



## **CHURCH BYLAWS –**

*JOB DESCRIPTIONS AND RELIGIOUS GROUNDS FOR LIMITING EMPLOYMENT OPPORTUNITIES*

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The issue of limiting employment based on religious grounds is likely to come up at some time. Whether you are a pastor, on the church board, or run a ministry of the church, you may be confronted with a situation where an employee is acting contrary to your group's doctrines and beliefs. For example, a pastor might divorce his wife and remarry contrary to your church's doctrine. An administrative assistant might express belief contrary to your church's stance on abortion. It might be discovered that a teacher in your religious school might not actually attend church. And the issue will come up – *can we fire a person who does not adhere to our doctrine or agree with our beliefs?*

ADF litigated a case in Michigan where a church rescinded the call of one its ministers, thus ending her employment. According to this church's by-laws, all disputes within the church were to be resolved according to Matthew 18, and church members were urged to reject the adversarial system that dominates the secular world. So when this minister threatened to sue the church, the church took the matter before its congregation, rescinded her call, and terminated her employment. She then sued the church, and one of the issues in the case is whether the church actually held such a belief.

While the general rule is that an employer cannot make hiring and firing decisions based on religion, there is an exception for "religious organizations." The legal system is very protective of church autonomy and generally does not interfere with church hiring and firing practices. Federal law exempts churches and allows them to consider an applicant's religious beliefs in hiring for all positions. And under most state laws, religious nonprofit organizations are entirely exempt from these regulations.

But nevertheless, there are things an organization should do to protect its ability to make hiring and firing decisions based on religion. First, churches need to stay true to their religious mission. Some ministries, over time, lose their religious mission and just become focused on

doing a task. For example, some religious schools stop integrating church doctrine into the curriculum, and thus may lose their status as a religious organization under the law.

Second, religious organizations should provide job descriptions in their bylaws for every position in the church and explain in the job description how the position furthers the religious mission of the church. These position descriptions should include the religious grounds for limiting employment opportunities – especially if the limitations involve other legally protected factors, such as race, age, sex, or national origin.

For example, if the church's beliefs require that only certain positions be held by men, this should be stated in the bylaws with support from Scripture. This firmly establishes that there is a religious basis for the church's limitations on employment, and is unlikely to be questioned by a judge.

Finally, churches should ensure that they are consistently applying their employment rules to protect themselves from claims of employment discrimination. Churches must handle similar cases similarly and cannot use religion as an excuse to treat a protected class of people more favorably than others. For example, a church might be vulnerable if it terminated an unmarried, pregnant female employee on religious grounds based upon an inference of illicit sexual intercourse, but did not terminate a male pastor guilty of extramarital sexual relations.

For more information on how to protect your church from unnecessary lawsuits, read "[Seven Things All Churches Should Have in Their By-Laws](#)." If you have specific legal questions, use the [Legal Inquiry Form](#) to share your question with an attorney.