

Q: What should our ministry know about bylaws?

A: Due to the unique legal protections afforded to religious organizations, your bylaws are your ministry's opportunity to write your own story on how your ministry will look and act.

The good news is that you are free to write bylaws that conform to your ministry's sincerely held beliefs and practices. The not-so-good news is that a civil or criminal court has the authority to hold you accountable if you do not follow your own rules.

What are Bylaws?

Bylaws are essentially rules governing an organization's major decisions and key activities. Generally, bylaws define and describe the rights and responsibilities of members, leaders, staff, and others related to the organization. Bylaws also describe how leaders are selected and when elections are to be conducted. Other key issues typically addressed in bylaws include:

- Who in the ministry is authorized to make various decisions, including major financial decisions or decisions that bind the ministry to contractual responsibilities?
- How is the leadership board organized?
- What is the relationship between the leadership board and the congregation?
- Who has the authority to make hiring and firing decisions involving pastors and staff?
- When and how are meetings of the leadership board and congregation conducted?

Carefully draft and implement bylaws that accurately describe your ministry's actual practices and beliefs. All decision-makers within the ministry should have their own copy of the bylaws, and regular attention should be given to compliance with the rules they contain.

When changes are needed, the procedures described in the bylaws must be followed to amend or otherwise alter those rules before changing the ministry's practice. Because bylaws are governed by non-profit corporation statutes, ministries should rely on the counsel of a local attorney whenever changes to the bylaws will be made.

When Should We Update Our Bylaws?

Because organizations tend to change over time, it is a good idea to review your bylaws at least every three to five years.

Most ministries adopt a set of bylaws when the ministry is first formed. These bylaws are often deposited in a file folder at the back of a little-used file cabinet for years at a time. During that time, the ministry's practices often change, sometimes significantly. When the bylaws are finally recovered from their folder, the ministry is faced with one of two options: 1) conform the ministry's practices to comply with the bylaws; or 2) amend the bylaws to reflect the ministry's practices.

Whenever your organization plans to make a major decision or a change in its practices, the bylaws should be consulted to determine if the proposed decision or change is allowed and/or being handled properly. If the bylaws pose a problem for the proposed change, then the organization should not make the change before amending the bylaws to allow it.

Because organizations tend to change over time, it is a good idea to review your bylaws at least every three to five years to make sure that the organization is still following its own rules and that the bylaws are not in need of amendment to address the current needs of the organization.

Q. Should we include indemnification provisions in our ministry bylaws?

A. The purpose of an indemnification provision is to protect individuals who are working for the ministry from incurring out-of-pocket costs if they're sued in connection with their work on behalf of the organization.

Who should be covered?

Ministry leaders and employees should be protected. You may also want to extend this protection to volunteers who are working on behalf of the ministry. Indemnification provisions should be drafted so that the ministry is able to avoid paying the legal expenses of individuals who are not furthering the purpose of the ministry, or who are acting outside of their authority.

How should indemnification be conveyed?

If an individual is sued in connection with his or her ministry work, the bylaws should give the organization's governing board the right to decide when and if such individual will be indemnified for out-of-pocket costs associated with the lawsuit. This protects the ministry from being required to cover costs associated with wrongful or criminal acts.

Reviewing ministry bylaws: If your bylaws already include an indemnification provision, it's recommended that a locally licensed attorney review them to ensure that ministry leaders maintain the right to decide when and if the indemnification obligation is triggered. If the organization's bylaws do not contain an indemnification provision, then an attorney should be consulted to develop indemnification wording, as well as to walk the ministry through the process of amending its bylaws.

It's important that ministry leaders review the organization's existing bylaws and think through the indemnification process before a lawsuit is filed against the organization's leaders, employees, or volunteers.

Sample Indemnification Provisions for Ministry Bylaws

These sample indemnification provisions are available for your ministry to share with your attorney as a starting point for consideration.

