

**SORLING  
NORTHROP**  
ATTORNEYS

August 28, 2013

Clergy Members of the  
Illinois Great Rivers Annual Conference

Pastor Parish Relations Committees  
of the United Methodist Churches  
within the Illinois Great Rivers Annual Conference

**Re: Local Church Responsibility for United Methodist Pastor  
Form I-9 Creation**

Dear Pastors and Local Church Leaders:

Greetings. I am the Chancellor (legal counsel) for the Illinois Great Rivers Annual Conference of the United Methodist Church ("IGRAC"). The IGRAC Area Office recently asked me to determine whether the employment eligibility verification for pastors required by the United States Immigration and Nationality Act should be performed by the Area Office or the local church to which the pastor is appointed. I have advised the Area Office that both the Area Office and the local church are better protected from potential legal challenge if the local church and not the Area Office, creates and maintains a properly completed employment eligibility verification form (also known as a "Form I-9") for its appointed pastor. The Area Office has therefore decided to discontinue its prior practice of creating Form I-9's for pastors not directly employed by IGRAC and urges local churches to prepare and maintain Form I-9s for each pastor currently appointed to the local church as of July 1, 2013, and all pastors appointed to the local church thereafter.

The Immigration and Nationality Act requires all "employers" to prepare and maintain Form I-9s for each person who is employed by the employer. Your church should already be engaged in this practice for all those holding lay employment positions within your church. The employment status for pastors under this legislation however is not as straight forward. As you are aware pastors are considered employees for some governmental purposes but self-employed for other governmental purposes.

For Form I-9 purposes, the U.S. Immigration and Nationality Act deems those who receive compensation for services performed for an entity to be either an employee or an independent contractor, depending on which status best applies. The distinguishing characteristic of an independent contractor

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is the ability to provide services for a number of different entities at a given point in time. A pastor appointed to a particular charge would not enjoy that freedom and thus cannot be deemed an independent contractor for Form I-9 purposes. Since the pastor cannot be classified as an independent contractor, the pastor can only be classified as an employee for Immigration and Nationality Act purposes. Moreover, since it is the local church who provides the compensation to its pastor, the Immigration and Nationality Act would consider the local church to be the employer of the pastor for purposes of that particular statute.

We are mindful that paragraph 143 of *The Book of Discipline of the United Methodist Church (2012)* provides that United Methodist Clergy appointed to local churches are not employees of the local church or the annual conference for purposes of United Methodist polity. However, that same section of *The Book of Discipline* goes on to recognize that certain secular laws may classify United Methodist Clergy as employees for certain secular law purposes. Employment eligibility verification, in our opinion, is one such area where the requirements of federal law would classify a local church's pastor as an employee of the local church.

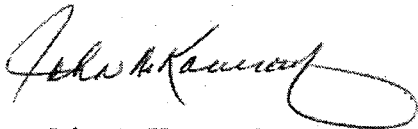
The Area Office, therefore, strongly urges each local church to create and keep on file a properly completed and verified Form I-9 for each of its appointed pastors. The Area Office will no longer perform this function or otherwise act as a repository for such forms for pastors appointed to local churches.

For pastors, this will mean that you will have to cooperate in the preparation of I-9 forms for the local churches you currently serve and each time you move to a new appointment at a different local church. This should not be a burden for you. Preparation of an I-9 Form only takes a few minutes to complete and requires production for examination of documents such as a driver's license and social security card, which should be readily available to the pastor. Please note that providing a copy of a Form I-9 created previously does not comply with federal law as it is possible that an individual's employment eligibility may change from time to time.

A copy of the current (March 31, 2013) version of the Form I-9 and its instructions can be found at [www.uscis.gov/files/form/i-9.pdf](http://www.uscis.gov/files/form/i-9.pdf). If your church currently utilizes any prior version of the Form I-9, please dispose of any blank copies of the prior versions and begin utilizing the current version of the Form for all new verifications of employment.

The Conference Director of Administrative Services is prepared to answer any questions you may have. Please feel free to contact Rick Van Giesen at the Conference Center by phone (217-529-2132) or by e-mail ([rvangiesen@igrc.org](mailto:rvangiesen@igrc.org)).

Very truly yours,



John A. Kauerauf  
Conference Chancellor

JAK:smr