

# Bylaws

Of

## SOUTHWEST WASHINGTON WIND SYMPHONY

(Revised June 16, 2007)

### Article I

#### Name and Location

##### Section 1. Name

The name of this organization shall be the Southwest Washington Wind Symphony (SWWS).

##### Section 2. Principal Office

The principal office of the corporation is located in Clark County, State of Washington.

##### Section 3. Change of Address

The designation of the county or state of the corporation's principal office may be changed by amendment of these bylaws. The board of directors may change the principal office from one location to another within the named county by noting the changed address and effective date below, and such changes of address shall not be deemed, nor require, an amendment of these bylaws:

New Address: \_\_\_\_\_

Dated: \_\_\_\_\_, 20\_\_\_\_

New Address: \_\_\_\_\_

Dated: \_\_\_\_\_, 20\_\_\_\_

New Address: \_\_\_\_\_

Dated: \_\_\_\_\_, 20\_\_\_\_

### Article II

#### Nonprofit Purposes

##### Section 1. IRC Section 501(c)(3) Purposes

This organization is incorporated as a non-profit corporation exclusively for educational purposes as specified in section 501 (c)(3) of the Internal Revenue Code. This organization is also incorporated in the State of Washington as a non-profit corporation as of October 3, 2005, UBI # 602-552-606. The Federal Employer Identification Number (FEIN) is 14-1975741.

## Section 2. Specific Objectives and Purposes

The specific objectives and purposes of this corporation shall be:

- a. To provide a high quality wind ensemble and model of excellence in symphonic band music to our community;
- b. To contribute positively to the musical and cultural community of southwest Washington;
- c. To encourage and support on-going music education in the public schools with special emphasis on wind/band music appreciation;
- d. To affirm the value of wind/band music as an important and valuable form of musical expression;
- e. To encourage the on-going personal growth and musical maturation of its musicians.

## Article III Board of Directors

### Section 1. Executive Authority

The executive authority of the organization is vested in the board of directors.

### Section 2. Powers

Subject to the provisions of the laws of this state and any limitations in the articles of incorporation and these bylaws relating to action required or permitted to be taken, the activities and affairs of this corporation shall be conducted and all corporate powers shall be exercised by or under the direction of the board of directors.

### Section 3. Duties

It shall be the duty of the directors to:

- a. Perform any and all duties imposed on them collectively or individually by law, by the articles of incorporation, or by these bylaws.
- b. Manage the affairs of the organization taking all action that is compatible with the best interest of the organization and its previously stated purpose.
- c. Appoint and remove, employ and discharge, and, except as otherwise provided in these bylaws, prescribe the duties and fix the compensation, if any, of all officers, agents, and employees of the corporation.
- d. Supervise all officers, agents, and employees of the corporation to assure that their duties are performed properly.
- e. Meet at such times and places as required by these bylaws.

- f. Supervise the recruitment of conductors and performing musicians, as necessary.
- g. Establish a schedule of rehearsals, concerts, and other events consistent with the previously stated purpose.

#### Section 4. Titles

The board of directors shall consist of a minimum of three and a maximum of seven members. The majority of the board of directors shall be performing musicians in the wind symphony.

