

PARISH CORPORATIONS
in the
ARCHDIOCESE OF BALTIMORE

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Fundamental Corporate Structures:

- Corporation Sole
- Parish Corporations
- Incorporated Schools

Corporation Sole

- “Edwin F. O’Brien, Roman Catholic Archbishop of Baltimore, and his successors, a corporation sole”
- One-person corporation under civil law
- Recognized by Maryland General Assembly in 1832

Corporation Sole

- Most Central Services Operations
- Historically, most real property ownership
 - Re-titling parish real estate in name of individual parish corporations

Parish Corporations

- Separate Maryland nonstock corporation for each parish
- Maryland Code specifies “Board of Corporators”
 - Archbishop of Baltimore
 - Vicar - General
 - Pastor
 - Other individuals appointed by Archbishop
- Bylaws specify “two laypersons appointed by the Archbishop”

Parish Corporations

- If there is more than one Vicar-General, appropriate Auxiliary Bishop serves as Corporator for that Parish
- If no Pastor:
 - Vicar Forane (in lieu of Pastor)
 - Pastor Life Director (sixth corporator)

Parish Corporations

“Corporate Shield” doctrine:

- Only the assets of Parish Corporation are available to settle debts/liabilities of that Parish Corporation
- Assets of directors, officers, employees, related corporations are protected.
- Similarly, “Corporate Shield” protects assets of Parish Corporation from being available to settle debts/liabilities of individuals or related corporations
- Limited liability protection requires regular corporate activity and observance of corporate formalities.

Parish Corporations

- Officers Ex-Officio:
 - Archbishop President
 - Vicar General Vice-President
 - Pastor Secretary-Treasurer
- If there is no Pastor, the PLD serves as Secretary-Treasurer

Schools

- “Parish” schools (not separately incorporated)
 - Operate under Parish Corporation’s charter
 - Overseen by Board of Corporators
 - School Board “advisory” to Pastor
- Incorporated schools (e.g. interparish, regional, secondary)
 - Operate under school corporation’s charter
 - School Board is the governing board (not “advisory”)
 - Corporators may have responsibility for appointing School Board members and overseeing Parish Corporation’s rights and obligations under school’s governing documents

Responsibilities of Corporators

- Standard of Care
 - Act in Good Faith
 - In a manner they reasonably believe to be in the best interests of the Parish Corporation
 - With the care that an ordinarily prudent person would use in like circumstances

Responsibilities of Corporators

- Standard of Care
 - Corporators may rely on:
 - Reports by employees or officers whom they reasonably believe to be reliable and competent
 - Other persons (e.g., lawyer, accountant) on matters within their expertise
 - A committee that the corporators believe merits confidence on a matter within the committee's delegated authority

Responsibilities of Corporators

- Requirement of Corporate Activity
 - Meetings
 - At least annual meeting
 - Archbishop requests quarterly meetings
 - Minutes
 - Copy filed with chancery
 - Books and records of accounts
 - Maryland Form 1 (annual filing)
 - Pastor nominates lay corporators to fill vacancies

Responsibilities of Corporators

- Conflicts of Interest
 - May not use position for personal gain
 - Assets of tax exempt organizations may not be used to benefit private persons
 - Model conflicts policy for corporators
 - Disclosure
 - Recusal from voting

Responsibilities of Corporators

- Role of Corporators
 - Director (not administrator)
 - Not employee
 - Not member (especially leader) of collaborative bodies over which Corporators have oversight responsibility

Responsibilities of Corporators

- Role of Corporators
 - Federal and state immunities against personal liability
 - Archdiocesan liability insurance provides coverage
 - Intentional or malicious acts excluded

Particular Issues

Corporators should emphasize these themes and ask questions about procedures used at their parish.

Particular Issues

- Handling Assets
 - Follow Archdiocesan guidelines
 - Accounting procedures
 - Bank accounts
 - Financial records
 - Handling cash receipts
 - Rotate offertory collection and counting teams
 - Adherence to reasonable controls
 - Deters thefts
 - Helps to detect and assess loss
 - Protects reputations

Particular Issues

- Employment Practices
 - Seek out qualified applicants
 - Ask appropriate interview questions
 - Check references
 - Obtain criminal background checks
 - Provide training and supervision and progressive discipline
 - Terminate employees who are not performing satisfactorily or who pose a danger
 - Maintain appropriate documentation

Particular Issues

- Employment Practices

- Child Abuse

- Use AOB Employment Application and references form
 - Criminal background (fingerprint) checks required for employees
 - Computer-based screening required for volunteers
 - State Law mandates reporting of suspected child abuse or neglect
 - Abuse by Church personnel must also be reported to the Archdiocese
 - AOB “Statement of Policies and Procedures in Cases of Child Abuse” must be followed explicitly
 - Corporator’s “knowledge” likely imputed to the Parish Corporation

Particular Issues

- Employment Practices

- Volunteers

- “Agents” of Parish Corporation
 - Misconduct by volunteers can be just as harmful as misconduct by employees
 - AOB requires compliance with STAND requirements for volunteers

Particular Issues

- Employment Laws

- Minimum Wage and Overtime

- Pay non-exempt employees 1.5 times their hourly rate for hours worked in excess of 40 in a week
 - Pay most exempt employees on a salary basis
 - Properly classify position as exempt or non-exempt
 - Pay wages on time, with deductions only as authorized by employee (in writing) or by law

Particular Issues

- Employment Laws

- Child Labor

- Minors (under 18) must have work permit
 - Minors under 14 may not be employed
 - Restrictions on type and hours of work

Particular Issues

- Employment Laws

- Discrimination

- Race
 - Color
 - Sex (including pregnancy)
 - Age
 - Religion (exception for preferring Catholics)
 - National origin
 - Marital status
 - Genetic information
 - Handicap/disability

*”Ministerial exception” may be available as a defense in some cases

Particular Issues

- Employment Laws

- Withholding

- Withholding and remitting income and social security taxes on wages is required for most employees
 - Significant penalties for non-compliance
 - Improper classification of employee as “independent contractor” can result in liability for failure to withhold taxes as well as overtime liability, benefits claims

Particular Issues

- Auxiliary Organizations and Outside Groups
 - Agency (or apparent agency): Right to control?
 - Controlled organizations must comply with AOB policies (e.g., financial record keeping, bank accounts)
 - Should require control and compliance in order to use parish/school name (e.g., for fundraising), or claim or use tax exemptions
 - Standard form of “Facility Use Agreement” includes indemnification language and minimum insurance requirements

Conclusion

- Corporators are directors of the Parish Corporation
- Comply with standard of care for directors
- Assure regular corporate activity and observance of corporate formalities
- Ask questions and emphasize compliance with applicable laws and Archdiocesan policies