Church Business Management: Policies, Bylaws, Incorporation, and Internal Considerations for church administrative health

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Then Moses climbed the mountain to appear before God. The Lord called out to him from the mountain and said, “Give these instructions to the descendants of Jacob, the people of Israel: “You have seen what I did to the Egyptians. You know how I brought you to myself and carried you on eagle’s wings. Now if you will obey and keep my covenant, you will be my own special treasure from among all the nations of the earth; for all the earth belongs to me. And you will be to me a kingdom of priests, my holy nation. Give this message to the Israelites.” Moses returned from the mountain and called together the leaders of the people and told them what the Lord had said. They all responded together, “We will certainly do everything the Lord asks of us.”

Exodus 19: 3-7 New Living Translation

CONSTITUTION AND BYLAWS

INCORPORATION

POLICY AND PROCEDURES

CHURCH ORGANIZATION MANUAL

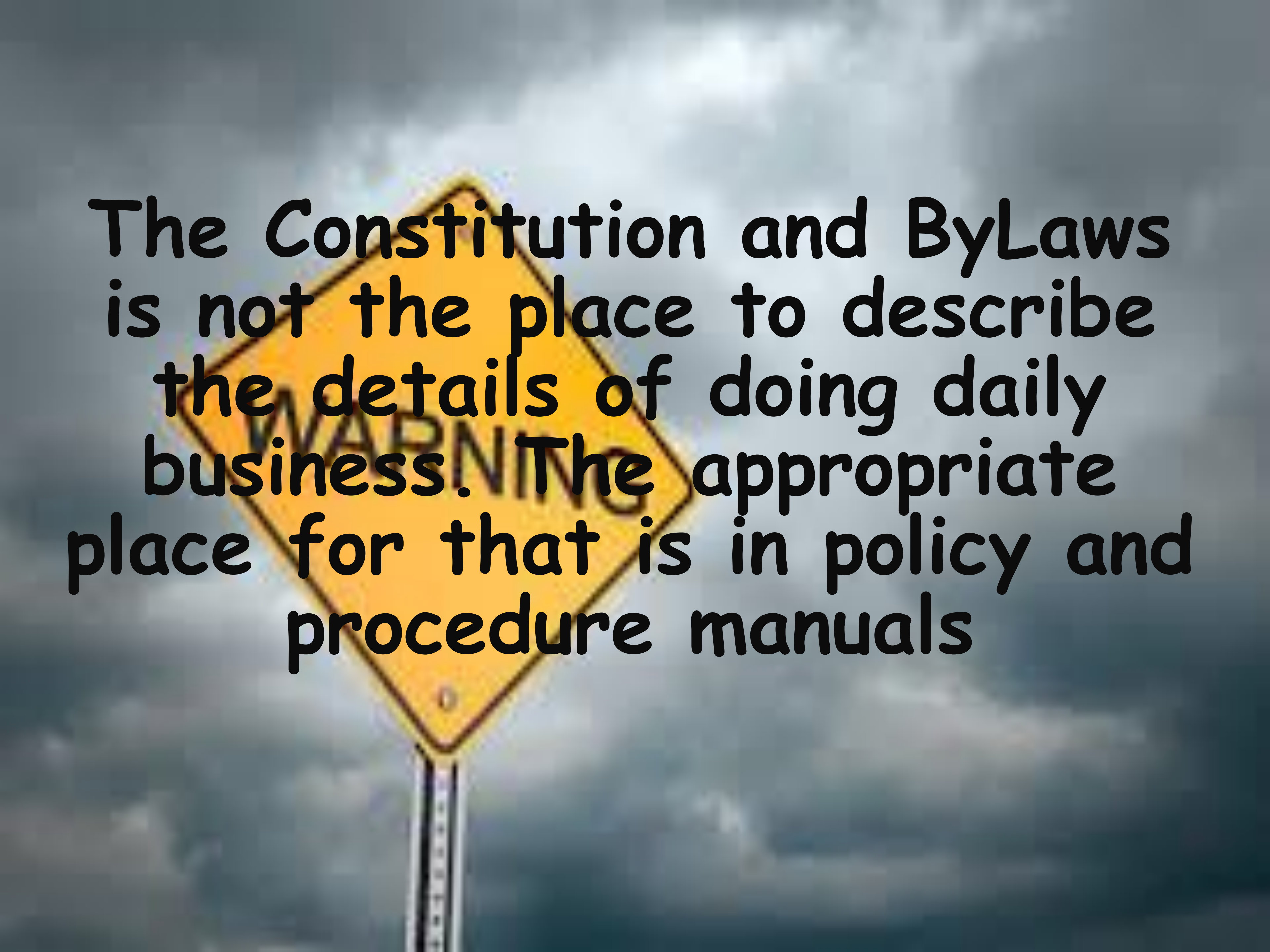
CONSTITUTION AND BYLAWS

INCORPORATION

POLICY AND PROCEDURES

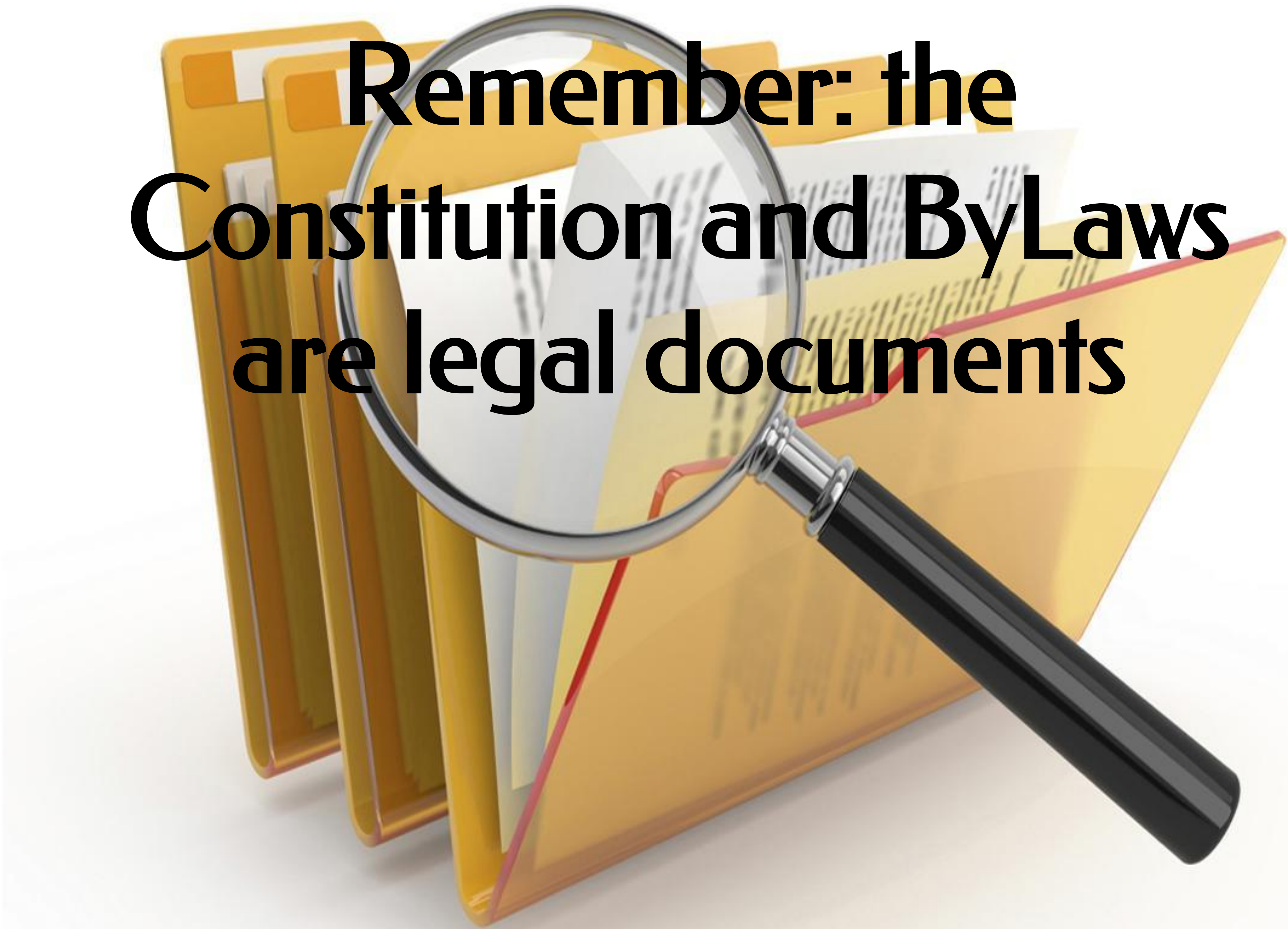
Constitution: A definite statement of the name, location, doctrinal purpose, and rules of conduct of the church.

