

Current Landscape and Trends

I. What should churches and ministries know about the Supreme Court's decision regarding same-sex marriage?

On June 26, 2015, the Supreme Court of the United States issued a 5-4 ruling, holding that the Fourteenth Amendment requires a state to license a marriage between two people of the same sex and to recognize a marriage between two people of the same sex when their marriage was lawfully licensed and performed in another state.

A. The Case: *Obergefell v. Hodges*

This case began when a same-sex couple from Cincinnati, Ohio, filed a lawsuit alleging state discrimination against same-sex couples who have been lawfully married in another state. John Arthur was terminally ill and sought to name his partner, James Obergefell, as his surviving spouse, but was unable to do so under Ohio's same-sex marriage ban. The Director of the Ohio Department of Health, Richard Hodges, was named as the defendant in the case. As the case made its way through the appellate courts, other same-sex couples' cases were joined. And as the case continued to progress, the question before the courts became whether Ohio's refusal to recognize marriages legally performed in other states violated the Fourteenth Amendment's guarantees of equal protection and due process.

B. A Landmark Decision

In its decision, the Court began by recognizing the history of the subject of marriage, noting it is one of both "continuity and change." The Court then applied the following reasoning in making its determination that the Fourteenth Amendment requires a state to license a marriage between two people of the same sex:

- 1) The fundamental liberties protected under the Due Process Clause of the Fourteenth Amendment extend to certain personal choices, and among those is the right to marry.
- 2) Because marriage is inherent in the concept of individual autonomy, supports a two-person union unlike any other in its importance to the individuals involved, safeguards children and families, and is the "keystone of the Nation's social order," marriage is a constitutional right.
- 3) The right of same-sex couples to marry also is derived from the Fourteenth Amendment's guarantee of equal protection.
- 4) Because the right to marry is a fundamental right "inherent in the liberty of the person, and under the Due Process and Equal Protection Clauses of the Fourteenth Amendment," couples of the same sex may not be deprived of that right and that liberty.

C. The Religious Organization “Carve Out”

The Court then added a “carve out” for “religions and those who adhere to religious doctrines” by stating:

Finally, it must be emphasized that religions, and those who adhere to religious doctrines, may continue to advocate with utmost, sincere conviction that, by divine precepts, same-sex marriage should not be condoned. The First Amendment ensures that religious organizations and persons are given proper protection as they seek to teach the principles that are so fulfilling and so central to their lives and faiths, and to their own deep aspirations to continue the family structure they have long revered. The same is true of those who oppose same-sex marriage for other reasons. In turn, those who believe allowing same-sex marriage is proper or indeed essential, whether as a matter of religious conviction or secular belief, may engage those who disagree with their view in an open and searching debate. The Constitution, however, does not permit the State to bar same-sex couples from marriage on the same terms as accorded to couples of the opposite sex.

Chief Justice Roberts and Justice Thomas noted in their dissents that the First Amendment guarantees the right to “exercise” religion. Chief Justice Roberts further noted that “exercise” is a word that the majority omitted from their opinion. So while this provision acknowledges the First Amendment rights of religious organizations to teach principles that are central to their lives and faiths, the dissenting justices expressed concern that it may not be broad enough to encompass the full exercise of those rights.

D. Limits of *Obergefell v. Hodges*

What has often been lost in the media’s coverage of the Supreme Court’s decision is the fact that the holding is applicable only to how states may view same-sex marriage. The Supreme Court held that individual states must issue marriage licenses to same-sex couples and recognize same-sex marriages that were performed out-of-state. While there may be several implications flowing from the Supreme Court’s decision, the focus of the ruling was limited to states only. The decision did not directly address how businesses, organizations, or even individuals must treat same-sex couples. Accordingly, ministries and ministry leaders have been provided little guidance from the Supreme Court as to what the ruling means for them.

Indeed, Chief Justice Roberts observed as such in his dissenting opinion when he noted, “Hard questions arise when people of faith exercise religion in ways that may be seen to conflict with the new right to same-sex marriage.” He then offered the following examples:

- 1) A religious college that provides married student housing only to opposite-sex couples.
- 2) A religious adoption agency that declines to place children with same-sex married couples.
- 3) The tax-exempt status of some religious institutions that oppose same-sex marriage.