- a. President – The president shall be the chief executive officer of the corporation and shall, subject to the control of the board of directors, supervise and control the affairs of the corporation. He or she shall perform all duties incident to his or her office and such other duties as may be required by law, by the articles of incorporation, or by these bylaws, or which may be prescribed from time to time by the board of directors. Unless another person is specifically appointed as chairperson of the board of directors, the president shall preside at all meetings of the board of directors. Except as otherwise expressly provided by law, by the articles of incorporation, or by these bylaws, he or she shall, in the name of the corporation, execute such deeds, mortgages, bonds, contracts, checks, or other instruments which may from time to time be authorized by the board of directors.
- b. Vice President – In the absence of the president, or in the event of his or her inability or refusal to act, the vice president shall perform all the duties of the president, and when so acting shall have all the powers of, and be subject to all the restrictions on, the president. The vice president shall have other powers and perform such other duties as may be prescribed by law, by the articles of incorporation, or by these bylaws, or as may be prescribed by the board of directors.
- c. Secretary – The secretary shall:
  - 1. Certify and keep the original, or a copy, of these bylaws as amended or otherwise altered to date.
  - 2. Keep a book of minutes of all meetings of the directors and current lists of all performing musicians and other permanent records as may be necessary.
  - 3. Write notes of appreciation as appropriate.
  - 4. In general, perform all duties incident to the office of secretary and such other duties as may be prescribed by the board of directors.
- d. Treasurer – The treasurer shall:
  - 1. Have charge and custody of, and be responsible for, all funds and securities of the corporation, and deposit all such funds in the name of the corporation in such banks, trust companies, or other depositories as shall be selected by the board of directors.
  - 2. Receive, and give receipt for, monies due and payable to the corporation from any source whatsoever.
  - 3. Disburse, or cause to be disbursed, the funds of the corporation as may be directed by the board of directors, taking proper vouchers for such disbursements.

4. Keep and maintain adequate and correct accounts of the corporation's properties and business transactions, including accounts of its assets, liabilities, receipts, disbursements, gains, and losses.
  5. Exhibit at all reasonable times the books of account and financial records to any director of the corporation, or to his or her agent or attorney, on request therefore.
  6. Render to the president and directors, whenever requested, an account of any or all of his or her transactions as treasurer and of the financial condition of the corporation.
  7. Prepare, or cause to be prepared, and certify, or cause to be certified, the financial statements to be included in any required reports.
  8. In general, perform all duties incident to the office of treasurer and such other duties as may be required by law or these bylaws, or which may be assigned by the board of directors.
- e. Librarian – The librarian is responsible for the care, maintenance, distribution, and collection of the music for each concert. The librarian shall:
1. Develop and maintain an inventory of all music owned by SWWS and verify that all owned music is marked with the SWWS stamp verifying that it is SWWS property.
  2. Store, maintain, distribute, and collect all SWWS music folders, and arrange for replacement when necessary.
  3. Collate and reestablish score order for all returned music.
  4. Verify the inventory of all borrowed music and document any missing or damaged parts. Arrange for the replacement of missing or damaged parts as necessary, if possible.
  5. Verify that all borrowed music is returned to the lender in a timely manner complete and undamaged, or in the same condition as when borrowed.
  6. Shall perform other duties as may be assigned by the board of directors.
- f. Marketing/Publicity/Development Director – The MPD director will work with the board of directors to develop a strategy for presenting the activities of Southwest Washington Wind Symphony to the community. This will involve advertising, marketing, public relations, promotional activities, establishing and promoting the public image and identity of the Southwest Washington Wind Symphony, and fundraising.
- g. Performing Musician Representative – The performing musician representative will represent the ideas and concerns of the performing musicians to the board of directors.

## Section 5. Term of Office

Each director shall hold office for a period of 2 years or until a qualified successor is elected. Directors may serve successive terms.

## Section 6. Compensation

Directors shall serve without compensation except a reasonable fee may be paid to directors for attending regular and special meetings of the board. In addition, they shall be allowed reasonable advancement or reimbursement of expenses incurred in the performance of their duties. Any payments to directors shall be approved in advance by the board of directors.

## Section 7. Place of Meetings

Meetings shall be held at the principal office of the corporation unless otherwise provided by the board or at such other place as may be designated from time to time by resolution of the board of directors.

## Section 8. Meetings

A meeting of the directors shall occur annually in June. Directors shall be elected by the board of directors at the June meeting every second year. Each director shall cast one vote per candidate and may vote for as many candidates as the number of candidates to be elected to the board. The candidate receiving the highest number of votes up to the number of directors to be elected shall be elected to serve on the board.

Vote by proxy shall be accepted.

Additional meetings of the directors may be called by any member of the board. Meeting time and location shall be agreed upon by the board members.

