

Working Together

A Guide to Employment Practices for Ministries

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Important Information

Brotherhood Mutual Insurance Company has created this booklet and CD for the benefit of your ministry and the individuals involved in your ministry.

The sample policies and related documents in this booklet are intended to be a template for you and your legal counsel to use in developing your own customized program. We recognize that every ministry is different, and policies and procedures must address the particular needs of each organization. We believe that you'll find the materials in this booklet valuable, either as a starting point in developing a new program or in reviewing and updating an existing program.

As with all documents of this nature, it's important that you ask an attorney in your area to review the policies in the handbook before you implement them. This step will help ensure that the documents have been properly drafted and that all relevant legal considerations have been addressed. Your legal counsel should also review the handbook on a regular basis after implementation to make certain that it remains current with changes in the legal environment.

We hope that the material in this booklet will be a valuable resource in the protection of your ministry.

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The Need for a Handbook

Society has changed dramatically in recent years. Lawsuits against ministries, even those brought by ministry employees, are commonplace. For this reason, it's more important than ever for employers to clearly communicate their expectations to their employees.

One way to do this is to develop and distribute an employment handbook. It's important to remember that because courts and Congress are constantly shaping the area of employment law, your handbook should be reviewed and revised on a regular basis. In many cases, an out-of-date handbook can be as harmful as not having a handbook at all.

The Purpose of an Employment Handbook

The purpose of an employment handbook is to provide guidelines regarding the expectations that you, the employer, have established for employee performance. Furthermore, it's an opportunity for employers to communicate some of the benefits employees may receive during their employment with your ministry.

When developing an employment handbook, there are a number of things to keep in mind. First, due to the specific nature of state and local law, it's critical that you ask a local attorney to review your handbook. Next, because employment law is constantly changing, handbooks should be reviewed at least once every two to three years and, if necessary, revised to comply with the law. Finally, in order for a handbook to effectively limit liability, your policies should be communicated to employees and then followed consistently. We recommend communicating the policies to your employees at various times: when they begin employment, when significant changes to policies are made, and when you've experienced significant turnover in staff. Certain policies, such as sexual harassment and equal opportunity policies, should be reviewed with all employees annually.

Here are some other guidelines to keep in mind as you develop your handbook:

Note

Because laws vary significantly between states, counties, and even municipalities, it's important to have a local employment attorney review all personnel policies before they're distributed to employees.

- Be concise, accurate, informative, and straightforward.
- Set forth the minimum standards under which your ministry operates.
- Include a simple statement of your ministry's mission.
- Include a set of guidelines and principles upon which your ministry plans to operate.
- Be a resource for employees to find answers to simple questions regarding benefits and workplace policies.
- Serve as a tool for communicating policies that are required by law or that are necessary to limit your liability.

An employment handbook should not:

- Be a lengthy document addressing every conceivable situation that might occur.
- Serve as a replacement for an employment contract.
- Be a rigid set of rules of conduct and consequences.
- Be a detailed explanation of all benefits offered to employees.

What to Include

Well-drafted employment handbooks provide concise, relevant guidelines that supply necessary information to employees. Since every organization has different needs and procedures, the policies that you include in your handbook may differ from those of other organizations.

In some cases, however, legal and risk management issues will dictate that you include certain guidelines. In this chapter, we've broken the policies into recommended and optional sections to help you determine which policies you may or may not want to include in your handbook.

Recommended Policies

The policies listed below are either required by law or are highly recommended for legal or procedural reasons.

- **About Your Employee Handbook**—Provides language that may legally protect you or limit your liability if a complaint is filed. Some important language includes explaining that the handbook isn't a contract, that employees are at-will, that policies may be modified, and that the handbook supersedes previous policies. This policy is the basis for the rest of the handbook. *See page 15.*
- **Attendance Guidelines**—Explains the work expectations of employees. It's dangerous to specifically address consequences for attendance issues. Unless the policy will be strictly enforced, consider writing a simple policy with a great deal of flexibility. *See pages 16–17.*
- **Communication and Electronic Media Policy**—Addresses the use of computers, phone, e-mail, faxes, etc., and the expectation of privacy. Currently, employers have the right to monitor e-mail, computer use, and, in limited cases, phone use, as long as employees are notified in advance. *See pages 18–20.*
- **Employee Benefit Program Policy**—Reinforces the employer's right to modify or terminate benefits at any time. *See page 21.*

Note

The federal Family and Medical Leave Act applies to organizations with 50 or more employees. Similar state statutes also may apply to employers with fewer employees.

- **Equal Employment Opportunity Policy**—Says that you won't illegally discriminate. This policy is generally required by law. *See pages 22–23.*
- **Family and Medical Leave Act Policy**—Explains the FMLA process. If your organization meets certain guidelines, the policy is required by law. *See pages 24–27.*
- **Harassment Policy**—Addresses harassment, including sexual harassment, and describes the process by which an employee may report incidents of harassment. This is generally required by law. *See pages 28–29.*
- **Injury and Illness at Work Policy (Workers' Compensation)**—Explains the procedures to follow if an employee is injured at work. Because employers are generally required to provide workers' compensation insurance, this policy is strongly recommended. *See page 30.*
- **Jury Duty, Court Subpoenas, and Voting Policy**—Explains how absences due to jury duty, court subpoenas, or voting will be treated. *See page 31.*
- **Outside Inquiries Policy**—Provides consistency in handling requests for recommendations or media inquiries. *See page 32.*
- **Overtime Policy**—Covers who is eligible for overtime and how it will be paid. *See page 33.*
- **Payroll Deductions Policy**—Explains what deductions are taken from the employees' paychecks. *See Payroll Issues, pages 34–35.*
- **Pay Periods Policy**—Explains when paychecks are issued to employees. *See Payroll Issues, pages 34–35.*
- **Performance Appraisals Policy**—Explains the purpose of performance appraisals and how frequently appraisals will occur. *See page 36.*
- **Personal Conduct Policy**—Addresses the personal conduct expected of all employees. You may want to consider this as a policy separate from the handbook. *See page 37.*

- **Position Classifications Policy**—Defines exempt versus non-exempt employees and may provide a level of legal protection and clarification. *See page 38.*
- **Separation from Employment Policy**—Addresses the expectations of employees who terminate employment. *See page 39.*
- **Time Sheets Policy**—Explains how and when employees track attendance. *See pages 34-35.*
- **Vacation and Sick Leave Policy**—Addresses how leave will be handled upon termination of an employee. *See pages 40-41.*
- **Workplace Safety Policy**—Provides security procedures for visitors to your organization. This is even more critical if you have a specific ministry to children (e.g., school, day care, camp). *See pages 42-43.*

Optional Policies

The optional policies listed below provide guidelines for the day-to-day operations of your organization.

- **Cell Phone Policy**—Places limits on cell phone use while driving. *See page 45.*
- **Confidential Information Policy**—Advises employees on what qualifies as confidential information and how it should be treated. *See pages 46-47.*
- **Dress and Personal Appearance Policy**—Covers the standards that your organization values, such as orderliness of the workstation or classroom, or work etiquette. *See page 48.*
- **Funeral Leave Policy**—Explains how this policy applies if your organization offers this benefit. This policy should only be included if the benefit is provided to employees equally. *See page 49.*
- **General Leave of Absence Policy**—Outlines the conditions and qualifications under which your organization may grant a leave of absence. *See page 50.*
- **Grievance Policy**—Describes the process that should be followed if disputes arise regarding employment. *See page 51.*
- **Holiday Policy**—States which holidays your organization recognizes and whether employees will be paid. *See page 52.*

Note

If your organization qualifies under the Family Medical Leave Act, the general leave of absence policy would cover only those situations not addressed by the FMLA.

- **Lay Counseling Policy**—Establishes a process for screening, supervising, and administering a lay counseling ministry *See pages 53-54.*
- **Military Leave Policy**—Outlines the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) and addresses how employers must treat military leave. *See page 55.*
- **Office Hours Policy**—Covers general work hours. *See page 56.*
- **Ownership of Work Product Policy**—Outlines intellectual property rights (trademark, copyright) of materials created by employees for the benefit of your organization. *See page 57.*
- **Probationary Period Policy**—By including a probationary period, you may jeopardize the at-will status of employees. The only time a probationary policy may be appropriate is if employees are contract employees and may only be terminated for just cause. *See page 58.*
- **Progressive Discipline Policy**—While you should consider using progressive discipline, it can be legally dangerous to specifically state the procedures you will follow. Because each employee discipline situation is unique, you can't anticipate individual circumstances when a policy is drafted. *See pages 59-60.*
- **Retirement Plans Policy**—Explains your organization's retirement benefits and qualifications. *See page 61.*
- **Short and Long-Term Disability Policy**—Explains your organization's policy and qualifications. *See page 62.*
- **Updating Personal Information Policy**—Explains who to contact when changes in personal information occur and what changes are applicable. *See page 63.*
- **Use of Facilities Policy**—(See accompanying release on page 69.) Explains the guidelines your organization can use when lending your facility. A liability release, completed by individuals or groups using your facility, may limit your exposure. *See page 64.*

Legal Overview

Employment law is derived from various sources, such as federal statutes, state and local statutes, and common-law actions. Each of these sources independently may be complex and interpreted in various ways.

In addition, these laws may overlap, contradict, or reference each other. The purpose of this resource manual is to provide a brief overview of those laws most frequently referenced in employment cases. Consequently, this manual is not an exhaustive list of every law that could affect your organization, nor is it a comprehensive explanation of the various laws or causes of action that may be encountered.

We hope this information provides you with a general understanding of the law and persuades you to seek the advice of a local attorney if an employment situation arises.

Federal Laws

There are many federal laws that can affect the employment relationship. We've listed just a few of those most likely to affect your ministry.

Title VII of the Civil Rights Act of 1964

There are four main components of Title VII that you need to understand: race, religion, sexual discrimination, and national origin. Each of these Title VII factors are explained in greater detail below:

Race or Color

Discrimination on the basis of race or color is strictly prohibited by Title VII, and religious institutions are not exempt. While other state and federal laws address discrimination based on race, Title VII is the predominant federal statute affecting this issue.

Religion

Under Title VII, a church or church-related educational institution is generally permitted to discriminate based on religion. However, state or local laws may limit discrimination to those employees, such as pastors or teachers, who perform purely religious functions.

Sexual Discrimination

Sexual discrimination covers a variety of areas, including sexual harassment, hostile work environment, and pregnancy discrimination. The Supreme Court has held that, regarding sexual harassment, employers are responsible for the acts of their supervisory employees, regardless of whether the employer prohibited the conduct, and regardless of whether the employer knew about it.

Employers may also be liable for sexual harassment between fellow employees if the employer knew or should have known about the conduct, unless it can be shown that the employer took immediate and appropriate action.

Sexual harassment may take one of two forms: quid pro quo or hostile work environment. The Equal Employment Opportunity Commission says:

“Unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- 1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- 2) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individuals; or
- 3) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.”

The first two situations listed would be classified as a quid pro quo violation, while the third would be classified as a hostile work environment violation.

The Pregnancy Discrimination Act (PDA) extends Title VII by stating that pregnancy discrimination is equivalent to sex discrimination. Employers, including religious institutions, may not discriminate against a pregnant woman.

Courts have held, however, that the termination of a Christian school teacher who became pregnant out of wedlock was permissible. The court reasoned that because the school had a strict policy prohibiting extramarital sex, and the school demonstrated it would discharge both male and female teachers for engaging

in extramarital sex, the termination was based on a violation of school policy, not pregnancy or gender.

National Origin

National origin may refer to either the place where a person was born or the country of ancestry. Title VII prohibits discrimination based on national origin.

Americans with Disabilities Act (ADA)

This act prohibits employers from discriminating against individuals with disabilities. Religious organizations are covered under the ADA. An employee may be classified as having a disability if he or she has a mental or physical impairment that substantially limits a major life activity.

If a person with a disability is qualified to perform the essential functions of the job with reasonable accommodation, the employer must consider accommodating the person unless it would result in undue hardship to the organization.

Age Discrimination in Employment Act (ADEA)

This act prohibits employers from discriminating against workers who are 40 years of age or older. Religious institutions are not explicitly excluded under the ADEA. For an employee claim to succeed under the ADEA, it must prove that the employee was older than 40, was qualified for the position, was adversely affected, and was replaced by someone younger than the employee terminated. Employers are also, with limited exceptions, prohibited from requiring employees 40 years of age or older to retire because of their age.

Equal Pay Act (EPA)

This act prohibits discrimination on the basis of sex with respect to wages. Under the EPA, wages paid for equal work on jobs that require equal skill, effort, and responsibility and are performed under similar working conditions must be equally applied to both sexes.

Courts have found that a pay structure that compensates heads of households differently from those employees performing the same job who aren't heads of households violates the EPA.

Fair Labor Standards Act (FLSA)

The Fair Labor Standards Act establishes federal requirements regarding minimum wage, overtime compensation, recordkeeping, and child labor for employees. Employees are generally classified into two categories: non-exempt and exempt. The Fair Labor

Standards Act includes specific requirements on who may be considered exempt, how to calculate wages or overtime for non-exempt, and when and how wages may be docked for absences. Special rules apply to both exempt and non-exempt employees.

A non-exempt employee must be paid for the actual hours worked, and accurate records must be kept to ensure proper compensation is given. While you can usually require non-exempt employees to work overtime, you must pay them time and a half for any time worked in excess of 40 hours. Employers must pay non-exempt employees overtime regardless of whether the overtime was approved.

While employers should have policies requiring advanced permission for overtime, employers violate the law if they are aware non-exempt employees are exceeding 40 hours and are not paid overtime.

If employees work overtime without permission, they can be disciplined for violating policy, but overtime still must be paid. Additionally, compensatory time (time taken in lieu of pay) is illegal for non-public entities unless the compensatory time is taken within the regular workweek.

Exempt employees are compensated based on the type of work they perform rather than the number of hours they work. Consequently, with limited exceptions, the pay of an exempt employee may not be docked for partial-day absences. If an employee's pay is docked for missing a fraction of a day, the exempt status could be lost. This could result in payment of back wages of overtime for a period of two to three years, in addition to other costs.

Note

Employers must pay non-exempt employees overtime, regardless of whether the overtime was approved.

