

FAQ on COVID and Church Building Use

PC(USA) Legal Services

DISCLAIMER: *This document should not be considered legal advice.* Each state has different laws and regulations for COVID issues – and local laws may also apply. Therefore, you should not rely upon the information in this Q&A in lieu of and without consulting and obtaining legal advice from your legal advisors in your state and jurisdiction. It would also be wise to consult with your insurer on COVID issues.

Q&A

1. **Question:** Now that vaccines are available and states are easing COVID restrictions, our session is discussing a return to in-person worship services as well as in-person meetings of session and committees. What issues should the session consider in discerning whether and when to return to in-person worship and meetings?

Answer: We suggest you think about the following:

- a. You should of course consult with your state website on COVID and comply with any orders issued by your governor and the state related to masks, social distancing, number of people who can gather in one space, and so forth. Some states have mask mandates, others do not. If you do not mandate masks or do not enforce everyone attending being masked and someone complains, you could be cited. Other sources of information include covidactnow.org and <https://www.cdc.gov/coronavirus/2019-ncov/index.html>.
- b. It would be wise to have a plan approved by your session concerning how it will address COVID issues, including worship, session and committee meetings, and meetings of other groups that gather in your buildings. That will be of benefit, especially:
 - i. If shared with your insurer to get its feedback, so that if anyone gets sick and a claim is filed you can say you consulted with the insurer and got its feedback and opinion. If you do not know where to start, your insurer may have draft plans available or suggestions on what to include in such a plan.
 - ii. To give members and non-member worshippers and visitors to your building(s) a level of comfort that you are thinking in advance of issues (masking, social distancing, hand sanitizer, etc.) and addressing them.
- c. The plan should include the latest guidance from the Centers for Disease Control and Prevention (“CDC”) and your state.
- d. It would be wise to post signs at sanctuary doors and in meeting rooms, including:
 - i. If you have had any of the following symptoms in the last 14 days, please do not attend this worship or meeting (and list common symptom of COVID set out by the CDC).

- ii. If you have been exposed to anyone with COVID in the last 14 days, please do not attend this meeting.
- iii. Please wear a mask at all times.
- iv. Please respect social distancing of 6 feet apart at all times.
- v. The CDC has posters that it prepared for the pandemic:
<https://www.cdc.gov/coronavirus/2019-ncov/communication/toolkits/general-public.html>

e. Don't forget to include in your planning a discussion of the option of a hybrid presentation of worship and meetings. If you start in-person worship and meetings, consider offering the option of online platforms, such as Zoom, so that folks who are uncomfortable with in-person gatherings or who have not been vaccinated can participate.

f. Documenting your plan will be important if anyone claims to have become ill at your meeting or worship service, so that you can show that all reasonable steps were taken to protect attendees.

g. If someone does become ill or exposed during a meeting or worship service, you should contact the local Board of Health immediately and follow their instructions.

2. **Question:** Now that vaccines are available and states are easing COVID restrictions, our presbytery/synod leadership team is discussing a return to in-person meetings of the council and its committees. What issues should we consider in discerning whether and when to return to in-person meetings?

Answer: See the suggestions in the Answer to #1. They also apply to presbyteries and synods returning to in-person gatherings and meetings.

3. **Question:** If we return to in-person meetings and/or worship, our session (or mid council) is discerning whether it should ask worshippers/attendees/members to sign a release form and waiver of liability.

Answer: You should discuss this issue with your legal advisor and your insurer. Asking for such a waiver will obviously be off-putting for members and guests. But you must decide this issue as part of your risk management planning and COVID plan.

4. **Question:** If someone shows up for worship or a meeting and has symptoms of COVID, or says they have recently been exposed to someone with COVID, can we turn them away?

Answer: You should discuss this issue with your legal advisor, your insurer, and your session or leadership body. You should consider including your decision whether to admit such visitors to worship or meetings, or not, in your plan for reopening. It would be

advisable to require everyone to be masked, and for those who are not from the same household to be socially distanced in any gathering. Your church building and offices are private property, and you can control who visits them; furthermore, you have a responsibility to keep guests and visitors safe. While turning away folks may not feel welcoming, it may be the safe thing to do to protect others.

5. **Question:** If we return to in-person worship and meetings, can we require that those who attend provide proof that they have been vaccinated?

Answer: You should discuss this issue with your legal advisor, your insurer, and your session or leadership body. You should consider including your decision whether to admit such visitors to worship or meetings, or not, in your plan for reopening. Some folks may have reasons why they cannot get vaccinated, such as a health condition that prevents it. So, you may want to consider exceptions. This is also a reason to include a hybrid plan for worship and meetings in your reopening plan so you can invite folks who cannot be vaccinated to participate remotely. From a health and safety perspective, of course it would be beneficial if all who attend are vaccinated, but keep in mind that the vaccines are not 100% effective. Someone who is vaccinated can still suffer the symptoms of COVID, if infected, or can be a carrier and infect others. So continued vigilance in requiring things like masks and social distancing is still advisable, per current CDC guidance.

6. **Question:** Can we require employees of our church/presbytery/synod to be vaccinated in order for them to return to work in our office?

Answer: The literature indicates that you can require employees to be vaccinated, but recommends that employers strongly urge employees to get vaccinated rather than mandate it. If employers ask for employees to be vaccinated, there are two exceptions if the employer is subject to state or federal employment laws:

- (a) If you are subject to state or federal disability laws, you may be required to accommodate employees who have a health condition that prevents them from being vaccinated. You must at least discuss an accommodation and provide one if it does not require undue hardship for you as the employer. But you should discuss all of this with your legal advisor.
- (b) If you are subject to state or federal employment laws (ex. Title VII) you may be required to accommodate employees who decline to take the vaccine due to a sincerely held religious belief. You must at least discuss an accommodation and provide one if it does not require undue hardship for you as the employer. But you should discuss all of this with your legal advisor.

Resource: <https://www.eeoc.gov/laws/guidance/pandemic-preparedness-workplace-and-americans-disabilities-act#q13> (see question 13.)

7. **Question:** Can we ask employees to stay home if they report that they have COVID or have recently been exposed to someone who has COVID?

Answer: The CDC has stated that employees who with symptoms of influenza-like illness at work during a pandemic should leave the workplace. The Equal Employment Opportunity Commission stated that directing workers to go home is permissible and not considered disability-related if they report COVID-19 symptoms.

Resources: <https://www.cdc.gov/flu/business/stay-home-when-sick.htm>
<https://www.eeoc.gov/laws/guidance/pandemic-preparedness-workplace-and-americans-disabilities-act> Section III(B)(5)

8. **Question:** What about groups that use our church buildings, such as scout troops or Alcoholics Anonymous? Can we require them to mask up and meet socially distanced?

Answer: Sure. Presumably, you are the landlord for such groups and have a lease or some sort of written agreement for those groups to use your buildings. If so, your lease or agreement should require such groups to comply with church policies and protocols, such as a child protection policy (which is required by the *Book of Order*) or your COVID plan and protocols. If they want to use your buildings, such groups should be required to comply with your COVID policies and protocols.

For additional useful information on reopening, please see the companion document which was created by the Session of the First Presbyterian Church of Fort Mitchell, Kentucky. We are grateful to that Session for sharing this resource and allowing us to share it with others in the Presbyterian Church (U.S.A.).