Chief Justice Roberts went on to state that there is “little doubt that these and similar questions will soon be before this Court.” It seems likely that future cases will ultimately determine the full scope and effect of this decision for churches and other religious organizations.

As it stands right now, however, this ruling does not appear to take away any of the rights that religious organizations currently have under the law. Still, the ruling leaves unanswered questions that may lead to confusion and concern for ministries.

II. How do ministries balance their sincerely held religious beliefs with current cultural trends, which in some cases run counter to biblical teaching?

Anyone who turns on the news, opens a magazine or browses the Web can see that American society and culture are changing rapidly. Approximately 30 to 50 years ago, a majority of Americans shared many core Judeo-Christian beliefs, but America is going through a transition in which popular belief appears to be heading away from the beliefs that are held by many churches. This shift can be disheartening to ministry leaders and others who view American society as "heading in the wrong direction." There is also a valid concern that this societal shift will place churches and ministries in the cross-hairs of negative publicity, governmental scrutiny and litigation. With these current cultural trends, the question becomes when and how can ministries operate within their foundational standards of beliefs without crossing the line to illegal discrimination?

A. Same-Sex Marriage

Many of the recent societal changes center on the issue of same-sex marriage and other gay rights issues. Questions of liability for issues related to same-sex marriage have become less clear. At the present time, it is unlikely that a lawsuit filed against a church or other ministry for refusing to marry a couple based on the ministry's sincerely held religious beliefs would succeed. This is also true of claims brought against an individual pastor for refusing to conduct a marriage or to solemnize a civil union.

Ministries and clergy have historically been exempted from any requirements to condone or perform same-sex marriages.

Before the recent Supreme Court decision, several states had already recognized same-sex marriage through legislation or court decisions. Whether by legislation or court ruling, many of these states provided an exemption for churches and clergy who, for religious reasons, choose not to condone or perform same-sex marriages or similar ceremonies. The Supreme Court's decision seems to provide that same carve out.

As will be discussed in greater detail in the following sections, there are several steps that ministries can take to protect their sincerely held religious beliefs. Ministry leaders can specifically state the ministry's position (along with other sincerely held religious beliefs) in the ministry's constitution or bylaws. Stating the ministry's beliefs along with applicable references to scripture can help the ministry operate according to these beliefs and avoid claims of improper discrimination. If ministries make it clear that their positions on same-sex marriage are sincerely held religious beliefs, courts typically will not interfere with ministry practicing its beliefs.

B. Faith-Based Employment Decisions

In addition to the issue of same-sex marriage, challenges to a ministry's sincerely held religious beliefs can also arise in the employment context. Since the 1960s, the federal government has enacted laws that prohibit various forms of discrimination in areas such as employment and housing. Title VII of the Civil Rights Act is the most prominent law that the U. S. Congress has enacted to provide equal employment opportunities for individuals, regardless of a person's race, color, religion, gender, or national origin.

The First Amendment of the U.S. Constitution states that Congress may not enact laws that prohibit the free exercise of religion.

The Free Exercise Clause protects individuals and organizations from government interference with their religious beliefs. Under Title VII, a ministry is not required to employ an individual who does not share its religious beliefs. To the extent that the rights afforded to an individual under Title VII (or any anti-discrimination law) conflicts with the Free Exercise Clause, the Free Exercise Clause of the Constitution should prevail.

The religious beliefs exemption in Title VII is intended to address constitutional issues that are unique to religious institutions and allows churches and ministries to make belief-based decisions regarding their ministry operations. Many states and local communities have similar laws, which can be broader than the federal statute. The manner in which Title VII and comparable state and local laws interact with the Free Exercise Clause of the U.S. Constitution has been a matter of legal debate for decades.

In 2012, the U.S. Supreme Court went a long way toward resolving the question of when employees of a religious institution may sue their employer based on alleged unfair treatment in the workplace. With their decision in the case of *Hosanna-Tabor Evangelical Church and School v. EEOC*, the Supreme Court formally recognized a “*ministerial exception*” to employment claims that clergy may bring against a church.

