
"THE TIMES THEY ARE A CHANGIN'"
Robert Allen Zimmerman (1964)

**The Legal Duties of Nonprofit Directors
in our Evolving Legal Landscape**

Association for Biblical Higher Education

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**PART 1 – LEGAL DUTIES AND
RESPONSIBILITIES OF DIRECTORS/TRUSTEES
OF BIBLE COLLEGES AND SEMINARIES**

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DUTIES OF DIRECTORS AND OFFICERS

- **Duty of Care**
 - Each director shall discharge the director's duties as a director . . . with the care an ordinarily prudent person in a like position would exercise under similar circumstances.
- **Duty of Loyalty**
 - Each director shall discharge the director's duties as a director . . . in good faith . . . in a manner the director reasonably believes to be in the best interests of the corporation.

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STEPS THAT CAN BE TAKEN TO PROTECT AGAINST DIRECTOR AND OFFICER LIABILITY

- **Review Articles of Incorporation**
- **Review Bylaws**
- **Education Board Members and Officers**
- **Directors' and Officers' Insurance**
- **Personal Umbrella Liability Insurance**

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**PART 2 – THE IMPORTANCE OF
UNDERSTANDING LEGAL RISKS – A LOOK AT
THE COLLISION OF RELIGIOUS LIBERTIES
AND SEXUAL LIBERTIES IN THE LAW**

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I. INTRODUCTION

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II. The Advance of Religious Liberty

A. Mostly good cases and legislation

- 1987 – *Amos*
- 1993 – *Church of Lukumi Babalu Aye*
- 1993 – RFRA
- 2000 – RLUIPA
- 1996 – DOMA
- 2012 – *Hosanna-Tabor*
- 2014 – *Hobby Lobby*
- 2014 – *YMCA*
- 2017 – *Trinity Lutheran*
- 2018 – *Masterpiece Cakeshop*

B. What is a religious organization or religious activity or religious worship?

C. Where we are in 2019

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III. The Advance of Sexual Liberty

A. The changing culture (and resulting culture wars)

- 1960s
- 1970s
- 1980s
- 1990s
- 2000s

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III. The Advance of Sexual Liberty (cont.d)

B. The cases and the legislation

- 1986 – *Bowers*
- 1992 – Colorado Amendment 2
- 1996 – *Evans v. Romer*
- 2003 - *Lawrence*
- 2008 – Prop 8
- 2013 – *Windsor; Hollingsworth*
- 2015 – *Obergefell*
- 2016 – U.S. Civil Rights Commission Report

C. Where we are in 2019

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IV. Difficult Issues on Horizon

- A. Employment
- B. Public accommodations
- C. Commercial activity
- D. Potential impact on insurance coverages

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V. Proactive Steps to Consider

- A. Broad brush steps**
- B. Adopt a Christian community policy**
- C. Consider "church" and/or "minister" status**
- D. Public Accommodations**

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VI. Conclusions



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