

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.”

Churches should stay current on 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 guidance from the [CDC](#), in addition to [state](#) and [local](#) health officials. 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?

- Although coverage determinations are dependent upon the allegation(s) and causation, there is a global liability exclusion on communicable diseases. Therefore, general liability coverage may not be available for coronavirus allegations against churches.

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 exposure.

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 a liability exposure.

Can I require staff, volunteers or even congregants to be vaccinated?

- At this current stage in the pandemic, COVID-19 is generally viewed as a threat to workplace safety and most employers are regarded as having a basis upon which to require staff to be vaccinated before returning to the workplace. However, instituting a vaccination mandate is not a simple matter, and there are both legal and practical considerations. Any vaccination mandate should allow for an interactive process wherein an employee can request an exception as an accommodation for medical or religious reasons. Moreover, a vaccination mandate policy should carefully tailor inquiries made of employees about vaccinations and safeguard any records received from employees confirming their vaccinated status. What’s more, employers mandating vaccinations should also consider whether their vaccination policy triggers an obligation to reimburse employees for the time and costs associated with getting vaccinated. Religious organizations should balance these considerations and the availability of vaccines for their staff when determine whether to mandate vaccines rather than simply encouraging workers to get vaccinated.
- When considering mandates for congregants and visitors, there is less clear authority to support the practice. Any religious institution that implements such a requirement would do well to establish similar protocols around accommodating congregants or visitors who cannot comply due to medical or religious reasons to avoid discrimination claims and carefully consider the type and kind of information requested of members of the public around their vaccination status and related medical conditions.

What else should churches consider to prepare for re-opening?

- Stay current on [outbreak trends](#) in your state as you make decisions. We advise churches to focus on preparing their church property, and spend time developing best practice policies and a [COVID-19 prevention plan](#). 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.