The ministerial exception permits ministries and other faith-based organizations to make hiring and firing decisions based on the employee's beliefs and practices, at least with respect to individuals who are considered to be "ministerial employees."

For hired workers who are not considered to be "ministerial employees," ministries can still take steps to help ensure that they are acting in accordance with the ministry's beliefs if those beliefs are clearly spelled out and workers are notified that they are expected to adhere to these beliefs. One common way of expressing a ministry's religious beliefs is to put together a Statement of Faith and a Statement of Biblical Conduct which clearly articulate the standards of the organization. An employment application can then ask, "Do you agree with the Statement of Faith, and do you agree to abide by the Statement of Biblical Conduct?" Including a morals clause outlining appropriate behavior for volunteer and staff members can also be included in bylaws as well as in employee and volunteer handbooks. Again, referencing scripture alongside the ministry's beliefs helps reinforce the religious nature of the ministry's positions.

It is important for ministry leaders to have a clear understanding of the employee relationship, handbook, code of conduct, statement of faith, and other documents provided to employees. Ministry leaders should be mindful to consistently apply these policies and procedures equally to all employees. All interactions (including discipline or other issues) should be documented and placed in the employee's file. Moreover, ministry leaders should always consult with a local attorney before terminating an employee to ensure compliance with all applicable state and federal laws.

C. Transgender or Homosexual Issues

According to a 2011 survey, about 700,000 Americans believe that their gender is at variance with their biological birth sex. The American Psychiatric Association identifies this as a disorder known as gender dysphoria. It is often treated with cross-sex hormone therapy, gender reassignment surgery, and/or social and legal transition to the desired gender. In recent years, family members, public school administrators, and growing section of the public have encouraged others to affirm the feelings of adults or children who self-identify as transgender. This oftentimes includes allowing access to restrooms and locker rooms of the gender that the person self-identify with.

This can be a very difficult situation for ministry leaders to handle. Ministry leaders naturally want to be welcoming to people of all walks of life, but it can quickly become too difficult when considering how to accommodate transgender individuals and the effect that it may have on the congregation. There are obvious

logistical issues that have to be addressed—what bathroom can a transgender person use or who does a transgender youth stay with at camp or on other overnight retreats?

Generally speaking, ministries are permitted to limit or prohibit an individual's involvement in ministry activities.

This can become more cumbersome when the person sought to be excluded is (or may be) protected from discrimination under certain federal and/or state laws. Indeed, there may be federal and/or state laws that provide certain protections to transgender or homosexual individuals. Their statutory protections from discrimination could be at odds with a ministry's constitutional right to expressive association with others in pursuit of the ministry's religious purposes. In *Boy Scouts of Am. V. Dale*, 530 U.S. 640 (2000), the Supreme Court of the United States recognized that the forced inclusion of unwanted persons in ministry activities may infringe upon the ministry's freedom of expressive association. Accordingly, to balance these competing interests, the Supreme Court found that three key components had to be examined:

- 1) *Whether the ministry engages in expressive association;*
- 2) *Whether forced inclusion of a transgender or homosexual significantly affects the ministry's ability to advocate public or private viewpoints; and*
- 3) *Whether the ministry's interest in expressive association would outweigh the state's interest in eradicating discrimination.*

A ministry will generally be permitted to exclude a transgender or homosexual individual if these three inquiries are answered in the affirmative.

Of course, there is always a risk of legal action anytime a ministry limits the access of an individual based on the ministry's sincerely held religious beliefs. A ministry could be sued for gender identity discrimination or sexual orientation discrimination when prohibiting a transgender or openly gay youth from attending. It is also important to know that, although courts have historically held that ministries can lawfully discriminate against people who are in violation of a ministry's sincerely held religious beliefs, times are changing and proponents of the same-sex and transgender movements appear to be more vigilantly pursuing advancement of their agendas in the court system.