Family Medical Leave Act (FMLA)

This act requires organizations with 50 or more employees to provide up to 12 weeks of unpaid leave because of the birth or adoption of a child, a relative's call to military duty, or a serious health condition of the employee or the employee's children, spouse, or parents. Employers must provide up to 26 weeks of unpaid leave to employees caring for seriously ill or injured relatives in the armed forces. The act considers an employer as meeting the requirement if it employed at least 50 part-time or full-time individuals during at least 20 weeks of the year.

Additionally, the FMLA requires that upon returning to work, an employee be restored to his or her previous position or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment.

In order to be eligible under the FMLA, the employee must have been employed for at least 12 months and have worked at least 1,250 hours during the past year. Religious organizations aren't exempt from this act.

Note

For more information on these statutes, refer to the chart, *An Overview of Federal Employment Law*, on page 71.

State, Local, and Common Laws

State and local laws vary by jurisdiction. Many of these laws correspond with federal law, but they often include modifications that may make it easier to sue or provide for higher penalties. Seek legal advice to determine the applicability of such laws. Your attorney can provide information regarding state and local laws that may apply to your organization.

In addition to state and federal statutes, employees may look to general legal principles that also govern the employer-employee relationship. These general legal principles are known as common-law actions.

Common-law actions may be presented in addition to federal or state remedies, or they may stand alone. They are potentially explosive for a number of reasons. Unlike their federal counterparts, there are usually no caps on damages in common-law actions.

Additionally, there are rarely any exemptions or limitations favoring religious organizations or those with few employees. Here's a brief list of frequently pursued common-law actions:

Wrongful Termination /Breach of Contract

An employer's ability to terminate employees without cause is diminishing. Many states have supported employee breach of contract lawsuits even when no written contract exists.

While most states acknowledge the at-will doctrine (an employee may be terminated for any reason not prohibited by law), many states have modified this

concept. Courts often find that employment handbooks, oral assurances, or other conduct constitute a contract.

Promissory Estoppel

Unlike breach of contract, promissory estoppel enforces promises in the absence of a contract. In order to succeed, a plaintiff must show that the employer made an unambiguous promise that the employer reasonably expected the employee to rely upon, and that the employee actually relied on the promise.

Additionally, the employee must show that the reliance was detrimental and that injustice can be avoided only by enforcing the promise. Generally, promissory estoppel relates to situations where an individual is induced to leave his or her current job, uproot his or her family, move to a new location, and is then terminated.

Defamation

Libel or slander may exist where the following take place:

- False and defamatory statements were communicated to a third person, orally or in writing.
- The third person understood the meaning of the statement.
- That statement caused injury to the person's reputation.

This can become a difficult situation when an employee such as a pastor or school principal is terminated and there is a need to communicate the reasons for the termination. While the law generally provides some level of protection or privilege for communications to those who "need to know," the potential for error or abuse is often present.

Invasion of Privacy

While the definition of invasion of privacy varies by state, it frequently includes unreasonable intrusion upon the personal life of someone, unreasonable publicity given to someone's private life, and placing someone in a false light. Situations may arise when, without the individual's permission, some personal information is communicated to others who don't have a right to the information.

For example, an administrator may express to co-workers the reason for a colleague's extended leave is because of an illness, or present a prayer request regarding an employee's personal struggle.

Misrepresentation

Another development in employment law involves providing references regarding a former employee. Either the former employee or a third party, such as a prospective employer, may bring an action. A former employee may claim he or she was defamed if a negative recommendation with false information was provided to a prospective employer.

On the other hand, a prospective employer who hires an employee based on a positive recommendation that was false may make a claim for fraud or misrepresentation.

Here's an example of how a positive reference that's false could result in a lawsuit: An employer offers a glowing recommendation (such as "great with students") of a former employee to a school currently interviewing the teacher. The former employer is aware that the teacher had a history of improper touching of students. The teacher is subsequently accused of sexual molestation of a student in his new job. The former school could be held liable for misrepresenting the teacher's character or qualifications.

To limit your liability in this situation, we recommend funneling all requests for information through one

Note

Definitions for libel and slander may differ in each state. Check with a local attorney to see how these apply to you.

person or department and obtaining an employment applicant release (*see page 68*) before releasing or requesting any information.

Whistleblower Laws

Many states, for public policy reasons, recognize a cause of action by employees who are discharged or discriminated against because they reported wrongdoing by their employer. In some cases, whistleblower statutes only protect employees who reported wrongdoing or violations of the law to governmental agencies, such as health and safety agencies, law enforcement, or state human rights commissions.

However, some states protect employees who report certain types of violations to the employer. Consequently, always seek legal counsel before disciplining or discharging an employee who has reported, participated in, or cooperated in any investigation or complaint against your organization.

Using the Sample Policies

The saying, “an ounce of prevention is worth a pound of cure,” is particularly appropriate in the employment setting. The cost of defending an employment lawsuit, regardless of the legitimacy of the claim, will generally cost at least \$25,000, and may run into hundreds of thousands of dollars.

While you can never totally insulate your organization against a lawsuit, you can take preventive measures to limit the exposure.

Seek Legal Counsel

Consult legal counsel to assist in general operations such as drafting policies, handbooks, or preparing employment contracts. Since employment law is constantly changing, consulting local legal counsel in these matters may prevent or limit the liability in various situations.

For example, always consult legal counsel before terminating an employee. Your attorney will be able to review your employment records, advise you of any potential liability before an employment claim develops, and provide information as to how the termination should be accomplished.

Maintain Detailed and Confidential Personnel Records

By law, all organizations are required to maintain certain employment records, such as employee wages and hours worked. It’s imperative that you keep separate confidential personnel records on each employee and that the information is given only to those individuals who have a need to know.

Generally, individuals who have a “need to know” are a small group of people, such as supervisors or members of a governing board. Additionally, the information provided even to these individuals should be limited to the facts. Be aware that state laws differ as to whether employees have a right to review their personnel file, as well as what information may be reviewed.

Most states limit what information employees or former

employees may view and when copies of the file must be made available to the employee. Additionally, besides the basic identifying information, personnel records should include:

- Job descriptions.
- Performance reviews.
- Promotions.
- Attendance records.
- Any discipline or job-related problems.

Apply Policies Consistently

When courts review a discrimination complaint, they often initially consider two items. First, was there a policy in place addressing the issue, and secondly, was the policy consistently applied and followed?

For example, if a person alleging racial discrimination was terminated for excessive absence, the court will first inquire as to whether a discrimination policy was in place and how it was administered. The court will then consider how previous employees with histories of excessive absence were treated.

If your organization has an employee handbook that includes progressive discipline or termination provisions, it’s important to follow the procedures and processes consistently.

Update Policies and Procedures Regularly

Having policies and procedures in place will usually provide some level of protection. Your organization should have policies against sexual harassment and discriminatory practices as well as prohibitions against other immoral behavior. Employment handbooks can be beneficial in communicating personnel policies, employee benefits, and work standards.

These handbooks also can be useful in limiting various exposures to liability. On the other hand, an employment handbook that isn’t regularly updated or isn’t consistently followed can be extremely damaging.

Without appropriate language and limitations, courts have construed handbooks as evidence of employment contracts. For this reason, you should regularly review your personnel policies and consult legal counsel before implementing a handbook.

Purchase Employment Practices Liability Coverage

Employment claims haven't traditionally been covered under general liability policies. In fact, most general liability and personal injury policies specifically exclude claims arising out of the employment relationship. However, with employment-related litigation increasing against religious organizations, insurance coverage for such claims is becoming essential. One of the greatest expenses associated with employment lawsuits is defense costs.

Most religious institutions cannot afford thousands of dollars to defend a lawsuit, whether frivolous or valid. In an effort to respond to this need, Brotherhood Mutual offers a comprehensive employment practices liability coverage. This coverage specifically addresses certain claims of discrimination, sexual harassment, employee defamation, and other employment issues. Contact your agent to discuss adding this coverage to your policy.

Prevention Tips to Reduce Your Risk

Here are some helpful hints on how to address some of the more common issues affecting religious ministries:

Record Keeping

- Keep separate personnel records on each employee.
- Keep detailed information regarding an employee's performance.
- Maintain accurate attendance records regarding absences and tardiness.
- Make sure that personnel records don't include identifying information such as employees' race, color, sex, national origin, age, disability, or marital status.
- Place personnel records in a secure, locked area.
- Implement security procedures to protect employee privacy.
- Provide confidential information regarding employees only to those individuals who have a "need to know."
- Provide employees with copies of documents that affect their status.
- Record all changes in employee status, such as promotions, leaves of absence, rates of pay.
- Store all records containing medical information in a location separate from other personnel records.
- Make sure that employee records accurately reflect the employee's job performance.

Defamation/References

- Consult with an attorney before releasing information that you believe could lead to a defamation claim.
- Designate one department or person to handle all requests for recommendations. Have a policy addressing what information will be provided and the procedures for providing information in recommendation requests.
- Don't discuss employee evaluations with other employees, except on a "need to know" basis.
- Don't share information regarding an employee's medical condition or other private information with anyone without the consent of the employee.
- Make sure personnel files are stored securely.
- Maintain separate files containing medical information.
- If a referral is requested regarding a former employee, obtain a written consent from the employee releasing you from liability. When providing a referral, provide information based on facts, not opinions. *See page 68.*
- Provide the necessary information only to those who have a "need to know" regarding a disciplinary action or termination.
- Give only the facts if a statement is necessary to explain a termination. Don't offer opinions or expound on any unnecessary details.

Sexual Harassment

- Implement a sexual harassment policy that includes the following:
 - 1) A description of the types of conduct that constitute harassment.
 - 2) A forceful statement that such conduct is prohibited by the organization's rules as well as state and federal law.
 - 3) A statement that employees have the right to complain about sexual harassment without fear of retaliation.
 - 4) An explanation of the procedure for a prompt and thorough investigation.
 - 5) A statement that appropriate and immediate discipline measures will be taken against the offender if it's determined that harassment took place.

- Conduct a thorough investigation including the following steps:
 - 1) Interview the complaining employee, alleged harasser, and any witnesses.
 - 2) Report your determination to the complaining employee and alleged harasser.
- Take prompt and effective action against the harasser if sexual harassment is found. Consult with an attorney before taking action.
- Take steps to ensure that no further harassment or any retaliation occurs against the complaining employee.
- List at least two individuals (preferably a male and female) to whom employees can go to report perceived discrimination or harassment.

Discipline/Termination

- Administer discipline in person.
- Avoid inappropriate or inaccurate comments in an evaluation, for example, “He’s a slacker,” “She’s never on time.”
- Conduct annual employee performance reviews and accurately document any performance problems.
- Convey information regarding the termination only to those who have a “need to know.”
- Document results of performance reviews.
- Don’t discharge an employee without the benefit of a thorough investigation.
- Gather all necessary information and documentation before conducting a discipline interview. Include documents illustrating the effects of misconduct, company records regarding work rules, procedures and/or schedules, and the employee’s personnel files and prior disciplinary notices.

- Give the employee an opportunity to explain the behavior in question.
- Identify any specific rules or policies that have been violated and record the policy violation in the employee’s personnel file.
- Seek the advice of counsel as soon as the possibility of termination arises.

Handling an Employment Claim

The following steps should be followed if an individual threatens to file an employment-related claim:

Call Your Attorney

The first step after learning of a possible claim is to contact legal counsel in your area. Local counsel can advise you on how to limit your exposure and respond to the individual.

Contact Your Insurance Agent

You should always advise your agent any time you become aware of a potential claim. The agent can then forward the information to your insurance company so that a coverage and liability determination can be made.

Review the Records

Review your records to ensure that they have been properly documented. Documents should be organized chronologically. This will also provide an opportunity to review the file for missing information.

Document the Situation

Prepare a timeline of events leading up to the accusation. Include names of supervisors, witnesses, and co-workers who may have information regarding the actions and accusations.

Using the Sample Policies

This chapter contains policies that are either required by law or are highly recommended for legal or procedural reasons.

For purposes of simplicity, we've used the terms *your ministry*, *business administrator*, and *your organization* to refer to the operations covered by the handbook. You may choose to change the wording to suit your specific

ministry or to refer to the appropriate department or contact person.

When language is italicized in the sample policy, it's either variable or only necessary under certain conditions. For example, additional language may be necessary for certain policies only if employees sign employment contracts.

About Your Employee Handbook

Know the Issue

This provision should be one of the first in the handbook. Because some courts have treated personnel handbooks as employment contracts, it's important to include the following language:

- “This handbook is a general statement of policy and serves as a guideline rather than an absolute rule.” This statement gives your organization flexibility in making employment decisions. While consistency in treatment of employees is important, there may be unique situations that require some deviation from the written policies.
- “This handbook is not an employment contract, and employment is at-will.” It's important to make it clear that the handbook should not be construed as a contract. It's also important that the employees' at-will status is explained to them so that they understand they may be terminated at any time for any reason not contrary to law. Make sure that if an employment contract exists, the language doesn't contradict the language in the handbook. If it does, the employment contract will most likely control.
- “The organization can modify any provision or benefit in the handbook at any time.” An employee handbook is usually a dynamic document that changes over time as the needs of the organization change. Include this language to provide flexibility in modifying your benefits and guidelines. If this language isn't included, employees may have a legal cause of action when benefits are deleted or modified.
- “This handbook supersedes all previous policies.” This is important from a procedural as well as a legal perspective. Collect previous handbooks when distributing the new handbooks. This will help ensure that there is no confusion about what policies are currently in place.

SAMPLE POLICY

We have prepared this handbook as a general statement of our policy and as a guide for general information that should assist you during your employment. The provisions of this handbook are designed to serve as guidelines rather than as absolute rules, and exceptions may be made from time to time on the basis of particular circumstances.

This employee handbook does not constitute a contract for employment with *(name of ministry)* either expressed or implied. Employment at *(name of ministry)* is at-will.

The statements contained in this handbook do not limit the right of either this organization or the employee to terminate the employee's employment or compensation, with or without cause or notice, at any time. Further, this organization reserves the right at any time to change, delete, or add to any of the provisions or benefits in its sole discretion.

This employee handbook supersedes all prior oral or written policies and guidelines.

If you have executed an employment contract with (name of ministry), this handbook is intended to accompany and complement that contract. However, if a discrepancy exists between this employee handbook and the employment contract, the language of the employment contract controls.

Italicized text is variable language.