INSURANCE COVERAGE AND INDEMNIFICATION OF MINISTRY LEADERS, EMPLOYEES AND VOLUNTEERS

SECTION 1. INSURANCE. The Ministry will purchase and maintain liability insurance on behalf of any and all persons who are or were a director, officer, leader, employee, committee member or volunteer of the Ministry (while serving in their capacity as such). Such insurance will be purchased for the purpose of protecting such persons from covered loss resulting in liability asserted against the above individuals in connection with their activities on behalf of the Ministry.

SECTION 2. INDEMNIFICATION REQUESTS. Should any director, officer, leader, employee, committee member or volunteer of the Ministry incur any liability as a result of their affiliation with or service to the Ministry that is not covered by the Ministry's insurance policy, and should such liability result in any out-of-pocket cost to such individual, then such individual may request indemnification from the Ministry. The granting of full or partial indemnification shall be at the discretion of the governing board of the Ministry as set forth in Section 3 herein.

SECTION 3. INDEMNIFICATION DECISIONS. In relation to any indemnification request that is made pursuant to Section 2 herein, if such request is made by an individual who is not currently serving on the governing board of the Ministry, then the indemnification decision (whether to indemnify the requesting individual, and the dollar amount of such indemnification), will be made by the governing board. Such decision of the governing board will be final. If the indemnification request is being made by a person who is currently serving on the governing board, then the indemnification decision (whether to indemnify the requesting party, and the dollar amount of such indemnification), will be made by the remaining disinterested members of the governing board. A decision on the indemnification request by a majority of disinterested members of the Board of Directors will be final.

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Crafting Clear Statements of Faith & Purpose

Ambiguous language can lead to misunderstandings...or a lawsuit. If it's been a while since you've reviewed your written statements for *biblical and creedal foundations, purpose, and core beliefs*, a second look may reveal some gaps. The language you create can be misconstrued if you are not defining, or inaccurately define, terms for gender, marriage, or sexuality. For example, some Statement of Faith documents the Legal Assist team has reviewed use the term sex and gender interchangeably. These two terms have different meanings, leaving your ministry's use vulnerable to legal interpretation, especially in employment matters. Some states have enacted narrow definitions of these terms.

Biblical support for your beliefs and values provides clarity for people who engage with your organization. These documents also help safeguard your ministry in the event of legal challenges to your decisions, communications, and activities. A locally licensed attorney can instruct you about changes to state laws. Also consider requiring all board members to sign your statements of faith and purpose to ensure alignment with your beliefs.

Ministry Purpose: Biblical Foundation and Creedal Foundation

The purpose of this policy is to state the spiritual beliefs of the ministry. You are strongly encouraged to modify these sample policies in accordance with the standards set by your organization.

One key to any personal conduct policy of a Christian ministry is referencing Scripture as a basis for any behavior that's prohibited or discouraged. From a legal standpoint, citing supporting Scripture will strengthen your ministry's First Amendment (freedom of religion) position in the event of litigation.

SAMPLE PURPOSE STATEMENT FOR MINISTRY BYLAWS: BIBLICAL FOUNDATION

Ministry Purpose

[Name of Ministry] exists to support and equip Christ's followers, to reach the lost, to serve those in need, and to display the love of Christ to others, both individually and as a body of believers.

Everything that [Name of Ministry] does is founded upon the Truth set forth in the Bible, which is living, and active, and sharper than any two-edged sword (Hebrews 4:12).

Because these beliefs serve as the bedrock of our ministry (Matthew 7:24), everyone involved in our ministry is expected to act in a manner that promotes and supports these beliefs.

SAMPLE PURPOSE STATEMENT FOR MINISTRY BYLAWS: CREEDAL FOUNDATION

Ministry Purpose

[Name of Ministry] operates in accordance with the following beliefs:

We believe in God, the Father Almighty, Creator of heaven and earth.

We believe in Jesus Christ, God's only Son, our Lord, who was conceived by the Holy Spirit, born of the Virgin Mary, suffered under Pontius Pilate, was crucified, died, and was buried; he descended to the dead. On the third day he rose again; he ascended into heaven, he is seated at the right hand of the Father, and he will come again to judge the living and the dead.

