

FREQUENTLY ASKED QUESTIONS FOR LOCAL CHURCH PAYCHECK PROTECTION PROGRAM

Please find below answers to questions many applicants are asking about 501.C.3, nonprofit status, incorporation, articles of incorporation, by-laws, and a sample resolution for the church council.

1. Is my church incorporated? Where are my articles of incorporation?

Many banks are routinely asking applicants including churches to include with the Paycheck Protection Program SBA Loan application copies of their Articles of Incorporation and Bylaws. Only churches that are incorporated under state law will have articles and bylaws. If your church is not incorporated, it does not have (or need) articles of incorporation or bylaws.

The Conference does not keep records of local church incorporations. You mustn't substitute the Conference's incorporation for the local church one (it won't work anyway).

In Illinois churches may be incorporated in one of two ways. You may have incorporated as a non-profit through the Secretary of State. You can search their database to see if your incorporation is active by asking for a certificate of good standing. If your incorporation is there, you will also find your articles of incorporation. Incorporated local churches receive a request for an "Annual Report" from the Secretary of State and send in a form with a small check.

You may also be incorporated as a Religious non-profit. Religions incorporations aren't renewed annually. They happen only once and are filed at your county offices. Each county has a different way to search for these, some counties files are not searchable. Unless you have a record of this and a lot of time to figure out the dynamic, you will likely want to proceed as an unincorporated association.

It is legal in the State of Illinois to conduct business as an unincorporated association. You aren't required to have an incorporation under the law. Every association can have its own set up, but because you are a United Methodist Church, you are organized according to The Book of Discipline of The United Methodist Church (2016). You could direct your bank to that document. Discipline ¶2507 describes a United Methodist church's trustees as analogous to a corporation's board of directors, if the church is not incorporated. Generally, under state law, a corporation's board of directors can do anything not prohibited by corporate articles/bylaws, or by law. But in church polity, the allocation of rights and duties is spread across the local church as specified in the Discipline.

One of the reasons that borrowers are encouraged to apply through their regular bank, is that the bank should already have verified its legal existence pursuant to the PATRIOT Act's "Know your Customer" rules.

2. What about By-Laws? The bank is asking for our by-laws.

The Discipline serves as the organizational documents for every United Methodist church. In addition, if a church is incorporated, the church corporation would also be governed by the terms of the charter/articles of incorporation and bylaws (which should match up with the requirements of the Discipline).

In fact, churches should not have by-laws that rival the Discipline. Typically, when these are requested, I suggest the local church copy the sections of the Discipline dealing with the local church. That should be more than sufficient.

3. What about our 501.C.3 and non-profit status.

All United Methodist Churches use the same letter from the IRS documenting their non-profit status under 501.C.3 of the tax code. You have this letter in the church files. It was written in the late 1960s, has the Internal Revenue Service as the letterhead, and is addressed to the General Council of Finance and Administration (then, in) Evanston. It is called a “group ruling” letter, meaning everyone on the group of United Methodist Churches is made tax exempt with the same letter. The General Council on Finance and Administration decides who is in the group and who is not.

Some banks, and some vendors, want a letter with the church’s name specifically written on the non-profit letter. Only GCFA can produce these letters, by rule. You can request such a letter at www.umgroupruling.org. I’ve heard reports that people have been able to secure these within an hour of requesting it. If you secure one, you will likely want to use this letter for other situations. It is wise to make many copies, circulate to all the bodies making purchases on behalf of the church, and generally store it in a place where people who need it can find it. This is a tool you will need in the future.

4. Does this require a charge conference to be approved?

Though this program begins as a loan, it is not a mortgage. A mortgage is recorded on the real estate. This loan is not secured and not collateralized. Therefore, we believe it does not require a charge conference action.

It is more similar to a line of credit or cash flow loan. You can proceed with the application, but a board resolution is necessary before entering into the legal documents and before receiving the cash.

Bishop believes there ideally the Church Council or the Administrative Council will vote upon entering into the arrangements of the Paycheck Protection Program. If a Church Council vote is not practical, a vote of the Finance Committee or the Trustees will be sufficient. Some functional body in the church must agree to participate. The Church Council, Finance Committee, or Trustees can approve this action by conference call or online meeting as long as all members have notice and access to participate in deliberations if the meeting occurs while the State prohibits gatherings of more than 10 persons.

5. Who should sign the documents?

The application can be signed by any authority at the church willing to field questions from the lender, including the pastor if they are willing to serve as contact. But the final documents agreeing to the loan and forgiveness must be completed by officers of the local church. That should not be the pastor.

The resolution passed by the church body should specify who can sign. It is useful sometimes to define signatories by category rather than name in case a specific person becomes unavailable. Suitable signatories that can be named in the resolution can include Treasurer, Finance Committee member or chair, Church Council Chair, member of board of Trustees.

Absent a specific signatory names in the board resolution, the Discipline permits Trustees to act on contracts. Church Trustees' election and authority are addressed in ¶2525-2533. The only restriction on that general power found in the Discipline is ¶¶2536, 2537, 2540 which requires church conference authority (i.e., meeting of membership) to buy, sell, or mortgage real estate. Since the SBA/PPP loan is not secured, that restriction is not relevant.

Discipline ¶2540.4 allows for legal documents to be executed by “any two officers of the board of trustees”, if the resolution or corporate documents do not have other requirements.

SAMPLE RESOLUTION

Board of Trustees, Finance Committee, or Church Council
_____ United Methodist Church [of _____]
_____ [Physical address of church]

Whereas, the Paycheck Protection Program is part of the March 2020 Coronavirus Aid, Relief, and Economic Security Act or the “CARES Act”; and

Whereas, incorporated and unincorporated non-profit organizations, including churches, are eligible to participate in the Paycheck Protection Program; and

Whereas, the Paycheck Protection Program provides loans that are eligible for forgiveness if the conditions for forgiveness are met; and

Whereas, _____ United Methodist Church is exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code as is verified by inclusion in The United Methodist Church Group Tax Exemption Ruling (attached); and

Whereas, the uncertainty of current economic conditions makes necessary the loan request to support the ongoing operations of _____ United Methodist Church; and

Whereas, _____ United Methodist Church agrees to use the loan proceeds to retain workers and maintain payroll to include pastoral and staff salaries and benefits, to make mortgage interest payments, to make lease payments, and to make utility payments in accordance with the requirements of the Paycheck Protection Program,

Therefore, be it resolved, that the _____ (church body) of _____ United Methodist Church approve the application for a “Payroll Protection Program” SBA loan from _____ (bank) up to the amount permissible under the statute, subject to the interest rate and the terms provided by the CARES Act.

If the application is approved, any required contract, loan document or other written instrument necessary to carry out the action so authorized shall be executed in the name of the _____ United Methodist Church by _____ (signatory authority given to).

Approved by a majority of the _____ (church body), meeting with a quorum present, on _____ (date).

Secretary, _____ United Methodist Church