Attendance Guidelines

Know the Issue

We've provided two sample policies addressing attendance, but we recommend that you use the first, broader policy. Often, organizations include policies that state the consequences for a certain number of absences or late arrivals.

The problem with this approach is that if your organization doesn't follow this policy consistently in every situation with every employee, you could get claims of breach of contract or discrimination. Consequently, the first sample policy provides more flexibility in handling attendance issues. It's still important, however, to consistently apply your attendance standards and to document employee violations.

Attendance issues can become a complex and treacherous area if you employ 50 or more full or part-time employees,

because your organization qualifies for the Family and Medical Leave Act. Under the FMLA, employees may take up to 12 weeks of unpaid leave for such reasons as the birth of a child, the care of an ill family member, or a serious illness. Employees may not be penalized, disciplined, or terminated for any absences that qualify under the FMLA.

For example, if an employee returns from an FMLA leave, the manager shouldn't reference the time off in a performance appraisal—especially in a negative fashion. If the employee is excessively absent or tardy, any references in a performance appraisal or disciplinary document should specifically reference all “non-FMLA” absences.

SAMPLE POLICY 1

Regular attendance and punctuality are considered essential functions of every employee's job. Therefore, all employees are expected to arrive on time, ready to work, every day. Our philosophy is that absenteeism is generally controllable. Therefore, absence control is best achieved through individual treatment aimed at the irresponsible, chronic absentee.

We define an absence as failure to report for and remain at work as scheduled. This includes arriving late for work and leaving early without prior supervisory approval. Additionally, absences that exceed the permitted number of hours under the vacation and sick plan may be considered unexcused absences.

If you are unable to arrive at work on time, or must be absent for any portion of the day, you must contact your *supervisor* as soon as possible. If possible, you should speak directly with your *supervisor*. If that is not possible, then you must leave a message for your *supervisor*. Since each *department* has different needs and internal procedures, employees must check with their *supervisor* to determine any additional or specific instructions for reporting absences or tardies.

Excessive absenteeism or tardiness will result in disciplinary action up to and including termination. The standard of what is excessive is determined by the needs of your particular *department*. This organization will administer this policy in accordance with federal and state law, including, but not limited to, the Americans with Disabilities Act and the Family and Medical Leave Act.

Italicized text is variable language.

Organizations required to offer Family and Medical Leave Act (50 or more employees) or another state family leave act, should carefully consider how to handle employee absences due to illness. When FMLA applies, an employee may not be penalized in any way for FMLA qualifying illnesses.

If your organization qualifies for FMLA and you have an employee with attendance problems, we recommend that you seek legal counsel before disciplining or terminating him or her for attendance reasons.

SAMPLE POLICY 2

Regular attendance and punctuality are considered essential functions of every employee's job. Therefore, all employees are expected to arrive on time, ready to work, every day. Our philosophy is that absenteeism is generally controllable. Therefore, absence control is best achieved through individual treatment aimed at the irresponsible, chronic absentee.

We define an unexcused absence as failure to report for and remain at work as scheduled. This includes arriving late for work and leaving early without prior management approval. Additionally, absences that exceed the permitted number of hours under the vacation and sick plan may be considered unexcused absences.

If you are unable to arrive at work on time, or must be absent for any portion of the day, you must contact your *supervisor* as soon as possible. If possible, you should speak directly with your *supervisor*. If that is not possible, then you must leave a message for your *supervisor*. Excessive absenteeism or tardiness will result in disciplinary action up to and including termination. Discipline for absences and tardiness will be administered in the following manner:

1st and 2nd Unexcused Absence	Oral Warning
3rd Unexcused Absence	Written Warning
4th Unexcused Absence	Probation
5 or more Unexcused Absences	Suspension or Termination

Nothing in this policy shall affect the at-will status of all employees, nor shall it restrict, constrain, or prohibit managers from applying discipline for other actions. For example, if an employee is late and, upon receiving a warning, responds disrespectfully, the employee may receive additional discipline for insubordination or a negative attitude, up to and including immediate termination. This organization will administer this policy in accordance with federal and state law, including but not limited to, the Americans with Disabilities Act and the Family and Medical Leave Act.

Italicized text is variable language.

Communication and Electronic Media

Know the Issue

Have you ever sent an e-mail to the wrong person or quickly typed an instant message that could be misconstrued? Electronic communication can open your ministry to liability on several fronts.

We strongly recommend that your religious organization adopt a policy addressing the permissible uses of your ministry's electronic media and the responsibilities of employees.

While you may modify the policy to fit your organization's needs, the following items should be included:

- A statement that your ministry owns the equipment and data stored on the systems.
- Limitations on personal use.
- A statement listing unacceptable uses (pornography, etc.).
- A statement prohibiting unauthorized reproduction of copyrighted software or documentation.
- A provision stating that employees don't have a right to privacy in communications at work, and that your organization has the right to access, monitor, or review—with or without notice—any information sent or received.

SAMPLE POLICY

Communication and Electronic Media

(Name of ministry) provides a variety of electronic systems and services to improve the effectiveness of communication and information flow. Electronic media means any electronic program, access, or services, including but not limited to, any computer hardware or software, electronic mail, and the Internet.

Electronic Media Use Policy

- *(Name of ministry's)* electronic media and services have been developed and maintained for the specific use of ministry correspondence and communication. For employees' convenience and expediency, electronic media may be used for incidental, personal communication and purposes. Good judgment should be used to limit the amount and frequency of such use.
- These systems, including the equipment and the data stored in the systems, are the property of *(name of ministry)*. Thus, all electronic data or documents created, sent, received, or stored in the systems are this organization's property.
- Employee communications transmitted by the company systems are not considered private. *(Name of ministry)* has the right to access, monitor, inventory, review, audit, delete, and disclose, with or without notice, for any reason, including time and content, all information sent, communicated or stored on company systems, whether or not they are communications. Additionally, routine system maintenance or trouble-shooting by system administrators may result in electronic messages being accessed.
- The organization is not responsible for any privately owned equipment used for ministry purposes.

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Italicized text is variable language.

- No equipment or software, including electronic calendaring devices or Personal Digital Assistants, may be attached, installed, or added to company systems without prior approval from the *business administrator*. The organization reserves the right to remove software, licensed or unlicensed, from any ministry-owned equipment at any time.
- All other (*name of ministry*) policies, including but not limited to harassment and confidentiality policies, apply to the use of electronic media.

Passwords

Access to electronic media is limited to those employees with proper authorization and may require the use of a password. Employees must keep all passwords confidential and out of public view. Care should be taken in setting passwords to avoid making them easily discoverable. Passwords should not be shared.

Software Use

- (*Name of ministry*) will provide necessary software for use on ministry computers in accordance with federal copyright law and applicable licensing agreements.
- (*Name of ministry*) does not condone the unauthorized reproduction of copyrighted computer software or documentation.
- Employees are not permitted to install, execute, run, or load personal software on ministry computers without permission from the *business administrator*.
- If an employee, with the business manager's approval, uses personal software on company computers, the employee is responsible for keeping licenses for his or her software.
- (*Name of ministry*) has the right to access, monitor, inventory, review, audit, delete, and disclose, with or without notice, for any reason, including time and content, all information or software sent, communicated or stored on ministry systems.
- The ministry reserves the right to remove software, licensed or unlicensed, from any ministry-owned equipment or computer at any time.
- Every employee with access to electronic media is responsible for taking the appropriate security measures to prevent loss, misuse and damage, including damage caused by computer viruses. Any unexplained loss or alteration of data should be reported immediately to the *business administrator*.

Unacceptable Uses

Unacceptable uses of electronic media include, but are not limited to, the following:

- Use for any purpose that violates state or federal laws.
- Use to transmit or access information that is disruptive to the operation of the ministry.
- Use to transmit or access any content that is illicit, unsavory, abusive, pornographic, discriminatory, harassing, or disrespectful.
- Use to create or host any blog that is not approved by (*name of ministry*).

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Italicized text is variable language.

- Use to falsify the sender's or author's identity or to misrepresent another person.
- Use to transmit or access confidential information to individuals who are not authorized to receive such information.
- Use to transmit non-critical, non-business broadcast mail/data, distribution of chain letters or other mass distributions that cause stress on any computer or network system or disrupt the operation of the ministry.

Abuse of any electronic media or services or violation of this policy, through excessive personal use, or use in violation of law or other (name of ministry) policy, will be subject to immediate review and may result in disciplinary action up to and including immediate termination of employment and/or legal action.

Guidelines

- Employees should keep in mind that electronic messages, depending on their format, can be readily printed, viewed, listened to, or forwarded to other users. Electronic messages also may be mistakenly addressed and sent to the wrong person.
- Although there are security measures in place to protect the privacy of electronic media and communications, it is impossible to ensure the confidentiality of any electronic message. In using electronic media, employees need to keep in mind the nature of electronic communications.

Italicized text is variable language.

Employee Benefit Program

Know the Issue

If your organization offers any employee benefits, this policy should be included. Your policy should state who is responsible for making changes to benefits. Your

policy should also state that you have the right to modify or eliminate benefits at any time at the sole discretion of your organization.

SAMPLE POLICY

For the benefit of employees and this organization, (*name of ministry*) provides certain employee benefits outlined within this handbook. All employee benefits are subject to change or elimination at any time at the discretion of the *organization*. Benefits also may be modified in accordance with federal and state law.

Contact the *business administrator* with any questions regarding benefits.

Italicized text is variable language.

Equal Employment Opportunity

Know the Issue

This policy is generally required by law. The first sample policy we've provided is a general policy that doesn't prohibit religious discrimination. If your organization is a not-for-profit, religious organization, you may generally discriminate on the basis of religion for all positions. In this case, Sample Policy 2 may be more appropriate for your organization.

However, some states and counties have narrowly permitted religious discrimination only for those positions performing a "purely religious function." That's why, as with all of these policies, it's important

that you have your local attorney approve this policy. For certain ministry positions, you may be permitted to discriminate on the basis of gender. However, race cannot generally be used as a basis for discrimination.

As a part of this policy, it's important that you provide at least two individuals (preferably a male and female) to whom employees can go to report perceived discrimination.

SAMPLE POLICY 1

(Name of ministry) is an equal opportunity employer. The recruitment and selection process will be based on job-related, objective qualifications, in accordance with the job requirements of the position being filled. All employees must be able to perform the essential functions of their jobs as set forth in the employee's individual position description. Reasonable accommodations will be made, in accordance with applicable state and federal laws, to assist employees with disabilities in performing the essential functions of their jobs.

Employees who believe they have been unlawfully discriminated against should report it immediately to their supervisor or the *business administrator*.

Guidelines

In all reported cases, this organization will take reasonable steps to protect the reporting employee from retaliatory, harassing, or abusive behavior in relation to such reporting.

Italicized text is variable language.

SAMPLE POLICY 2

It is the policy of *(name of ministry)* to grant equal employment opportunity to all qualified persons without regard to race, creed, gender, age, veteran status, disability, or handicap—if such handicap or disability may be accommodated without undue hardship. The recruitment and selection process will be based on job-related, objective qualifications, in accordance with the job requirements of the position being filled. All employees must be able to perform the essential functions of their jobs as set forth in the employee’s individual position description. Reasonable accommodations will be made, in accordance with applicable state and federal law, to assist employees with disabilities in performing the essential functions of their jobs.

(Name of ministry) is organized for religious purposes and is substantially controlled and supported by a religious body, the church denomination. Consequently, *(name of ministry)* enjoys an exemption from the prohibitions contained in Title VII of the Civil Rights Act of 1964 concerning religious discrimination in employment. We further reserve the right to discriminate or designate certain positions based on religion or gender when a bona fide occupational qualification exists. Employees who believe they have been unlawfully discriminated against should report it immediately to their *supervisor or business administrator*.

Guidelines

In all reported cases, this organization will take reasonable steps to protect the reporting employee from retaliatory, harassing, or abusive behavior in relation to such reporting.

Italicized text is variable language.

Family and Medical Leave Act

Know the Issue

If your organization employs 50 or more full or part-time employees during any 20-week period, this policy is required by law. Unless you're a school, we recommend that you do not modify the language of this policy unless advised to do so by your attorney. Based on the standard school year, which is generally shorter than a calendar year, special rules apply to how the FMLA is administered in educational institutions. If your organization includes an educational operation, and you have 50 or more employees, contact local counsel to prepare a family and medical leave policy.

The following sections may be modified in the sample policy:

- The date from which leave is calculated. The FMLA provides three methods for calculating leave. Your organization can choose the method that works best for you.
- The use of paid leave. Although FMLA is unpaid leave, employers may require the use of paid leave, such as vacation, sick, or short-term disability, to run concurrently with the FMLA leave.
- The interaction of disability leave and FMLA leave. If your organization offers some form of short-term disability, include a section that explains how the two work together.

The FMLA broadly interprets the calculation of 50 employees. For example, all part-time and full-time employees must be included. Also, if you have an affiliated organization, such as a church, day care, or school, you may have to combine the employees when determining the total number. If you have questions as to whether your organization meets the minimum employee requirement, consult legal counsel.

Note

This act requires employers with 50 or more employees to provide up to 12 weeks of unpaid leave because of the birth or adoption of a child or a serious health condition of the employee or the employee's children, spouse, or parents.

On January 28, 2008, the Family and Medical Leave Act was expanded to include military leave. The Family and Medical Leave Act of 1993 (FMLA) was amended to permit a “spouse, son, daughter, parent, or next of kin” to take up to 26 weeks of leave to care for a “member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness.”

It also added up to 12 weeks of unpaid leave for family members called to active duty under certain circumstances.

As of the writing of this resource, definitions had not yet been determined. Congress was also considering additional amendments to the act.

If your organization qualifies for the Family and Medical Leave Act, you should carefully consider how you handle employee absences due to illness. Employees may not be penalized in any way for taking unpaid leave under the act, if they were eligible for this benefit. For example, if an employee returns from an FMLA leave, the manager should not reference the time off in a performance appraisal—especially in a negative fashion.

If the employee is excessively absent or tardy, any references in a performance appraisal or disciplinary document should specifically reference all “non-FMLA” absences.

SAMPLE POLICY

It is the policy of *(name of ministry)* to provide family and medical leaves in accordance with the Family and Medical Leave Act of 1993 (FMLA).

