

BLOGGING: Policies and Liabilities

Frank Sommerville, JD, CPA

For some of you, “blogging” is a new word. Blogging is short for web log. A blog is an online journal or diary that individuals maintain. The two most popular blogging sites are www.xanga.com and www.myspace.com. Over 8 million individual Americans maintain a blog. Virtually every youth minister maintains a blog and monitors the blogs of young people in his congregation. Some senior pastors maintain a blog to keep their members informed. In other words, church employees are maintaining blogs on church time and as a representative of the church. This activity may create liabilities for the church. This article talks about the potential liabilities to the church from employee blogs and suggests policies that churches may want to enact.

HAZARDS OF BLOGGING

Normally, employers would not be concerned with activities that take place away from the workplace, but blogging is different. When an employee posts an entry in their online journal or blog, they generally discuss what is important in their life at that moment. In the lives of ministers and church staff, the events at the church are important and are discussed in their blogs. Also, anyone might post a comment on anyone else's blog. An innocent comment by a church employee may generate comments that are inappropriate. The comments, if not dealt with promptly, may create additional liability for the church.

The first hazard is that an employee may discuss the private affairs of a member. The church may be forced to defend the lawsuit by a member because his private information became public through the employee's blog. For example, a member discloses that they are having financial difficulties to a church employee. Through her blog, the employee requests prayer for that member and reveals that they are having financial difficulties.

The second hazard is that an employee may slander or libel another individual. Slander or libel involves speaking a falsehood about another individual that causes them extreme emotional distress or other losses. For example, a staff member writes in his blog that the senior pastor is dishonest. If false, the church may be liable for the staff member's slanderous remarks.

The third hazard is that an employee may reveal one of the church's trade secrets. Every church has trade secrets. For example, the database of each member's address, phone number, and e-mail address is a trade secret. Some of the phone numbers may be unlisted and private. Another example of a trade secret is the amount that an individual donor gave to the church. If the employee reveals one of the church's trade secrets, the church may be forced to take adverse employment action against the employee.

The fourth hazard is that the employee may spend their work hours posting into the blog instead of performing their duties. I have already seen an example where a church employee posted over 100 entries during their regular seven hour shift.

Finally, the employee may post copyrighted material to their blog. This action could make the church liable for copyright or trademark infringement. For example, the employee sings a solo during the Sunday service. It is recorded. After converting the audio recording into an MP3 file, the employee posts that audio file to their blog. Since the song is copyrighted by the songwriter, the songwriter may sue the employee and the church for publishing the song without authority and without the payment of royalties.

SUGGESTED POLICIES

Most employees under the age of 30 maintain a blog. It can be an important communication tool in the ministry of the church. It is usually not sufficient to prohibit an employee from maintaining a blog. Instead, the church needs to regulate the blog in a manner that protects the church.

First, the church should require all employees to notify the church if an employee is maintaining a blog, personal or church related. The church should assign an employee to monitor the employee blogs for inappropriate postings. If the employee is maintaining the blog in the course of their duties as an employee, they should clearly identify themselves as a church employee in the blog. The church may want to consider requiring the employees to use a disclaimer on their blogs. For example, "This blog is maintained by Reverend Thomas Smith and does not represent the views of First Church."

Second, the church should prohibit employees from posting any part of the church's policies and procedures on their blog. It should also prohibit them from posting any of the church's trade secrets.

Third, the church should prohibit the disclosure of any private information that they learn in the course of performing their duties as an employee of the church. The employee should be prohibited from disclosing any financial information about the church in their blog.

Fourth, the church should prohibit the employee from disclosing the names and addresses of any members, even if it is in the form of a prayer request. They should avoid using even the first name when talking about members.

Fifth, the church should prohibit the use of all racial slurs, personal insults, obscenity, and all discussion of church personnel. The employee should also avoid picking fights or instigating conflict.

Finally, if the blog is maintained as part of the job, then the church should limit the number of postings and the amount of time spent maintaining the blog. If the blog is maintained as a personal blog, the church should advise the employee that the church will

not be responsible for the blog postings, but will still monitor and respond to complaints about the blog.

CONCLUSION

Lest you interpret this article as being anti-blogging, I should remind you that blogging is an important communication tool, especially if we are to communicate with the younger generation. The dialogue that blogs create can help the church create community, improve communication among its members, and provide a vehicle for communicating the Gospel to those who are not part of the church. Blogging, done properly, can lead to true ministry to those in need.