

Guidance to Congregations Considering Reopening

James A. Wilson, Acting Stated Clerk, July 29, 2020

"But speaking the truth in love, we must grow up in every way into him who is the head, into Christ, from whom the whole body, joined and knit together by every ligament with which it is equipped, as each part is working properly, promotes the body's growth in building itself up in love."
Ephesians 4:15-16.

As congregations consider returning to in-person worship or re-opening their buildings, Sessions must be mindful of both their legal and fiduciary duty to take reasonable steps to minimize risk of spreading Covid-19 infections by worship or other church activities and their ordination vows to "watching over the people, providing for their worship, nurture, and service" (W-4.0404b) and "give[s] full expression to the rich diversity of the church's membership" (G-3.0103). This includes assessing whether a plan promotes expanding those who can worship or has the effect of excluding individuals whose risk factors prevent participation in in-person worship. In carrying out these obligations, we strongly urge Sessions to consider the following:

- Churches are unlikely to have legal immunity for negligent or intentional acts that cause a congregation member, visitor, or employee to contract Covid-19. While congregations have some protection from liability under employment discrimination laws, they are not protected from liability for acts that may lead to an individual contracting Covid-19, just as they are not immune from liability for sexual abuse of minors.
- Criteria announced by the state of Ohio and the Center for Disease Control are likely to be determined to set the minimum standards of care for returning to worship or asking employees to return to work. In other words, if you return to worship or return employees to work without following these standards, you are at risk of legal liability for illness or death that results from contact with Covid-19 as a result of your congregation's activities. At a minimum, if you are going to allow in-person worship or other activities in your church building, we strongly urge the following:
 - Masks for all individuals over 10, covering mouths and noses, are mandatory as of 7/22/20. Any person failing to wear a mask must be asked to leave immediately. If the individual refuses, the worship or activity must be terminated immediately. We understand that for some individuals, wearing a mask is a political issue. This will not protect you from liability if someone contracts Covid-19.

- Attendance should be taken at all meetings in the church, including worship, and contact information obtained for each person in attendance in the event it is necessary to contact attendees regarding possible exposure to Covid-19.
- Physical distancing is mandatory, even with masks. Six feet is a minimum, not a guideline. Like masks, if individuals refuse to comply, the person must leave, or the activity must immediately be terminated.
- All participants should affirm the following before being permitted to enter worship or a church activity:
 - The individual has taken his or her temperature shortly before arriving at the church and his or her temperature is below 100.4 F.
 - The individual is not experiencing any symptoms associated with COVID-19, such as fever, chills, cough, shortness of breath, sore throat, new loss of smell or taste, diarrhea, or vomiting.
 - The individual has not previously been diagnosed with, or suspected to have, COVID-19 and have not been completely symptom free for at least 72 hours without the aid of any medication.
 - The individual has not been exposed within the past 14 days to anyone diagnosed with, or suspected to have, COVID-19.
 - The individual has not traveled within the past 14 days either internationally or to any domestic location outside of Ohio.

In enforcing these requirements, we urge that niceness not be confused with kindness—kindness is protecting the vulnerable in these circumstances.

- Singing is strongly discouraged as a high-risk activity.
 - Celebration of the Lord's Supper is also a high-risk activity unless means can be devised to maintain physical distancing and to insure the elements are free from any risk of transmitting the Covid-19 virus.
- Before resuming in-person worship or returning employees to work in the building, you should consult with your congregation's insurance agent to confirm that any plans you have made will not result in the denial of insurance coverage for the actions. Failure of a Session to take reasonable steps to determine that the congregation's insurance is in place may constitute a breach of the Session members' fiduciary duties.

- You are obligated to provide necessary protective equipment to church employees if you require them to work in situations in which contact with Covid-19 is reasonably possible.
- Any church employee who can work from home, and desires to do so, should be permitted to do so.
- You are not permitted to release any health-related information regarding your pastor or other employees of the church, including information regarding Covid-19 infections, without a HIPAA (Health Insurance Portability and Accountability Act) compliant written release from that individual. However, for all employees, the following rules should be implemented:
 - If he or she is diagnosed with COVID-19, the individual must immediately notify his or her supervisor. The individual should be required to be quarantined for a minimum of 14 days and stay quarantined for a minimum of 72 hours after he or she becomes completely symptom free including, but not limited to, no fever for 72 hours. The individual must also provide either his or her supervisor with the names of any co-workers, church members or visitors with whom you have been in close proximity (6 feet) in the previous 14 days, so that those individuals may self-quarantine for an appropriate time.
 - If he or she has been in contact with anyone who is diagnosed with COVID-19, he or she must self-quarantine for 14 days, and must also immediately notify his or her supervisor. He or she should not be permitted to come into the building during this 14 day period.
 - If she or he experiences any symptoms associated with COVID-19 (such as fever, chills, cough, shortness of breath, sore throat, new loss of smell or taste, diarrhea, or vomiting) while in the building, then he or she must immediately leave the office and notify his or her supervisor at the church.
 - If he or she has traveled outside of the United States or to an area with high rates of infection in the U.S. If you live with, or have been in close contact with, anyone who has traveled outside of the United States, he or she must self-quarantine for 14 days upon return. She or he should not be permitted to come into the office during this 14-day period.
- Session does not have the authority to require a pastor to conduct worship, funeral services, marriages, or other activities if the minister does not believe such activities are safe. Any attempt by a Session to require a minister to do so can result in corrective action by the Presbytery. A minister may not be removed from office or the terms of his or her call changed without the concurrence of the Presbytery.

- Child and youth protection policies and sexual misconduct policies must be strictly enforced if a congregation returns to in-person worship. The challenges of staffing and enforcement created by Covid-19 are not a defense to harm caused by failure to follow such policies. Nor are requirements to perform background checks on childcare workers in any way excused or reduced by the pandemic.
- Any individuals providing childcare, supervision of children or at-risk populations must be strictly screened for infection.