## Section 9. Quorum for meetings

A quorum shall consist of two-thirds of the members of the board of directors.

Except as otherwise provided under the articles of incorporation, these bylaws, or provisions of law, no business shall be considered by the board at any meeting at which the required quorum is not present, and the only motion which the chair shall entertain at such meeting is a motion to adjourn.

## Section 10. Majority Action as Board Action

Every act or decision done or made by a majority of the directors present at a meeting duly held at which a quorum is present is the act of the board of directors, unless the articles of incorporation, these bylaws, or provisions of law require a greater percentage or different voting rules for approval of a matter by the board.

## Section 11. Conduct of Meetings

Meetings of the board of directors shall be presided over by the chairperson of the board, or, if no such person has been so designated, or in his or her absence, the president of the corporation, or in his or her absence, by the vice president of the corporation or in the absence of each of these persons, by a chairperson chosen by a majority of the directors present at the meeting. The secretary of the corporation shall act as secretary of all meetings of the board, provided that, in his or her absence, the presiding officer shall appoint another person to act as secretary of the meeting.

## Section 12. Vacancies

Vacancies on the board of directors shall exist (1) on the death, resignation, or removal of any director, and (2) whenever the number of authorized directors is increased.

Any director may resign effective upon giving written notice to the chairperson of the board, the president, the secretary, or the board of directors, unless the notice specifies a later time for the effectiveness of such resignation. No director may resign if the corporation would then be left without a duly elected director or directors in charge of its affairs, except upon notice to the Office of the Attorney General or other appropriate agency of this state.

Directors may be removed from office, with or without cause, as permitted by and in accordance with the laws of this state.

Unless otherwise prohibited by the articles of incorporation, these bylaws, or provisions of law, vacancies on the board may be filled by approval of the board of directors. If the number of directors then in office is less than a quorum, a vacancy on the board may be filled by approval of a majority of the directors then in office or by a sole remaining director. A person elected to fill a vacancy on the board shall hold office until the next election of the board of directors or until his or her death, resignation, or removal from office.

## Section 13. Non-liability of Directors

The directors shall not be personally liable for the debts, liabilities, or other obligations of the corporation.

## Section 14. Indemnification by Corporation of Directors

The directors and officers of the corporation shall be indemnified by the corporation to the fullest extent permissible under the laws of this state.

## Section 15. Insurance for Corporate Agents

Except as may be otherwise provided under provisions of law, the board of directors may adopt a resolution authorizing the purchase and maintenance of insurance on behalf of any agent of the corporation (including a director, officer, employee, or other agent of the corporation) against liabilities asserted against or incurred by the agent in such capacity or arising out of the agent's status as such, whether or not the corporation would have the power to indemnify the agent against such liability under the articles of incorporation, these bylaws, or provisions of law.

# Article IV Conductor

## Section 1. Number

There may be one or more conductors as determined by the Board of Directors.

## Section 2. Duties

The conductor is responsible for the musical selection and programming of concerts for the Southwest Washington Wind Symphony, in consultation with the board of directors. The conductor has full authority over the technical aspects of rehearsals and performances including but not limited to assigning parts and solos and determining the musical interpretation of all parts.

### Section 3. Advisor to the Board of Directors

The conductor is invited to attend all board meetings and functions as an advisor/consultant to the board. Attendance is not required.

### Section 4. Compensation

The conductor may receive a stipend, or compensation for services, as agreed upon by a negotiated and signed contract between the Board of Directors and the Conductor. The conductor acts as a subcontractor to Southwest Washington Wind Symphony and is responsible for his/her reporting and withholding of personal income to the various taxing agencies.

## Article V Execution of Instruments, Deposits, and funds

### Section 1. Execution of Instruments

The board of directors, except as otherwise provided in these bylaws, may by resolution authorize any officer or agent of the corporation to enter into any contract or execute and deliver any instrument in the name of and on behalf of the corporation, and such authority may be general or confined to specific instances. Unless so authorized, no officer, agent, or employee shall have any power or authority to bind the corporation by any contract or engagement or to pledge its credit or to render it liable monetarily for any purpose or in any amount.

