters will abide by the charities regulations and any decisions that may be imposed by government legislation or judicial rulings.

The common law meaning of charitable activities has been developed through case law. These activities must fall within at least one of the following four areas:

1. The advancement of education
2. The advancement of religion
3. The relief of poverty
4. Other purposes of general benefit to the community which are of a charitable nature

Why is it important?

A church or camp has an obligation to use the resources entrusted to it as wisely as possible, including the effective and efficient use of land and buildings. When the charity has no immediate use of these assets for its own purposes, it may consider whether to have the facilities sit idle or to rent them out to groups or organizations which have similar charitable objectives or to groups or organizations whose objectives may not be completely compatible to their own objectives.

A number of churches and camps have the mistaken belief that to rent their facilities would contravene the Income Tax Act by being engaged in a business. Charities can be engaged in business when the purpose of the business is related to the objects in its incorporation or the activities are conducted mainly by volunteers. There is nothing in the Income Tax Act that prevents a charity from renting its facilities to earn income from its property.

A charity should not allow others to rent or use its facilities where doing so may be harmful to the achievement of the charity's objectives or incompatible with its established values and beliefs. Any rentals should also be based on space availability and appropriate guidelines.

There are four basic categories of rentals:

1) Renting to other charities with objectives that are compatible with your own objectives. A charity may charge very little or use a sliding scale, depending upon the compatibility with their objectives. The property is being used for the charitable purpose for which it was given or acquired. Examples would be that of one church allowing a new church to use its facilities on a Friday night until the new church can obtain their own premises or allowing a Youth Group from another church to stay overnight in its facilities.

2) *Renting to non-profit community groups that are not charities and have objectives that are not in conflict with the objectives of your own charity, but do provide a service to the community.*

The Income Tax Act does not allow a charity to provide resources to a non-charity, unless the church sees this as part of its outreach ministry, so the community can be exposed to the services provided by the charity. A rental fee may or not be charged, depending upon the extent to which the charity feels its purpose is being advanced. An example would be a church providing meeting space for Alcoholics Anonymous or to the local community association for its Annual General Meeting.

3) *Renting to individuals or groups for private or personal events. **The rate that is charged to members/donors and non-members must be the same.*** The rule is that members and donors can not receive a personal benefit from a charity because they are a member or donor. An example would be that you cannot charge a different rate to members and non-members for the use of church facilities for marriage ceremonies or funerals. Whatever you charge one, you must charge the other.

4) *Rentals to Commercial entities should be at fair market values.* Charities should not rent to businesses that are inconsistent with the charities objectives, values or purposes. An example would be that you can rent your facilities to the government as a voting station or to a day care operation.

Why Have Rental Policies Become Such An Important Topic For Churches And Camps?

The Short Answer Is That Liability Risk Management Is Becoming A Serious Issue. Today all charities are being more challenged to be true to their charitable purposes/objectives.

Christian charities are very concerned about being forced to rent to groups whose purposes, values or lifestyles are incompatible with the charity's faith, beliefs, values and practices. There is heightened concern at becoming involved in Human Rights and/or legal actions with subsequent costs, stresses and publicity. Renting facilities also raises the potential and risk of safety, security and abusive situations to manifest themselves as more individuals and groups are using the facilities, equipment and property.

Litigious activists and sympathetic courts are impacting the way charities may rent facilities. Religious concerns may not be a valid reason to exclude certain groups from renting facilities if past practice has been a very open rental practice. (e.g., BC 2004 "Knights of Columbus" case.) Same sex marriage has been approved by the federal parliament. During the approval process, the government assured churches that religious officials will not be required to perform same sex marriages if it is against their religious beliefs and that protection will be extended to "sacred places of worship." However, the performing of marriages is a provincial responsibility, and so

provincial legislators will have to bring forward legislation on this issue. Only Ontario (Bill 171) has done this so far. And, how will “sacred places” be defined? Will these be church sanctuaries only or comprise all church facilities and properties? Many questions remain unanswered.

What Specific Issues Around Renting Need To Be Considered?

