

## **Same Gender Marriage after Supreme Court: Obergefell v. Hodges**

### **What does this mean for Marriage in the State in which I live?**

All states must recognize same-gender marriages and give full faith and credit to marriages performed in another state. States may not discriminate in the legal benefits they confer upon a marriage based upon the gender of the individuals within the marriage.

### **What does this mean for Clergy performing Marriage ceremonies?**

The Supreme Court recognized that religious individuals and institutions may continue to teach and practice sincerely held religious beliefs so we presume that clergy may not be compelled by the state to perform or officiate a marriage between two people that violates the sincerely held religious belief of the clergy. Under the Presbyterian Church (U.S.A.) Book of Order, W-4.9000, a clergy is authorized, though not required, to act as an agent of the civil jurisdiction in recording the marriage contract. Nothing in our Constitution shall compel a teaching elder to perform a marriage service that the teaching elder believes is contrary to the teaching elder's discernment of the Holy Spirit and understanding of the Word of God.

### **What does this mean for congregations? Will congregations be required to host a wedding ceremony that violates their sincerely held religious belief?**

The case does not speak about congregations. In some communities, if a congregation allows their building to be used as a "public accommodation" by the community, the building may fall under the state or local anti-discrimination laws as a "public accommodation". If a congregation is clear that any building use must be approved by Session and keeps published guidelines about the use of buildings, a congregational worship space may be considered private property and not under the state or local "public accommodation" laws. This is a fluid area of law and any congregation concerned about the use of their buildings should consult with a licensed attorney in their state.

In the Presbyterian Church (U.S.A.) Constitution, a session has authority to permit or deny the use of church property for a marriage service. Nothing in our the constitution shall compel a session to authorize the use of church property for a marriage service that the session believes is contrary to the session's discernment of the Holy Spirit and their understanding of the Word of God.

### **What if a Teaching Elder in a called or temporary position disagrees with a Session on the use of church property for a same gender wedding?**

The Teaching Elder must abide by the wishes of the Session on the use of church property, however a Session may not compel a Teaching Elder to perform a marriage service that the teaching elder believes is contrary to the teaching elder's discernment of the Holy Spirit and understanding of the Word of God.

Similarly, a Teaching Elder may not compel a Session on the use of church property that the Session believes is contrary to the Session's discernment of the Holy Spirit and the understanding of the Word of God. It is possible that the effectiveness of a Teaching Elder in a particular call to congregational ministry may be affected by any ongoing disagreement between a Session and a Teaching Elder.

**Will the tax-exempt status of our congregation be affected by our decision not to open the building to same-gendered marriage?**

The case does not go to the question about tax-exempt status of congregations. The tax exempt status of a congregation will probably not be affected by any decision about the use of property as long as the congregation's policies and procedures are clear that they are based upon a sincerely held religious belief.