Eligibility

The FMLA entitles eligible employees to take up to 12 weeks of unpaid, job-protected leave in a 12-month period for reasons specified in the FMLA. Under certain circumstances, families caring for service members recovering from a serious injury or illness may take up to 26 weeks of unpaid, job-protected leave. You are eligible for FMLA leave if you have, before the first day of your FMLA leave, 1) worked for at least 12 months, and 2) provided 1,250 hours of service within the previous 12-month period. We calculate the 12-month period backward from the date the employee's FMLA leave begins. If you and your spouse are both employed by *(name of ministry)*, your combined FMLA leave entitlement is 12 weeks for the birth, adoption, or placement of a child.

Reasons for FMLA Leave

FMLA leave will be granted to eligible employees for any of the following reasons:

- The birth, adoption, or placement of a child (12 weeks).
- The care of a spouse, child, or parent who has a serious health condition (12 weeks).
- The employee's own serious health condition (12 weeks).
- A "qualifying exigency" arising out of a covered family member's active duty or call to active duty in the Armed Forces in support of a contingency plan. (12 weeks)
- The care of a covered family member who has become seriously ill or seriously injured in the line of duty in the Armed Forces. (26 weeks)

A serious health condition means an illness, injury, impairment, or physical or mental condition that involves:

- Any period of incapacity or treatment in connection with or after inpatient care in a medical facility;
- Any period of incapacity requiring absence from work, school, or other regular daily activities of more than three calendar days and involving continuing treatment by a health care provider;
- Any period of incapacity due to pregnancy or for prenatal care; or
- Continuing treatment by a health care provider for a chronic or long-term condition that would likely result in a period of incapacity of more than three calendar days. Unless complications arise or if left untreated, the common cold, the flu, upset stomachs, headaches, or orthodontic problems will not generally be considered serious health conditions. Routine physical, eye, or dental examinations are not considered treatments indicative of a serious health condition.

Guidelines of FMLA Leave

Leave may be taken, if medically necessary, on an intermittent or reduced schedule basis for the serious health condition of the employee or an immediate family member. Intermittent or reduced leave may be taken for the

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Italicized text is variable language.

birth or adoption of a child only if approved by the *business administrator*.

(*Name of ministry*) requires the employee to first use his or her paid sick leave, floating holidays, or vacation time for any part of the 12-week (26-week) period. Therefore, all available paid sick leave, floating holidays, and vacation time must be used and will be designated as FMLA leave time before any remaining FMLA leave can be taken on an unpaid basis.

Notice and Medical Certification

If you become eligible for leave under the FMLA, you must follow these guidelines:

- You must provide 30 days advance notice when the leave is foreseeable. When the need for leave is not foreseeable, you must provide notice to the *business administrator* (within two business days of when you become aware of the need for leave). Notice may be provided by your spouse, family member, or other representative if you are unable to do so personally. Failure to provide notice could jeopardize your FMLA status.
- FMLA requires that you attempt to schedule planned medical treatment or intermittent leave so as to avoid undue work-related disruption. This means that in cases where your treating physician is available, you may be required to schedule planned medical treatment outside of general business hours.
- If you take leave to care for a spouse, child, or parent, you must provide a medical certification within *15 calendar days* of the request for leave. Contact the *business administrator* to obtain a copy of the "Certification of Health Care Provider" form. A second and/or third medical certification at (*name of ministry*) expense, may be required.
- If you take leave for your own serious health condition, you are required to provide a fitness-for-duty report, along with the "Certification of Health Care Provider" form, before returning to work.
- While on FMLA, you are required to report to the business administrator periodically on your status and your plans to return to work. This organization will take steps to maintain all medical information confidentially in accordance with the Americans with Disabilities Act.

Benefits During FMLA Leave

You may choose to continue your participation in our health care program while on leave. However, it's your responsibility to arrange for payment of necessary premiums during your leave. Failure to make the appropriate premium payments may result in the cancellation of your insurance coverage. Additionally, if you fail to return to work at the end of the leave, (*name of ministry*) has the right to recoup the premiums paid for maintaining health coverage.

Returning to Work

When you return to work after your FMLA leave, you will be restored to your original position or to an equivalent position with equivalent pay, benefits, and other terms and conditions of employment.

Disability Plans and FMLA

Situations may arise in which both this organization's short-term and/or long-term disability plan and the Family and Medical Leave Act apply. While the purpose of FMLA is to provide 12 weeks (26 weeks) of unpaid, job-protected leave, the purpose of short-term and long-term disability benefits is to help supplement lost income during long periods of incapacity.

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Italicized text is variable language.

Any leave granted under the disability policies shall run concurrently with the 12 weeks (26 weeks) granted under the FMLA. When an employee is eligible for FMLA only, all available paid sick leave, floating holidays, and vacation time must be used and will be designated as FMLA leave time before any remaining FMLA leave can be taken on an unpaid basis.

If you have any questions regarding how FMLA leave is applied, please contact the *business administrator*.

Guidelines

When FMLA leave has been exhausted, employment may be terminated. If employment is not immediately terminated, this organization may designate any and all future absences as unexcused absences. Additionally, when FMLA has begun, and all sick and vacation time has been used, any non-qualifying FMLA absences may be considered unexcused absences.

Italicized text is variable language.

Harassment

Know the Issue

This policy is generally required by law and should include the following elements:

- A statement that any form of harassment will not be tolerated.
- A definition of harassment, specifically sexual harassment, along with examples.
- A reporting procedure that provides an employee with at least two avenues for reporting perceived harassment.
- A statement that appropriate disciplinary action, up to and including termination, will be taken against the offender if it's determined that harassment took place.

Note

We recommend that, when possible, you designate both a male and female for reporting harassment. This is important in the event that one of the two people is the harasser.

- A statement that employees won't face retaliation for reporting perceived harassment.

Often, religious institutions encourage employees to engage in the reconciliation model laid out in Matthew 18. This approach is usually beneficial in resolving many issues. However, when harassment is alleged, employees should never be counseled to deal directly with that individual one-on-one before reporting concerns. As an employer, you have a legal obligation to provide a safe environment. If harassment is alleged, the ministry must immediately and thoroughly investigate.

SAMPLE POLICY

(Name of ministry) will not tolerate any form of harassment, including sexual harassment or any offensive conduct that has the effect of substantially interfering with an employee's work performance or creating a pervasive, intimidating, hostile, or offensive work environment.

(Name of ministry) has instituted the following three-step procedure for reporting and investigating allegations of unlawful harassment, including sexual harassment:

- Reporting: An employee who believes that he or she has been the victim of harassment has a duty to report it immediately to his or her manager, or the *business administrator*. In all reported cases, this organization will take reasonable steps to protect the reporting employee from retaliatory, harassing, or abusive behavior in relation to such reporting.
- Investigation: The *business administrator* will direct the investigation of complaints. All employees are expected to cooperate with an investigation of any type of harassment. Confidentiality will be maintained to the extent permitted under such circumstances.
- Corrective Action: After the investigation has been completed, the *business administrator* will make a determination regarding the resolution of the case. If warranted, appropriate disciplinary action, up to and including dismissal, will be taken.

Guidelines

- Sexual harassment is present whenever unwelcome sexual advances, (either verbal or physical), requests for favors and other verbal or physical conduct of a sexual nature have occurred, and submission to such conduct is either an explicit or implicit term or condition of employment; submission to or rejection of the conduct is used as a basis for making employment decisions; or the conduct has the purpose or effect of substantially interfering with an individual's work performance, or creating an intimidating, hostile, or offensive work environment.

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Italicized text is variable language.

- Sexual harassment includes, but is not limited to, unwelcome sexual advances, verbal abuse or physical conduct of a derogatory or offensive nature, the display or communication of pornographic material, or job-related requests for sexual favors. Sexual harassment does not refer to occasional compliments or other conduct that is socially acceptable and does not have a discriminatory effect on the employment relationship.

Injury and Illness at Work

Know the Issue

This policy explains your organization's procedures for handling workers' compensation injuries or other employee illness or injury. Most states require that all organizations maintain workers' compensation

insurance even if only one person is employed. If your ministry doesn't carry workers' compensation, consult with your attorney to confirm that you aren't legally required to provide it.

SAMPLE POLICY

(Name of ministry) carries workers' compensation insurance on all employees for on-the-job accidents. We will comply with applicable workers' compensation laws and regulations and will provide information to the workers' compensation carrier, who will make benefit payments to injured or ill employees as provided by applicable workers' compensation laws.

If a work-related injury or illness appears life threatening, the 911* emergency number should be called immediately, and directions should be followed. Otherwise, any employee who sustains an injury or illness that is job-related should report this immediately to his or her manager, who will report it to the human resources department. Non-emergency, work-related accidents require authorization forms, located with the *business administrator*.

All job-related accidents, regardless of their cause or severity, must be reported to the *business administrator* immediately. Accidents that are not reported promptly may result in the claim being denied. First aid supplies are available at the first aid station.

Guidelines

- Accidents include all work-related injuries or illnesses that occur while working for *(name of ministry)*.
- Employees have an obligation to report any work-related injury or illness immediately and return to work as soon after an injury or illness as their medical conditions permit.
- A list of approved medical care facilities may be obtained from the *business administrator*.
- Employees who need medical treatment while on company travel should proceed to the nearest medical facility and upon return report it to the *business administrator*.

* Please substitute your local emergency number.

Italicized text is variable language.

Jury Duty, Court Subpoenas, and Voting

Know the Issue

Generally, the law says employees must be excused from work when called to serve on a jury. In most cases, the court will provide nominal compensation when individuals serve. You aren't generally required to pay non-exempt employees when they serve on a jury, or you may reduce their pay based on the compensation received by the court.

The law may require employees to be excused when subpoenaed by a court. However, you should have a

Note

State laws may differ in how they handle court subpoenas. Check with a local attorney.

policy in place that addresses how your organization will treat this situation.

Another policy you may need to consider is a voting leave policy. State law governs voting leave. While some states do not mandate time off for voting, other states specify the amount of time an employee may take, as well as whether the employee must be compensated for the time off. Consult with a local attorney to determine whether voting leave is required by your state.

SAMPLE POLICY

Jury Duty and Court Subpoenas

Serving on a jury or testifying as a witness when called is a civic duty, and as such is fully recognized and supported by this organization. The following policy governs the amount of time off and method of payment while serving on jury duty or testifying as a witness.

Jury Duty

It is the employee's responsibility to notify (*name of ministry*) as soon as a formal notice regarding jury duty is received. This will allow the the *business administrator* to make arrangements for coverage during this time period. *While serving, employees will be paid the difference between jury duty pay and their regular pay.* Employees scheduled to work while serving on jury duty should return to work after being excused from jury duty.

Court Subpoenas

When an employee is subpoenaed, advance notification should be made through the supervisor. Appearances in court under subpoenas and/or out of civic responsibility (such as an eyewitness) will normally be considered excused time with pay. Time for appearance in court for personal business will be the individual employee's responsibility. Normally, vacation days will be used for this purpose.

Italicized text is variable language.

Outside Inquiries

Know the Issue

There are two sections of this policy. The first part is optional and deals with handling contacts by the media. While there may be many positive reasons for the media to request an interview, such as completion of a building or the start of a ministry, often the media become interested when a highly publicized incident occurs, such as allegations of sexual misconduct or abuse. For this reason, we recommend that you designate only two or three individuals to give interviews or statements to the media, and prohibit other employees from speaking with the media about your ministry.

The second portion of this policy is recommended to limit the potential liability of your ministry. One of the blossoming areas of litigation is defamation based on letters of recommendation. The best way to limit your exposure is to have potential or former employees execute a release of information form before releasing or obtaining any information. Designate one department or person to be responsible for handling all recommendation letters. A sample employment applicant release is available on page 68.

SAMPLE POLICY

Occasionally, a representative from the media might contact an employee regarding a ministry issue. No employee is to give media interviews without prior approval of the business administrator. If contacted by a representative of the media, employees should forward any inquiries to the business administrator. This policy will ensure that accurate information will be given for those matters that are appropriate for public knowledge.

All written or verbal inquiries regarding the work performance of present or former employees or written or verbal requests for employment recommendations should be directed to the *business administrator*.

Italicized text is variable language.

Overtime

Know the Issue

A policy addressing overtime should be included in your organization's handbook. While employers should have policies requiring advance permission for overtime, they violate the law if they are aware hourly employees are exceeding 40 hours per week and aren't paid overtime. If employees work overtime without permission, they can be disciplined for violating policy, but overtime must still be paid.

Non-exempt employees generally cannot volunteer to work overtime without pay. This can become difficult to separate when a non-exempt employee attends a church and is actively involved in ministry. For example, the church secretary also serves as a Sunday School teacher. If part of the secretary's job is to collate materials for all of the Sunday School classes, she must be paid for this time and cannot volunteer to stay late to complete the project. The key is to differentiate in a position

Note

Employers may require employees to work overtime, but they must pay non-exempt employees overtime regardless of whether the overtime was approved.

description, as much as possible, between job duties and ministry opportunities.

Executive, managerial, and administrative employees are exempt from the Fair Labor Standards Act (FLSA). The FLSA sets out specific criteria for an employee's position to be exempt. Failing to properly classify employees can cause legal problems. For example, a janitor is classified by the church to be an exempt employee and receives a salary. He typically works 55 hours per week. He terminates employment and claims his position was improperly classified. In this situation, the church may end up owing the former employee overtime for the 15 hours a week he was not paid overtime.

SAMPLE POLICY

Occasionally an excessive volume of work accumulates or an emergency arises that requires a non-exempt employee to work overtime. Overtime will be required only when necessary, but employees are expected to work overtime when asked to do so. Non-exempt employees are not to work overtime without prior permission of the *business administrator*.

Italicized text is variable language.

Payroll Issues

Know the Issue

Pay Periods Policy—This policy informs your employees when they should expect to be paid. You may choose to combine this policy with other policies addressing payroll issues.

In some states, employers are required by law to pay employees at least two times each month. If you pay your employees monthly, check with your legal or financial consultant to verify that this is a permissible practice.

Under many state laws, employers are generally not permitted to withhold the final check of an employee who is leaving employment. Even if an employee has failed to return materials, equipment, or fees, the final

paycheck cannot be withheld. Make sure that prior to deducting anything from a final paycheck or refusing to give the employee his or her paycheck, local counsel is consulted.

Payroll Time Sheets Policy—While this policy is not required, we recommend that it be included. The policy should address the difference between exempt (salaried) and non-exempt (hourly) employees.

