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TO: Church Leaders & Heads of Religious Nonprofit Institutions
RE: Language for Bylaws, Marriage Policy, Facilities Use Policy
FR: Kevin T. Snider, Chief Counsel
DT: February 1, 2018

Recent decisions by the courts and laws passed by state legislatures and local governments pertaining to marriage, sexual orientation, and gender identity pose significant challenges to religious institutions. This rapid change in the legal climate counsels that leaders take precautionary steps to protect the theological integrity, governance, and activities of faith-based nonprofits relative to facilities, employees, membership, marriage ceremonies, counseling and other ministries.

To this end, we offer the accompanying documents for your use. The first of such contains language for bylaws dealing with *marriage* and *human sexuality*. A crucial legal protection entails adding such provisions to faith statements. If not already present, include the sample language provided on following page into faith statements and insert same in the church or religious organization's bylaws. Second, you will find a *Marriage Policy For Churches* covering (1) applicants, (2) clergy, and (3) premises. As an administrative policy, do not include this model policy in the bylaws. The final three documents address the use of a church campus. These papers include: (1) a *Church Facilities Use Policy*, (2) an *Application For Use Of Church Facilities*, and (3) a sample contract for use of facilities.

Finally, it is perhaps necessary to explain the rationale for taking these steps. Churches across the country find that some congregants fundamentally disagree with the sexual ethics articulated in Scripture. These attendees do not consent to the spiritual authority of the church. Moreover, other members of the public ironically seek to remove the practice of faith from faith-based organizations. The means to achieve their objective centers on the use of the force of law to impose changes on local fellowships and religious institutions. In order to counter this, the documents accompanying this letter establish the legal conditions necessary to assist leadership in carrying out the goal of promoting sexual integrity and healing to the fallen. Hence, these written instruments do not contemplate the erection of obstacles for those seeking redemptive help.

Feel free to contact the undersigned with questions or concerns. Legal representation for churches and other religious institutions in this area is performed without charge.

Grace and peace,

A handwritten signature in blue ink that reads "Kevin T. Snider". The signature is written in a cursive style.

Kevin T. Snider

BYLAW LANGUAGE (*added to Statement of Faith*)

MARRIAGE & HUMAN SEXUALITY

Marriage:

Marriage has been instituted by God. This church defines *marriage* as the exclusive covenantal union of a man and a woman in which such union is a lifetime commitment. A civil government's sanction of a union will be recognized as a legitimate marriage by the church only to the extent that it remains consistent with the definition of marriage found in these Articles.

Human Sexuality:

Legitimate sexual relations are exercised solely within marriage. Hence, sexual relations outside of marriage (referred to in the New Testament as “porneia”-- πορνεία) including but not limited to, adultery, premarital sex, homosexuality, and pedophilia are inconsistent with the teachings of the Bible and the Church. Further, lascivious conduct, transgender behavior, and the creation, distribution or viewing of pornography, are incompatible with the biblical witness.

Qualifications:

Every minister, board member, member, or employee, shall affirm their agreement with the Articles of Faith and shall conduct themselves in a manner that is consistent therewith. This shall be a prerequisite, and continual condition, for holding these positions.

(Note: For employees, it is recommended that the above qualifications be included in a written employment agreement, i.e., consideration is exchanged by the parties.)

(For religious schools, please contact our office for specific counsel.)

For inquiries regarding this language and related issues, contact:
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MARRIAGE POLICY FOR CHURCHES

Drafted by: Kevin T. Snider, Chief Counsel
PACIFIC JUSTICE INSTITUTE

Marriage is a union ordained by God. It was first instituted by God in the early chapters of Genesis, codified in the levitical law, the Old Testament prophets compared it to a relationship between God and his people, examples of it are in the historical narratives, and, the wisdom literature discusses the unique unity of this relationship. Jesus explained the original intention and core elements of marriage, and several New Testament epistles give explicit instructions on this union. Marriage is a typology of Christ and the Church. As such, the Church views marriage as a profound spiritual institution established by God. Due to the importance of marriage in the biblical witness, this church adopts the following policy.

CEREMONY:

Within this church, a marriage ceremony shall include the reading of Scripture, prayer, spiritual admonition by clergy, and recitation of vows. In view of these elements, a marriage ceremony is deemed a form of liturgy.

CLERGY:

1. Only duly ordained clergy shall officiate at marriage ceremonies conducted on church property.
2. Clergy employed by the church shall be subject to dismissal or loss of ordination for officiating a marriage ceremony for a union that is inconsistent with the definition of *marriage* in the Statement of Faith.

