



Top 7 Issues Guaranteed to Get the Church Sued

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#7— Assume No One On Staff Will Want or Need Medical Marijuana

A.R.S. Section 36-2813. Discrimination prohibited

A. ...

B. Unless a failure to do so would cause an employer to lose a monetary or licensing related benefit under federal law or regulations, an employer may not discriminate against a person in hiring, termination or imposing any term or condition of employment or otherwise penalize a person based upon either:

- 1. The person's status as a cardholder.*
- 2. A registered qualifying patient's positive drug test for marijuana components or metabolites, unless the patient used, possessed or was impaired by marijuana on the premises of the place of employment or during the hours of employment.*

- **What does it take to be a cardholder?**
 - Convince a doctor you have a covered affliction
 - » “Severe and Chronic Pain”
 - Obtain a “Card” from DHS
 - Take card to dispensary
 - Obtain and use marijuana

#6—Ignore Insurance

- **Risks you don’t shift to an insurance company are risks you’re keeping**
 - Key Man Insurance
 - Property Insurance
 - Liability Insurance
 - Theft and Employee Dishonesty
 - Counseling Insurance
 - Vehicle Insurance
 - Errors & Omissions
 - Discrimination and Harassment Insurance
 - Employment Benefits Liability Insurance
 - Worker’s Compensation Insurance
 - Umbrella or Excess Insurance

#5—Misunderstand your Debt Obligations

- **“New Economy” scenario:**
 - Church owes \$1,000,000 on property or building loan
 - Church misses payments and decides to “let the lender take it back”
 - Church remains liable for \$1,000,000

- “Anti-Deficiency” Statute does NOT apply
- A.R.S. Section 10-3614
- Members are obligated to creditors of a nonprofit corporation to the extent of their obligation to the corporation
- Contributions are voluntary: Therefore, no recourse against church members

#4—Don’t Screen your Employees or Volunteers

- Job description for ALL employees and volunteers
- Develop written application for ALL positions
- Classification of positions
- Primary or secondary access to children?
- Obtain written applications
- In-person interviews (Standard Questions?)
- Check references
- Background check
- Who’s driving ????
- **TRAINING**
 - WHO?
 - WHEN?
 - HOW OFTEN?
 - CONTENT?
 - » Recognizing an abuser
 - » Identifying victims
 - » Appropriate/inappropriate interactions
- **DAY TO DAY**
 - Does it work the way it is supposed to?
 - Do you know your volunteers?
- **Protocols for response**
 - Does everyone know what will happen if a report occurs?

3 –Ignore Employment Law

- Employment at will
- Legal Arizona Worker's Act
 - E-Verify
 - No exception for churches
- I-9s
- Federal requirement
 - No exception for churches
 - For employees hired after 11-6-1986
 - Must keep for 3 years after hire, and 1 year after termination
- Minimum Wage
 - \$7.35 per hour
 - Must maintain payroll records for 4 years
 - Must show each day, hours worked, and wages paid
 - Subject to claims from employees and civil penalties
- Discrimination
 - RELIGIOUS EXCEPTION:
 - FED AND AZ: Religious organization employs a person of a particular religion to perform activities of any kind
- **DOES NOT provide exception for race, color, sex or national origin**
 - MINISTERIAL EXEMPTION
- Race and gender ARE permissible bases for discrimination in hiring ministers
- Family and Medical Leave
 - 50 or more employees
- Overtime pay
- Employee vs. independent contractor
- Discipline and termination
- Severance

#2—Pay No Attention to Your Premises

- Church has a legal duty to provide a safe campus
- Church may be liable for the conduct of third parties
- **What do you know?**
- **Avoiding Trouble:**
 - Create a security plan (is your campus secure?)
 - Create a traffic plan
 - Who's in charge of security on campus?
 - Plan, Plan, Plan
- **Know your neighborhood's registered sex offenders**
- **"Premises Liability"**
 - Is your playground safe?
 - Faulty equipment
 - Badly maintained equipment
 - Dangerous under-surface
 - Deteriorating equipment

#1—Assume Sex Issues Occur Elsewhere

- The Problem:
 - » Staff to minor sexual conduct
 - » Infidelity of staff members
 - » Staff / member sexual conduct
 - » Duty to Report
- 2007 Study: 260 child sex abuse reports per year to insurance companies that insure churches
- **Duty to Report**
 - Failure to Report
 - Class 1 Misdemeanor

- Failure to Report a “Reportable Offense”
 - Class 6 Felony
- Most common theories:
 - Negligent hiring
 - » What did the church “KNOW” or what “SHOULD IT HAVE KNOWN” about the accused?
 - » Applies to employees and volunteers
 - Negligent supervision
 - » Did the Church act “REASONABLY” in supervising employees and volunteers
 - Separate injury to parents of the child abused

Final Thoughts

Avoiding Lawsuits

- **Summary:**
 - Screen employees and volunteers
 - Take employment law seriously
 - Be a great host on campus
 - Be vigilant about sexual issues and conduct
 - Insurance!

