

SAMPLE VIDEO AND AUDIO RECORDING POLICY

This policy is a sample only. Church leaders should review this policy carefully and determine the extent to which it should be customized for its own ministry purposes, preferably with advice of legal counsel, for optimal legal compliance and risk management.

1. Overview

This Video and Audio Recording Policy (“Policy”) addresses the use of video and audio recordings by [Name of Church] (“The Church”) in connection with The Church’s tax-exempt activities and for its employees, volunteers, and program participants (including minors). This Policy provides guidance for The Church’s Board of Directors, officers, staff, volunteers, program participants, and others (collectively – “Persons”; singular – “Person”) regarding these matters, including appropriate legal compliance.

2. Policy Scope

From time to time, The Church’s leaders, supervisors, employees, volunteers, and other agents may decide that video recordings, audio recordings, and accompanying communications such as “chat” exchanges (collectively – “Recordings”; individually – “Recording”) of program activities, meetings, videoconferences, and teleconferences (“Activity” or “Activities”) involving Persons may be appropriate and beneficial to The Church’s operations.

For example, The Church may wish to carry out an Activity, but with reduced physical capacity attendance, and therefore some Persons will participate via Zoom or other online options. As another example, The Church may have some employees working remotely, so their work-related functions necessarily include some Activities. Additionally, Recordings may be otherwise helpful, such as for an in-person staff training missed by some employees.

A party generally may permissibly make Recordings of Persons, so long as such Persons consent to the recordings (individually or collectively). A Person’s consent may be implied (e.g., by participation or other action) or express (e.g., by a written waiver and release), depending on the circumstances. Other safeguards are important too, as described below.

This Policy addresses Recordings in terms of legal compliance and best practices. This Policy may be amended only by The Church Board.

3. Applicable Requirements

Based on the above considerations, the following requirements and protocols shall apply to all Recordings.

3.1 Appropriate circumstances. Recordings may be made of The Church’s Activities, so long as each such Recording is (a) directly related to The Church’s Activities, and (b)

otherwise in compliance with the following safeguards. A Recording may not be made of any private activities, such as matters unrelated to The Church or made for personal reasons. A Recording of any confidential matters warrants special privacy considerations, as identified below.

3.2 Authorized personnel. Only authorized personnel may make Recordings, such as The Church supervisor, manager, or person expressly charged with recording The Church's Activities.

3.3 Notice: no wrongful purpose. All reasonable efforts should be made to inform all Persons when a Recording is being made that may include their name, image, likeness, or voice. Such notice should be provided before or upon the commencement of the Activity, in writing and/or verbally. No Recording may be made surreptitiously—that is, secretly, to avoid detection, or otherwise for a wrongful purpose such as in violation of applicable eavesdropping laws.

3.4 Consent—employees. Employees' consent is implied by virtue of their employment with The Church, but only to the extent that any Recording is made within appropriate circumstances and by authorized personnel as described above.

3.5 Other consent. Other Persons' consent may be implied by their participation in The Church-related program activities, meetings, videoconferences, and telephone calls, but likewise within appropriate circumstances and by authorized personnel as described above.

3.6 Waiver. A waiver may be used for additional evidence of consent and as a best practice. *See sample waiver and related language.*

3.7 Minors. No Recording should be made that includes any minor's image, single voice, or other likeness, absent consent from the minor's parent or guardian per Section 3.6.

3.8 Privacy. Privacy considerations should be respected and honored in all Recordings, particularly to avoid embarrassment of any Person, to refrain from undue attention shown any Person, or when a Person may not be aware that a Recording is being made. Such privacy considerations additionally extend to photos that may result from video recordings.

3.9 Objection. If a Person objects to a Recording, then either (a) the Person shall be excluded from the Activity, or (b) no Recording shall be made. Such determination shall be made by the supervisor or manager of the Activity. Consent to Recordings also may be a condition of a Person's employment or other service with The Church.

3.10 Recording usage. The Church personnel may use Recordings solely for purposes within the scope of this Policy, as set forth in Section 2 above. Recordings may not be used as a substitute for The Church meeting minutes, reports, or other materials that may be developed from such information. Further, Recordings may not be used in litigation, except upon a court or other adjudicatory body's order or subpoena or as may expressly be authorized by The Church's Board.

3.11. **Confidentiality.** Certain Recordings may warrant extra attention and care. For example, Recordings involving employee disciplinary matters, counseling sessions, or board executive sessions should be marked and maintained as “Confidential.” Such Recordings should then be stored in a manner consistent with The Church’s other confidential material.

3.12 **Recording retention.** Recordings must be retained consistent with The Church’s Records Retention Policy. To the extent The Church does not have a Records Retention Policy or such policy does not address Recordings, The Church shall retain Recordings for so long as its Board or other Board-delegated personnel deem appropriate (including confidentiality measures per Section 3.11 above).

4. Recording Ownership and Unauthorized Actions

4.1 **Intellectual property.** All Recordings shall be owned by The Church as its sole intellectual property, regardless of the media in which such Recording is made. The Church may grant a limited license to a Person to use a Recording, as the Board or other Board-delegated personnel may determine. The Church shall properly address any related intellectual matters, such as Recordings containing copyrighted materials and therefore subject to additional rights.

4.2. **Unauthorized usage.** No one may engage in any unauthorized use of any Recording. Any and all authorized usage shall be as The Church Board or other properly designated supervisory personnel determines in the reasonable exercise of discretion.

4.3 **Compliance.** The Church shall use its best efforts to implement and communicate this Video and Recording Policy to all Persons, to promote clear understandings, awareness, and compliance with its provisions. Such efforts may include general program announcements, written notifications, communications in connection with a specific Recording, and training for employees and volunteers.

4.4 **Violations.** Violators of this Video and Recording Policy shall be subject to discipline up to and including employment termination and volunteer termination of The Church responsibilities.

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