ByLaws: A focus on the rights and privileges of the members, the responsibilities and powers of the church officers, committees and other polity groups, and the rules to follow in meetings of the church.



The Constitution and ByLaws is not the place to describe the details of doing daily business. The appropriate place for that is in policy and procedure manuals

Remember: the Constitution and ByLaws are legal documents



Incorporation

Without incorporation all members of a church are potentially liable for its debts and any judgments against it. Incorporation* [as a religious not-for-profit organization] *creates a new legal identity, which assumes liability. Only the corporation's assets may be used to satisfy claims of creditors or suites brought against a church.

Jeff Cranford, "How to Incorporate"
***Church Administration* magazine**

DISADVANTAGES OF BEING UNINCORPORATED

First, the state in which the members meet does not formally recognize the existence of this group of believers. This can have serious repercussions in areas of litigation, taxes, or purchasing options.

DISADVANTAGES OF BEING UNINCORPORATED

Second, the members individually can be personally liable for the liabilities of the church. This can be serious in cases of sexual molestation, personal injuries on the premises, breach of contract, and other matters.

DISADVANTAGES OF BEING UNINCORPORATED

Third, the church cannot enter into any agreements or contracts. This can hinder their efforts to operate as an organized entity. For example, banks will be reluctant to provide loans to an unincorporated entity.

DISADVANTAGES OF BEING UNINCORPORATED

Fourth, the church will have difficulty suing in case someone wronged it or will be defenseless if someone sues it. Not being able to sue has its challenges. In the case where a member is negligent and causes damages to other members, it may leave members without a legal remedy to address such injuries and damages. This potential personal liability of every member for the acts of other members makes incorporation appealing.

DISADVANTAGES OF BEING UNINCORPORATED

Fifth, the church cannot own or transfer property in its own name. Worse yet, title to property might be in an individual’s name who may or may not be friendly to the church.

ADVANTAGES OF BEING INCORPORATED

First, the church places the world on notice that it exists as a bona fide entity recognized by the state with a “registered agent.” A registered agent is a person who acts on the church’s behalf to receive legal documents.

ADVANTAGES OF BEING INCORPORATED

Second, the church can own and transfer property in the name of the church. Additionally, a bank can loan money to the church directly without requiring personal guarantees of the membership or leaders.

ADVANTAGES OF BEING INCORPORATED

Third, members of the church have a shield of liability available that renders them not personally liable for the acts of other members. This is significant since we live in a very litigious society.

ADVANTAGES OF BEING INCORPORATED

Fourth, the church can enter into contracts or agreements as a corporation.

ADVANTAGES OF BEING INCORPORATED

Fifth, the church has standing to sue and be sued. In other words, if someone wrongs the church, the church can go to court and seek damages.

Disadvantages of Incorporation

First, because the state now legally recognizes the church, some individuals are suspect of any government entanglement. For the most part, this fear is unfounded. True, state statutes regulate aspects of church governance and more and more are encroaching on the church business. But usually state provisions are only applicable if the church fails to provide provisions of governance in their articles of incorporation and bylaws.

Disadvantages of Incorporation

Second, some perceive that the costs of incorporation are excessive. The costs and charges by the state and an attorney are usually reasonable, however. Although each state has its own costs associated with filing the articles of incorporation, rarely do you see any prohibitive fee. Additionally, one can locate an affordable attorney experienced in nonprofit law. Most Baptist Association Offices have persons familiar with these aspects of church polity.

So What is a Church in the Eyes of the Government???

