

Church Trustee *Cross-Training*

Monday, June 16, 2025

12:00N & 6:00PM

The “Cross-Trained” Trustee

- Spiritual
- Ethical
- Legal
- Financial

The Church Business Administration Network

Meeting ID: 964 319 7945

Passcode: CBA1

Conference Call: (301) 715-8592

The Church Trustee Equation

The Church Trustee

All Trustee “business”, actions, and transactions should be conducted in a manner that is according to the _____ of the church and as _____ and _____ by your church and congregation.

Church Trustees must not be _____, but must possess the desire and the ability to do what best benefits the _____, _____, and _____ of your church.

“Fiduciary”

The [Church] Trustee’s _____ is to be _____ to the authority and responsibilities provided to them by their _____.

Requires that any transaction or decision made between the board and one of the board’s members be...

1. Fully _____.
2. _____ by the board without the interest of one or more board members being placed above interests of the church itself.
3. Fair and reasonable to the _____.

*Adapted from Richard Hammer’s Pastor, Church, & Law (Fifth Edition), *Breach of Fiduciary Duty of Loyalty*, § 6-07.04, pg. 319.

Fiduciary Duty of Church Trustees

Church Trustees have an obligation to be loyal to their church and congregation and perform their responsibilities with “_____” in managing their ministry duties and responsibilities. Furthermore, Church Trustees should ensure that their actions do not _____ the authority that is vested in them by the church’s _____ (Bylaws & Constitution).

Fiduciary Duty of Trustees

4 Types of Church Trustee/Officer Authority

1. Expressed Authority (Written/Approved Authority)
Authority provided to Church Trustees through the church's _____ *and* _____ governing documents (i.e. Bylaws, Constitution, or Resolution).
2. Implied Authority (Necessary Authority)
Authority considered to be done as _____ acts and duties needed to perform _____ Authority.
3. Inherent Authority (Entitled Authority)
The belief that a Trustee, Officer, or Leader's position has _____ them with certain rights and authority although it is not _____ in the church's Governing Documents.
4. Apparent Authority (Misleading Authority)
Authority enacted upon by a Trustee, Officer, or Leader of the church by _____ others to believe that the church has _____ such authority and power.

What is the Meaning of "Liable"?

Donor/Designated Funds (Redirecting of...)

- 1. Can donor-designated funds be used for a different purpose?**
- 2. What happens if donors cannot be contacted?**
- 3. Does redirecting funds require board approval?**

4. What legal risks are involved in redirecting funds?

Key Considerations for Redirecting Funds

- **Legal Professional Advise:** Consult Your _____ and/or _____ on how to proceed.
- **Donor Intent:** Ensure the redirection aligns closely with the _____ outlined by donors.
- **Legal Compliance:** Review _____ on charitable funds to confirm that redirection is permissible.
- **Church Policy:** Consult the church's _____ or _____ to ensure internal compliance.
- **Board Approval:** Obtain _____ from the church board or governing body to document the decision.

Restricted Contributions (Project Not Abandoned)

Donors who make restricted contributions to a church may be _____ to a return of their _____ if not used for the donor-restricted purpose.

Restricted Contributions (Extended Delay of Restricted Funds Use)

A court can determine that a church's delay in using restricted funds for a specified purpose has been so substantial that it amounts to an _____ of the project entitling donors to a refund of their donor-restricted contributions.

Restricted Contributions (Project Abandoned)

Donors contribute money for a designated church project (e.g., a new building) that the church abandons.

Possibilities:

1. Donors can be identified.

2. Donors cannot be identified.

3. Some, but Not All Donors Can Be Identified

Options:

1. Contact your CPA and Attorney.

2. Call a membership meeting bringing full transparency and disclosure to the matter

3. Ask the Congregation to adopt a resolution regarding the handling & reallocation of the funds

4. Receive Court Authorization



Code of Virginia

§ 20-13.2

**Marriage Lawful Regardless of Sex, Gender,
or Race of Parties**

Religious organizations and members of the clergy acting in their religious capacity shall have the right to refuse to perform any marriage.”

