

2002 Church and The Law Seminar – November 5, 2002

Discipline of Church Members From A to Z: A Practical Legal Primer

by Bruce W. Long, B.A., LL.B.

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2002 CHURCH & THE LAW SEMINAR

Discipline of Church Members From A To Z: A Practical Legal Primer By Bruce W. Long, B.A., LL.B. November 5th, 2002

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SUMMARY OF MAIN POINTS

- The Goal Is Restoration. However This Is Not Always Possible
- The Sixteen Steps Delineated on Pages 101 and 102 of An Article on Church Discipline by Terrance S. Carter Are Still Valid and Should Be Consulted as a Starting Point for Church Discipline Matters
- A Summary of the Sixteen Steps Is As Follows:
 - All Allegations Giving Rise to Disciplinary Action Must Be Given in Writing to the Church Board

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- If the Board Determines on a Preliminary Basis That the Written Allegation Is Without Merit, the Allegations Will Be Deemed Invalid
- If the Board Determines Further Investigation Is Required, a Hearing Will Follow and the Member Will Be Deemed to Be Under the Discipline of the Church
- Any Notice of Withdrawal From Church Membership Made While a Member Is Under Discipline Is Ineffective Until the Disciplinary Proceedings Are Over

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- The Hearing Should Take Place As Soon As Possible and the Member Should Be Given 14 Days Prior Written Notice About the Details of the Allegations and the Hearing
- The Member Must Have the Right to Attend and Hear Details of the Allegations Before the Hearing. The Hearing Should Be Private but the Member May Bring Two Observers
- Both the Member and the Board May Call Witnesses or Evidence but No Legal Counsel Should Represent Either Party

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- Both Parties Should Have an Equal Allocation of Time for the Presentations. Prior Written Notice of Any Limitations on the Time of the Hearing Must Be Given to the Member
- All Evidence Presented Before the Hearing Must Be Kept Confidential, With the Exception of Limited Details Required to Be Given to the Membership of the Church
- The Board Should Privately Deliberate on the Evidence. A Two-thirds Majority Vote Should Be Required to Conclude That the Allegation Is True

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- If the Allegation Is Found to Be True, a Two-thirds Majority Vote of the Board Would Determine the Appropriate Disciplinary Action
- Disciplinary Action May Include Removal of the Member From Leadership Positions or That an Apology Be Given, With Termination of Membership As a Last Resort Only
- The Chairperson Should Send the Member Written Explanation of the Decision of the Board Within 10 Days of the Hearing

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- The Decision of the Board on All Matters Should Be Final and Binding
- No Pronouncement on Matters of Discipline by the Church Should Be Given Unless Given Orally From a Prepared Text and Only After Careful Consideration
- A Member Who Has Been Disciplined or Terminated From Membership Should Not Be Barred From Public Worship Services, Except in Extreme Situations As Determined by the Board

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- A Primary Concern of Church Discipline Is to Avoid Judicial Intervention in an Internal Process
- Look to Church Documents - Constitution, Manuals, Policies, etc., Before Beginning the Process
- Fairness Is the Yardstick to Measure All the Steps to Be Taken
- There Are Significant Differences in Whether a Civil or a Criminal Type Proceeding Is Called for
- The Presiding Officer(s) May Benefit From Legal Advice. However It Is Beneficial to Limit the Number of Legal Advisors

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