Payroll Deductions Policy—This policy explains the reasons for various payroll deductions as required by law.

SAMPLE POLICY

Pay Periods

You will receive, on each payday, a pay stub reflecting the pay earned the two weeks before the payroll week. Payday is normally *every other Friday of the month. (Name of ministry) directly deposits employees' paychecks into their designated personal accounts.*

Payroll Time Sheets

All employees are responsible for completing time sheets. Time sheets will be submitted on a biweekly basis. Your time sheet should be completed accurately and submitted to your supervisor for approval.

Non-exempt employees should report all time actually worked. Time sheets should also indicate all vacation, sick, or other time away from the office. If your position is classified as non-exempt, you are eligible for overtime pay. Overtime must be approved in advance by your supervisor. Sick and vacation time incurred by non-exempt employees may be taken in 15-minute increments.

Exempt employees should record only absences from work, not actual number of hours worked in a pay period. If your position is classified as exempt, you are not eligible for overtime. Sick and vacation time must be taken in a minimum of one-hour increments.

Guidelines

- If a payday falls on a holiday, you will receive a pay check on the preceding workday.
- If you are absent on payday, your pay stub will be held until you return to work, unless other arrangements are made.

Payroll Deductions

(Name of ministry) is required by law to make regular deductions for taxes imposed by governmental units. These deductions must be made from all paychecks, and the amounts deducted are turned over directly

continued >

Italicized text is variable language.

to the applicable governmental units. *Additionally, this organization will make certain deductions from your paychecks as you request.*

Under the Social Security Act, your yearly taxable earnings are reported to the Social Security Board, and your benefits are computed upon them. This organization is required to deduct the tax on your salary. The amount deducted is sent to the federal government for credit to your account. The act provides a monthly income for workers and their families when the worker is retired or disabled and for certain payments to survivors in case of death.

This organization will provide, by January 31 of each year, a W-2 statement showing the total amount of your taxable earnings in addition to all deductions taken from your pay during the previous year.

Italicized text is variable language.

Performance Appraisals

Know the Issue

Regular performance appraisals should be administered to all employees. However, this policy should only be included in the handbook if your organization actually gives regular appraisals. Limitations should not be placed on your organization if they cannot be met.

For example, it can be harmful to state that appraisals will be given annually if they are generally not completed on time or at all. This policy should provide the minimum standards, rather than the desired standard, for giving appraisals. We also recommend a statement that an appraisal doesn't automatically signify a pay increase.

If your organization qualifies for the Family and Medical Leave Act, managers should not reference an employee's absences due to FMLA leave in a performance appraisal—especially in a negative fashion. If the employee is excessively absent or tardy, any references in a performance appraisal or disciplinary document should specifically reference all “non-FMLA” absences. Employees may not be penalized for taking unpaid leave that qualifies under the Family and Medical Leave Act.

SAMPLE POLICY

Performance appraisals will generally be done annually for all employees. More frequent reviews may be given to newly hired individuals and to those who have been promoted during a given year. Managers may conduct special performance reviews of an employee at any time when the employee's performance, good or bad, warrants special consideration. The performance appraisal has the following objectives:

- To evaluate how the job has been performed.
- To discuss performance with the individual concerned.
- To determine, where necessary, how performance can be improved.
- To evaluate short-term and long-term goals and potential.

The occasion of a performance review does not automatically signify a pay increase.

Italicized text is variable language.

Personal Conduct

Know the Issue

The purpose of this policy is to state the lifestyle expectations for employees. You may modify this policy 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. Consistency is important when applying this policy.

For example, if you terminate an employee 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 employee who engages in extramarital sexual relations. Be as specific as possible without being exhaustive. In other words, using language such as "in accordance with Biblical standards" should be included, but it shouldn't be the only definition of personal conduct. This could result in an employee arguing that the alleged issue violated his or her interpretation of the Bible. If specific actions are forbidden (such as use of alcohol), they should be stated. Then a catch-all statement such as "other conduct that violates scriptural mandates," or other similar language should be added at the end.

SAMPLE POLICY

(Name of ministry) is a non-profit religious organization and is substantially controlled and supported by a religious body, *your denomination or church*. More importantly, our organization is a community of believers who have joined together to meet the spiritual *and academic* needs of the greater community. Our organization promotes behavior consistent with the Holy Scriptures. Consequently, when joining *(name of ministry's)* staff, you freely and willingly agree to the standards of behavior outlined in this policy. The standards included in this policy are not exhaustive; rather, they provide a guideline of conduct we believe is in accordance with biblical standards.

As representatives of *(name of ministry)*, it is imperative that our actions are above reproach in all things. Consequently, the following standards of conduct shall apply to all employees. Violations of these standards are regarded as a serious breach of integrity and could result in discipline, up to and including termination.

- God's Word teaches us that certain attributes are desired, including: love, joy, peace, patience, kindness, goodness, faithfulness, gentleness, and self-control (Galatians 5:22-24). These attributes are to be sought, encouraged, and demonstrated in our relationships.
- Scripture further teaches us that certain behaviors should be avoided, including: theft, lying, dishonesty, gossip, slander, backbiting, profanity, vulgarity, sexual promiscuity (including adultery, homosexual behavior, and premarital sex), drunkenness, and immodesty of dress.
- Employees shall observe the Sabbath as a day set apart for worship, fellowship, and rest.
- *(Name of ministry)* recognizes the danger to one's physical and psychological well-being in the use of certain products. Therefore, employees are to refrain from the use of tobacco in any form, alcoholic beverages, hallucinogenic drugs and substances, or narcotics not authorized by a physician.

Italicized text is variable language.

Position Classifications

Know the Issue

The purpose of this policy is to define the various classifications of employment (e.g., exempt and non-exempt positions). Your policy should include only those classifications that your organization uses. It's important

to note any employee classifications that aren't eligible for benefits. If limited benefits are available to part-time or temporary employees, those benefits can be described in a separate policy.

SAMPLE POLICY

The following definitions have been established to standardize terminology and provide common understanding in our references to employees:

Employee

A person who receives wages or salary from (*name of ministry*) and whose work this organization controls and directs.

Full-time Employees

Those employees who regularly work *40 hours or more weekly* and who maintain continuous regular employment status. Regular full-time employees are eligible for benefits offered by (*name of ministry*).

Part-time Employees

Those employees who regularly work less than 40 hours weekly and who maintain continuous regular part-time employee status. Part-time employees regularly working less than 40 hours per week may be eligible for certain benefits offered by (*name of ministry*).

Temporary Employees

Temporary employees are those whose services are intended to be for a short period of time or of limited duration, or for an indefinite period when there is no intent by (*name of ministry*) to provide regular status. (*Name of ministry*) may either hire temporary employees directly or may use an agency to supply temporary employees. Temporary employees are not eligible for benefits. If a temporary employee is subsequently hired as a regular full-time or part-time employee, date of hire will be determined by the date on which the employee becomes a regular employee.

Regular Employees

Those employees whose services are intended to be for an indefinite period and work regularly scheduled hours on an ongoing basis in either a full-time or part-time capacity.

Exempt Employees

Executive, administrative, and professional employees who are exempt from the Fair Labor Standards Act. Exempt employees paid on a salary basis are not eligible for and do not receive overtime payment.

Non-exempt Employees

Employees who are not exempt from the provisions of the Fair Labor Standards Act.

Italicized text is variable language.

Separation from Employment

Know the Issue

This policy explains the procedures that employees should expect when terminating employment from your organization. It should include the following elements:

- Notice provisions. If your ministry requires two weeks notice before voluntary termination, a court could consider the handbook as a contract. Instead, you should request, but not require, two weeks notice, or

tie the failure to provide notice to some other benefit (such as payment of vacation).

- The exit interview process, if used.
- A requirement that materials you own be returned.
- The method of compensating vacation, sick, or other paid time upon termination.

SAMPLE POLICY

When an employee ends employment with (*name of ministry*) the procedures listed below should be followed:

- Employees who voluntarily separate from this organization are requested to give at least 10 working days notice, excluding any vacation days, of their intention to terminate employment. Written notice should be given to your manager and the *business administrator*.
- All employees are expected to meet with the *business administrator* for an exit interview. *Employees may be requested to complete an exit interview form explaining the reasons for separation and their assessment of the employment experience at your ministry.*
- During the exit interview, employees will complete any necessary paperwork. The *business administrator* will advise employees of benefit issues and other issues that relate to separation from this organization.
- Employees shall return any *ministry-owned* materials and equipment, such as the employee handbook, and any off-site documents, equipment, or supplies. Upon termination of employment, all access to the computer systems and the building shall end. Vacation time will be paid to an employee separating from employment in accordance with the vacation and sick policy. An employee's termination date shall be the last day of employment in which the employee was present and working. Unless otherwise prohibited by law, benefits shall cease on the employee's termination date.

Guidelines

This organization reserves the right to require any employees who have been terminated or who have advised this organization of their intent to terminate, to immediately cease employment, return any materials and equipment owned by (*name of ministry*), and leave the building.

Italicized text is variable language.

Vacation and Sick Leave

Know the Issue

Most vacation and sick leave policies are written one of two ways. Days are either accrued (earned over time) or are granted at a certain point in time (first of the year or hire date) before employees actually earn the time. If vacation days are granted before being earned, and you don't want to pay the unearned vacation time upon termination of employment, it's important that you specify this in your policy.

If the policy doesn't address the payment of unearned vacation time upon termination, you may be legally required to pay all of the time. The following is sample language that may be used when you don't want to pay unearned time:

- “While vacation days are available on January 1, the number of vacation days available for pay out upon separation from this organization will be pro-rated based on the months of service in that year.”
- “If, on the last day of employment, an employee has not used all of his or her allotted vacation days, the remaining vacation days will be pro-rated and paid to the employee. If the last day of employment is before July 1, and an employee has used more than the allotted vacation days, the employee is expected to reimburse this organization for the cost of the excess vacation time that was used. Employees leaving this organization after July 1 will not be required to reimburse this organization for excess vacation days used and will receive all remaining pro-rated vacation time. In order to avoid repayment situations, employees intending to terminate employment with this organization before July 1 should meet with human resources to determine the pro-rated number of vacation days.”

SAMPLE POLICY

(Name of ministry) will grant vacation and sick leave on January 1 of each calendar year in accordance with the following schedule:

First Calendar Year of Employment

Hire Date	# of Days	Eligibility Date
1st Quarter	Sick	Date of Hire
	Vacation	April 1
2nd Quarter	Sick	Date of Hire
	Vacation	July 1
3rd Quarter	Sick	Date of Hire
	Vacation	October 1
4th Quarter	Sick	Date of Hire
	Vacation	0

Calendar Year	# of Sick Days	# of Vacation Days
2 (hired 1st Quarter)	4	6
2 (hired 2nd Quarter)	4	5
2 (hired 3rd Quarter)	4	4
2 (hired 4th Quarter)	4	3
3	4	7

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Italicized text is variable language.

Calendar Year	# of Sick Days	# of Vacation Days
4	4	7
5	4	8
6	4	8
7	4	9
8	4	9
9	4	10
10 Years +	4	11

Carryover of Days

The employee may carry over the following number of days each calendar year:

- Sick: 5 sick days
- Vacation: 5 vacation days

Sick Leave

Sick leave may be used only for health care appointments, personal illness, or the illness of a close family member. A close family member includes a parent, child, or spouse of the employee or a parent or child of the employee’s spouse. Sick leave will not be paid to employees when they leave employment with this organization.

Vacation Time

Vacation time may be used for vacation, personal business, or additional sick leave once the allotted sick days have been exhausted. Vacation time should primarily be used for scheduled absences and should be approved by the manager at least 24 hours in advance. *Employees are required to exhaust all vacation time before unpaid time will be granted.*

Optional:

In order that employees and this organization derive the fullest benefits desired from vacation, the employee must take at least one week of eligible vacation in consecutive days if at least 10 days of vacation time has been earned. An employee may use vacation and holidays together to satisfy the “one week of vacation” requirement. Employees will be paid for any earned and unused vacation days upon voluntary separation of employment with this organization.

Guidelines

- If an employee exhausts all sick leave and is subsequently ill, the employee will generally be required to use available vacation time. Unless the illness qualifies under the Family and Medical Leave Act, employees are generally not permitted to take unpaid time for illness when vacation time is available.
- While vacation time can be used for illness once sick leave has been exhausted, an employee may not use sick leave for anything except personal illness, the illness of a personal family member, or for a qualifying Family and Medical Leave Act event.

Italicized text is variable language.

Workplace Safety

Know the Issue

Violence is becoming an increasingly common problem in schools, businesses, and even churches. Your ministry can establish procedures that may help prevent a violent situation from occurring or may help minimize the damage if violence erupts.

You'll need two sets of procedures: A preventative plan and an emergency response plan.

Prevention: The sample policy below is designed to prevent workplace violence by requiring visitors to check in, prohibiting weapons on your property, and reminding employees that you have a right to inspect all work areas, classrooms, and common areas.

Emergency Response: Because every ministry is unique, your organization needs to create an emergency response plan that assesses your individual situation and determines how you'll respond to violent situations. Your plan should address at least three basic threats:

- The report of a weapon.
- The use of a weapon.
- A hostage situation or barricaded gunman.

Then, consider how you will perform the following functions:

- **Communication:** How will you communicate the presence of a threatening intruder and the need to evacuate? Who will notify law enforcement?
- **Evacuation:** How will people leave the building and where will they go afterward?
- **Responsibilities:** Who will do what?
- **First aid:** How will you treat the injured?
- **Training:** How will you ensure that everyone knows what to do in a crisis situation?

For help developing violence response procedures for your ministry, talk with first responders, emergency managers, community organizations, and others about how you can prepare for violent incidents and respond to them.

Your local police department's Special Response Team (SRT) or Special Weapons and Tactics (SWAT) unit may have a response plan that it would be willing to share. In addition, the local school system may be able to recommend some safety experts who have conducted training workshops in your area.

Be sure that the expert you choose comes with proper credentials and has experience working with churches. Ask other churches about their crisis response plans, and encourage them to start continuity planning, if they haven't already.

SAMPLE POLICY

It's important that a safe, secure workplace be maintained for the benefit of *this organization's* employees and *students*. Accordingly, any actual or potential threat to safety within the workplace will be promptly addressed. Any violence in the workplace, or threatened violence in the workplace, by an employee, will result in disciplinary action up to and including immediate termination. No talk of violence or any communication involving threats of violence will be tolerated.