Code of Virginia

§ 8.01-220.1:1

Civil Immunity for Officers, partners, members, managers, trustees and directors of certain tax exempt organizations.

Code of Virginia

§ 8.01-220.1:1 (A)

**Civil Immunity for Officers
of Tax-Exempt Organizations**

“Directors, partners, members, managers, trustees and officers of organizations exempt from income taxation under § 501(c) or § 528 of the Internal Revenue Code who serve without compensation shall be immune from civil liability for acts taken in their capacities as officers, partners, members, managers, trustees or directors of such organizations.”

Civil Immunity for Officers (A)
(Without Compensation)
Key Points

1. Covers Directors, Partners, Members, Managers, Trustees and Officers
2. Organization must be Tax Exempt under § 501(c) or 528 of the Internal Revenue Code
3. Trustee/Officer serves without compensation
4. Acts must be within their capacity as officers, partners, members, trustees or directors of such organizations.

Code of Virginia
§ 8.01-220.1:1 (B)
Civil Immunity for Officers
of Tax-Exempt Organizations

“In any proceeding against a director, partner, member, manager, trustee or officer of an organization exempt from income taxation under § 501(c) or § 528 of the Internal Revenue Code who receives compensation, the damages assessed for acts taken in his capacity as an officer, partner, member, manager, trustee or director...

§ 8.01-220.1:1 (B)
Civil Immunity for Officers
of Tax-Exempt Organizations

...and arising out of a single transaction, occurrence or course of conduct shall not exceed the amount of compensation received by the officer, partner, member, manager, trustee or director during the 12 months immediately preceding the act or omission for which liability was imposed. As used herein ‘compensation’ shall mean payment for services over and above per diem and expenses.”

Civil Immunity for Officers (B)
(With Compensation)
Key Points

1. Organization must be Tax Exempt under § 501(c) or 528 of the Internal Revenue Code
2. Refers to Directors, Partners, Members, Managers, Trustees and Officers who receive compensation.

**Compensation defined as “Payment for services over and above per diem (allowance for travel costs) and expenses”.*

4. Assesses “damages” made within your capacity as an officer, partner, member, trustee or director of the tax-exempt organization.
5. “Damages” are assessed for each, single “transaction” or “occurrence”
6. Liability is limited to the amount of compensation the Director, Partner, Member, Manager, Trustee or Officer received during the 12 months prior to the transaction or occurrence.

Code of Virginia
§ 8.01-220.1:3
Immunity for Members of Church, Synagogue, or Religious Body

“No member of any church, synagogue or religious body shall be liable in tort or contract for the actions of any officer, employee, leader, or other member of such church, synagogue, or religious body solely because of his/[her] membership in such church, synagogue or religious body. Nothing in this section shall prevent any person from being held liable for his/[her] own actions.”

Code of Virginia § 8.01-220.1:1 (C)
Civil Immunity for Officers (Willful Misconduct or a Knowing Violation)
of Tax-Exempt Organizations

The liability of an officer, partner, member, manager, trustee or director shall not be limited as provided in this section if the officer, partner, member, manager, trustee or director engaged in willful misconduct or a knowing violation of the criminal law or if liability derives from the operation of a motor vehicle, or from the violation of a fiduciary obligation imposed during the period of declarant control by § 55.1-1943.

**Civil Immunity for Officers “C”
(Willful Misconduct or a Knowing Violation)
Key Points**

Liability is not limited for Church Officers...

1. Who knowingly and willingly engage in misconduct or violation of the criminal law.
2. Whose liability derives from the operation of a motor vehicle.
3. Who violate their “fiduciary” obligation to the church they serve.

**Code of Virginia § 8.01-220.1:1 (C)
Civil Immunity for Officers
(Willful Misconduct or a Knowing Violation)
of Tax-Exempt Organizations**

The liability of an officer, ...shall not be limited ...if liability derives from ...the violation of a
fiduciary obligation.

**Code of Virginia § 8.01-220.1:1 (D)
Civil Immunity for Officers
(Willful Misconduct or a Knowing Violation)
of Tax-Exempt Organizations**

“The immunity provided by this section shall survive any termination, cancellation, or other
discontinuance of the organization.”