### Section 2. Checks and Notes

Except as otherwise specifically determined by resolution of the board of directors, or as otherwise required by law, checks, drafts, promissory notes, orders for the payment of money, and other evidence of indebtedness of the corporation shall be signed by the treasurer and countersigned by the president or vice-president of the corporation.

### Section 3. Deposits

All funds of the corporation shall be deposited from time to time to the credit of the corporation in such banks, trust companies, or other depositories as the board of directors may select.

### Section 4. Gifts

The board of directors may accept on behalf of the corporation any contribution, gift, bequest, or devise for the nonprofit purposes of this corporation.

## Article VI IRC 501 (c)(3) Tax Exemption Provisions

## Section 1. Limitations on Activities

No substantial part of the activities of this corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation (except as otherwise provided by Section 501 (h) of the Internal Revenue Code), and this corporation shall not participate in, or intervene in (including the publishing or distribution of statements), any political campaign on behalf of, or in opposition to, any candidate for public office.

Notwithstanding any other provisions of these bylaws, this corporation shall not carry on any activities not permitted to be carried on (a) by a corporation exempt from federal income tax under Section 501 (c)(3) of the Internal Revenue Code, or (b) by a corporation, contributions to which are deductible under Section 170 (c)(2) of the Internal Revenue Code.

## Section 2. Prohibition Against Private Inurement

No part of the net earnings of this corporation shall inure to the benefit of, or be distributable to, its members, directors or trustees, officers, or other private persons, except that the corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes of this corporation.

## Section 3. Distribution of Assets

Upon the dissolution of this corporation, its assets remaining after payment, or provision for payment, of all debts and liabilities of this corporation, shall be distributed to a nonprofit fund, foundation, or corporation which is organized and operated exclusively for educational purposes and which has established its tax-exempt status under Section 501 (c)(3) of the Internal Revenue Code, or shall be distributed to the federal government, or to a state or local government, for a public purpose. Such distribution shall be made in accordance with all applicable provisions of the laws of this state.

# Article VII Conflict of Interest and Compensation Approval Policies

## Section 1. Purpose of Conflict of Interest Policy

The purpose of this conflict of interest policy is to protect this tax-exempt corporation's interest when it is contemplating entering into a transaction or arrangement that might benefit the private interest of an officer or director or of the corporation or any "disqualified person" as defined in Section 4958(f)(1) of the Internal Revenue Code and as amplified by Section 53.4958-3 of the IRS Regulations and which might result in a possible "excess benefit transaction" as defined in Section 4958(c)(1)(A) of the Internal Revenue Code and as amplified in Section 53.4958 of the IRS Regulations. This policy is intended to supplement but not replace any applicable state and federal laws governing conflict of interest applicable to nonprofit and charitable organizations.

## Section 2. Definitions

**a. Interested Person.** Any director, principal officer, member of a committee with governing board delegated powers, or any other person who is a "disqualified person" as defined in Section 4958(f)(1) of the Internal Revenue Code and as amplified by Section 53.4958-3 of the IRS



Regulations, who has a direct or indirect financial interest, as defined below, is an interested person.

**b. Financial Interest.** A person has a financial interest if the person has, directly or indirectly, through business, investment, or family:

1. An ownership or investment interest in any entity with which the corporation has a transaction or arrangement,
2. A compensation arrangement with the corporation or with any entity or individual with which the corporation has a transaction or arrangement, or
3. A potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the corporation is negotiating a transaction or arrangement.

Compensation includes direct and indirect remuneration as well as gifts or favors that are not insubstantial.

A financial interest is not necessarily a conflict of interest. Under Section 3, paragraph B, a person who has a financial interest may have a conflict of interest only if the appropriate governing board or committee decides that a conflict of interest exists.