We believe in the Holy Spirit, the holy Christian church, the communion of saints, the forgiveness of sins, the resurrection of the body, and the life everlasting.

We believe in the inerrancy of Scripture (2 Timothy 3:16), the indwelling of the Holy Spirit in those who believe, and the abundant life found only through Jesus Christ, who is the Way, the Truth, and the Life (John 14:6).

Because these beliefs are foundational to our ministry (Matthew 7:24), everyone involved in our ministry is expected to act in a manner that promotes and supports these beliefs.

Note: These sample policies should be carefully reviewed and fine-tuned, expanded, or otherwise revised so that they accurately reflect the beliefs of your ministry. Including appropriate scripture references is strongly encouraged. When reviewing and revising organizational documents, it's always advisable to involve a local attorney.

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Crafting a Written Statement for Marriage, Gender and Appropriate Behavior

Personal Conduct

The purpose of this type of policy is to state your ministry's expectations for employees, volunteers, and others with respect to marriage and interpersonal relationships. A written statement that clearly explains your organization's position on marriage, gender, and appropriate behavior can be helpful regardless of your ministry's specific beliefs. To reflect your distinct expectations, we strongly encourage you to modify this policy in accordance with the standards set by your organization.

This type of policy also can be helpful when addressing facilities-use questions. If you wish to restrict the use of your ministry-owned facilities to individuals or groups who share your ministry's religious beliefs, then you may want to consider limiting the use of your facilities to members in good standing. If your ministry does not have formal membership procedures, then consider adopting a policy that says all individuals or organizations that wish to use ministry-owned facilities must agree to use the facilities only in accordance with your ministry's religious beliefs.

One key to any personal conduct policy of a Christian ministry is referencing Scripture as a basis for any behavior that's prohibited or discouraged. Citing supporting Scripture will strengthen your ministry's First Amendment (freedom of religion) position in the event of litigation.

Consistency is important when applying this policy. For example, if you terminate a volunteer who has become pregnant out of wedlock because she's violated the policy against premarital sex, this is legally permissible so long as it is applied consistently. In other words, the same discipline should be taken against a male volunteer who engages in extramarital sexual relations.

SAMPLE POLICY

MARRIAGE, GENDER, AND APPROPRIATE BEHAVIOR

[Ministry name] operates on a strongly held belief that the marriage relationship has been established by God as a union between one man and one woman. (Genesis 2:24; Ephesians 5:31). [Ministry name] further holds that, in accordance with Scripture, sexual intimacy and sexual activity is appropriate only within the marriage relationship, between one husband and one wife. (I Corinthians 7:2; Hebrews 13:4). [Ministry name] believes God has created two distinct and complementary genders, male and female, and each person is created in accordance with God's perfect design (Genesis 1:27; Matthew 19:4).

Accordingly, [Ministry name] views the following behaviors as inappropriate and contrary to Scripture:

- 1) Any sexual intimacy or sexual act between individuals who are not married to one another.
- 2) Any marriage or civil union that is not between one man and one woman.
- 3) Any attempt to adopt or present as a different gender than that assigned at birth.
- 4) Any other activity, teaching, or behavior that is contrary to a biblical view of marriage, gender, and/or appropriate behavior as outlined in this provision.

All members* of [Ministry name] and all individuals involved in [Ministry name] operations, activities, and events are expected to uphold the ministry's perspective on marriage, gender, sexual intimacy, and appropriate behavior as set forth in this provision. Individuals and organizations who desire to use [Ministry name's] facilities must also act in accordance with this provision.

**This provision is applicable only to those ministries that have policies or procedures for formal membership.*

Note: These sample policies should be carefully reviewed and fine-tuned, expanded, or otherwise revised so that they accurately reflect the beliefs of your ministry. Including appropriate scripture references is strongly encouraged. When reviewing and revising organizational documents, it's always advisable to involve a local attorney.

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Retraction of Immigration Sanctuary Policies – What it Means for Your Ministry

The recent rescission of federal directives designating churches and schools as safe sanctuaries for undocumented immigrants could have significant implications for faith communities across the United States. This federal policy change, which began in January 2025, permits Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP) agents to conduct enforcement actions in places of worship, schools, and other previously protected areas. Read on for a better understanding of what ministry leaders should know and guidance on how to respond effectively.

