

Section I

ROLES AND RESPONSIBILITIES OF CHURCH TRUSTEES

IN THE

PRESBYTERIAN CHURCH (U.S.A.)

and

ROLES AND RESPONSIBILITIES OF PRESBYTERY TRUSTEES

IN THE

PRESBYTERY OF GENESEE VALLEY

ROLES AND RESPONSIBILITIES OF CHURCH TRUSTEES IN THE PRESBYTERIAN CHURCH (U.S.A.)

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Incorporation and Trustees (from the *Book of Order*)

G-7.0400 4. Incorporation and Trustees

G-7.0401 Incorporation and Trustees

Whenever permitted by civil law, each particular church shall cause a corporation to be formed and maintained. Only members on the active roll of the particular church shall be members of the corporation and eligible for election as trustees. The elders in active service in a church who are eligible under the civil law shall, by reason of their office, be the trustees of such corporation, unless the corporation shall determine another method for electing its trustees. Any such alternate method shall provide for a nominating committee elected by the corporation, and for terms for trustees the same as are provided for elders. Any particular church which is not incorporated may select trustees from the members on the active roll of the church. The power and duties of such trustees shall not infringe upon the powers and duties of the session or of the board of deacons. (G-10.0102, G-6.0402)

G-7.0402 Powers

The corporation so formed, or the individual trustees, shall have the following powers:

1. to receive, hold, encumber, manage, and transfer property, real or personal, for the church;
2. to accept and execute deeds of title to such property;
3. to hold and defend title to such property;
4. to manage any permanent special funds for the furtherance of the purposes of the church,

all subject to the authority of the session and under the provisions of the Constitution of the Presbyterian Church (U.S.A.), provided further that in buying, selling, and mortgaging real property, the trustees shall act only after the approval of the congregation granted in a duly constituted meeting. (G-8.0500)

The Stewardship of Property and Finances (from *The Companion to the Constitution, Presbyterian Church (U.S.A.)* *and the Policies, Guidelines and Procedures Manual* of the Presbytery of Genesee Valley]

General

Property and financial matters require basic knowledge of ecclesiastical and civil laws. Laws in each state require different procedures for sessions regarding property and finances. Property and financial matters also involve a clear understanding of the relations between the session, the congregation, and the presbytery. Sale, lease, and other encumbrance require carefully timed scenarios to avoid inconvenience, or even extra expense.

Property matters, questions regarding finances, budgets, and reporting can be confusing, and from time to time can be the source of conflict and misunderstanding. Proper handling and proper reporting and interpretation can reduce the confusion and causes of conflict.

The importance of finances and funding mission in the congregation clearly relates them to Christian stewardship. The total amount of funding provided by the congregation for site, building purchase or construction, and maintenance and renovation represents a sizable percentage of the total giving of the congregation. The session bears the dual responsibility of adequate care of property and the balance of funding for all needs in the mission of the church.

Property Held in Trust

In the Presbyterian Church (U.S.A.), property is held in trust by the particular church for the use and benefit of the Presbyterian Church (U.S.A.). (G-8.0201) Whether the title is lodged in a corporation, an individual trustee or trustees, or an unincorporated association, whether the property is used in programs of a particular church or of a more inclusive governing body or retained for the production of income, that sacred trust prevails.

It is perhaps easiest to see that trust relationship in a new church. Before a new church is formed, a site is often chosen. Before chartering, the presbytery exercises its responsibility of locating the new church and prepares the way for members to covenant together. The presbytery lends its own funds or approves mortgages to borrow funds and cooperates in construction. As the new church is chartered, its members accept the trust of the property and take on more and more of the finances. Often, the presbytery will transfer title to the congregation when it assumes full self-support. In the future, if the congregation ceases to exist, the property will be transferred back to the presbytery to keep the trust of those who have contributed for the purpose of establishing and maintaining a Presbyterian church.

Church Locations

The presbytery has the responsibility for determining the location of new churches and of churches desiring to move.

Responsibilities of Session vs. Trustees

The session carries a strategic responsibility for property and finance, as well as for worship and congregational life. The trustees, who are responsible to the session for their activities, have the immediate responsibility for management of the property, including care, maintenance, accessibility for the disabled, compliance with applicable building, fire, access and safety codes, and use restrictions. The session determines the use of the church buildings and facilities and handles requests by outside organizations for their use. In acting on such requests, the session considers theological implications and may call on the trustees to advice on insurance, fiscal, legal and tax matters in arriving at decisions.