APPLICANTS:

1. Applicants wishing to have a ceremony performed by a member of the clergy employed by the church, or to use the church facilities for a ceremony, must fall within the definition of *marriage* in the Statement of Faith. Besides the general definition of *marriage*, the church has other teachings on marriage that may impact the

availability of use of church facilities for applicants, e.g., prior marriages, marrying outside of the faith, potential fraud. These issues will be explored during premarital counseling.

2. Applicants shall receive ____ hours of premarital counseling by clergy or counselors employed by the church or other persons who, in the sole opinion of the pastoral staff of the church, have appropriate training, experience, and spiritual understanding to provide such counseling.

PREMISES:

1. Any marriage performed on church premises shall be officiated by a member of the clergy.
2. Clergy officiating marriage ceremonies on church premises, whether or not employed by the church, shall affirm their agreement with the Statement of Faith and shall conduct themselves in a manner that is consistent therewith.
3. The clergy assigned by the church to implement the procedures contained in this Marriage Policy may, in the minister's sole discretion, decline to make church facilities available for, or decline to officiate at, a ceremony when, in the minister's judgment, there are significant concerns that one or both of the applicants may not be qualified to enter into the sacred bond of marriage for doctrinal, moral, legal, or other reasons.

CERTIFICATE:

After the ceremony, the church will issue a document confirming the marriage ceremony. The language shall include this text as follows: "Be it known that [*insert name of husband*] and [*insert name of wife*] entered into the holy covenant of matrimony at the [*insert name of church*] on [*insert day, month, and year, e.g., this twelfth day of January, in the year of our Lord, 2018*]."

CHURCH FACILITIES USE POLICY

_____ Church (herein “Church”) may allow, at its discretion, the use of its facilities for activities not directly related to the operation of the corporation but are still for the religious purposes for which the organization was created.

COMPATIBLE USE

Mission of the Church: Non-Church related activities may be allowed when the goals of users are compatible with the Church. No activity shall be conducted on Church property that is incompatible with the Christian faith. As the spiritual authority of the Church, the Pastor and Elder Board shall have non-appealable authority over a decision relative to whether a use is consistent with Christian theology, doctrine, and witness. Further, if an activity negatively reflects on the Church’s testimony to the community, then the Pastor and Elder Board, in their sole discretion, may direct the denial of an application or cancel a calendared activity.

Safety: The Church may deny an application or cancel a calendared activity if determined that there is an unreasonable level of risk of injury to persons or property. A representative of the Church, given supervisory authority over a use of the facilities for an event, has the inherent authority to stop said event in progress if, in his or her opinion, such action is necessary in order to protect life, health, and property.

PRIORITY USE

Church activities take priority over all other uses. For non-Church activities, first priority for space is to Church members.

PUBLIC ACCOMMODATION

Church facilities are not a place of *public accommodation*.

PROPERTY TAXES

The facilities are currently exempt from property taxes. Any use that jeopardizes the property tax exempt status of the Church is prohibited.

TAX EXEMPT RELIGIOUS NONPROFIT

The Church is a nonprofit religious corporation which is exempt from state and federal taxation. The Church will not permit non-Church users to engage in activities which could cause the Church to lose its nonprofit status.

INSURANCE

Users shall provide proof of insurance for the use of the facilities in an amount determined by the Church.

CANCELLATION OF AN EVENT

If the Pastor and Elder Board, or their designee, determine that a calendared event must be cancelled or stopped, the Church shall refund the money to the user.

Exception: The Pastor and the Elder Board, or their designee, may decline to refund money due to a false statement on the application or concealment of a material fact.

WEDDINGS

The Church deems *marriage* a religious institution. A wedding is a solemnization and celebration of a marriage and constitutes liturgy. All weddings are subject to the Church's Marriage Policy, memorialized in a separate document.

USE FEES

The Church may charge a use fee to cover the performance of services or provision of things such as set up and tear down, staff, security, utilities, supplies, cleaning, wear and tear, damage deposits, etc. Such fees will be kept at below market value for the rental of like property. The charge of a use fee does not convert the use of Church facilities into a for-profit commercial transaction or public accommodation.

APPLICATION FOR USE OF CHURCH FACILITIES

Name of Applicant: _____

Name of Primary Contact Person: _____

Are you a member of the Church?

yes

no

If not a member of the Church, are you a member of another church?

yes

no

E-mail: _____ @ _____

Tel.: (_____) _____ - _____

Address:

Organization's Website:

Organization's Purpose: _____

Is the applicant a non-profit corporation?

yes

no

If *yes*, is an officer or director of the corporation a member of the Church?

yes

no

If *no*, is an officer or director of the corporation a member of another church?

yes

no

[*For California*] Does the applicant have an Organizational Clearance Certificate from the California Board of Equalization?

yes

no

(Attach a copy of the Organizational Clearance Certificate to this application).

