

D037

TOPIC: SECURITY

Amending Names in Church Records, Registries, and Certificates

PROPOSER

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ENDORSED BY

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HD / 05 - Governance and Structure

CURRENT STATUS

Concurred

REVIEW STATUS (PB&F, CONSTITUTION, CANONS)currently not in proposed budget; reviewed;
reviewedRESOLUTION TEXT

- 1 *Resolved*, the House of Bishops concurring, That the 78th General Convention request the Standing Commission on Constitution and Canons, in consultation with the Church Pension Fund, the officers of the National Episcopal Historians and Archivists, and transgender members of this Church, to study and make recommendations to the 79th General Convention regarding requests to amend church records and registries and to reissue church certificates to match the legal name changes of members of The Episcopal Church.

**The Archives of the Episcopal Church
Comments in Response to GC2015-D037: Amending Church Records
Proposed Guidelines and Recommendations
DRAFT**

Introduction

Resolution 2015-D037 authorized that the Standing Commission on Structure, Governance and Constitution and Canons “study and make recommendations to the 79th General Convention regarding requests to amend church records and registries and reissue church certificates to match the legal name changes of members of The Episcopal Church.” The SCSGC requested assistance from The Archives of the Episcopal Church toward the development of guidelines and recommendations, particularly in outlining criteria for consideration for those who will be making and following new policy.

Diocesan and parish staff are custodians of records that are vital to understanding the state of Church and supporting its members. Custodians of the records have the responsibility to maintain authentic records, provide appropriate access, and protect the privacy of individuals. As society is coming to recognize the right to identity, guidelines and standards allow the Church to honor requests while maintaining the canonical, legal and historical trustworthiness of the record. The following proposal offers an overview of major areas of consideration for maintaining and amending trustworthy church records. It is based on standard principles for maintaining vital records, current practices in federal, state and local government, and practices of other religious organizations.

A helpful document to guide the practice of amending records should include an introduction. This introduction is cursory, but points the way to a larger introductory statement that would precede any final policy document and should include theological, canonical and administrative rationale.

Guidelines such as these should consider who will be affected by amended records, and why it is important to produce standard approaches. Those affected include transgendered people, adoptees, parents and guardians of minors with name and gender changes, divorcees, family members, ordained clergy in parishes, and other administrative personnel. Parishes, dioceses, the national church offices, agencies of The Episcopal Church (e.g., the Archives, the Church Pension Fund) and other Episcopal institutions all have records that could also come under these guidelines.

We recommend any new records policy coming out of D037 should include coverage of the areas outlined in the following sections:

1.0 Records and data affected by 2015-D037

1.1 Sacramental records (baptismal, confirmation, marriage, death/burial)

- 1.1.1 Some sacramental records such as the baptismal certificate are accepted in lieu of state and municipal vital records and therefore require a degree of authenticity.

1.1.2 The Episcopal Church and its records custodians have an ethical and canonical duty to ensure that no doubt can be cast on the authenticity of the baptismal certificate or the historical trustworthiness of the original records for marriage, confirmation, and burials.¹

1.2 *Congregational communicant lists and church membership rolls*

- Records custodians should be conscious of any corresponding changes that should be made in non-sacramental membership lists or rolls.

1.3 *Recorder of Ordinations and Registrar of General Convention*

- Ordination and consecration records, the Roll of Bishops, Church Annual.

1.4 *Administrative Records*

- Personnel Files, Chaplains Service Files, ministry deployment records, administrative rosters, official directories, and mailing lists.

1.5 *About records and data generally*

- A record may include many different data elements, including multiple people's names (e.g., parents' names). The Church recognizes the prevailing societal understanding that individuals have an ownership interest in their name and other personal data, including the right to amend that information if it is inaccurate.
- Data elements subject to amendment are the name and gender fields. An individual's ownership interest is limited to his or her name and gender, and does not extend to his/her secondary participation in an event. The names of secondary participants (e.g., priests, parents, sponsors), places, and dates are not subject to amendment.