Unicameral Boards

Some churches are organized with unicameral boards, i.e., a single board assumes responsibility for both the strategic and immediate responsibilities for management of property and finance as well as for worship and the congregational life of the church as outlined above. Although unicameral boards are free to s/organize themselves in any way they wish to meet their responsibilities, they usually set up committees of the board which are charged with specific responsibilities. The heads of committees are usually members of the board and committee membership is drawn from the congregation, although other members of the board may serve on committees.

A Buildings and Grounds Committee, a Finance Committee and an Insurance Committee are the three most frequently identified committees that are set up to handle the responsibilities that would otherwise fall to a board of trustees.

<p>Note: The following discussion is based on the premise that the church is organized with a separate session and board of trustees.</p>
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Makeup, Officers and Terms

The number of trustees comprising a board is a direct function of the size of the church facilities for which they are responsible. Trustee terms are usually for three years spread uniformly across three classes for maximum continuity. Trustees elect their own officers which usually includes a chair (president),

vice-chair and secretary. The pastor and church treasurer are regular attendees at trustee meetings in non-voting capacities.

Individual Duties

Within the trustees, duties and responsibilities can be assigned in any way that best fits the needs and obligations of the individual church. A typical breakdown of assignments might include internal maintenance; external maintenance; organ, pianos and sound system(s); heating and utilities; insurance; grounds; stewardship and budget; workday coordinator; and custodial interface. One or more trustees may be assigned to a particular area depending on the extent that may be required.

Property Management

The trustees, with the approval of the session and the congregation, receive, hold, encumber, manage, and transfer property, real and personal, for the church; accept and execute deeds of title to such property; and hold and defend title to such property. Additional considerations include zoning and code regulations, subsoil conditions, hazardous waste or wetlands regulations, and historic or landmark buildings.

Custodial Care

While other employment within the church (pastors, secretaries, etc.) is a responsibility of the session, employment of the church custodian(s) is usually the responsibility of the trustees, including monitoring and general supervision of the custodian's job performance. Custodial services are frequently obtained under a contractual arrangement which avoids direct hiring and its implications.

Purchase or Sale of Property

When church property is to be purchased or sold it falls to the trustees to take necessary steps so that all parties involved—architects, contractors, buyers, sellers, session, congregation, presbytery, synod, General Assembly, lending institutions, title firms, civil offices, attorneys, building committee—will be able to make informed decisions in a timely manner. The provisions for buying or selling property are fairly straightforward and follow the conventional procedures of real estate transactions, which include:

- Agreement to purchase/sell
- Report of title insurance firm
- Approval by lender if there is to be a loan
- Transfer of title or preparation of mortgage
- Signing papers on closing date
- Vacating the premises

In addition, purchase or sale of church property requires the approval of presbytery as indicated below in the section entitled Approvals.

Lease of Property

When a church wishes to rent or lease the use of its building or land, there are a variety of legal, insurance, tax, zoning and other practical issues that must be considered. Time, space, purpose and other local circumstances will determine what kind of lease or written agreement is appropriate. The size and duration of the lease will also determine which of the approvals listed below are required. The trustees should have a clear written contract or agreement with the leasing organization. Prudence should keep pace with the desire to be generous and to maximize property use for the benefit of mission and community involvement. The agreement should include at least the following items:

1. An indemnification and hold-harmless agreement in favor of the church for activities of the tenant.

2. A certificate of insurance from the tenant's insurer, naming the church as an additional insured. Check with the church's insurer to determine that coverages are adequate and that there are not problems of coverage being created by the lease.
3. An agreement about the duration of the lease, provision for renegotiation and renewal, settlement of disputes and termination provisions.
4. An agreement on spaces and equipment, whether there will be exclusive or shared use, storage, hours and days of use.
5. Stipulations regarding alteration of the building or equipment, and that attached improvements become the property of the church.
6. Determination on whether there will be rent or services in exchange for use.
7. Agreement on set-up and take-down, opening and closing the building, general cleaning, payment of utilities, heating/cooling regulation, general security and repair of damages.
8. Provision for request for special additional use and dispute resolution.
9. Assignment of spokesperson(s) for the church and leasing organization.
10. Agreements regarding symbols, signs and displays that may be put up or must be removed by either party.
11. Clarification of the linkage if the tenant is a service program in which the church is also a sponsor, including provision for a person appointed by the session to serve on the tenant's board.

Note: Presbyterian congregations are exempt from federal income tax under the denomination's group exemption under Internal Revenue Code 501(c)(3). Rental uses not related to religious purposes do not normally affect this exemption unless they become "substantial."

Caution: Even with an agreement such as outlined above, the trustees remain responsible for property maintenance.