"Violence" includes physically harming another, shoving, pushing, harassing, intimidating, coercing, displaying weapons, or threatening or talking of engaging in those activities. It's the intent of this policy to ensure that everyone associated with *this organization*, including employees and students, can feel as secure as possible in this environment.

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Italicized text is variable language.

This organization specifically prohibits the possession of weapons by any employee while on ministry property, unless locked in the trunk of the car. Weapons include guns, explosives, and other items designed to inflict harm. Employees on our property may carry non-lethal sprays (such as pepper spray or mace) that are intended for personal protection, but such spray may only be used to protect oneself or others from physical harm. Appropriate disciplinary action, up to and including termination, will be taken against any employee who violates this policy.

Desks, telephones, computers, and work areas are the property of *(name of ministry)*. Accordingly, *(name of ministry)* reserves the right to enter and inspect your work area, classroom, storage areas, computers, or desks, with or without notice.

As a security measure and to maintain proper procedures, all visitors should use the *main* entrance of the building and register with *the receptionist* during office hours. When an employee is advised of guests, the employee should personally meet visitors in the *reception area*, ensure that the guests have completed the visitor log, and escort them throughout the building.

(Name of ministry) locks all entrances to the building at the end of each day. Unless an employee has personal knowledge of the visitor, the employee should not permit any non-employee to enter the building after hours. If an employee has invited a guest after work hours, the employee should accompany the guest at all times.

If an employee notices a suspicious person or activity on the organization's premises, the employee should immediately report the incident to the *business administrator*.

Italicized text is variable language.

Using the Sample Policies

This chapter contains policies that are optional either because they apply only under certain circumstances (e.g., when employees sign employment contracts) or because your organization may not use a specific policy (e.g., dress code).

They are guidelines for the day-to-day operations of your organization. Most of these policies address issues such as work environment, benefits, and your ministry's purpose and mission statement.

For purposes of simplicity, we've used the terms *your ministry*, *business administrator*, and *your organization*

to refer to the operations covered by the handbook. You may choose to change the wording to suit your specific ministry or to refer to the appropriate department or contact person.

When language is italicized in the sample policy, it's either variable or only necessary under certain conditions. For example, additional language may be necessary for certain policies only if employees sign employment contracts.

Cell Phone Policy

Know the Issue

Multiple studies have shown that distracted drivers are dangerous drivers. One study estimated that driver distraction is a factor in 80 percent of car crashes in North America. Another said that drivers talking on cell phones

are often just as impaired as drunk drivers. And a third found that experienced drivers are no better at handling the distraction of a cell phone than novices. That's why we recommend restricting drivers' cell phone use.

SAMPLE POLICY

Cellular telephones can cause distraction if used while driving. For safety reasons, while employees are on ministry business, they're not to use cell phones to make calls while driving unless they use a hands-free device. If they receive a cell phone call while driving, the employee should answer it using a hands-free device or pull off the road to a safe location as soon as possible. Employees are not to send or read text messages while driving. Employees should not use a cell phone—even hands-free—when transporting children, while driving in heavy traffic, or during hazardous weather conditions.

Confidential Information

Know the Issue

If you choose to include a confidentiality policy, the one you select will depend on the needs of your organization. The sample policies in this handbook address confidentiality relating to business processes and are more appropriate for organizations, such as a ministry headquarters or a university, where strategic marketing might exist.

We've provided two sample policies for your organization. The first policy is more detailed than the other. Please choose the policy that best meets your needs.

SAMPLE POLICY 1

The protection of confidential business information and trade secrets is vital to the interests and the success of this organization. Confidential information means information disclosed to or known by you as a consequence of your employment with this organization that is not generally known to people outside this organization about its business, marketing, and sales strategies and plans, finances, operations, employees, methods, processes, compositions, machines, computer software or programs, research projects, customers, customer accounts, customer information, customer reports and customer finances, product information and reports, suppliers, accounts, billing methods, pricing data, sources of supply, business methods, production or merchandising systems or plans, information entrusted to this organization in confidence by third parties, and information defined as "trade secrets" under the Uniform Trade Secrets Act.

An employee who improperly uses or discloses trade secrets or confidential business information will be subject to disciplinary action, up to and including termination of employment and legal action, even if the employee does not actually benefit from the disclosed information.

Guidelines

- Confidential information may be contained in written manuals, verbal communications, the unwritten knowledge of employees, and/or any other tangible methods of expression, including hard disk and soft disk drive mechanisms.
- Examples of confidential information include, but are not limited to, the following: financial information, marketing development information, pending projects and proposals, customer lists, research and development strategies, technological data and prototypes, sales meeting information, and pricing information.

SAMPLE POLICY 2

The protection of confidential business information and trade secrets is vital to the interests and the success of this organization. Confidential information means information disclosed to or known by you as a consequence of your employment with this organization that is not generally known to people outside this organization, information entrusted to this organization in confidence by third parties, and information defined as “trade secrets” under the Uniform Trade Secrets Act.

An employee who improperly uses or discloses trade secrets or confidential business information will be subject to disciplinary action, up to and including termination of employment and legal action, even if the employee does not actually benefit from the disclosed information.

Guidelines

- Confidential information may be contained in written manuals, verbal communications, the unwritten knowledge of employees, and/or any other tangible methods of expression, including hard disk and soft disk drive mechanisms.
- Examples of confidential information include, but are not limited to, the following: financial information, student lists, counseling records, technological data and prototypes, and employment information.

Dress and Personal Appearance

Know the Issue

Most courts have upheld an employer's right to establish dress and grooming standards. Have your attorney verify

that this is permissible in your state before establishing such a policy.

SAMPLE POLICY

Dress and personal appearance are fundamentally important for quality performance of ministry functions. Appearance must reflect the tasteful and moderate position we choose to take. Furthermore, employee dress should reflect a professional attitude, consciously projecting quality service to our *students, coworkers, and community*. Employees are expected to maintain a neat, well-groomed, and professional personal appearance at all times.

The dress and personal appearance policy established by our organization to reflect a professional attitude and ministry image requires the following:

Women

- Dress, suit, pant set, dress slacks, skirt and blouse/sweater.
- Appropriate hosiery and shoes.
- No casual slacks or denim fabrics.

Men

- Suit, sport coat and dress slacks, dress shirt and tie.
- Appropriate socks and shoes.
- No jeans or denim fabrics.

Questions regarding dress and personal appearance should be directed to the *business administrator*.

Guidelines

- The following items are NOT considered professional attire: sheer or see-through clothes, culottes of any length, sportswear, shorts or short skirts, sweatshirts and flannel shirts, jeans or denim fabrics, shoes without socks or hosiery, tennis shoes or sneakers, garments that are tight fitting, low necklines, leggings, stretch, or stirrup pants.
- A neat, well-groomed, and professional appearance means: clothes should be ironed and presentable; untailored shirts and blouses are to be tucked into pants or skirts; hair should be styled in a professional manner; proper hygiene should be followed; and jewelry and other accessories should be worn in a professional manner.

Italicized text is variable language.

Funeral Leave

Know the Issue

This is an optional policy that may be modified in accordance with your organization's procedures. If you have a funeral leave policy, include a statement allowing

variance from the stated policy based on managerial approval.

SAMPLE POLICY

When a death occurs in the family of an employee *or the spouse of an employee*, this organization will provide funeral leave. Pay will not be granted for any day in which the employee is otherwise compensated (such as a paid holiday) or for any day the employee would otherwise not have been at work. Funeral leave is provided as follows:

Relationship

Spouse, Child, Parent

Grandparent, Grandchild, Sibling

Aunt, Uncle, Niece, Nephew

Paid Time

Up to 3 days

Up to 2 days

Up to 1 day

Employees may use, as necessary, the maximum number of days granted under this policy. If additional time is needed, employees may use, with their manager's discretion, any available sick or vacation days. Vacation time may be used to attend funeral services of persons not included in this funeral leave provision. The employee's manager and the human resources department must approve any variance from, or modification to, this funeral leave policy.

Italicized text is variable language.

General Leave of Absence

Know the Issue

This is an optional policy that may be modified to meet the needs of your organization. If you permit a general leave of absence, the following information should be included:

- Definition of what qualifies as a leave of absence.
- Procedures for obtaining a leave of absence.
- Effect on benefits.
- A statement that the organization isn't required to approve a leave and isn't required to hold a position open for an employee who takes a leave.
- If your organization is required to offer family and medical leave, a statement excluding family and medical leaves from this policy.

SAMPLE POLICY

(Name of ministry) recognizes that there may be times when an employee needs to be absent from work and the time is not covered by vacation, sick, or *family and medical leave*. Under such circumstances, an employee may request a leave of absence without pay. If you need to be absent for *five or more* working days, you must submit a written application to your *business administrator* before beginning the leave, stating the reason for the leave.

All general leaves of absence must be approved in advance by the *business administrator*. *An initial approved leave of absence cannot exceed 90 days. However, a leave may be extended for periods of 30 days or less upon submission of a new application and further approval by this organization.*

Before an approved leave of absence, you must make specific arrangements to continue the various company benefit programs such as group health, disability, and life plans. This organization has no obligation to provide holiday pay, vacation benefits, or bonuses during an approved leave of absence. Performance appraisals may be deferred for a period equal to the length of the leave. General leaves of absence are unpaid leaves.

A general leave of absence may be granted for personal, medical *not qualifying under FMLA*, or other purpose. *(Name of ministry)* is under no obligation to grant a general leave. A general leave does not guarantee holding the position open, as this organization may find it necessary or beneficial to fill the position. If you don't return to work at the end of an approved leave, you will be considered terminated.

Guidelines

- *This policy is not intended to cover any leaves that qualify under the Family and Medical Leave Act. To determine whether a requested leave of absence meets the requirements of the FMLA, contact the business administrator.*
- A leave of absence does not affect your continuity of employment. Your original date of employment remains in effect.
- *If you are absent for more than five working days without an acceptable reason, such as a verified sickness, vacation, or authorized leave of absence, you will be considered as having voluntarily terminated your employment.*

Italicized text is variable language.

Grievance

Know the Issue

Grievance procedures can be helpful when included in a handbook, assuming they are followed consistently. Generally, a grievance policy provides a process by which employees may report complaints or appeal a decision or concern, to a higher level of authority within the organization. For ministry organizations, scripture should be used within the policy whenever possible. This provides a level of First Amendment protection if the employee later chooses to pursue an action outside the organization.

Additionally, since the process involves an internal matter, you have the right to establish the boundaries

of the resolution process. For example, you may advise the employee that legal representation cannot be present during the resolution process or you may insist that proceedings not be recorded. One word of caution: If you include biblical principles from Matthew 18, make sure you specifically exclude harassment from the policy. From a liability standpoint, courts do not view favorably forcing an employee to directly approach the alleged harasser alone before reporting the complaint to the organization.

SAMPLE POLICY

(Name of ministry) encourages an open channel of communication for the expression of employee concerns. There may be circumstances where an employee has unsuccessfully attempted to resolve concerns or complaints. Every effort should be made to resolve difficulties and misunderstandings on the basis of Scripture. Consequently, the grievance procedures to be followed are based on Matthew 18:15-17. With the exception of sexual or other illegal harassment, each step must be taken before proceeding to the next level. If you have a concern, follow these procedures:

- “If your brother sins against you, go and show him his fault, just between the two of you. If he listens to you, you have won your brother over.” The first step is to go directly to the person with whom you have a concern. Attempt to resolve the matter without involving other people.
- “But if he will not listen, take one or two others along, so that every matter may be established by the testimony of two or three witnesses.” The next step is to take the matter to your direct supervisor. If the problem involves your supervisor, you should contact his or her direct supervisor.
- “If he refuses to listen to them, tell it to the church.” If, after you consult your supervisor, the matter is still unresolved, you may take your complaint to the grievance board. The grievance board will meet within four weeks of receiving a written request for a hearing. The grievance board is the final arbitrator in resolving complaints.

Guidelines

- There is one exception to the first step of resolution. An employee who believes that he or she has been the victim of harassment has a duty to report it immediately to his or her manager, or the *business administrator*.
- When taking issues to the grievance board, be aware that certain policies apply. For example, in most cases, an employee is not entitled to have an attorney present at the hearing. This process for resolving conflicts is conciliatory in nature and is intended to resolve issues within the body of Christ (I Corinthians 6:1-8).

Italicized text is variable language.

Holidays

Know the Issue

This policy advises your employees of the holidays on which your organization will be closed. This policy may be modified to fit the needs of your organization.

SAMPLE POLICY

(Name of ministry) observes eight paid holidays per year. The dates of recognized holidays are designated at the business administrator's discretion. A person must be employed on the day before and the day after the holiday to be eligible for holiday pay. If an employee intends to terminate employment and uses vacation or sick time during his or her final workweek, holiday pay will only be paid if the employee was physically present and working on both the day preceding and the day following the holiday.

Guidelines

This organization generally recognizes the following holidays: New Year's Day, Good Friday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and the day after Thanksgiving, and Christmas Day.

Italicized text is variable language.

Lay Counseling

Know the Issue

Now more than ever, church leaders recognize that the local church must be the central place for people to receive spiritual care. Biblically—and practically—the pastor cannot be the only person in the local church who provides spiritual care. To meet the growing need for spiritual counseling, many local churches are developing lay counseling ministries. A lay counseling ministry gives a member of the local church body the opportunity to meet for individual spiritual counseling sessions with a trained lay counselor.

Good stewardship requires church leaders to safeguard the church and its people by implementing a risk management program for church-sponsored lay

counseling programs. Specifically, providing a safe and secure lay counseling environment for both lay counselors and counsees necessitates that your church consider developing policies and procedures that are approved by your church's governing body to screen and supervise lay counselors and to educate lay counselors about administrative guidelines. Your church leaders should consult with an attorney in the preparation of a lay counseling policy and lay counseling ministry forms. Also, your church leaders should become familiar with relevant insurance coverage in your church's insurance policy relating to lay counseling liability.

SAMPLE POLICY

Guidelines for our lay counseling program, which are more specifically described in a separate written policy entitled Lay Counseling Policies and Procedures, include the following elements:

Screening. All employees and volunteer lay counselors will be screened. Our screening procedure includes the following elements:

- Application form.
- Interview.
- Two independent references.
- A criminal background check, as allowed by law.