1.6 *Original records, certificates, and copies*

- Certificates of baptism or other sacramental records are copies derived from the Parish Register. In other words, when a Church member receives a certificate, what is received is a certified (signed) copy. It is important that name and gender changes are made in the official register, from which any new certificate may be rendered upon request.

2.0 Requesting an amendment to a record

2.1 *Who has the right to request an amendment?*

- Persons may request an amendment to their own personal data in Church records.
- Parents/legal guardians may request an amendment on a minor's behalf.

¹ As defined in I.5.2 of the Constitution and Canons, records are "all fixed evidential information, regardless of method, media, format, or characteristics of the recording process, which have been created, received or gathered by the Church, its officers, agents or employees in pursuance of the legal, business and administrative function and the programmatic mission of the Church. Records include all original materials used to capture information, notwithstanding the place or conditions of creation, or the formality or informality of the characteristics of the record. The records and archives of the Church are not limited by the medium in which they are kept and include such formats as paper records, electronic records, printed records and publications, photo-reproduced images, and machine-readable tapes, film and disks."

2.2 *Circumstances for amending a record*

2.2.1 Name changes after a legal change in status

- An individual who has made a legal name change may request amendments to sacramental records (i.e., Parish Registers).
- Marriage, divorce, and remarriage warrant routine name changes.
- Adoptees and their parents may request a name change.

2.2.2 Other name change requests:

- Name changes to administrative records permit more flexibility. Church personnel may recognize a priority need for honoring new identity or protecting personal safety. Flexibility should be balanced with discretion as to avoid name changes for fraudulent purposes.
- Parish Registers and administrative records (e.g. personnel records) should not be changed to satisfy a personal preference only.

2.2.3 Gender change

An individual may make a formal request to amend the gender assigned to the person in sacramental and administrative records.

2.2.4 Corrections

Corrections to the Parish Register or other original record are permissible when *bona fide* evidence of an error is identified.

2.3 *A Valid Request*

- A record should not be changed without the receipt of a formal request in writing directed to the priest-in-charge or a delegated authority (e.g., recorder, archivist).
- Name changes must be accompanied by a legal instrument from civil authorities. Gender changes must be accompanied by adequate supporting documentation. Administrative records changes may be decided at the parochial level.

3.0 **Procedure for making name and identity changes to sacramental records**

3.1 *Evidence should accompany requests for a name or gender change:*

- Original records (documents that verify an individual's original identity)
- Changed records (documents that verify an individual's new/changed identity)
- Pastoral care (evidence satisfactory to the priest that the individual freely and fully understands the changes to be made and the privacy expectations)

3.2 *Original Name/Gender: Verifying documents/declarations:*

- Original signed, government issued identification with photograph (e.g., passport), *or* original birth certificate, *or*
- Evidence from a member of the clergy of a continuing pastoral relationship in the individual's home parish or the person's agency relationship (e.g chaplain).
- Special hardship cases (e.g., refugees, undocumented aliens) for which the priest may consider other forms of evidence, such as student identification, refugee documentation, or baptismal record.

3.3 *New Identity: Verifying documents/declarations:*

3.3.1 Name only, or Name and Gender (one of the following)

- Government-issued identification document with changes
- Court order
- Divorce papers
- Marriage certificate
- Proof of adoption.

3.3.2 Gender only

- Signed statements by a healthcare/mental health professional certifying that the new gender is the requester's stated gender.
- Parishes may consider accepting other types of verification, for example, an affidavit from a family member or member of the clergy.

3.4 *Who is authorized to amend a parish or Church record?*

- Rector or priest-in-charge (or designee)
- Officiating member of the clergy
- Bishop
- Administrative records: official recorder or custodian

3.3 *Best practices for amending a record*

- Never write over, obliterate or remove any original information.
- Draw a single line through the original information. Keep the previous entry legible.
- Sign or initial and date the line-through. Add the new information adjacent to the original entry, in the margin, or other available space, including the current date.