As with other challenges to a ministry's sincerely held religious beliefs, there are steps that ministry leaders can take to protect themselves legally as they attempt to operate in accordance with their beliefs.

If ministry leaders want to maintain historic gender distinctions, ministry leaders should clearly state this position in a statement of faith that can be placed in the ministry's bylaws, policies, and procedures. Ministry leaders should also include the Statement of Faith in any activity participation agreement and require participants (and parents/guardians for youths) to affirm the statement. If ministry leaders make it clear that its positions are sincerely held religious beliefs, courts will typically not interfere with the organization practicing its beliefs.

Resources on Brotherhood Mutual.com

[Employment Decisions Based on Religious Beliefs](#)

[Sample Policy—Purpose Statements \(Biblical Foundation and Creedal Foundation samples\)](#)

[Sample Policy—Morals Clause](#)

Pending Lawsuits and Threats

I. What type of lawsuits should ministry leaders be aware of regarding belief-based decisions?

As Chief Justice Roberts warned, the Supreme Court's same-sex marriage decision presents "little doubt" that several issues regarding religious freedom and belief-based decisions will "soon be before the court."

Many pundits and bloggers simply dismiss any fear that ministries and clergy will be forced to conduct ceremonies that may violate their sincerely-held religious beliefs; however, the current legal landscape has already presented several attacks on religious freedom that signals more are to come.

A. *Knapp v. City of Coeur d'Alene*

Donald and Evelyn Knapp have operated the Hitching Post Wedding Chapel, in Coeur d'Alene, Idaho, for more than 25 years. They are ordained ministers who perform religious wedding ceremonies at their facility. In 2013, the City of Coeur d'Alene passed sexual orientation non-discrimination laws. Shortly thereafter, Idaho's constitutional amendment providing that marriage was between a man and a woman was held unconstitutional by the courts. The Knapps were then approached to perform a same-sex wedding ceremony at The Hitching Post Wedding Chapel, which they respectfully declined because of their religious beliefs.

City officials made it known that the Knapps were in violation of the sexual orientation non-discrimination law. The City indicated that, unless the Knapps agreed to perform same-sex ceremonies at their chapel, they would be subject to up to 180 days in jail and up to \$1,000 in fines for the initial violation and each day it continued.

The Knapps filed a lawsuit to protect their sincerely-held religious beliefs. The City argued that the Knapps were subject to the sexual orientation non-discrimination laws because The Hitching Post Wedding Chapel was a for profit business. However, as public scrutiny and criticism grew, the City informed the Knapps that they would not be prosecuted. However, the matter is still pending because the City refused to amend the ordinance to make it clear that it does not apply to for profit business operated according to religious beliefs.

It is important to note that most churches and ministries do not operate as a "for profit business" as The Hitching Post was. This is clearly a distinguishing characteristic. However, it is highly unlikely that the couple who first approached the Knapps to perform a same-sex ceremony knew that it was a for profit business. Instead, they likely observed that the Knapps were ministers who perform religious ceremonies. Accordingly, churches and ministries are not immune from these challenges.

B. *Bernstein, et al. v. Ocean Grove Camp Meeting Association*

The Ocean Grove Camp Meeting Association is a religious retreat founded by Methodists just after the Civil War. The campus includes a wooden auditorium, constructed in 1869, that is a national historical landmark. There is also a half-mile of boardwalk running alongside the beach, with an open-air pavilion. In early 2007, the State of New Jersey legalized same-sex civil unions. Couples began asking to use the Ocean Grove pavilion to perform same-sex ceremonies, which Ocean Grove respectfully declined based on its sincerely held religious beliefs. Thereafter, same-sex couples filed discrimination complaints with the New Jersey Division on Civil Rights.

The couples argued that Ocean Grove's pavilion was a place of public accommodation subject to the state's non-discrimination laws.

The State of New Jersey agreed. Although the pavilion was on the ministries property, the State eventually declared that the pavilion was NOT a religious facility, but an area of public accommodation. Ocean Grove was found to have engaged in unlawful discrimination. In the end, the only solution that would not require Ocean Grove to violate its sincerely held religious beliefs was to stop hosting weddings of any kind in its pavilion.

