

Responding to Immigration Concerns: Some Guidelines for Church Workers

These guidelines address a few of the many questions that may be raised by church workers and others in ministries involving immigrant populations. As of the time of this writing, the guidelines appear to be consistent with current immigration law. However, given the rapidly changing nature of immigration law, the reader should not construe these guidelines as legal advice. Church workers are always encouraged to seek legal counsel in their own state.

1. A church worker may proclaim the Gospel and teach God's Word to immigrants regardless of their legal status. One may incorporate immigrants into the life and membership of the congregation.
2. One may also incorporate immigrants into the life of the parochial school. One may give undocumented immigrants and their children access to a Christian education in Lutheran schools, colleges, and seminaries of the church. There is no federal law that prohibits the admission of undocumented immigrants to private, not-for-profit, educational institutions of the church.
3. One may offer assistance to immigrants through the church's ministries of relief and mercy regardless of their legal status. One may assist the needy with food, clothing, shelter, medical assistance, and childcare. One may assist Lutheran churches in other countries from which undocumented immigrants come so that their church leaders might reach out to them with the Gospel and care for them through ministries of mercy in order that they might find paid and dignified work to support their families.
4. One may help immigrants gain legal status in the country. One may seek the advice of lawyers and advocacy groups to reunite families separated through enforcement of immigration laws, or to seek asylum for those individuals or families for whom there is a reasonable fear of death or persecution upon return to the country of origin.
5. A church worker is not required to investigate the legal status of immigrants attending the local congregation or parochial school. One is not required to report undocumented attendees to state authorities. Potential situations such as the following may constitute government intrusion into the church's work of spiritual care: the presence at worship of enforcement personnel looking for undocumented persons; the use of church property by enforcement personnel to stage a raid; a demand made to clergy by enforcement personnel to disclose information about members whose legal status has been disclosed to the pastor in the context of confession and absolution. The church is not the government and is not expected to engage in law enforcement activities. At the same time, one must encourage and help undocumented members of the body of Christ to fulfill the law in every way possible. In assisting them, one must also be prepared to exercise a good measure of patience in what can become a long, complex, and expensive process towards legalization.
6. One must not give undocumented immigrants paid employment at the church or school unless they are legally authorized to be employed in the United States. One may involve them in the life of the congregation on a legitimate volunteer basis (e.g., people serving as elders, musicians, assistant liturgists, or in outreach to the community).

7. A pastor must not share with civil authorities privileged and confidential information given to him by an undocumented immigrant member of the congregation in the context of confession and absolution or spiritual counseling. This includes the person's immigration status. The general principle that a pastor is not to divulge sins confessed to him so as not to break the ordination vow applies. Moreover, even in the broader context of pastoral care in the right-hand realm, the same general principle of confidentiality may apply since the undocumented member does not see or approach his pastor as any individual citizen in the left-hand realm but specifically as his pastor in the right-hand realm. The scope of the clergy/penitent privilege varies from state to state, so it is important to seek legal counsel if there is a question whether privilege applies to a particular communication.

8. If an undocumented immigrant is involved in criminal activities that actually put people's lives in danger, there is probable cause for calling the authorities to check into and deal with the threat. In such situations, however, the immediate issue is not the question of legal status per se but the life-endangering activities of the individual. Situations that may require contacting the authorities include knowledge of criminal activities such as terrorism, bulk cash smuggling/financial crimes, human smuggling, gang-related crime, weapons smuggling, child exploitation/pornography, narcotics smuggling, human trafficking (forced labor/slavery), and employment/exploitation of unlawful workers. In such cases where sharing vital information may help to save life, the principle of Christian love for the neediest neighbor applies.

9. In providing humanitarian assistance to undocumented immigrants, one must be careful not to transport them across the border into the U.S. One must not deal with "coyotes" (smugglers) and other criminal elements who ask for one's help to bring people across the border. Also, one must not willingly hide or conceal information from government authorities concerning immigrants who are in the U.S. illegally when specifically asked to share such information by investigating authorities. Concealing information from civil authorities is particularly problematic if, whether one knows it or not, an immigrant has a criminal record. One should always seek legal advice, especially when one finds oneself in potentially ambiguous legal situations.