New Construction

In new construction a building committee elected by the congregation ordinarily advises the session and trustees on design, cost and suggestions for use. Ongoing communication among the committee, the session and the trustees is essential to cover the following:

1. Cost estimates of construction and ongoing operational expenses
2. Timelines for the various approvals
3. Need for authorized signatures on papers, contracts and other documents
4. Use needs for worship, education, fellowship, administration, storage, maintenance and equipment

Approvals

When a church in the Presbytery of Genesee Valley wishes to:

1. Purchase real property with or without encumbrances or conditions, or
2. Sell, mortgage, encumber or convey any interest in any real property, or
3. Lease any real property used for purposes of worship or lease any of its other real property or buildings for a term of more than one year, or
4. Borrow money in excess of 25% of the last year's operating budget, or

5. Conduct any capital fund drive extending for more than one year or involving a goal of more than 25% of the last year's operating budget, or
6. Enlarge, improve, extend, renovate or repair church property costing in excess of 25% of the last year's operating budget,

the following approvals are required (preferably in the order listed):

- a. Session—approves and recommends approval by the congregation
- b. Congregation—approves and authorizes the session to seek presbytery approval
- c. Presbytery Board of Trustees—seeks to verify that the request is financially sound and that necessary legal, fiscal, and contractual steps have been/are being taken before making comment to or recommending approval by Presbytery.
- d. Presbytery (or Council acting on behalf of Presbytery)—approves at one of its regular meetings.

Exceptions: The Presbytery Board of Trustees is authorized to provide final approval and then report to Presbytery proposals or requests involving the following:

1. The purchase of property without any encumbrances, condition, or borrowing
2. The refinancing or extension of any existing mortgage or loan not involving any new borrowing (except as may be required for closing costs)
3. The granting of an easement not involving more than 10% of the land area of the property
4. The lease for a term of less than five years of any real property or church building not used for purposes of worship and involving less than 50% of the land area of such property or 50% of the usable floor area of such building
5. Improvement, renovation or repair projects which are essentially for reconstruction, rehabilitation, or maintenance purposes (such as structural repair, roof replacement, redecorating, etc.), which do not require borrowing in excess of 25% of the last year's operating budget

Note: Presbytery Trustees can also serve as a resource by:

- Providing counsel based on prior, similar transactions
- Recommending a loan from the Presbytery's Revolving Loan Fund, if appropriate
- Coordinating approval timelines

Building Use by Outside Organizations

The session has the responsibility for “the appropriate use of church buildings and facilities” when it balances requests for use against the adequacy of facilities for worship, program and service. There are implications for budget as well as policy regarding use. While the session cannot foresee every request for use, it should anticipate general types of requests and develop guidelines or policies that reflect its basic philosophy of building use. Trustees may need to support the session in developing such guidelines or policies as state and federal laws may impose corporate income tax or real estate tax liability, and the extent of various insurance coverages may be a factor in deciding upon use.

Security Procedures

As part of their responsibility for security, the trustees usually generate lock-up procedures for securing the church buildings when not in use. In addition, responsibility for checking to make sure church buildings are properly secured on a daily basis is frequently rotated among the trustees with each member being responsible for a month at a time. Outside organizations which use the church facilities must be made aware of such procedures in writing in advance and their adherence to them should be part of their

use agreement. Although the session usually executes use agreements, it usually falls to the trustees to monitor adherence to them.

Insurance

The session is required to “. . . obtain property and liability insurance coverage to protect the facilities, programs and officers, including members of the session, staff, board of trustees and deacons." Usually, the session delegates the responsibility for selecting, administering and maintaining proper insurance coverage to the trustees.

Insurance Coverages Available

This section is an overview of the types of insurance coverage available. The specific requirements of the insurance program for a specific church should be prepared in consultation with an insurance agent or broker who specializes in church insurance. In the Presbytery of Genesee Valley there is a Master Insurance Policy available which provides broad coverage for the churches who elect to subscribe. It is administered by the Christopher Williams Agency, 26 Main St., Pittsford, 586-3060; copies of the Master Policy are available for review at the William's Agency and at the Presbytery Office.