In *Private Letter Ruling Number 200830028*, the IRS cited specific criteria to determine if an organization can be classified as a church. The 14 points are:

1. A distinct legal existence
2. A recognized creed and form of worship
3. A definite and distinct ecclesiastical government
4. A formal code of doctrine and discipline
5. A distinct religious history
6. A membership not associated with any other church or denomination
7. An organization of ordained ministers
8. Ordained ministers selected after completing prescribed studies
9. Literature of its own
10. Established places of worship
11. Regular congregations
12. Regular religious services
13. Sunday Schools for religious instruction of the young
14. Schools for the preparation of its ministers.

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Incorporation is basically the formation of a legal corporation.

The process of incorporation is rather straightforward, yet deceptively simple.

You must follow your state requirements and also meet the IRS language and structure. The structure and language are critical to receiving approval for your 501(c)(3) application.

Each state has a uniform method of incorporating nonprofit organizations, including religious organizations.

The procedure begins with drafting and filing the charter or articles of incorporation which include. . . . .

1. Name of the corporation.
2. Place or street address, city, and county of the principal office.
3. Purpose of the corporation.
4. Names and addresses of the persons who are the initial trustees, directors, or incorporators of the corporation.
5. Required IRS language should be included.
6. Process for dissolution of the corporation.
7. Period of duration. Usually perpetual.
8. Name and address of the registered office and agent.
9. Membership requirements and governance.
10. General and specific purposes.
11. Affiliation, if any.
12. Signature by the incorporator(s) in front of a notary.

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Churches and religious organizations, like many other charitable organizations, qualify for exemption from federal income tax under IRC section 501(c)(3) and are generally eligible to receive tax-deductible contributions.

To qualify for tax-exempt status, such an organization must meet the following requirements:

- **the organization must be organized and operated exclusively for religious, educational, scientific, or other charitable purposes,**
- **net earnings may not inure to the benefit of any private individual or shareholder,**
- **no substantial part of its activity may be attempting to influence legislation,**
- **the organization may not intervene in political campaigns, and**
- **the organization's purposes and activities may not be illegal or violate fundamental public policy.**

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Automatic Exemption for Churches

Churches that meet the requirements of IRC section 501(c)(3) are automatically considered tax exempt and are not required to apply for and obtain recognition of tax-exempt status from the IRS.

Although there is no requirement to do so, many churches seek recognition of tax-exempt status from the IRS because such recognition assures church leaders, members, and contributors that the church is recognized as exempt and qualifies for related tax benefits.

For example, contributors to a church that has been recognized as tax exempt would know that their contributions generally are tax-deductible.

Churches and religious organizations, like many other charitable organizations, qualify for exemption from federal income tax under IRC section 501(c)(3) and are generally eligible to receive tax-deductible contributions.

Church Exemption Through a Central/Parent Organization
A church with a parent organization may wish to contact the parent to see if it has a *group ruling. If the parent* holds a group ruling, then the IRS may already recognize the church as tax exempt.

Under the group exemption process, the parent organization becomes the holder of a group ruling that identifies other affiliated churches or other affiliated organizations. A church is recognized as tax exempt if it is included in a list provided by the parent organization.

If the church or other affiliated organization is included on such a list, it does not need to take further action to obtain recognition of tax-exempt status.

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Religious Organizations

Unlike churches, religious organizations that wish to be tax exempt generally must apply to the IRS for tax-exempt status unless their gross receipts do not normally exceed $5,000 annually.

Churches and religious organizations, like many other charitable organizations, qualify for exemption from federal income tax under IRC section 501(c)(3) and are generally eligible to receive tax-deductible contributions.

Employer Identification Number (EIN)

Every tax-exempt organization, including a church, should have an employer identification number (EIN), whether or not the organization has any employees.

There are many instances in which an EIN is necessary. For example, a church needs an EIN when it opens a bank account, in order to be listed as a subordinate in a group ruling, or if it files returns with the IRS (e.g.,
Forms W-2, 1099, 990-T).

An organization may obtain an EIN by filing Form S-4, *Application for Employer Identification Number,*

Churches and religious organizations, like many other charitable organizations, qualify for exemption from federal income tax under IRC section 501(c)(3) and are generally eligible to receive tax-deductible contributions.

Employer Identification Number (EIN)

If the organization is submitting IRS Form 1023, *Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code, Form SS-4 should be included* with the application.

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Employer Identification Number (EIN)
Organizations, including churches and religious organizations, applying for recognition as tax exempt under IRC section 501(c)(3) must use Form 1023.

