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**IMPACT**<sup>™</sup>  
ToolKit

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# CHURCH RIGHTS

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CONGRESSIONAL  
PRAYER CAUCUS  
FOUNDATION

*faith*  
**IMPACT**<sup>™</sup>  
NETWORK



NATIONAL STRATEGIC  
CENTER



# Contents

- 01 Rights in Times of Health Crisis
- 02 Political Engagement
- 03 Hiring & Firing Practices
- 04 Guidelines on Renting Public Space
- 05 Engaging with Public Schools
- 06 Evangelizing in Public Squares
- 07 Suggested Policies to Protect Your Rights
- 08 Legal Recourse



01

02

03

04

05

06

07

08



# Importance

- Religious Freedom is under attack and its crucial that we defend it, especially for our churches.
- Separation of Church and State has been misapplied and made to appear far broader than it truly is. It was never intended to apply to the public square.
- There are many things churches are told they cannot do but, in reality, they can.
- This Toolkit is an attempt to offer you clarity on your rights as churches so that you engage in the public square.



01

02

03

04

05

06

07

08



# Rights in Times of Health Crisis

- Churches and Religious Organizations are critical in times of crisis. Even during this most recent health crisis, the federal government has turned to churches and faith-based organizations for help and support.
- Attorney General Bill Barr recently stated, “the Constitution is not suspended in times of crisis.”
- However, the government may "reasonably restrict" rights during such times. (*Jacobson v. Massachusetts, 1905*)
- Churches may be restricted in times of health crisis, but they may not be singled out or restricted more than secular entities.



[Click HERE for more details](#)



# Political Engagement – Permitted

- **Legislation**

1. Use of church facilities for a public forum or debate.
2. Sermons on social and political issues, and activism.
3. Educate on political process and political/social/legislative issues.
4. Support/oppose legislation.
5. Petition drives supporting/opposing legislation or citizen initiatives.
6. Encourage people to voice for or against legislation or citizen initiatives.
7. Lobby candidates' support or opposition to legislation or citizen initiatives.
8. Distribute position papers supporting or opposing legislation or citizen initiatives.
9. Support/oppose executive, judicial, or administrative actions.
10. Rent or loan church mailing list to lobbying groups (in a non-partial manner).

- **Campaigns**

1. Discuss church doctrine pertaining to candidate views such as abortion and marriage.
2. Introduce political candidates during service.
3. Educate members of the public about the viewpoints of candidates.
4. Political candidates may preach or read scripture (contributions should not be solicited & message should not be a petition for votes).
5. Support/Oppose candidates for *appointed* public office (non-elected).
6. Voter registration programs and campaigns (non-partisan).
7. Distribution of candidate surveys and incumbent voting records (editorial opinions prohibited).
8. Distribution in church parking lot of church stance on political issues (cannot contain an endorsement).
9. Church bulletin/newsletter stating members running for office (without time, place, endorsement).
10. Use of church facilities by political candidates (if all candidates are permitted).
11. Rent or loan church mailing lists to political candidates (must be made available to all candidates on similar terms and prices).



01

02

03

04

05

06

07

08



[Click HERE for a full list of freedoms and prohibitions](#)



# Political Engagement - Prohibitions

- Due to their tax status, churches may not:
  1. Endorse or oppose political candidates.
  2. Contribute to political candidates or Political Action Committees.
  3. Make in-kind or independent expenditures for or against political candidates.
  4. Publish church bulletin editorials where a pastor or staff member endorses or opposes a candidate.
  5. Fundraise for candidates.
  6. Participate in a political campaign.
  7. Grant use of the church name to support a political candidate.
- Pastors are not bound by these restrictions unless they are acting as an official representative of the church.



01

02

03

04

05

06

07

08

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# Hiring & Firing Practices

- Churches and Religious Organizations are exempt from some provisions of the Civil Rights Act, which guides nondiscrimination employment practices.
  - This means that churches are free to hire and fire based on an individual's religious affiliation, sex, or national origin if it is an occupational qualification reasonably necessary for that position.
- The US Supreme Court created the “Ministerial Exception” as a guide to determine whether the exemption applies to a particular employee:
  1. the employee's formal/prospective title;
  2. the substance reflected in that title;
  3. the individual's own use of that title; and
  4. the important religious functions the individual performed/would perform for the religious organization.