1. **Property Damage**—Covers buildings and contents.
 - a. All risk
 - b. Replacement cost, no co-insurance
 - c. Earthquake
 - d. Flood
 - e. Data processing
 - f. Boiler and Machinery (see Section 10)
 - g. Stained glass and signs
 - h. Business interruption and extra expense
2. **General Liability**—Covers bodily injury or property damage to other persons or property
 - a. Locations
 - b. Programs
 - c. Products
 - d. Contractual liability
 - e. Premises medical payment
 - f. Minister counseling
 - g. Professional liability
 - h. Include lay employees and volunteers
 - i. Sexual misconduct (see Section VII)
3. **Vehicle Coverage**
 - a. Collision (physical damage to owned vehicles)
 - b. Comprehensive (vandalism and glass breakage to owned vehicles)
 - c. Liability (bodily injury and property damage to other persons or property)
 - d. Medical payments
 - e. Uninsured or under-insured motorists
4. **Crime Coverage**—Also known as Employee Dishonesty Coverage
 - a. Theft of money
 - b. Forgery
 - c. Church fidelity bond
5. **Bonds**
 - a. Construction
 - b. Utility

c. Many others

6. **Directors and Officers**—“Decision-making” insurance covers the personal liability of officers and trustees. It provides coverage for alleged wrongful acts and must be specifically endorsed to the policy.
7. **Sexual Misconduct**—This is an area of potential liability that was virtually unrecognized a decade ago. Today it comprises more than 5% of all claims paid on behalf of religious organizations. Some carriers are declining to offer coverage or are reducing the policy limits available. The risk can be greatly reduced by (and sometimes insurance carriers can be induced to insure or increase coverage) by taking steps to prevent such abuse from happening. *Church Law and Tax Report* (P.O. Box 1098, Matthews, NC 28106, 704-841-8066) has a very helpful and illuminating video program available. It should be seen by all session members and trustees as they contemplate this area.
8. **Workers’ Compensation**—Every state has workers’ compensation laws requiring employers to assume obligation for employee injuries and some illnesses that arise out of and in the course of employment.
9. **Umbrella Liability**—Also known as Excess Liability Coverage, it provides high limits of extra coverage for many liability exposures, like general liability, vehicle liability and workers’ compensation.
10. **Boiler and Machinery Insurance**—Covers such items as heating plants, electrical equipment, refrigeration equipment, air conditioning equipment, etc.
11. **Other coverages to consider**—Church operated camping trips, work camps, music instruments, special events, minister’s personal property. etc.

Insurance Policy Limits

It is imperative that proper replacement cost be determined in order to maintain adequate levels of insurance coverage. The limit to be maintained in property insurance policies can be determined by a professional appraisal or in consultation with the insurance carrier. Trustees must balance the cost of insurance coverage with the cost of exposure to uninsured losses. Few churches are able to self-insure the cost of a lawsuit or fund the uninsured portion of a large property damage claim. The incremental cost of carrying the proper limits is well worth the additional premium dollars. Limits carried on liability policies are often determined by the number and types of programs the church operates and the part of the country where the church is located. It is recommended that ministers maintain their own primary personal property coverage and count on any specific endorsements added to the church’s policy only as secondary coverage.

Loss Prevention and Control

Loss prevention and loss control after loss are an important part of the stewardship responsibilities of trustees. The trustees should take a proactive stand in maintaining the health and safety of members, visitors and employees and in preserving the value of property, e.g.:

1. As part of the church safety program, trustees should tour the church facilities on a regular schedule, listing all known hazards or attractive nuisances on the property. Special attention should be given to school or day care operations. Afterwards, priorities can be set for getting things fixed.
2. Maintenance personnel should be instructed to correct all minor hazards immediately and to report all major hazards. The trustees should then take steps to limit any further damage, prevent others from being injured by the hazard and plan to correct the hazard as soon as possible.
3. Trustees should invite regular inspections by the local fire department.

4. Trustees should take steps to prevent theft and arson. Church property should have adequate exterior and interior lighting, windows and doors should be locked at night, and the police should be asked to patrol on a regular basis.
5. Every church should have smoke detectors and alarm systems installed in all parts of the buildings. Buildings should have several fire extinguishers located in strategic locations and they should be checked periodically.
6. Churches should limit the uses and number of drivers of church-owned or rented vehicles. Prudent trustees will be sure that all drivers have a valid drivers license and will check the driving records of those who drive on a regular basis.
7. The trustees should keep a current, detailed and photographed inventory of church property which should then be stored off site. Any significant changes in inventory should be immediately reported to the insurance agency.
8. Computer records should be backed up and retained off site in a secure place to insure record retention and privacy.
9. The trustees should attempt to reduce or limit liability exposure caused by outside organizations using church facilities. When considering arrangements with outside organizations, churches should discuss liability issues with their insurance carrier and legal advisors before commitments are made. The outside organization should be asked to show proof of insurance by providing a certificate of insurance. If the organization uses the church facilities daily or weekly, compensates the church for its use with money, serves the public for fees, is funded by or is part of an organization headquartered elsewhere, has a payroll, or puts on performances for the public, the trustees should require that the church be named as an additional insured on the organization's insurance policy. If the church has a written agreement with the organization, the agreement should contain a hold-harmless clause and should clearly describe the insurance requirements of both parties. If the organization meets only once per month, has relatively few members, has little or not need for funding, and seems to have little need for liability insurance other than for the possible requirements of the church, then the trustees may accept responsibility for the group and not require evidence of insurance.
10. Loss-control experts know that prompt action taken after a loss is reported minimizes the ultimate effect of the loss. Churches are advised to promptly report all losses, both property and liability, to the insurance carrier. Adjustors from the carrier are trained to respond and investigate quickly to being settling the loss.
11. Insurance coverage does not protect a church from a lawsuit. Anyone can sue a church and/or its officers and trustees. Prudent trustees will do all in their power to reduce exposure to legal liability by taking care of the property, limiting possible harmful exposures to visitors and employees, establishing loss-control programs and maintaining adequate insurance. Fear of a lawsuit should not become the compelling force behind responsible decision-making for the insurance programs of the church.