Purpose of Meeting: _____

If not provided above, describe the activities at the meeting.

Estimated Number of Persons Attending: _____

Date of Event: _____

By signing below, the applicant attests that he or she has read the *Church Facilities Use Policy* and acknowledges the items below as follows:

- this application does not create a contract;
- the Church campus is private property and is not a place of public accommodation;

- the Church may deny the application, at its sole discretion, due to incompatibility, including, but not limited to the following:
 - scheduling;
 - potential risks of injury to persons and property;
 - activities are inconsistent with the Church's mission or messaging;
 - the mission of the applicant organization is inconsistent with the Church's mission or messaging;
 - incompatibility with the physical facilities;
 - subjecting the Church to potential tax liability.

Is this a wedding? (If *yes* the application requires signatures from both bride and groom).

yes

no

Signature (Groom)

Printed Name

Dated: _____, 20_____

Signature (Bride)

Printed Name

Dated: _____, 20_____

AGREEMENT FOR USE OF FACILITIES

The _____ Church (herein “Church”) agrees to allow [*insert name*] (herein “user”) to use certain facilities on its campus located at [*insert Church physical address*] under the conditions described below.

FACILITIES: *Insert description of areas for use, e.g., kitchen, rooms, outside areas, parking.*

DATE:

TIME: From _____ [a/p].m. to _____ [a/p].m.

PURPOSE: *Church to insert purpose, e.g., wedding, seminar.*

USER FEES: _____ agrees to submit funds in the amount of \$_____ by (*insert date*) as a below market user fee to cover the performance of services or provision of things, such as, set up and tear down, cleaning, supplies, utilities, wear and tear, church staff or other persons contracted by the Church for the activity.

CHURCH STAFF: The primary contact and onsite Church representative for the use of the facilities is: *insert name and contact info*

The Church will provide staff or contracted persons as follows:

Insert: (For example, sound technician, custodian, chef, security, IT, etc.)

CHURCH EQUIPMENT & SUPPLIES: *For example: projector, audio, coffee and bagels, etc.*

USER WILL PROVIDE: *For example: Catered food, sound equipment, parking/traffic attendants etc.*

MEDICAL ATTENTION:

The user authorizes employees, volunteers or persons contracted by the Church to administer first aid as they deem necessary to any participant in the activities described, or related to, this Agreement. The user also authorizes medical and surgical care and transportation to a medical facility or hospital for treatment necessary for the participant’s well-being, at user’s expense.

RELEASE

The user **AGREES TO RELEASE** Church and its pastors, elders, officers, staff, employees, volunteer workers, attorneys, agents, representatives, affiliates, successors-in-interest, and assigns (collectively “PROVIDERS”) **from liability for**

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injury, death, and property loss and damage that arises out of or results from the activities and events, including all liability which results from the NEGLIGENCE of PROVIDERS, or any other person or cause. This release of negligence applies to all activities that are in any way related to [insert name of church] and use of its facilities, whether or not such activities or use involve inherent risks.

MEDIATION AND ARBITRATION

User agrees to submit any claim or dispute that arises out of, or results from, any activity or event described or related to this Agreement to mediation and, if mediation is not successful, to legally binding arbitration. The mediation and legally binding arbitration shall be conducted in accordance with the *Rules of Procedure for Christian Conciliation* of the Institute for Christian Conciliation. Judgment upon an arbitration award may be entered in any court otherwise having jurisdiction. The choice of law shall be that of the State in which the Church campus is located.

INSURANCE

The user shall provide proof of insurance covering the event in the amount of \$_____ and naming the Church as an insured.

INDEMNIFICATION

The user shall hold harmless and indemnify the Church, its Board, officers, employees and agents from and against any claims, demands, or causes of action whatsoever, including without limitation those arising on account of any injury or death of persons or damage to property caused by, or arising out of, or resulting from, the use of the facilities.

CANCELLATION OR STOPPAGE OF EVENT

The user understands that the Church may cancel a calendared activity if determined that the use is incompatible with the Church's mission, can cause harm to the Church's reputation, or there is an unreasonable level of risk of injury to persons or property. Further, the user understands and agrees that a representative of the Church, given supervisory authority over a use of the facilities described in the Agreement, has the inherent authority to stop an event in progress if, in his or her opinion, such action is necessary in order to protect life, health, and property.

If the Church determines that a calendared event must be cancelled or stopped, the Church shall refund the money to the user.

Exception: The Church may decline to refund money due to a false statement on the application or concealment of a material fact.

The user and the Church have read the above and agree to its terms.

For the User

Date: _____, 20__

For the Church

Date: _____, 20__