INSURANCE BOARD
Partners in Protection

COVID-19 Liability FAQ



"The God who made the world and everything in it, he who is Lord of heaven and earth, does not live in shrines made by human hands." (Acts 17:24, NRSV) In a *Pastoral letter from the Leadership of the Wider United Church of Christ*, UCC leaders shared this message: "Of all the things we could say, we lead with this principle: Please make every decision based on how it will affect the most vulnerable among you. Many of us will be able to attend services and activities as fully healthy, low-risk individuals. Others, though, will come out of a deep love for and obligation to their church, deciding to take a risk in order to be back with their church family. We urge you to keep that in mind as you process your decisions."

Insurance Board advises churches to stay current on general guidelines and recommendations of the Center for Disease Control (CDC), and adhere to best practices as set forth by state and local authorities. The new protocols your church develops will take time to communicate and implement to ensure the safety of all. We encourage churches to use caution, diligence, and consistency in protecting the health of participants, employees, volunteers, congregants and visitors. We have compiled this resource to address some of the more frequently asked questions from churches.

Is there increased liability if someone gets sick or alleges they got sick from attending a church event, worship service, or from working or volunteering at my church?

- It is the responsibility of the church to communicate, implement, and enforce the guidelines set forth by the experts to ensure the safety of their employees, volunteers, congregants and visitors. It is equally important they follow the specific safety protocols they are adopting. With that said, there is an increased risk. The best thing a church can do is follow best practices as recommended by reputable health care guidance from the CDC, in addition to state and local health guidelines. If a church does not follow the guidelines, they risk liability implications and potential legal consequences (contact an attorney).

If someone files a COVID-19 liability claim against my church what coverage do we have?

- Coverage determinations are dependent upon the allegation(s) and causation. In general, we believe that the standard defense and indemnity coverage should apply to most potential coronavirus allegations against churches. As always, each claim will be evaluated individually based upon the facts when making the determination of coverage.

Is there increased liability if someone gets sick or alleges they got sick as a result of a third party's operations at the church? Do facility use agreements/rental agreements need to be updated? How does the church ensure the third parties adhere to their protocols?

- There may be increased liability; third party agreements should be updated to include the COVID-19 safety measures being adopted by the church. We encourage churches to work with a local attorney to make sure safety measures are following CDC, as well as state and local guidelines, and to draft language that ensures vendors/users/tenants comply with the church's new safety policies. The local attorney should update facility use agreements to include the church's new safety policies preventing the spread of COVID-19, making sure there is proper indemnification language, as well as expectations of the church and the tenants/users.

Should we consider a waiver for volunteers, worship participants, employees, etc.?

- This is a question best asked of your local attorney, as laws vary from state to state. Churches should understand that adopting a waiver does not relinquish their duties to protect staff, congregants, volunteers, and visitors; a waiver should not be perceived as a safety net against potential liability claims.

How is negligence proven?

- Generally, negligence occurs if
  - you owe a duty to another party;
  - you breach that duty;
  - the breach leads to a compensable injury/loss; and
  - the breach is the proximate cause of the injury/loss.
- If someone gets sick while attending worship service or an activity/event at the church and that person alleges the church was somehow negligent in their duties to prevent the spread of COVID-19, the church may have liability.

Are there certain outreach ministries that are too risky to resume right now?

- Any activity where multiple people are interacting is a risk. We urge churches to forgo programs and activities where national, state and local health and safety guidelines cannot be consistently followed; this includes youth activities. We will provide updated guidelines on youth activities and specific outreach ministries moving forward as we cautiously navigate through these unprecedented times. As church leadership make decisions to conduct outreach ministries, Insurance Board encourages them to consider if it is prudent to do so.

Please review and discuss these concerns and their implications as you consider reopening; there are a number of tasks to tackle in the preparation phase that will keep congregations quite busy. Stay current on outbreak trends in your state as you make decisions. We advise churches to focus first on preparing their church property, and consider how to safely conduct daily operations before attempting to hold in-person worship services or events.

Insurance Board is located in the building of UCC's National Office, where everyone is working remotely until there has been 14 consecutive days of declining cases in the U.S. Here is a link where you will find our COVID-19 Resource Page containing a number of resources.