Supervision of lay counselors. Our Pastor of Spiritual Care and Counseling is responsible for supervising all lay counselors who are authorized to engage in spiritual care counseling on behalf of our church. The Pastor's responsibilities include:

- Training lay counselors to provide competent spiritual care.
- Developing procedures to protect against sexual abuse of counsees and false allegations of abuse by counsees against lay counselors and church employees.
- Working with our attorney to develop our Guidelines for Lay Counseling Ministry policy.

Administrative Guidelines for Lay Counseling Ministry. Our Pastor of Spiritual Care and Counseling will work with our church's attorney to develop and regularly update written procedures and related forms pertaining to:

- Confidentiality of information.
- Procedures for state-mandated child abuse or elder abuse reporting, and other emergency situations such as suicide or a threat of harm made by a counselee against a person.

continued >

Italicized text is variable language.

- The development of an “informed consent” form or lay counseling agreement pertaining to lay counseling procedures for counselees to acknowledge and sign.
- Record keeping.
- Compliance with state mental health licensing requirements, or the development of procedures to assure continued exemption from such requirements for our pastoral staff and lay counselors.
- Professional referral sources for various issues.
- Any fee-based counseling legal and tax considerations.

Military Leave

Know the Issue

The Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) is the federal law that addresses how employers must treat military leave. Additionally, many states have laws that address military leave. The law prohibits employers from discriminating against employees in employment matters, such as hiring, firing, or promotion for the employees' past, present, or future participation in uniformed services.

Uniformed services include the U.S. Armed Forces, Public Health Service, National Guard, and Reserves. The USERRA provides specific rules for how employers

must handle military leaves and the employee's subsequent reinstatement at the end of duty. If you have an employee eligible for military leave, you should consult legal counsel to determine your rights and responsibilities and those of your employees.

Many states also have laws that apply to military leave. Make sure you know these requirements if you have an employee who is either in the military or has an immediate family member in the military. Additionally, the Family and Medical Leave Act was expanded in 2008 to include military leave.

SAMPLE POLICY

A leave of absence, without pay, will be granted to an employee who is drafted, or enlists for a minimum period, in the armed services. The armed services includes employees in the U.S. Armed Forces, Public Health Services, National Guard, and Reservists. Employees are requested to notify their supervisors as far in advance as possible of their need to take leave. Leaves and reinstatement upon return from a military leave will be granted in accordance with state and federal law.

Office Hours

Know the Issue

While this policy is optional, most employers include a provision to clarify their expectations for employees. Some state laws require that employers provide breaks for their non-exempt employees. Check with local counsel to determine whether your state requires break times.

Include a statement that gives your ministry and its managers the discretion to alter work hours to fit the needs of your organization. Also, most employers are required to pay an employee for any breaks less than 30 minutes or any lunch period where the employee is restricted from leaving the premises or is “on-call” during lunch time.

SAMPLE POLICY

Generally, most positions in this organization are 40-hour-a-week jobs consistent with the general office hours of 8:00 a.m. to 4:30 p.m. with a 30-minute unpaid lunch period. The normal workweek will be Monday through Friday. These are the hours expected to be worked under normal conditions but are not a guarantee of hours to be worked or paid. Each employee is permitted to take two 10-minute breaks each day.

Scheduling of lunch and break periods are to be determined in consultation with your *business administrator*.

Guidelines

The *business administrator* has the discretion, based on the needs of this organization and its employees, to alter these general hours to fit the specific needs of a department or an employee. These may include ministry needs, business reasons, economic conditions, or other conditions with respect to this organization, family, or the individual.

Italicized text is variable language.

Ownership of Work Product

Know the Issue

The purpose of this policy is to protect the intellectual property rights (trademark, copyright, etc.) of products or items created by your employees that benefit your organization. For example, suppose you direct one of your employees to write a manual explaining church doctrine. Your organization then distributes the manual to pastors within your denomination. The employee terminates employment, then claims to be the author of the manual, and attempts to prohibit your organization from distributing or copying the manual without paying a royalty fee. Without a work product policy, the employee may be able to prohibit your organization from obtaining rights to the document. With a work product policy, you may allow employees to obtain rights if you choose, but you can decide when to grant this permission.

If you include this policy in your ministry's handbook, don't modify the language extensively.

For example, the policy includes language regarding your ownership rights if a development is created "in whole or in part on *your ministry's* time." If you remove this section, an employee could argue that most of the work was done at home on the employee's own time. It's very difficult to prove otherwise after the fact.

Copyrighted Materials

While we have not included a sample policy on the use of copyrighted materials, you may consider including such a policy in your handbook. Copyright law applies to numerous items, such as journals, publications, sheet music, recordings, and photographs, but due to the complexity of copyright law, the intellectual property of others is easily and frequently violated. While some exceptions apply to educational and not-for-profit organizations, the general principles of copyright law still apply. Consult legal counsel to assist you in drafting and approving a copyright policy.

SAMPLE POLICY

All developments relating to *(name of ministry's)*, or capable of beneficial use by *(name of ministry)*, including, but not limited to, object code, source code, marketing, confidential and trade secret information, techniques, slogans, designs, artwork, and writings, compositions, which an employee conceives, makes, develops, or acquires, either solely or jointly with others, during his or her employment, in whole or in part on *(name of ministry)* time, and shall immediately become and remain the sole and exclusive property of *(name of ministry)*.

All employees agree to grant and assign to *(name of ministry)* any and all rights, title, or interest now existing or that may come into existence throughout the world that employees may have in any developments as described in the above paragraph.

Guidelines

- Developments include, but are not limited to, inventions, discoveries, improvements, ideas, software, formulas, and processes conceived by an employee.
- Employees shall promptly and fully disclose in writing all such developments to *(name of ministry)*, and shall at any time either during or after the employee's employment, upon request of the *(name of ministry)* without charge, execute, acknowledge, and deliver to the *(name of ministry)* all instruments that the *(name of ministry)* may request to enable the *(name of ministry)* to file for, and to acquire, maintain, and enforce, all trademarks, service marks, registrations, copyrights, license, and patents covering such developments.

Italicized text is variable language.

Probationary Period

Know the Issue

Probationary periods are often used with new employees because they are perceived as a “safe” way to get rid of an employee if, from the beginning, it becomes clear he or she will not work out. Unfortunately, implementing probationary periods often result in just the opposite. This occurs for a variety of reasons. First, if employees are already “at will” employees, a probationary period can potentially dilute the “at will” argument once the probationary period ends. Also, many employers assume that progressive discipline policies do not apply during

the probationary period. But unless that is specifically stated within the probationary period policy and throughout the handbook, courts may determine that the progressive discipline policy does apply even during the probationary period. For this reason, we would not recommend the use of a probationary period except in the case of contract employees, and then only with specific language that provides the employer with wide discretion.

SAMPLE POLICY

The first 90 days of employment shall be classified as a probationary period. After the probationary period has ended, a performance review may be performed to evaluate the employment relationship. Employees may be terminated, without warning, and for any reason, at any time during the probationary period. At all times, including the probationary period, employees are considered at-will, and nothing in this policy should be construed to modify the at-will status.

All other policies contained in this handbook apply during the probationary period, to the extent they are not addressed specifically within this policy.

Progressive Discipline

Know the Issue

One of the first items organizations tend to include in their handbooks is a progressive discipline policy. While everyone agrees that progressive discipline should be used consistently and frequently for most offenses, there are legal disagreements regarding whether a written progressive discipline policy should be included in the handbook. The difficulty arises in defining a terminable offense.

The benefit of a progressive discipline policy is that it provides a guideline for employees to know how various offenses or violations will be treated. The disadvantage is that it's nearly impossible to include a list of every possible offense that could occur or to predict the severity of various offenses. More importantly, interpretations of policies differ greatly between employers and employees (and their attorneys.) For example, let's say that the policy provides for immediate termination for insubordination. An employee, when confronted with an attitude problem, responds in anger and threatens the supervisor that "I'll

prove you wrong!" Then, the employee returns to the classroom and writes a letter to the parents venting his or her side of the story. Is that considered insubordination? That depends—how is insubordination defined? Another example would be a policy that provided for discipline for "anything that violates Scripture, in spirit or law." It's discovered that an employee has begun a homosexual relationship with another individual, which violates your church's interpretation of Scripture. But when the employee is confronted, the employee says his interpretation of Scripture doesn't view homosexuality as a sin. How will the courts interpret that?

If your organization chooses to include a progressive discipline policy, include as much language as possible explaining that deviations from the policy can and will be made and that the list is not exhaustive. Also, if your organization provides for probationary periods, include exclusions stating the policy doesn't apply during that time.

SAMPLE POLICY

This policy provides employees who violate policies or perform unsatisfactorily an opportunity to correct their behavior. It is designed as a set of guidelines and is included simply to recommend the normal disciplinary actions to be taken. Nothing in this policy limits the right of (*name of ministry*) to diverge from or modify the sequence of actions listed in this policy. Furthermore, these guidelines cannot cover every situation that might require disciplinary action and, therefore, are not an exclusive list of all behaviors that could result in discipline. Nothing in this policy shall affect the at-will status of employees.

Employee misconduct that does not rise to the level of immediate termination will generally be addressed through progressive discipline, consisting of four steps: oral warning, written warning, suspension, and termination.

Oral Warning

Generally used to address misconduct that may not be serious as a single incident but could become problematic if a pattern develops. After the manager has discussed the misconduct with the employee, a document prepared by the manager explaining the discussion will be placed in the manager's file.

Written Warning

Generally used when a serious incident occurs that requires more than an oral warning or when a pattern of misconduct develops. The manager will prepare a written statement addressing the misconduct. The employee will sign the document acknowledging having received a copy of the warning. The written warning will then be placed in the employee's personnel file.

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Italicized text is variable language.

Suspension

Occurs when misconduct previously addressed has not improved or for offenses for which immediate termination may not be appropriate. The suspension should be documented by the manager, signed by the employee, and placed in the employee's personnel file.

Termination

If progressive discipline fails to improve an employee's conduct, or serious misconduct occurs, termination may result.

Guidelines

This progressive discipline policy does not apply to employees during the probationary period.

Italicized text is variable language.

Retirement Plans

Know the Issue

This is an optional policy that may be modified to explain the benefits you offer. If you include this policy, don't provide any information other than eligibility and where to find additional details. More detailed information should be provided in a separate document or should be made available from your *business administrator*.

The law regulates many retirement plans. If you offer a retirement plan, consult with a financial or legal consultant to ensure that you're complying with the applicable legal requirements.

SAMPLE POLICY

(*Name of ministry*) encourages employees to plan for their financial future by offering both a defined benefit pension plan and a 401(k) plan for eligible employees.

Defined Benefit Pension Plan

This organization's defined benefit pension plan is a non-contributory plan that provides retirement and death benefits to all eligible employees. Employees who have at least 12 months of service, are 21 years of age or older, and who work a minimum of 1,000 hours per year are eligible for inclusion in the plan. For details regarding the plan document and for further information, contact the *business administrator*.

401(k) Plan

This organization has adopted a 401(k) retirement plan that allows eligible employees to contribute through payroll deductions. Employees who have at least 12 months of service, are 21 years of age or older, and who work a minimum of 1,000 hours per year are eligible for inclusion in the plan. The 401(k) plan is a tax deferred account. For details regarding the plan document and for further information, contact the *business administrator*.

Italicized text is variable language.

Short-term and Long-term Disability

Know the Issue

This is an optional policy that may be modified to explain the plan you offer. As with many benefits, we recommend that you provide only basic information in

the policy itself and refer to the plan document or ask the business administrator for details.

SAMPLE POLICY

Short-term and long-term disability benefits are provided to all eligible employees in accordance with the short-term disability plan and the long-term disability plan.

Short-Term Disability

Eligibility and Waiting Period

Full-time employees who have completed 90 days of continuous employment become eligible for short-term disability benefits after 15 consecutive business days of absence, subject to the conditions of the short-term disability plan. All eligible employees, regardless of available sick and vacation time, will receive short-term benefits on the 16th business day of disability. However, available paid time must be used to satisfy the waiting period. The waiting period shall be used in the following order: sick time, vacation time, floating holidays, unpaid time.

Benefit Description

Benefits will be paid as described in the schedule of benefits for an eligible employee who becomes wholly and continuously disabled so as to be prevented from performing any duty pertaining to his or her employment. If you believe that you may be eligible for short-term disability benefits, consult the *business administrator* for more detailed information regarding the short-term disability plan.

Long-Term Disability

Eligibility and Waiting Period

Long-term disability benefits become effective after *180 days* have elapsed. On the *180th day*, FMLA and/or short-term disability leave expires.

Benefit Description

Income protection insurance is provided for eligible employees who are permanently and totally disabled and unable to work. Specific terms and conditions for long-term disability benefits are governed by the long-term disability summary plan description. If you believe that you may be eligible for long-term disability benefits, consult the *business administrator* for more detailed information.

While (*name of ministry*) offers short-term and long term disability, nothing in this poilicy obligates the agency to continue employment.

Italicized text is variable language.

Updating Personal Information

Know the Issue

This policy informs employees when they need to notify a designated representative of changes in their personal

situation. The information collected should be limited to that which affects benefits or is required by law.

SAMPLE POLICY

In order to properly communicate employment information and administer employee benefits, *(name of ministry)* must maintain current and accurate records on all employees. Consequently, it's important that you notify the business administrator whenever changes occur to any of the following personal information:

- Name
- Address
- Telephone number
- Marital status
- Change in dependent status
- Person to notify in case of accident or illness
- Physician or hospital preference
- Insurance beneficiary
- Military status
- Death of a family member
- Jury duty assignments
- Planned resignation
- Planned retirement
- Personal injury or illness sustained while on the job
- Accommodations for temporary or permanent disability
- Leaves of absence (including planned or actual absence for a medical condition that may last more than three consecutive days or involve medical treatment)

Italicized text is variable language.

Use of Facilities

Know the Issue

If you allow employees (as well as other groups) to use or rent your facilities we recommend you require them to sign a “Use of Facilities” agreement. You should include a policy in your handbook. This may limit your

organization’s liability if an accident occurs on your property during an activity. A sample “Use of Facilities” form has been included on page 69 of this handbook.