01

02

03

04

05

06

07

08

[Click HERE for more detailed information.](#)





# Guidelines on Renting Public Space

- The guidelines for churches on renting public space for services are determined by the type of facility and the facility’s rental/use policy.
- Most public spaces are categorized as one of two forum types, *designated public* and *limited public*.
  - A governmental body must have a compelling state interest to regulate speech in a *designated public forum*, and the exclusion must be “narrowly drawn.”
  - A *limited public forum* allows government restrictions on speech only when such restrictions are viewpoint neutral and are “reasonable in light of the purpose served by the forum.”
- Ex.) **Schools** (*limited public forum*)- The Supreme Court held unanimously that a school district cannot deny religious groups access to its facilities for use after school hours if the school district allows other community groups to use them.



01

02

03

04

05

06

07

08

Click **HERE** for more detailed information.





# Engaging with Public Schools

- A Church may host a public-school activity through providing use of a church facility.
- Public schools can accommodate students' religious needs by releasing them from the school campus during the day to receive religious instruction.
- Schools must include religious groups' announcements if they provide announcements in flyers or otherwise from other community groups for students to take home with them.
- If a graduation speaker is selected based on genuinely content-neutral criteria and they retain primary control over the content of their speech, their speech cannot be restricted and may include religious content or a prayer.
- If a school makes its facilities and related services available to other private groups, it must make its facilities and services available on the same terms to religious groups.



01

02

03

04

05

06

07

08

**Click [HERE](#) for more detailed information.**



# Evangelizing in Public Squares

- The Right to Free Speech protects your right to evangelize from government interference.
- Sharing the gospel and the free distribution of literature is not solicitation.
- Sharing the gospel is not loitering, as it is a legitimate purpose.
- Do not obstruct pedestrian traffic flow.
- Do not interfere with access to store fronts.
- Maintain a reasonable noise level for the situation.
- Pick up any tracts left in the street to avoid littering.
- Don't pressure people to take literature if they've expressed they don't want any.
- State and local governments cannot treat visitors from out of town or another state differently than local residents.
- Work in teams as much as possible to ensure safety and to vouch for each other if confronted by police.
- If questioned by police or challenged by other citizens, be polite and explain your rights calmly.
- If a companion is being arrested, do not interfere with the arrest. Observe (record) and contact a local attorney and/or your pastor.



01

02

03

04

05

06

07

08



# Suggested Policies to Protect Your Rights

- Incorporating your church is a great way to substantially limit your liability as well as streamline your representation. [Click HERE for a list of some of the legal benefits to incorporating.](#)
- You have 2 options to ensure that your church is not considered a place of public accommodation, which is vital for you to maintain control over what outside groups can use your facilities.
  1. Prior to allowing any individual or outside group to use any of your facilities, the church should require that the prospective renter sign a copy of the church's detailed statement of beliefs, indicating their agreement with it.
  2. Alternatively, your church can adopt a well written facility use policy.



01

02

03

04

05

06

07

08



# Legal Recourse

The rights of the church are expressly protected in the Free Exercise (of religion) clause of the First Amendment. If your church's religious or other liberties have been violated, you should contact a civil rights attorney (preferably one specializing in religious liberty issues) as soon as possible. The National Legal Foundation carries out this ministry every day and would love the opportunity to serve you! Please contact them below if they can be of assistance in your church's legal matters.

<https://nationallegalfoundation.org/>



01

02

03

04

05

06

07

08



For more information, contact  
(757) 546-2190

[Help@NationalStrategicCenter.com](mailto:Help@NationalStrategicCenter.com)

[www.CPCFoundation.com/NSC](http://www.CPCFoundation.com/NSC)



01

02

03

04

05

06

07

08