- Change the index entry, if one exists, in the same manner as above and add a cross reference under the new name.
- Correction of electronic records should follow the same principles as paper. Keep the original entry legible in some form allowed by the software (i.e., edit/save new record). Use the software's note field to date and initial the record as an amended record, and refer to the new record if necessary.
- A paper copy for signature should be generated for the Parish Register. In lieu of a paper copy, an e-signature must be affixed to meet canonical requirements.² The importance of archiving electronic records cannot be overstated.

3.4 *Retention and disposition of supporting documentation*

- Supporting documentation is needed for changes to the Parish Register and personnel-type records, but once approved, supporting documentation that has personally identifiable information should be returned to the individual as retention places an undue security burden on the parish.
- The recommended approach is to keep official letter (or email) requesting amendments, which the priest or custodian initials as approved or declined. This letter or email should contain only essential directory information.
- Duplicate copies of supporting documentation should be securely destroyed.

4.0 Privacy, Confidentiality and Access to Records

4.1 *The right to view or receive a copy of sacramental or personnel-type records is restricted to:*

- Principal individual
- Parents and legal guardians of minors
- Notarized designated delegate of the principal, (such as family members or attorney)
- Rector or rector's delegated administrator
- Civil authorities (e.g. law enforcement or court official) upon referral from the Church attorney or chancellor.
- Pre-screened individuals seeking biological parent identity (after referral by a social service agency and pastoral counseling)

4.2 *Due diligence:*

Verification of identity and proof of intent of the principal or other parties are recommended prior to releasing personally identifiable information. Privacy concerns envelop issues of identity theft, the protection of the personal safety of transgendered individuals, victims of domestic violence, unauthorized intrusion of family members, and the safety of persons at risk. The need to be dutiful should not be used, however, as an obstacle to honoring a straight-forward, legitimate request.

4.3 *Church bodies are obliged to protect the privacy of the record. The following standards are recommended.*

- An individual's privacy extends across their personal history, including pre-amended and amended data.
- Records with personal information should not be open to browsing by anyone but the authorized delegate or custodian.
- Parish Registers and other records containing personally identifiable information should be held under secure lock.
- Information systems (databases, spreadsheets) should be password protected with strong passwords, and accessed only on a need-to-know basis.

4.4 *When records become historical and open to the public.*

- Using New York State law as a minimum: birth records are open after 75 years if the person is deceased. Marriage and death records are open after 50 years, if the person is deceased. Descendants may access records after the principal's death.
- While privacy does not extend beyond death, administrators should practice discretion in releasing records for reasonable requests. As the Diocese of Toronto observes in their guidelines: if it doesn't sound reasonable, it probably isn't.
- Any inquiry for historical records should have a legitimate purpose: genealogical research, legal inquiries regarding inheritance, scholarly inquiries.
- Parish Registers should not be opened to external persons for browsing.
- Church records belong to the parish community and are not to be exploited for commercial or personal gain for third-party publishers.

5.0 Concerning the Transition Underway from Paper to Electronic Parish Registers

Electronic records are more susceptible to compromise, corruption and undetected alteration than paper records. A comprehensive data model that provides small and mid-size parishes with secure and low-cost archive solutions for permanent records is an appropriate concern for TEC.

5.1 Implications for moving Parish Registers, communicant lists, and other membership data to electronic formats exclusively:

- Security concerns include: data breeches, storage location, disaster planning;
- Confidentiality: appropriate permission levels of access;
- Ease of use in entry, update and revision history, and retrieval;
- Ongoing technical support and upkeep;
- Software obsolescence;
- Data redundancy, regular data back-up, and creating an archive copy.

5.2 Implications of using cloud vendors for software and/or data storage:

- Security concerns include: data breeches, business viability, vetted staff.
- Appropriate disaster prevention and planning.
- Confidentiality: appropriate permission levels of access.
- Ownership of data: ownership, custody, and stewardship should belong to parish or other Church entity; rights are not shared with a proprietary third party.
- Exporting data is possible: demonstrated method and ease to export and purge data, e.g. when moving to a new system.
- Availability: service provider should be required to provide 24/7 support and maintenance, and the data should be available to client on demand.
- Compliance with canonical and government record-keeping requirements.