### Section 3. Conflict of Interest Avoidance Procedures

**a. Duty to Disclose.** In connection with any actual or possible conflict of interest, an interested person must disclose the existence of the financial interest and be given the opportunity to disclose all material facts to the directors and members of committees with governing board delegated powers considering the proposed transaction or arrangement.

**b. Determining Whether a Conflict of Interest Exists.** After disclosure of the financial interest and all material facts, and after any discussion with the interested person, he/she shall leave the governing board or committee meeting while the determination of a conflict of interest is discussed and voted upon. The remaining board or committee members shall decide if a conflict of interest exists.

**c. Procedures for Addressing the Conflict of Interest.** An interested person may make a presentation at the governing board or committee meeting, but after the presentation, he/she shall leave the meeting during the discussion of, and the vote on, the transaction or arrangement involving the possible conflict of interest.

The chairperson of the governing board or committee shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.

After exercising due diligence, the governing board or committee shall determine whether the corporation can obtain, with reasonable efforts a more advantageous transaction or arrangement from a person or entity that would not give rise to a conflict of interest.

If a more advantageous transaction or arrangement is not reasonably possible under circumstances not producing a conflict of interest, the governing board or committee shall determine by a majority vote of the disinterested directors whether the transaction or arrangement is in the corporation's best interest, for its own benefit, and whether it is fair and reasonable. In conformity with the above determination, it shall make its decision as to whether to enter into the transaction or arrangement.

**d. Violations of the Conflicts of Interest Policy.** If the governing board or committee has reasonable cause to believe a member has failed to disclose actual or possible conflicts of interest, it shall inform the member of the basis for such belief and afford the member an opportunity to explain the alleged failure to disclose.

If, after hearing the member's response and after making further investigation as warranted by the circumstances, the governing board or committee determines the member has failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and corrective action.

#### Section 4. Records of Board and Board Committee Proceedings

The minutes of meetings of the governing board and all committees with board delegated powers shall contain:

- a. The names of the persons who disclosed or otherwise were found to have a financial interest in connection with an actual or possible conflict of interest, the nature of the financial interest, any action taken to determine whether a conflict of interest was present, and the governing board's or committee's decision as to whether a conflict of interest in fact existed.
- b. The names of the persons who were present for discussions and votes relating to the transaction or arrangement, the content of the discussion, including any alternatives to the proposed transaction or arrangement, and a record of any votes taken in connection with the proceedings.

#### Section 5. Compensation Approval Policies

A voting member of the governing board who receives compensation, directly or indirectly, from the corporation for services is precluded from voting on matters pertaining to that member's compensation.

A voting member of any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the corporation for services is precluded from voting on matters pertaining to that member's compensation.

No voting member of the governing board or any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the corporation, either individually or collectively, is prohibited from providing information to any committee regarding compensation.

When approving compensation for directors, officers, and employees, contractors, and any other compensation contract or arrangement, in addition to complying with the conflict of interest requirements and policies contained in the preceding and following sections of this article as well as the preceding paragraphs of this section of this article, the board or duly constituted compensation committee of the board shall also comply with the following additional requirements and procedures:

- a. The terms of compensation shall be approved by the board or compensation committee prior to the first payment of compensation,
- b. All members of the board or compensation committee who approve compensation arrangements must not have a conflict of interest with respect to the compensation arrangement as specified in IRS Regulation Section 53.4958-6(c)(iii), which generally

requires that each board member or committee member approving a compensation arrangement between this organization and a “disqualified person” (as defined in Section 4958(f)(1) of the Internal Revenue Code and amplified by Section 53.4958-3 Of the IRS Regulations):

1. is not the person who is the subject of the compensation arrangement, or a family member of such person;
  2. is not in an employment relationship subject to the direction or control of the person who is the subject of the compensation arrangement;
  3. does not receive compensation or other payments subject to approval by the person who is the subject of the compensation arrangement;
  4. has no material financial interest affected by the compensation arrangement; and
  5. does not approve a transaction providing economic benefits to the person who is the subject of the compensation arrangement, who in turn has approved or will approve a transaction providing benefits to the board or committee member.
- c. The board or compensation committee shall obtain and rely upon appropriate data as to comparability prior to approving the terms of compensation. Appropriate data may include the following:
1. compensation levels paid by similarly situated organizations, both taxable and tax-exempt, for functionally comparable positions. “Similarly situated” organizations are those of a similar size, purpose, and with similar resources;
  2. the availability of similar services in the geographic area of this organization;
  3. current compensation surveys compiled by independent firms;
  4. actual written offers from similar institutions competing for the services of the person who is the subject of the compensation arrangement.