C. *In re Jared Woodfill, et al.*

In mid-2014, the City of Houston's mayor and city council implemented a sexual orientation/gender identity law that, among other things, prohibited gender identity discrimination in public restrooms. A large majority of Houston residents opposed this law. Accordingly, a petition was circulated throughout the city in order to have the law placed on the ballot for Houston residents to vote on. The petition was required to have approximately 18,000 signatures, but over 50,000 people signed the petition. The city secretary legally certified the petition, which required the city council to repeal the law or put the law to a vote of Houston residents. Instead, the mayor and city attorney refused to recognize the certification.

In response to the mayor's actions, a group of citizen's filed suit to require the city to honor the petition. As that case proceeded, the city served subpoenas on five local pastors which specifically requested the pastors' sermons related to: 1) the petition, 2) the mayor, 3) homosexuality, or 4) gender identity. The subpoenas also requested any personal communications the pastors may have had with church members or others about these issues.

Although neither the pastors nor their churches were involved in the litigation, the city apparently wanted to examine their involvement with the petition and determine whether the pastors had ever opposed or criticized them. At one point, Houston's mayor posted on social media, "If the 5 pastors used pulpits for politics, their sermons are fair game." The mayor's statement seemed to equate a biblically-based sermon on homosexuality or gender identity to political speech. This, of course, was particularly troubling since a non-profit organization could lose its tax-exempt status for political speech and activity. While it is not clear if this was the actual intent of the city, at a minimum, the subpoenas appeared to be an attempt to put political pressure on the pastors regarding what they might preach about social issues.

Fortunately, due to the public outcry, the city withdrew the subpoenas. Recently, the Supreme Court of Texas also held that the petition was properly certified. Houston's city council is now required to repeal the law or place the issue on the November ballot.

D. *Christian Schools and Transgender/Sexual Orientation Cases*

There have been a number of recent lawsuits involving Christian high schools and colleges' reactions to transgender and homosexual issues. These cases typically center on whether a school's sincerely held religious beliefs take precedence over state and federal requirements for educational institutions. To date, courts have historically favored Christian schools' rights. Here are a few cases that ministry leaders should be aware of:

- California Baptist University expelled a student after it learned that the student fraudulently reported his gender. The student had listed female on his college application, but it was later revealed that the student was a transgender male. The transgender student filed suit under several theories, including violation of his Civil Rights. The Court held that the school was permitted to expel the student from on-campus activities, but required the school to allow the student to attend off-campus services that are open to the public. The school was also ordered to pay the transgender student's attorney fees and allow him to take online classes.

- George Fox University was sued by a transgender student alleging violation of Title IX (A federal law that prohibits discrimination on the basis of sex in schools that receive federal funding). The University prohibited the transgender student from living on campus with roommates of the opposite sex. The University offered to allow the transgender student to room on campus with no roommates, but he refused. The court recognized the University’s religious exemption under Title IX which allowed the University to “preserve the right to draw on its religious convictions to handle situations.”
- Preston High School, a Catholic school in Queens, New York, was sued after it expelled two girls for fighting at the school. One of the students claimed that her expulsion for fighting was a pretext. She claimed that she was actually expelled because she brought another girl to a school-sanctioned dance and identifies as a lesbian. During the early stages of the litigation, the court found in favor of the student and issued a temporary restraining order that required the school to readmit the student.

E. Threats to Tax Exempt Status

With the Supreme Court’s decision on same-sex marriage, there are likely to be a number of attacks on ministries’ tax exempt status. In *Bob Jones University v. U.S.*, a 1982 Supreme Court decision, the Court held that the IRS could revoke an institution’s tax-exempt status to prohibit racial discrimination as protected under the 14th Amendment. There is a fear that the Supreme Court’s reasoning in *Bob Jones University* could be argued to apply to same-sex marriage.

The argument would likely be that refusal to perform a same-sex marriage is a violation of the same-sex couple’s constitutional rights and, thus, requires removal of the organization’s tax-exempt status. As Chief Justice Roberts noted in his dissent, in *Obergefell v. Hodges*, “[T]he Solicitor General candidly acknowledged that the tax exemptions of some religious institutions would be in question if they opposed same-sex marriage.”