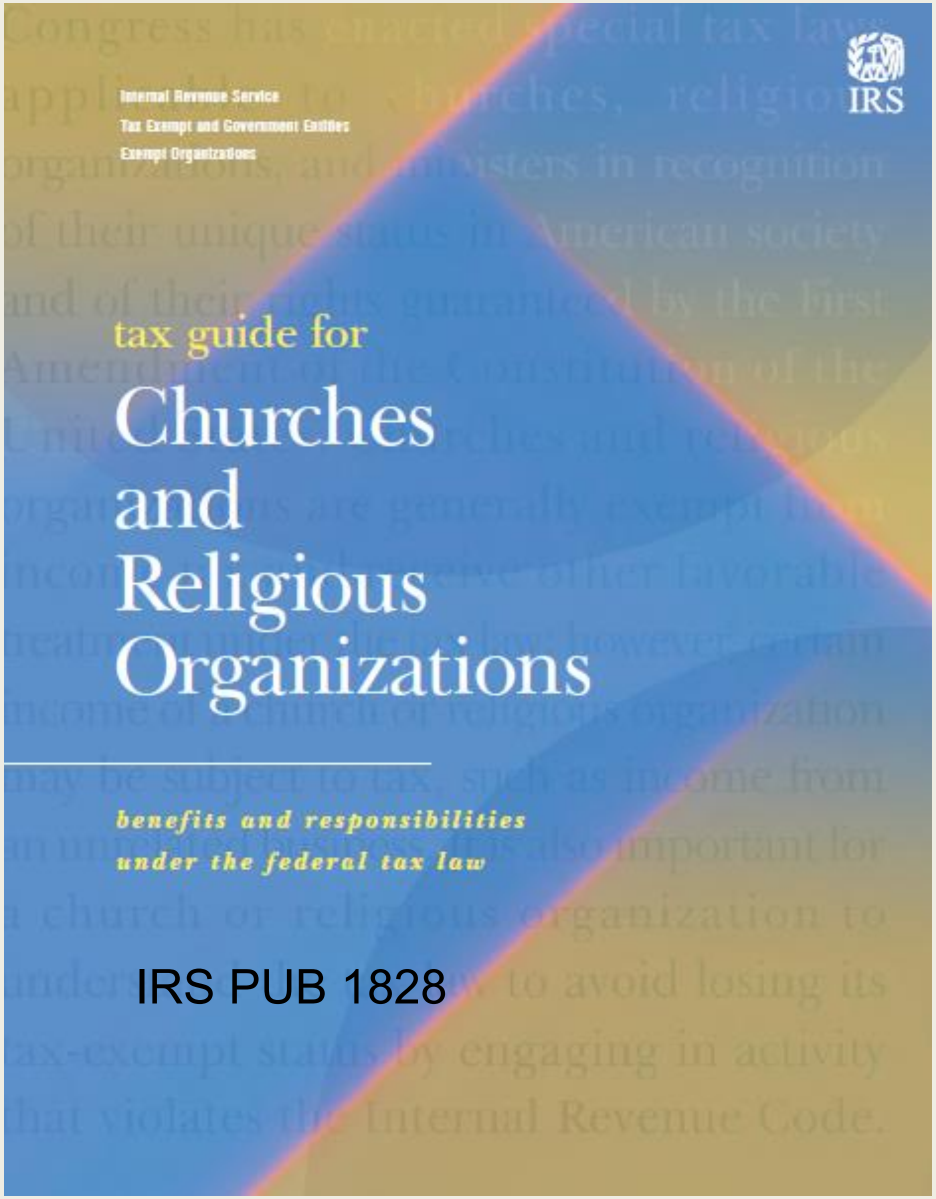
A religious organization must submit its application within 27 months from the end of the month in which the organization is formed in order to be considered tax exempt and qualified to receive deductible contributions as of the date the organization was formed.

On the other hand, a church may obtain recognition of exemption from the date of its formation as a church, even though that date may be prior to 27 months from the end of the month in which its application is submitted.

Churches and religious organizations, like many other charitable organizations, qualify for exemption from federal income tax under IRC section 501(c)(3) and are generally eligible to receive tax-deductible contributions.

