

Guidelines for Presbytery Participation in Legal Costs

Introduction: We now exist in an extremely litigious society and a part of the country which most exemplifies this. It has become commonplace in recent years for churches to be taken to court and for large judgments to be made against churches where wrongdoing has occurred or improper procedures have been followed. The most common causes of lawsuits relating to churches arise out of faulty personnel practices and improper maintenance of buildings resulting in personal injury. Accordingly it is incumbent upon all church officers to be sure that adequate liability insurance is in force, and that due diligence is extended to protect against lawsuits. Whenever a church is the defendant in a lawsuit, the Stated Clerk shall be informed. It is always wise to inform the Presbytery Office when legal proceedings are contemplated.

Even when due diligence has been exercised there may be circumstances where it is necessary or appropriate for the Presbytery to share in legal costs incurred by a church of the Presbytery. The following are intended to provide a basis for consideration of Presbytery assistance.

1. Normally Presbytery assistance will be considered only when a church is defending itself in a lawsuit not covered by insurance and when the consequences of an adverse judgement would have serious consequence for the church and/or the denomination.
2. Any request usually should be made before legal costs are incurred. This would include consultation on advisability of undertaking or defending in a legal proceeding, as well as the choice of mediation services and/or the selection of legal counsel.
3. The request should indicate if the church involved does not have sufficient resources to provide for an adequate defense; or, if there is a clear denominational principle involved which requires an urgent and vigorous defense; or, if the matter is for protection of title to property.
4. Negligence and/or culpability on the part of the church or its officers can jeopardize Presbytery assistance.

When Presbytery participation is requested:

1. Grant requests will be reviewed by the Presbytery Council with recommendation for Presbytery action. All grants must specify a dollar limit.
2. Grants up to \$1,000 may be drawn from Ecclesiastical or Trustee Reserve funds as recommended by Presbytery Council.
3. If a grant exceeds \$1,000 (not including any Synod or General Assembly funds), the portion which exceeds \$1,000 will be included in the following year's Presbytery Ecclesiastical Apportionment to be shared by all the churches.
4. In the event that a church and the Presbytery are both named defendants in the same lawsuit, the advice of counsel retained by the Presbytery or its insurer must be reported to the Presbytery before any grant to the church may be approved.

May 17, 1994