Understanding the Policy Change

Previously, Department of Homeland Security (DHS) guidelines restricted ICE and CBP from conducting enforcement actions in "sensitive locations" such as churches, schools, and hospitals. The retraction of these guidelines means that ICE and CBP agents are now authorized to conduct various enforcement actions in these areas within constitutional limits. These actions include arrests, civil apprehensions, searches, inspections, seizures, service of charging documents or subpoenas, interviews, and immigration enforcement surveillance.

Implications for Ministries

Increased Risk of Enforcement Actions

Churches and other previously designated sensitive locations may now experience more frequent ICE and CBP presence and enforcement activities on their premises. While such incidents within churches and school buildings are expected to remain rare, the policy change could still increase fear and anxiety among some congregants, students, employees, and their families.

Legal Consequences of Harboring Undocumented Immigrants

Under U.S. law, harboring undocumented immigrants can be a felony-level crime. According to *8 U.S. Code § 1324*, anyone who knowingly harbors, conceals, or shields an undocumented immigrant from detection may face penalties, including fines and imprisonment. General violations can result in up to 5 years in prison, while violations involving serious bodily injury or life endangerment can lead to up to 20 years. Ministry organizations should be aware of these legal risks and ensure they are not inadvertently violating federal laws while providing support to undocumented individuals.

Risk Management Considerations

From a risk management perspective, ministry organizations and their leaders should be careful to avoid obstructing law enforcement. Obstructing ICE or CBP agents can lead to legal consequences, such as charges of harboring or obstructing justice, as well as potential reputational harm and financial liability.

Reporting Obligations: While individuals are generally not required to report undocumented immigrants, certain entities, such as employers, must verify employee immigration status under laws like the Immigration Reform and Control Act (IRCA).

Workforce Documentation: ICE raids may highlight workforce documentation issues, including I-9 form compliance. Ministries should consider conducting internal audits of I-9 records to identify and rectify discrepancies, reducing the risk of penalties for non-compliance.

Sanctuary Cities/States: Keep in mind that some jurisdictions, often referred to as "sanctuary" cities or states, limit cooperation with federal immigration enforcement. For example, California has laws that restrict local law enforcement from using resources to aid federal immigration enforcement efforts.

Steps Churches and Ministries Can Take if ICE Appears on Their Property

- 1. Create an Immigration Enforcement Encounter Policy:** Develop a policy to guide your ministry through potential encounters with immigration enforcement personnel and run the policy past a local attorney for review and refinement.
- 2. Establish a Response Team:** Form a dedicated team, train an existing team, or appoint an individual within your church or ministry trained to handle such situations. This team or individual should be knowledgeable about the legal rights of the organization and its participants or congregants and should be prepared to interact with law enforcement.
- 3. Request that ICE agents Minimize Disruption:** Politely ask ICE agents to allow any ongoing activities or worship services to finish before proceeding with enforcement actions. If no activities are currently happening, request that they conduct their actions with minimal disruption to the premises. This helps maintain order and minimizes distress among those present.
- 4. Document the incident:** Ensure the designated response team or individual documents the incident thoroughly, including taking detailed notes and recording interactions with ICE agents. This documentation is crucial for legal purposes and for providing accurate information to participants, congregants, and the public.
- 5. Communicate Clearly:** Keep participants or congregants informed about the organization's policies and procedures regarding interactions with law enforcement. Clear communication builds trust and ensures everyone knows what to expect.
- 6. Consult a local attorney.** Contact a local immigration attorney to understand how recent policy changes may affect your church or ministry. Legal counsel can provide tailored guidance and help ensure compliance with all relevant laws.

The retraction of sanctuary policies presents new challenges for churches and other ministry organizations. By staying informed, developing strategic response plans, and adhering to risk management principles, Christian ministries can navigate these changes while continuing to support their communities in a lawful and ethical manner.