As allowed by IRS Regulation 4958-6, if this organization has average annual gross receipts (including contributions) for its three prior tax years of less than \$1 million, the board or compensation committee will have obtained and relied upon appropriate data as to comparability if it obtains and relies upon data on compensation paid by three comparable organizations in the same or similar communities for similar services.

- d. The terms of compensation and the basis for approving them shall be recorded in written minutes of the meeting of the board or compensation committee that approved the compensation. Such documentation shall include:
1. the terms of the compensation arrangement and the date it was approved;
  2. the members of the board or compensation committee who were present during debate on the transaction, those who voted on it, and the votes cast by each board or committee member;
  3. the comparability data obtained and relied upon and how the data was obtained;

4. if the board or compensation committee determines that reasonable compensation for a specific position in this organization or for providing services under any other compensation arrangement with the organization is higher or lower than the range of comparability data obtained, the board or committee shall record in the minutes of the meeting the basis for its determination;

5. if the board or committee makes adjustments to comparability data due to geographic area or other specific conditions, these adjustments and the reasons for them shall be recorded in the minutes of the board or committee meeting;

6. any actions taken with respect to determining if a board or committee member had a conflict of interest with respect to the compensation arrangement, and if so, actions taken to make sure the member with the conflict of interest did not affect or participate in the approval of the transaction (for example, a notation in the records that after a finding of conflict of interest by a member, the member with the conflict of interest was asked to, and did, leave the meeting prior to a discussion of the compensation arrangement and a taking of the votes to approve the arrangement);

7. the minutes of board or committee meetings at which compensation arrangements are approved must be prepared before the later of the date of the next board or committee meeting or 60 days after the final actions of the board or committee are taken with respect to the approval of the compensation arrangements. The minutes must be reviewed and approved by the board and committee as reasonable, accurate, and complete within a reasonable period thereafter, normally prior to or at the next board or committee meeting following final actions on the arrangement by the board or committee.

## Section 6. Annual Statements

Each director, principal officer, and member of a committee with governing board delegated powers shall annually sign a statement which affirms such person:

- a. has received a copy of the conflicts of interest policy,
- b. has read and understands the policy,
- c. has agreed to comply with the policy, and
- d. understands the corporation is charitable and in order to maintain its federal tax exemption it must engage primarily in activities which accomplish one or more of its tax-exempt purposes.

## Section 7. Periodic Reviews

To ensure the corporation operates in a manner consistent with charitable purposes and does not engage in activities that could jeopardize its tax-exempt status, periodic reviews shall be conducted. The periodic reviews shall, at a minimum, include the following subjects:

- a. Whether compensation arrangements and benefits are reasonable, based on competent survey information and the result of arm's-length bargaining.
- b. Whether partnerships, joint ventures, and arrangements with management organizations conform to the corporation's written policies, are properly recorded, reflect reasonable investment or payments for goods and services, further charitable purposes,

and do not result in inurement, impermissible private benefit, or in an excess benefit transaction.

#### Section 8. Use of Outside Experts

When conducting the periodic reviews as provided for in Section 7, the corporation may, but need not, use outside advisors. If outside experts are used, their use shall not relieve the governing board of its responsibility for ensuring periodic reviews are conducted.

### Article VIII Amendment of Bylaws

#### Section 1. Amendment

These Bylaws may be amended, altered, or repealed, and new bylaws adopted, only by an affirmative vote by a two-thirds majority of the board of directors.