**ROLES AND RESPONSIBILITIES OF PRESBYTERY TRUSTEES
IN THE PRESBYTERY OF GENESEE VALLEY**

- Makeup, Officers and Non-voting Members
- Presbytery Records, Property and Assets
- Presbytery Offices
- Insurance Program
- Revolving Loan Fund
- Borrowing or Incurring of Liabilities

Makeup, Officers and Non-voting Members

The Presbytery Board of Trustees is made up of nine members who elect their own chair. The Presbytery Leader, Presbytery Treasurer, Financial Administrator and Presbytery Attorney are non-voting members of the Trustees.

Presbytery Records, Property and Assets

Presbytery Trustees maintain the records of all of the Presbyter's capital assets, including capital funds and tangible property. They are also responsible for the proper management of any real estate held in the name of the Presbytery. Any proposal or request for the purchase, sale, lease, mortgaging, or encumbering of real property by Presbytery must be referred to Presbytery Trustees for comment and recommendation prior to being submitted to Presbytery for action.

Presbytery Offices

Presbytery Trustees are responsible for the proper management and operation of facilities for the Presbytery Office, including lease agreements, maintenance, repair, computer equipment and systems and such other concerns related to the provision of suitable space for Presbytery staff and its activities. Any proposal or request relating to such matters must be referred to Presbytery Trustees for comment and recommendation prior to being submitted to Presbytery for action.

Insurance Program

Presbytery Trustees are responsible for the administration, operation, maintenance and review of any insurance plans or programs for the protection of Presbytery, including any master policy or plan which may be established for the benefit of Presbytery and local churches or Presbytery and its affiliated organizations. Any proposal or request relating to such matters must be referred to Presbytery Trustees for comment and recommendation prior to being submitted to Presbytery for action.

Revolving Loan Fund

The Presbytery Trustees are responsible for the investment, management and administration of the Revolving Loan Fund and its moneys, including the supervision of loan repayments. Any proposal or request involving the use of Revolving Loan Fund moneys, principal and interest, must be referred to Presbytery Trustees for comment and recommendation prior to being submitted to Presbytery for action. In reviewing and making its recommendations, Trustees are subject to any policies or guidelines established by the Presbytery with regard to the Revolving Loan Fund.

The primary intent of the Revolving Loan Fund is to provide financial support to individual congregations in the Presbytery of Genesee Valley for the purchase of land or property, the building of new church facilities, and the enlargement, renovation, or major repair of existing church facilities. This support should most frequently take the form of loans from the assets of the Fund and normally should be considered only when commercial loans are unavailable or not affordable. However, use of the Revolving Loan Fund is appropriate when there is a need for emergency repairs or renovations to a church's facilities. Repayment terms compare very favorably with those in the commercial loan market.

Grants may also be awarded from the assets of the Revolving Loan Fund, but are limited to relief of unusual or extraordinary needs of a church or other body of Presbytery. A grant may be appropriate when a loan would place an undue burden upon the borrower, or when there are no other sources to which a church can turn.

Borrowing or Incurring of Liabilities

Any proposal or request involving borrowing or incurring of debt by Presbytery, or the guaranteeing by Presbytery of any debt or liability of a local church or other entity, must be referred to Presbytery Trustees for comment and recommendation before being submitted to Presbytery for action. When a local

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church seeks capital funding through the auspices of the Presbyterian Church, it may turn to the Synod or General Assembly for loans. Presbytery is obligated to guarantee 100% of any such loans secured from General Assembly and 20% of any such loans secured through the Synod Loan Program. Those guarantees are maintained by setting aside moneys in the Revolving Loan Fund for that purpose.