1. A church or camp which is a registered charity must hold all its property for the public good, to pursue its charitable purposes and objectives.
2. The church holds all its resources, including gifts and other income, in trust for its charitable purposes and to promote the charitable mission. It does not exist as a “private club” to give special financial benefits to its members. It is to promote and to serve the “general benefit of the community.” Hence the generous personal income tax credit to donors.
3. The elected Board or Council Members of a church or camp (referred to as Directors) are responsible for determining which activities and programs promote the charity’s mission.
4. Caution is essential in dealing with certain issues – one cannot discriminate on the basis of race, religion, sex, sexual orientation, etc. But, you can discriminate in other areas (e.g., must be compatible with your charity’s objectives and purposes). However, you must be ready to demonstrate that you have **consistent practices and procedures**. It is very helpful to have an approved and established policy and to “stick to it.” If you rent your facility to virtually anyone, it is very difficult to “close the door” on this practice when a group wants to rent your facility and you don’t want to let them use your facility because their beliefs and values are not in harmony with your beliefs and values.
5. A church certainly may rent its facilities to individuals, groups and the public at “fair market value” for non-church or private functions. However, recognize that congregants who rent the facilities for these purposes must pay the “fair market rate” as well. A reduced or waived rental fee cannot be given because you are a member or adherent. (e.g., no “special deal” given to you for your grand-daughter’s wedding because you supported the church at one time.)
6. Determine how much risk with respect to the use of your facilities you are willing to take. Then take time to define what activities and purposes are acceptable to the church or camp for renting its facilities. Create an acceptable list of the type of rentals you will approve.
7. The safest overall policy and practice is to only rent your facilities for activities that further your own charitable purposes and objectives. The second safest is to only rent to groups or organizations whose charitable objectives are compatible to yours. Your liability risk rises considerably when you rent to groups that are not compatible with your purposes and objectives. How much risk can you tolerate? Only you can determine that.

8. Put your rental policy down in a written document. Make it detailed and be sure it is approved by your Council/Board. Then publicize it within the church and make sure staff (particularly the staff that arrange rentals) fully understand it.

What Are Some Practical Tips For Developing A Facility Rental Policy?

1. Determine the purposes and objectives of your charity and put them in the rental agreement.
2. Review your governing documents to ensure that you are a Christian charity organization.
3. Make sure that the objective about the advancement of religion is clear.
4. Be sure that your church is incorporated and that your by-laws have a statement of faith.
5. Your church or camp should have policies that are written and consistently applied. They should include a statement of lifestyle and morality standards, be consistent with your governing documents, and have a strong Christian component. It is particularly important to have written and clear policies on rental and use of facilities and employee hiring, employment conditions, job descriptions, and evaluation processes.

What Are Some Other Considerations?

1. Will you rent and, if so, to whom will you rent? Set a standard or prioritize as to whom you will rent based on who is closest to the purposes and objectives of your charity.
2. Develop common rental rules (e.g., no smoking, drinking or dancing) and fee schedules.
3. Determine if the church exerts full authority, control and supervision over the group? If not, the rental group should have its own insurance with waiver of liability against the charity, an undertaking to indemnify the charity, and a certificate of insurance confirming the group has general liability and tenants legal liability coverage, which shows your charity as an additional named insured party.
4. Determine ahead of time what parts of the facilities can be accessed by the group and the activities that are not permitted in the facilities as you have classified these as “high risk.”
5. Clarify ahead of time the nature of the rental group and the purpose of the rental activity. The contract should state that renters must respect/abide by the charity’s statement of faith and lifestyle statement and that the event/activity must not conflict with the values held by the church (e.g., gambling, inappropriate entertainment).
6. The rental agreement must be a legally enforceable contract and signed by both parties. It should also state that if the information provided by the renting group was not correct, the event

may be cancelled while in progress with no refund to be provided.

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Suggestions for a Sample Facility Rental Agreement

1. Suggested Table of Contents

- 1.Charitable Objectives of the Church or Camp
- 2.Statement of Faith
- 3.Lifestyle and Morality Standards
- 4.CABC Policies on “Marriage” and “Sexuality”
- 5.Purpose and Conditions of the Rental
- 6.Facilities Available for Rental
- 7.Rental Parameters and Rates
- 8.Non-permissible Activities
- 9.Contractual Signing

2. Suggested Details

1 to 4 Pre-Printed Documents (#4 Convention Assembly Resolutions are available electronically from the CABC website, <http://www.baptist-atlantic.ca/departments/witness/resolutions>)

5. Purpose and Conditions of the Rental

5.1 Information from Renter

- a. Please describe the purpose of the event
- b. User name, address, telephone number (work and home), email
- c. Total number of event participants
- d. Date facility rental required
- e. Start time and end time

