

Indemnification of Elders, Deacons, Officers, Employees, and Agents

1. Ebenezer Bible Fellowship Church (Church) shall indemnify any Elder, Deacon or officer, and may indemnify any other employee or agent, who was or is a party to, or is threatened to be made a party to, or who is called as a witness in connection with, any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, other than any action by or in the right of the Church, by reason of the fact that he/she is or was an Elder, Deacon, officer, employee or agent of the Church, or is or was serving at the request of the Church as an Elder, Deacon, officer, employee or agent of another domestic or foreign corporation for profit or not-for-profit, partnership, joint venture, trust or other enterprise, against expenses, including attorneys' fees, judgments, fines and amounts paid in settlement, actually and reasonably incurred by him/her in connection with such action, suit or proceeding if such person acted in good faith and in a manner he/she reasonably believed to be in, or not opposed to, the best interests of the Church, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his/her conduct was unlawful.
2. The Church shall indemnify any Elder, Deacon or officer, and may indemnify any other employee or agent, who was or is a party to, or is threatened to be made a party to, any threatened, pending or completed action or suit by or in the right of the Church to procure a judgment in its favor by reason of the fact that he/she is or was a Elder, Deacon, officer, employee or agent of the Church or is or was serving at the request of the Church as a Elder, Deacon, officer, employee or agent of another domestic or foreign corporation for profit or not-for-profit, partnership, joint venture, trust or other enterprise against expenses, including attorneys/ fees, actually and reasonably incurred by him/her in connection with the defense or settlement of such action or suit if such person acted in good faith and in a manner he/she reasonably believed to be in, or not opposed to, the best interests of the Church and except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his/her duty to the Church unless and only to the extent that the court of common pleas of the county in which the registered office of the Church is located or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the court of common pleas or such other court shall deem proper.
3. The indemnification and advancement of expense provided by, or punted to, this Policy shall not be deemed exclusive of any other rights to which those seeking indemnification or advancement of expenses may be entitled under any Bylaw, agreement, vote of disinterested Elders or otherwise, both as to action in his/her official capacity and as to action in another capacity while holding such office. It is the policy of the Church that indemnification of, and advancement of expenses to, Elders, Deacons, and officers of the Church shall be made to the fullest extent permitted by law. To this end, the provisions of this Policy shall be deemed to have been amended for the benefit of Elders, Deacons, and officers of the Church effective immediately upon any modification of the Pennsylvania Nonprofit Corporation Law of 1988 ("NPCL") or any modification, or adoption of any other law that expands or enlarges the power or obligation of corporations organized under the NPCL to indemnify, or advance expenses to, Elders, Deacons, and officers of the corporations.
4. The Church shall pay expenses incurred by an officer, Deacon or Elder, and may pay expenses incurred by any other employee or agent, in defending an action, or proceeding referred to in this Policy in advance of the final disposition of such action or proceeding upon receipt of any undertaking by or on behalf of such person to repay such amount if it shall ultimately be determined that he/she is not entitled to be indemnified by the Church.
5. The indemnification and advancement of expense provided by, or granted pursuant to, this Policy shall, unless otherwise provided when authorized or ratified, continue as to a person who has ceased to be an Elder, Deacon, officer, employee or agent of the Church and shall inure to the benefit of the heirs, executors and administrators of such person.

6. The Church shall have the authority to create a fund of any nature, which may, but need not be, under the control of a trustee, or otherwise secure or insure in any manner, its indemnification obligations, whether arising under the Church Bylaws or otherwise. This authority shall include, without limitation, the authority to: (i) deposit funds in trust or in escrow; (ii) establish any form of self-insurance; (iii) secure its indemnity obligation by grant of a security interest, mortgage or other lien on the assets of the Church; or (iv) establish a letter of credit, guaranty or surety arrangement for the benefit of such persons in connection with the anticipated indemnification or advancement of expenses contemplated by this Policy. The provisions of this Policy shall be not deemed to preclude the indemnification of, or advancement of expenses to, any person who is not specified in Section 1 or Section 2 of this Policy but whom the Church has the power or obligation to indemnify, or to advance expenses for, under the provisions of the NPCL or otherwise. The authority granted by Section 6 of this Policy shall be exercised by the Board of Elders of the Church.
7. The Church shall have the authority to enter into a separate indemnification agreement with any officer, Deacon, Elder, employee or agent of the Church or any subsidiary providing for such indemnification of such person as the Board of Elders shall determine up to the fullest extent permitted by law.
8. As soon as practicable after receipt by any person specified in Section 1 or Section 2 of this Policy of notice of the commencement of any action, suit or proceeding specified in Section 1 or Section 2 of this Policy, such person shall, if a claim with respect thereto may be made against the Church under this Policy, notify the Church in writing of the commencement or threat thereof; however, the omission so to notify the Church shall not relieve the Church from any liability under this Policy unless the Church shall have been prejudiced thereby or from any other liability which it may have to such person other than under this Policy. With respect to any such action as to which such person notifies the Church of the commencement or threat thereof, the Church may participate therein at its own expense and, except as otherwise provided herein, to the extent that it desires, the Church, jointly with any other indemnifying party similarly notified, shall be entitled to assume the defense thereof, with counsel selected by the Church. After notice from the Church to such person of its election to assume the defense thereof, the Church shall not be liable to such person under this Policy for any legal or other expenses subsequently incurred by such person in connection with the defense thereof other than as otherwise provided herein. Such person shall have the right to employ his own counsel in such action, but the fees and expenses of such counsel incurred after notice from the Church of its assumption of the defense thereof shall be at the expense of such person unless:
 - (i) the employment of counsel by such person shall have been authorized by the Church;
 - (ii) such person shall have reasonably concluded that there may be a conflict of interest between the Church and such person in the conduct of the defense of such proceeding; or
 - (iii) the Church shall not in fact have employed counsel to assume the defense of such action. The Church shall not be entitled to assume the defense of any proceeding brought by or on behalf of the Church or as to which such person shall have reasonably concluded that there may be a conflict of interest. If indemnification under this Policy or advancement of expenses are not paid or made by the Church, or on its behalf, within 90 days after a written claim for indemnification or a request for advancement of expenses has been received by the Church, such person may, at any time thereafter, bring suit against the Church to recover the unpaid amount of the claim or the advancement of expenses. The right to indemnification and advancements of expenses provided hereunder shall be enforceable by such person in any court of competent jurisdiction. The burden of proving that indemnification is not appropriate shall be on the Church. Expenses reasonably incurred by such person in connection with successfully establishing the right to indemnification or advancement of expenses, in whole or in part, shall also be indemnified by the Church.
9. The Church shall have the power to purchase and maintain insurance on behalf of any person who is or was a Elder, Deacon, officer, employee or agent of the Church, or is or was serving at the request of the Church as a Elder, Deacon, officer, employee or agent of another domestic or foreign corporation for profit or not-for-profit, partnership, joint venture, trust or other enterprise against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Church would have the power to indemnify him against such liability under the provisions of this Policy.