Contact Brotherhood Mutual's Legal Assist team for further risk management guidance at <https://www.brotherhoodmutual.com/legalassist/index.html>*

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Creating an Immigration Enforcement Encounter Policy

Although ministries can hold a range of perspectives on immigration issues, reflecting their theological, legal, and community priorities, it can be prudent to adopt a formal policy to navigate the ministry's approach to immigration matters.

The following sample policy seeks to guide ministries in balancing their efforts to serve and care for their communities while respecting applicable immigration laws.

Ministries are strongly encouraged to seek legal counsel to review and tailor this policy to their specific circumstances before implementation.

Sample Policy Language

Immigration Enforcement Encounter Policy

Purpose and Scope

[Ministry Name] seeks to foster a safe and welcoming environment for staff, volunteers, and all community members while upholding its legal responsibilities. This Immigration Enforcement Encounter Policy outlines procedures for interactions with Immigration and Customs Enforcement, Customs and Border Protection, or other law enforcement personnel conducting immigration enforcement activities on ministry property (collectively, "Immigration Enforcement Personnel"). It aims to ensure that [Ministry Name's] responses are unified, lawful, and respectful.

Background: Public vs. Private Spaces

Under the Fourth Amendment to the U.S. Constitution, ministry properties can include both public and private areas.

- **Public areas:** Public areas are spaces such as the main sanctuary during services, reception areas, or other places generally open to the public. Immigration Enforcement Personnel may generally access these areas without a warrant or consent.
- **Private areas:** Private areas include restricted spaces such as staff offices, enclosed meeting rooms, and storage areas. Immigration Enforcement Personnel generally need a valid judicial warrant or consent to enter these areas, absent pressing or emergency circumstances.

Establishing clear distinctions between public and private spaces helps ensure all interactions with Immigration Enforcement Personnel comply with legal requirements.

Procedures

Procedures for interacting with Immigration Enforcement Personnel at [Ministry Name] are divided into three critical phases: *preparation*, *encounter*, and *post-encounter*.

1. Preparing for Encounters with Immigration Enforcement Personnel

- **Signage:** Consistent signage will clearly define public and private areas to reduce confusion during enforcement actions. Signs should include language such as "Private Area: Authorized Personnel Only" for restricted spaces and "Public Area: Open to All Visitors" for common areas. Design elements, such as bold lettering and contrasting colors, will be used to enhance visibility and comprehension. All ministry signage will be periodically reviewed to make sure it is working well in achieving its intended purpose and to make sure it is clearly visible.
- **Team Designation:** A response team will be designated to manage encounters with Immigration Enforcement Personnel effectively. This team serves as the first line of response during any immigration enforcement action. A current safety team may be designated to fulfill these response responsibilities.

- **Training:** The designated response team will undergo regular training sessions focused on interacting with Immigration Enforcement Personnel, verifying warrants, and monitoring and documenting encounters. These sessions will be conducted regularly to ensure sustained readiness and proficiency.
 - **Instruction:** The ministry will undergo training led by qualified instructors who have expertise in immigration law and risk management. External legal counsel or subject matter experts may also be involved in providing specialized insights and ensuring that the training reflects the latest legal standards and best practices for interacting with Immigration Enforcement Personnel. The materials used for training will include detailed scenarios and examples to ensure thorough preparation and emphasize de-escalation techniques to promote a peaceful response.
 - **Caution:** During training and beyond training, ministry personnel, including those on the response team, will be reminded that aiding and abetting undocumented immigrants may constitute a serious offense that could result in legal consequences. [Ministry name] does not condone or support the intentional obstruction of or interference with law enforcement personnel as such personnel perform their lawful duties.
- **Community Awareness:** [Ministry name] plans to educate the congregation, community members, and participants about this policy and the rights of those affected by it. This may be achieved through informational sessions or by distributing written materials.