5.2 I hereby agree to respect/abide by _____’s Statement of Faith and Lifestyle and Morality Standards while on the facility premises. _____ Yes _____ No

5.3 Specific Conditions of Rental

a. A deposit of \$_____ or _____% of the rental fee along with a signed copy of this agreement must be received in order to confirm your booking. The remainder of the rental fee must be received one week before the event in order to confirm the rental.

b. Cancellation Clause: The rental deposit is non-refundable within _____ days of the commencement of the use of the facilities by the renter. This deposit may be used as a credit for another rental booking provided that this occurs within ninety days.

c. Renters will be responsible for the full replacement or repair costs of any aspect of the church's property, facilities or equipment if wilful damage occurs during the rental period by participants in the rental activity.

d. An authorized liability and loss insurance certificate in the name of the church must be provided by the renter prior to the use of any church property, facilities and equipment unless the renter is carrying out the activity under the control and direction of the church.

e. Waiver Clause: The renter hereby agrees that the property, facilities and equipment are being taken "as is" and accepts the full risk and liability in the event of any damage, personal injury or death that may occur while renting the property, facilities and equipment.

6. Facilities Available for Rental

6.1. Sanctuary for:

- a. Christian Weddings
- b. Funerals and Memorial Services
- c. Worship Services
- d. Meetings
- e. Other purposes that bring glory to God

6.2 Gymnasium for:

- a. Activities or meetings not conducive to the sanctuary
- b. Food Services including lunches, dinners and banquets
- c. Sports, games and exercises

6.3 Kitchen:

- a. Food preparation
- b. Food service

6.4 Other Meeting Rooms

- a. "Break out rooms"
- b. Small meetings

Please note: all people renting and/or using the church buildings and any of its facilities must vacate the premises by _____ pm at the latest. The buildings will be secured and the electronic security system will be armed after that time.

7. Rental Parameters and Rates

7.1 Sanctuary

- a. Pulpit, piano, and any other furniture cannot be moved without prior permission
- b. Rental must be for a minimum of two hours

c. Candles may not be used without special permission and a special cleaning fee

7.2 Gymnasium

- a. Staff must set up tables and chairs
- b. Users must clean up any materials they bring
- c. Rental must be for a minimum of two hours

7.3 Kitchen

- a. Unless permission granted beforehand, kitchen must be under the supervision of the church caterer or designate
- b. Kitchen rental users must have sufficient people with Food Safe credentials as set out by Health Regulations
- c. Rental must be for a minimum of two hours
- d. Kitchen must be cleaned up and all dishes, etc. washed/put away at end

7.4 Other Meeting Rooms

- a. Minimum one hour rental
- b. Staff must set up tables/chairs and any other church equipment
- c. Users must clean up material they bring

Note: Rental occupancy cannot exceed the room capacity set by the Municipal and Fire Department Regulations. In the absence of regulations, capacities should be set by the church. Maximum capacities should be posted in all rooms.

Suggestions Re Meeting Place Rates

A church has a right to charge rent and to set the rental rate for its facilities. However, there are some guiding principles to follow.

1. For rentals to other churches, church groups and Christian organizations you should set a common rate as it is likely that their charitable purposes are the same or very similar to the church's charitable purposes. Or you may decide to not charge any rent at all.
2. For other non-profit groups or secular charities, you may charge a different rate as it is likely that their objectives are not similar to those of the church. Or you may wish to charge the church rate above.
3. For individuals, you must charge the same rental rate regardless of whether the person is a church member, adherent, donor or a member of the general public. You cannot give a special benefit to a person who is or has been associated with the church. In this case, "membership **does not** have its privileges!"
4. For a commercial entity, you should charge "fair market rates," otherwise the church as a registered charity is competing unfairly with business.
5. Rates should be published for each area of the church that is to be rented and should be

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Acknowledgements and Other Resources

The above documents are adapted from the BUWC document “**BUWC - FACILITY RENTAL POLICY.**” Only a few minor changes have been made.

The following two articles are also very helpful:

“Ten Essential Steps to Protect Churches and Christian Ministries - Church and The Law Update No. 11,” <http://www.carters.ca/pub/update/church/volume01/no11.pdf>

“Legal Risk Management Checklist for Charities,” Appendix A of “Advising the Charitable Client,” <http://www.carters.ca/pub/article/charity/2005/tsc1026.pdf>