All IRC section 501(c)(3) organizations, including churches and religious organizations, must abide by certain rules:

- their net earnings may not inure to any private shareholder or individual,
- they must not provide a substantial benefit to private interests,
- they must not devote a substantial part of their activities to attempting to influence legislation,
- they must not participate in, or intervene in, any political campaign on behalf of (or in opposition to) any candidate for public office, and
- the organization’s purposes and activities may not be illegal or violate fundamental public policy.



IRS PUB 1828

Help From The IRS

IRS Tax Publications to Order

The IRS provides free tax publications and forms. Order publications and forms by calling toll-free (800) 829-3676, or download publications and forms from the IRS Web site at www.irs.gov. The following list of publications may provide further information for churches and other religious organizations.

Publication 1	*Your Rights as a Taxpayer*
Publication 15	*Circular E, Employer's Tax Guide*
Publication 15-A	*Employer's Supplemental Tax Guide*
Publication 334	*Tax Guide for Small Business (For Individuals Who Use Schedule C or C-EZ)*
Publication 463	*Travel, Entertainment, Gift, and Car Expenses*
Publication 517	*Social Security and Other Information for Members of the Clergy and Religious Workers*
Publication 525	*Taxable and Nontaxable Income*
Publication 526	*Charitable Contributions*
Publication 557	*Tax-Exempt Status for Your Organization*
Publication 561	*Determining the Value of Donated Property*
Publication 571	*Tax-Sheltered Annuity Programs for Employees of Public Schools and Certain Tax-Exempt Organizations*
Publication 598	*Tax on Unrelated Business Income of Exempt Organizations*
Publication 910	*Guide to Free Tax Services*
Publication 1771	*Charitable Contributions: Substantiation and Disclosure*
Publication 3079	*Gaming Publication for Tax-Exempt Organizations*
Publication 4221-PC	*Compliance Guide for 501(c)(3) Public Charities*
Publication 4573	*Group Exemptions*
Publication 4630	*Exempt Organizations Products and Services Navigator*

3 Major sections

AUTHORITY – Charter, Constitution, ByLaws, Historicity

ORGANIZATION – Organization Chart, Ministry identification, Committees-Councils-Ministry Teams, Job Descriptions, Personnel Policies, Salary Plan

ADMINISTRATION – Policies and Procedure guidelines for Fiscal, Physical Plant, Office, and Ministry Activities

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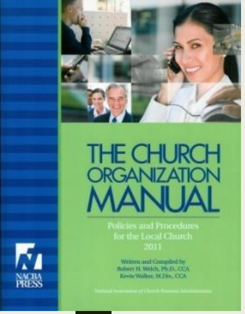
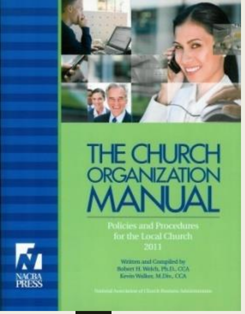


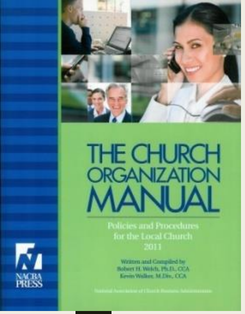
POLICY AND PROCEDURE DOCUMENTS

Policies and procedures are the flesh that surrounds the core documents of the constitution and bylaws. They explain the how, what, who, and when. They are an expression of the church and its leadership in the carrying out of the mission defined by the Holy Spirit. Thus the documents should be created and prepared with the same diligence and attention as was carried out in the previous documents.



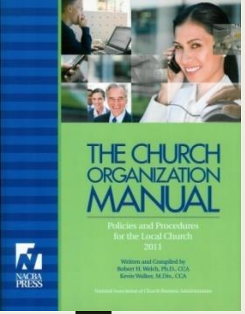
POLICY AND PROCEDURE DOCUMENTS

"*I will give you instructions about the other matters after I arrive*." 1 Corinthians 11: 34



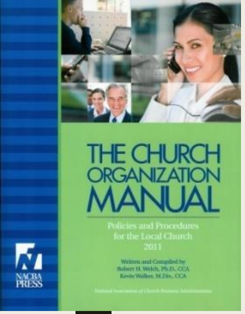
POLICY AND PROCEDURE DOCUMENTS

A Policy may be defined as a general statement issued by an organization to describe a polity decision made by the organization or its leadership concerning a particular issue.