SAMPLE POLICY

The facilities at (*name of ministry*) are available to employees for business purposes. Employees needing to schedule a meeting room should contact the *business administrator* regarding availability. (*Name of ministry*) also recognizes that there may be circumstances when it would be appropriate to allow our facilities to be used by employees for an outside organization’s use or for personal functions. Employees must be a part of the group using the building and be willing to perform cleanup, provide security, and be responsible for any damage resulting from the use.

Any employee wishing to host an event outside normal business hours, or with an outside group during normal business hours, must formally make the request through the *business administrator*, where eligibility will be determined. Generally, use of the facilities will be on a first come, first served basis. The use of facilities for business purposes, however, will take precedence over personal functions.

Guidelines for use of facilities and the request for use of facilities forms are available from the *business administrator*. All requests must be approved by the human resources department in advance of the requested date of use.

Guidelines

The *business administrator* will consider the following in determining whether to approve outside use of the facilities:

- The nature of the event or group, in order to maintain our image and philosophy.
- The need to exercise responsibility and commitment to maintain proper security at all times on behalf of our employees.
- The need to prevent any potential damage to our facilities and properties.
- The availability of facilities.

Italicized text is variable language.

Americans with Disabilities Act (ADA)

A federal statute prohibiting discrimination against people with disabilities in employment, public transportation, and public accommodations.

At-Will

Common-law principle that an employee may be terminated for any reason not prohibited by law.
Note: Most states provide exceptions to this principle.

Common Law

The body of law that derives and develops through judicial decisions or case law.

Copyright

An intangible right granted to an author of certain literary or artistic productions.

Defamation

An intentionally false communication that injures another's reputation or good name.

Discrimination (Illegal)

A failure to treat all persons equally where no reasonable distinction can be found between those favored and those not favored.

Employee

Any individual employed, or permitted to work, by the employer where the employer has the right to control and direct the work of the individual providing services.

Equal Employment Opportunity Commission (EEOC)

Federal administrative agency responsible for overseeing, investigating, and addressing employment claims regarding discrimination.

Exempt

Employees exempt from the FLSA's minimum wage and overtime requirements because they meet the duties and salary test.

Fair Labor Standards Act (FLSA)

A federal act that sets the minimum wage, establishes maximum weekly hours, and regulates work of minors.

Harassment

A course of conduct directed at a specific person that causes substantial emotional distress and serves no legitimate purpose.

Hostile Work Environment

Conduct that has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Libel

A method of defamation expressed by print, writing, pictures, or signs.

Non-Exempt

Employees whose primary job responsibilities do not fit into one of the FLSA's exempt categories, such as professional, administrative, computer professional, or executive.

Patent

A grant by the government conveying and securing for an inventor the exclusive right to make, use, and sell an invention.

Pregnancy Discrimination Act (PDA)

Federal statute that prohibits an employer from treating employees who are pregnant, or have pregnancy-related conditions, differently than employees with other temporary disabilities.

Probationary Period

An initial period of employment during which an employee must prove that he or she is capable of performing the required duties of the job before being considered permanently employed in that position.

Promissory Estoppel

A situation that arises when a promise (e.g., employment) is made by the promisor (e.g., the employer) to the promisee (e.g., the applicant) which is reasonably expected to induce the promisee to act (e.g., leave current job to accept job offered by employer). The promisor (e.g., employer) may then be required to fulfill the promise (e.g., employment).

Quid Pro Quo

Literally means "this for that." Regarding sexual harassment, it means that submission or rejection of conduct (such as sexual touching) becomes an explicit or implicit term or condition of an individual's employment.

Sexual Harassment

Sexual advances, request for sexual favors, or other nonconsensual verbal or physical conduct of a sexual nature in the course of employment that is prohibited by law.

Slander

A method of defamation expressed by gestures or oral expressions.

Subpoena

A demand to appear at a certain time and place to give testimony upon a certain matter.

Title VII

Federal statute that prohibits discrimination on the basis of race, religion, sex, or national origin. It applies to employers with 15 or more employees.

Trademark

A grant by the government conveying and securing rights for a distinctive word, name, symbol, or device that is used or intended to be used in commerce.

Trade Secret

Any formula, pattern, process, compilation of information, or tool that is used in one's business to obtain an advantage over competitors who do not know or use it.

The following documents are sample forms that were referenced in this manual. As with all sample forms, an attorney should review any form prior to use to verify that it conforms with state and local law.

Acknowledgment and Receipt Provision

Each employee should be provided with an employment handbook. When the handbook is distributed, each employee should sign a waiver and acknowledgment form that should be placed in the employee's personnel files. If an employee has executed an employment

contract, your ministry should ensure that the contract language: 1) references and incorporates the handbook; and 2) doesn't contradict the language in the handbook's employment policies. For example, if an employment contract specifies that an employee will only be terminated for "just cause," but the handbook states the employee can be terminated at any time for any reason, the language in the employment contract would likely control. Consequently, an employer would have a much higher burden of proof in justifying termination of a contract employee.

SAMPLE FORM

Acknowledgement and Receipt of Handbook

I, _____, do hereby acknowledge and certify that on _____, I received, read, and understood the *Your Ministry Employee Handbook*. By signing this receipt, I understand and agree to the following:

- The employee handbook supersedes all previous manuals, handbooks or personnel policies I have previously received from or have been advised of by this organization.
- The policies and conditions, including benefits, contained in this employee handbook can be changed by this organization without notice at any time.
- I am an at-will employee, and nothing in this employee handbook constitutes an employment contract or affects my at-will status.
- If a discrepancy exists between this employee handbook and my employment contract, I understand that my employment contract controls.

Signature: _____

Date: _____

Employment Applicant Release

This form may be used for either former or prospective employees. The purpose of this form is to provide a level of protection against defamation when seeking information about a prospective employee or furnishing information about a former employee. It may enable your

organization to provide more than just basic identifying information such as dates of hire. If this release is used, it should be used consistently. For example, you should use it when providing positive reviews as well as giving marginal or poor reviews.

SAMPLE FORM

Employment Applicant Release

I hereby authorize any person, educational institution, or company references I have listed as a reference on my employment application to disclose any information they may have regarding my qualifications and fitness for employment. I further authorize any references to disclose any employment-related information, including any personal comments, evaluations, or assessments about my performance or behavior as an employee.

I agree to release and discharge your organization, any former employers, educational institutions, any other persons giving references, as well as their successors, employees, officers, and directors of any and all claims, liabilities, and causes of action, known or unknown, that arise from or that are in any manner connected to disclosure of employment-related information to applicants or prospective employers. This release includes, but is not limited to, claims of defamation, libel, slander, negligence, or interference with contract.

I acknowledge that I have carefully read and fully understand the provisions of this release. I understand that my references may be provided a copy of this Employment Applicant Release and may rely on it when releasing information. I further acknowledge that I was given the opportunity to consult with an attorney or any other individual of my choosing before signing this release and that I have decided to sign this release voluntarily and without coercion or duress by any person.

Signature: _____ Date: _____

Use of Facilities Agreement

This form may be used when your organization allows employees or others to use your facilities. The purpose of this agreement is to limit the liability of your

organization if someone is injured while using your facilities. Some form of this agreement is recommended when you allow others to use your property.

SAMPLE FORM

Agreement For Use of Facilities

This agreement by and between _____
Owner's name _____ *Owner's complete address*
("Owner"), and _____
User's name _____ *User's complete address* ("User"),
will take effect on the _____ day of _____ and will continue for a period of _____.
Day *Month* *Year* *Time period*
WHEREAS, Owner owns premises located at _____
Complete address
which is normally used for _____, and
Type of use
WHEREAS, User desires to use the _____ area of the facilities for the
Area of premises (e.g. church building)
purpose of _____, and
Purpose of use
WHEREAS, Owner has agreed to allow User to use the facilities provided that the following terms and conditions are met.

It is Agreed on by and Between the Parties:

1. Owner agrees to let User use the above described premises for the above described purpose on

Describe times and days of usage . _____ *Name and Owner's contact person*

is the contact person for Owner and _____ is the contact person for
User to coordinate the details of usage. *Name of User's contact person*

- Fee Agreement. User agrees to pay Owner _____ for the use of the premises.
Amount
 Non-Fee Agreement. In consideration for the benefit of using Owner's facilities, User agrees to abide by all the terms and conditions of use described in this agreement.
- User agrees that it will not use the premises for any unlawful purposes, and will obey all laws, rules, and regulations of all governmental authorities while using the above described facilities.
- User agrees that it will not use the premises for any purpose that is contrary to the mission, purpose or belief of the Owner, which is a biblically-based religious institution.
- User agrees to abide by any rules or regulations for the use of the premises that are attached to this agreement.
- Organizational Users. User promises and warrants that it carries liability insurance with a minimum liability occurrence limit of \$1,000,000. The User will provide a certificate of insurance to the Owner at least seven days prior to the date upon which the User begins to use the above described premises. The certificate of insurance will indicate that User has made Owner an "additional insured" on User's policy with respect to the use by User of the above described premises.

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Italicized text is variable language.

- Individual Users. User promises and warrants that User will obtain signed Activity Participation Agreements (either provided by or acceptable to Owner) from each participant in the activity. If the participants are minors, User will obtain the signature of at least one parent or legal guardian on each Activity Participation Agreement.
7. User agrees to hold harmless, indemnify and defend Owner (including Owner’s agents, employees, and representatives) from any and all liability for injury or damage including, but not limited to, bodily injury, personal injury, emotional injury, or property damage which may result from any person using the above described premises, its entrances and exits, and surrounding areas, for User’s purposes, regardless of whether such injury or damage results from the negligence of the Owner (including Owner’s agents, employees and representatives) or otherwise.
 8. User agrees to be responsible for preparing for use and returning to the pre-use condition all areas of the premises which User will use, including entrances and exits.
 9. User agrees to conduct a visual inspection of the premises, including entrances and exits, prior to each use, and warrants that the premises will be used only if it is in a safe condition.
 10. This agreement may be cancelled unilaterally by either party with 14 days written notice to the other party.
 - 10.5. In the event that Owner must cancel this agreement, User will be entitled to any deposit User has paid. However, in no event will Owner be liable to User for any lost profits or incidental, indirect, special, or consequential damages arising out of User’s inability to use the above described premises, even if Owner has been advised of the possibility of such damages.
 11. User agrees that it will not assign any of its rights under this agreement, and any such assignment will void this agreement at the sole option of the Owner.
 12. Owner and User agree that any disputes arising under this agreement will be resolved via a mutually acceptable alternative dispute resolution process. If Owner and User cannot mutually agree upon such a process, the dispute will be submitted to a three-member arbitration panel of the American Arbitration Association for final resolution.
 13. This document contains the entire agreement of the parties and supersedes all prior written or oral agreements relating to the subject matter.

Owner

_____ *Signer’s name*

_____ *Position with Owner (title)*

User

_____ *Signer’s name*

_____ *Position with User (title)*

Dated this _____ day of _____ .
Day Month Year

This is a sample document only. Your organization is responsible for compliance with all applicable laws. Accordingly, this form should not be used or adopted by your organization without first being reviewed and approved by an attorney. No liability is assumed by those who have prepared or distributed this sample form.

Italicized text is variable language.

An Overview of Federal Employment Law

Federal Statute	Title VII of the Civil Rights Act of 1964	Americans with Disabilities Act (ADA)	Age Discrimination in Employment Act (ADEA)	Equal Pay Act (EPA)	Fair Labor Standards Act (FLSA)	Family and Medical Leave Act (FMLA)
Purpose	Bans discrimination because of the protected characteristics of race, color, religion, sex (including pregnancy), or national origin.	Bans discrimination against disabled individuals because of their disability.	Bans discrimination against persons age 40 or older.	All employees performing equal work with substantially equal skill, effort, and responsibility under similar working conditions get equal pay.	Establishes federal requirements regarding minimum wage, overtime compensation, record keeping, and child labor for employees.	Provides up to 12 weeks of unpaid leave due to the birth or adoption of a child or the serious health condition of the employee or their child, spouse, or parent.
Number of Employees	More than 15	More than 15	More than 20	More than 1	More than 1	More than 50
Recovery	Compensatory (including future pecuniary loss, pain and suffering, loss of enjoyment); damages capped based on the number of employees: <ul style="list-style-type: none"> 15-100 = \$50,000 101-200 = \$100,000 201-500 = \$200,000 501 and up = \$300,000 punitive damages with caps and back wages 	Compensatory (including future pecuniary loss, pain and suffering, loss of enjoyment), damages capped based on the number of employees: <ul style="list-style-type: none"> 15-100 = \$50,000 101-200 = \$100,000 201-500 = \$200,000 501 and up = \$300,000 punitive damages with caps and back wages 	<ul style="list-style-type: none"> Back pay, including lost benefits Reinstatement Possibly attorney fees If “willful” wrongdoing, then double damages 	<ul style="list-style-type: none"> Damages equal to the amount of any wages, benefits, or other monetary loss, plus interest Liquidated damages may be awarded equal to the actual damages Reinstatement and attorney fees also may be awarded 	<ul style="list-style-type: none"> Damages for violation of minimum wage or overtime requirements are subject to a penalty of \$1,000 per violation Employers may also be liable for back wages, back overtime, and liquidated damages 	<ul style="list-style-type: none"> Damages equal to the amount of any wages, benefits, or other monetary loss, plus interest Liquidated damages may be awarded equal to the actual damages Reinstatement and attorney fees may also be awarded

State and local statutes vary by jurisdiction; consult with a local attorney to see how these statutes apply in your state.

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Our history

In 1917, a small church group founded Brotherhood Mutual for the specific purpose of insuring properties owned by members of churches within its denomination. Through time, the company began to insure properties for churches as well, and expanded its service to include insurance programs for other denominational and association/fellowship groups.

Over the past few decades, Brotherhood Mutual has developed a leading-edge competence for insuring America's religious institutions. Today, we are recognized as one of the leading providers of insurance for churches and church-related ministries and organizations in the nation.

Our mission and commitment

Driven by our mission of providing superior insurance products and services for America's churches and related ministries, we focus our efforts on four corporate commitments:

Corporate Integrity

We will uphold the biblical values upon which the company was founded and treat our customers, employees, and business partners with integrity and respect.

Customer Focus

We will serve our customers by understanding and placing their needs at the center of our business practices.

Market Leadership

We will direct our resources toward America's churches and related ministries and provide superior insurance products and services to these customers.

Financial Stability

We will protect our customers by using sound business practices that result in consistent growth of our policyholders' security fund.