Accordingly, it is likely only a matter of time before religious organizations (e.g., churches, schools, etc.) have their tax exempt status challenged.

Potential Solutions and Protections

I. What steps can a ministry take to protect itself if it wishes to avoid activities, events or the use of its premises if the activity or use runs counter to the beliefs of the ministry?

While churches and ministry leaders may seem to be at the mercy of the changing legal and judicial winds, there are a few steps that ministries can take to help reduce the likelihood they will be required to violate their sincerely held religious beliefs.

It is important for ministry leaders to develop policies and procedures in a way that provides broad religious freedom protections while also referencing scripture to support such positions.

A. Governing Documents/Bylaws.

Governing documents, including constitutions and bylaws, are essentially rules that govern an organizations major decisions and key activities. Generally, bylaws define and describe the rights and responsibilities of

members, leaders, staff, and others related to the organization. The best practice is to carefully draft and implement bylaws that accurately describe your ministry's practices and beliefs.

With regard to issues related to same-sex marriage, it is wise to specifically state the ministry's position (along with other sincerely-held religious beliefs) in the ministry's constitution or bylaws. Stating the ministry's beliefs along with applicable references to scripture can help the ministry operate according to these beliefs and avoid claims of improper discrimination. If a ministry makes it clear—via governing documents and otherwise—that the ministry's position on same-sex marriage is a sincerely-held religious belief, courts will typically not interfere with the ministry practicing its beliefs.

Accordingly, to provide the broadest protection, it is generally recommended that the bylaws include: 1) a Purpose Statement and 2) a Marriage, Intimacy, and Appropriate Behavior Provision.

1. **Purpose Statement** – The Purpose Statement should be designed to state the spiritual and religious beliefs of the ministry. The statement should reference scripture as a basis for any behavior that is prohibited or discouraged. From a legal standpoint, citing supporting scripture will strengthen the ministry's First Amendment position in the event of any litigation.
2. **Marriage, Intimacy, and Appropriate Behavior Provision** – This provision is designed to state the ministry's expectations for employees, volunteers, and others with respect to marriage and interpersonal relationships. A bylaw provision that clearly explains the ministry's position on marriage, intimacy, and appropriate behavior can be helpful regardless of the ministry's specific beliefs. Again, it is very important to reference Scripture as a basis for any behavior that is prohibited or discouraged.

B. Operational Documents.

It is important to make sure that behavioral expectations of those involved in a ministry are clearly spelled-out. Operation documents should specifically state that those who join the ministry as members, who use ministry facilities, or who serve as ministry workers are expected to support, observe, and follow the ministry's spiritual purpose and beliefs.

1. **Facility Use Agreements** – If a ministry rents out a meeting hall to the general public for a fee, courts may be more likely to require the ministry to rent the facility to all individuals or groups who seek to reserve the facility, regardless of the practices or beliefs of the group. Ministry leaders should consider the possibility of updating ministry policies with respect to facilities use by requiring that those who wish to use ministry facilities be members in good standing of the ministry. Ministry leaders should also consider developing a statement of beliefs—which includes the ministry's position on marriage—for prospective members to read and consent to prior to joining the ministry. In this way, ministries may be able to improve their ability to defend against claims of discrimination that might be brought by outside individuals or groups which do not share the ministry's beliefs.
2. **Employee and Volunteer Handbooks** – In a secular employment law context, employers are prohibited from making decisions based on an employee's spiritual beliefs and practices. As a faith-based organization, however, ministry leaders can take steps to ensure that employees (or volunteers) are acting in accordance with the ministry's beliefs. It is a good idea to clearly state the ministry's positions in a statement of faith or morals clause that can be placed in the ministry's employee handbook and volunteer policies. The purpose of a morals clause is to state the lifestyle expectations for employees and volunteers. Referencing scripture in these documents in support of the ministry's expected moral conduct can help reinforce the religious nature of the ministry's position. It is important that the ministry consistently enforces its statement of faith or moral clause.