2. During an Encounter with Immigration Enforcement Personnel

- **Remain Calm:** To prevent unnecessary escalation, all ministry personnel should remain calm and composed. Actions that could threaten or cause harm to persons or property are to be avoided. Staff and volunteers who are not members of the response team should refrain from directly engaging with Immigration Enforcement Personnel or answering any questions. Instead, they should refer these personnel to a representative of the designated response team or seek further guidance from ministry leadership if a response team representative is unavailable.
- **Verify Identity:** A response team member should politely request identifying information from Immigration Enforcement Personnel. Acceptable forms of identification include names, badge numbers, and any supporting documentation that verifies their status and the purpose of their visit. All communications with Immigration Enforcement Personnel should be courteous and professional.
- **Review the Warrant:** If Immigration Enforcement Personnel present a warrant, a response team member should verify that it is signed by a judge or magistrate, lists the address and scope of the search, and was issued within the last 14 days. Legal counsel should be consulted immediately if there is any uncertainty about the warrant's validity. If a valid judicial warrant is presented, response team members should fully comply with the Immigration Enforcement Personnel's search and grant access to the specified areas, including private spaces.
- **Monitor the Encounter:** Response team members should actively monitor and document all encounters with Immigration Enforcement Personnel. This monitoring may include a combination of visual observation and video monitoring, which will be needed to document the encounter effectively.
- **Request an Enforcement Delay if Warranted:** If a worship service or ministry activity is ongoing, a response team member should politely request that Immigration Enforcement Personnel delay their enforcement actions until the activity concludes. This request should be made respectfully, and the Immigration Enforcement Personnel's response should be documented.
- **Limit Access:** [Ministry Name] does not permit searches of private areas without a valid judicial warrant. If Immigration Enforcement Personnel do not present a valid warrant or the warrant is limited in scope, the response team should inform the Immigration Enforcement Personnel that they are restricted to public areas only. Response team members should accompany Immigration Enforcement Personnel during their search to ensure that, absent a warrant granting the Immigration Enforcement Personnel access to private areas, they remain within public areas and do not exceed the warrant's scope.
 - **Reminder:** Immigration Enforcement Personnel have a legal right to access public areas without a warrant.

- **Document the Encounter:** Detailed documentation of the encounter is essential. Throughout the interaction, response team members should take thorough notes to ensure an accurate record of events. Response team members may take video recordings of interactions with Immigration Enforcement Personnel, provided they announce their intention to do so in advance. If video is recorded, the videographer should work with ministry leadership on which cloud platform to save a copy of the video so they have access to it and can store or download it for safekeeping. If the ministry premises have fixed video recording equipment, any footage captured during the enforcement action should be kept as part of the documentation. After the encounter concludes, a comprehensive written report should be completed as soon as practical. This report should include the names and identifying information of the Immigration Enforcement Personnel involved, the names of response team members present, the scope of the warrant (if any), a narrative summary of what transpired, and any other relevant facts. To ensure accuracy and completeness, a designated team member should take responsibility for overseeing all aspects of the documentation process.

3. Post-Encounter Evaluation and Improvement

- **Debriefing:** Within 10 days of the encounter, the designated response team should review in detail what took place during the encounter, focusing on compliance with the policy, the effectiveness of the response, and areas for improvement.
 - **Review:** Specific aspects to be reviewed include warrant verification procedures, communication with Immigration Enforcement Personnel, adherence to access limitations, and the quality of documentation produced. Feedback from all participants involved in the encounter should be solicited to ensure a comprehensive assessment.
 - **Recommendations:** Recommendations from the debrief should be documented and incorporated into future training sessions and policy updates to enhance preparedness and compliance.
 - **Report:** A formal debrief report should be prepared and shared with ministry leadership.
- **Storage & Confidentiality:** All notes, recordings, and other related materials should be securely stored for reference and, if necessary, legal review. Access to these materials should be limited to authorized personnel to protect the confidentiality of those involved in the encounter.
- **[OPTIONAL] Support Services:** [Ministry Name] may provide support services for affected individuals, such as counseling and emotional support, to individuals and families affected by Immigration Enforcement Personnel's operations.
- **Policy Updates:** Policies and training procedures should be updated as necessary based on the encounter and recommendations from legal counsel. [Ministry Name] should promptly communicate any policy changes to all affected ministry personnel, including the response team.

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