POLICY AND PROCEDURE DOCUMENTS

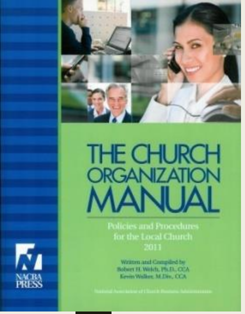
A Procedure may be defined as the step by step processes that are developed by the implementers to ensure the policy is adhered to.



POLICY AND PROCEDURE DOCUMENTS

Policy addresses the philosophy and polity of the church;

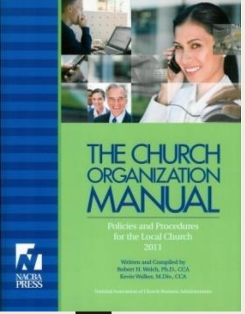
Procedures address the course of action to implement that policy



POLICY AND PROCEDURE DOCUMENTS

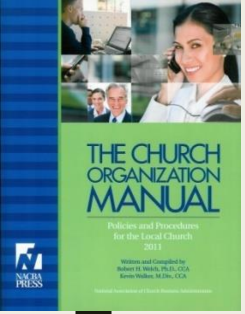
Policies must be approved or adopted by the church or organizational entity;

Procedures must be created and developed in agreement with the direction given by the policy.



POLICY AND PROCEDURE DOCUMENTS

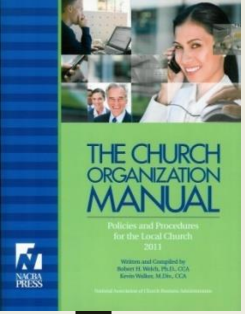
A word of caution, do not present the procedures that implement a policy <u>with</u> the policy. What you <u>do not want to happen</u> is the church getting into the business of developing the details of the process.



POLICY AND PROCEDURE DOCUMENTS

The organization should develop a scheme for recording and filing all policy and implementing procedures that are developed.

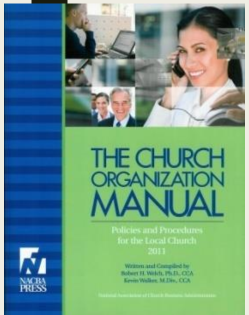
The final step in developing a series of policies and procedures is the production of a document that will inform and instruct. Frequently called policy and procedure manuals, these documents become the rules for doing-church.



POLICY AND PROCEDURE DOCUMENTS

Effective policy statements should:

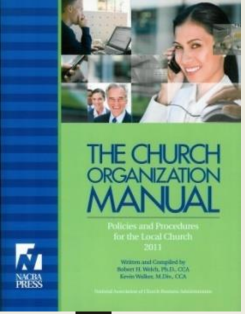
- Be a few short sentences in length
- Address a few related topics in each statement
- Be broad in scope
- Assign responsibility for implementation and review
- Be written in a positive rather than punitive context
- Encourage imagination and creativity in implementation
- Not be unnecessarily restrictive
- Be enforceable and legally defensible
- Be developed with the assistance of the individual(s) or group(s) who must implement and utilize the policy



POLICY AND PROCEDURE DOCUMENTS

Effectively written procedures will:

- ➢Address the policy that has been written. Policy statements become limits for operational statements.
- ➢Be written in the language of the individual or individuals who will use the procedures.
- ➢Use a step-by-step, sequential format.
- ➢Allow for creativity and innovation in the implementation of some of the steps.
- ➢Avoid any ambiguous or unclear statements.
- ➢Be conscious of the paperwork mill. Many procedures will call for the development of forms, ledgers, checklist, diagrams, or other associated documents. In developing procedures, limit these items.
- ➢Provide them in a written form to the church.



POLICY AND PROCEDURE DOCUMENTS

SUGGESTED TOPICS FOR CHURCH POLICY STATEMENTS

PERSONNEL EMPLOYMENT

Hiring procedures
Search committees
Screening applicants
Background and credit checks
Moonlighting
Relatives as employees
Probationary period
Qualifications for the job
Position Descriptions
Re-employment
Regular employment
Temporary employment
Resignation notice
Forced termination
Evaluation procedures
Compliance with Federal, State laws