With respect to the employment process, ministry leaders may also want to consider including a question on the ministry's employment application that asks something to the effect of "Do you agree with the ministry's statement of faith, and do you agree to abide by the statement of biblical conduct?" Employment applicants should be provided with a copy of the statement of faith and biblical conduct along with the employment application. Of course, ministry leaders will need to verify with a locally-licensed attorney whether or not this approach is permitted in the ministry's state.

C. Respond with Sensitivity.

It is important to train your clergy, staff, and volunteers to approach individual needs and requests with empathy. Since you cannot satisfy every request or demand, the manner in which you convey your response is sometimes as important as the message you are stating.

D. Consult with Local Counsel.

When revising organizational documents, policies and procedures, ministries should involve a local attorney. A wide variety of federal, state, and local laws apply to employer/employee relations, in particular, so consulting with a local attorney also can provide guidance on any state-specific legal issues that you may encounter. Always contact your attorney and your insurance agent if you anticipate a lawsuit against your church or ministry. These professionals can help walk you through the situation.

Resources on BrotherhoodMutual.com

[Sample Facility Use Agreement](#)

[Lending Church Facilities: Facility Use Agreements](#)

[Lending Your Church Facilities: Guidelines and Preparation](#)

[Risk Management Issues Associated with Lending Church Facilities](#)

Insurance Considerations

I. What is the benefit of a ministry-focused insurance company versus the wider insurance industry?

Churches and ministries do not typically receive a lot of attention from the wider insurance industry. The wider insurance industry generally has not taken the time to understand the unique issues, concerns, or exposures that churches and ministries have. Accordingly, the wider insurance market will generally view a church the same way it views a general contractor or business.

Churches and ministries deserve better than one-size-fits-all insurance coverage because the unique issues, concerns, and exposures often require customized solutions.

As a ministry-focused insurer, Brotherhood Mutual has specialized knowledge and skills to specifically assist churches and ministries. We have been insuring churches and ministries for more than 90 years, and share a common mission to advance the kingdom by serving the Church. As such, we understand the unique needs of ministry.

Every year, we work with thousands of Christian camps, colleges, schools, and churches. Our insurance can be tailored to fit any ministry, large or small. You won't find such coverage—or care—anywhere else. We have also been an innovator in developing cutting-edge coverages to meet the dynamic needs of ministries. This includes coverage for counseling acts, alleged sexual acts, alleged discriminatory acts, cyber liability, worldwide liability, and religious freedom protection—just to name a few.

The Religious Freedom Protection is a perfect example of how Brotherhood Mutual provides coverage for belief-based decisions as opposed to the wider insurance industry.

Following the Supreme Court's decision on same-sex marriage, many insurance companies were flooded with questions regarding whether their insured-churches would have insurance coverage if they were sued for refusing to marry a same-sex couple. One insurance company that insures more than 8,400 churches and ministries responded in the negative. It stated that it would NOT provide any liability coverage when a church or ministry is sued for standing-up for its sincerely held religious beliefs. Brotherhood Mutual, however, has developed coverage precisely for these type of situations. The Religious Freedom Protection Coverage endorsement (BGL-66) offers additional protections to churches and ministries in response to concerns regarding their belief-based decisions.

The Religious Freedom Liability Coverage endorsement provides coverage for emotional injury claims that result from alleged discrimination, religious communication, or religious activities. This is true even if there is no underlying physical injury. An alleged act of discrimination would include, "any disparate impact sustained by any person because of that person's race, religion, gender, sexual orientation, age, nationality, criminal background, physical impairment or disability; [as well as] any conduct characterized or interpreted as being discriminatory in nature by a person against whom such conduct is directed."

The Religious Freedom Liability Coverage endorsement also provides coverage for challenges to a ministry's tax exempt status, reimbursement for declaratory judgment actions that a ministry may initiate in order to protect its right to pursue a belief-based decision or practice, and liability defense reimbursement coverage.

Accordingly, if a ministry were to be held legally responsible for an allegation of discrimination, the BGL-66 would likely help protect the ministry from certain claims related to these situations.

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