Karen Organization of San Diego Bylaws Paper

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Client Overview: Karen Organization of San Diego

The Karen Organization of San Diego was established in 2009 to meet the needs of the Karen and other ethnic minority groups from Burma that reside in San Diego. According to the organization’s mission statement, the Karen Organization of San Diego is committed to educational and social enhancement of various ethnic minority groups from Burma who reside in San Diego, California. The primary purpose of the organization is to provide social services and opportunities for culture preservation for the Karen and other ethnic minority groups from Burma who reside in San Diego to improve their quality of life.

Working with organizations like the International Rescue Committee, the Karen Organization of San Diego aims to be a bridge between San Diego’s local community and refugees from Burma. The Karen Organization of San Diego provides four major programs, but the staff members often extend themselves beyond these programs to provide additional levels of support for the refugees from Burma they serve. The first program of the organization is community self-help. Under this program the organization facilitates meetings for Karen, Karenni, and Burmese speakers, recruits volunteers from within and outside of the community, empowers community leaders and youth volunteers, holds various workshops, gives presentations regarding youth issues, education, community safety, useful community resources, and so forth through collaboration with other service providers. The second program is culture preservation and awareness which aims to preserve the Karen and other minority groups’ culture and inform the general public about the Karen and other refugees from Burma. Under this program, the organization plans cultural events like the Karen New Year Celebration and provides cultural presentations to school teachers and the general public. The job development program’s objective is to find employment opportunities for refugees from Burma because
steady employment is key for their self-sufficiency. The Karen Organization of San Diego holds job search workshops and training targeted to refugees from Burma as part of this program. Finally, the organization provides targeted case management to meet the needs of the Karen and other refugees from Burma. The case management includes assisting clients in accessing health, welfare and educational resources along with providing translators for Karen, Karenni, and Burmese speakers.

As one of the most ethnically diverse countries in the world, Burma has eight main ethnic groups and more than 130 distinctive subgroups. For decades, violence has been used by Burma’s military regime, a group that is predominantly from the Burman ethnic group, in response to the demands of other ethnic groups for basic rights. (U.S. Campaign for Burma) Because of these conditions about half a million refugees have been forced to live in neighboring and nearby countries such as Thailand, Bangladesh, India, and Malaysia. Some of these individuals have lived in refugee camps for more than 20 years. The United States has resettled nearly 70,000 refugees from Burma to date, including Karen, Karenni, Chin, Kachin, Shan, Hmong, and Burmese. Since 2007 the number of refugees from Burma has dramatically increased with 22% of all refugees from the United States coming from Burma. Consequently, the number of refugees resettling in San Diego continues to increase and there are already more than 1,200 refugees from Burma that have resettled in San Diego.

With this growing population in San Diego, the Karen Organization recently received a three year federal grant from the Office of Refugee Resettlement (ORR) to assist with and allow an increase in their project management for refugees from Burma. This grant has allowed the organization to secure an office space and start a new level of service. In addition, the grant has brought to the forefront some changes needed within the organization to help it move forward.
Bylaws: Purpose and Definition

While the IRS defines bylaws as “an organization's internal operating rules,” (2012) this nonprofit governance document actually goes further to both protect the organization and define how the structure of the nonprofit corporation will support the vision and mission of the organization. Unfortunately most nonprofit organizations, especially smaller and younger ones, are confused by the legalese regularly overused in this document. Thus, organizations often avoid this important document when instead, to insure good governance, bylaws should be reviewed every few years “because situations change, the board’s needs evolve, and board members learn new and better practices” (BoardSource, 2012).

Although requirements for what must be included in bylaws vary in each state, there are three important functions they perform in addition to expanding on the Articles of Incorporation. First of all, they explain how the organization is structured, such as whether there will be members, the responsibilities of the board members and officers, and the board member selection process. Secondly, the bylaws determine the rights of those involved in the organization, including indemnification of board members and meeting notification requirements. Finally, bylaws set the procedures for the execution of these rights. For example, the type of notice required for meetings, how voting is to be conducted meetings and how elections are managed (BoardSource, 2003). However, as mentioned above, in addition to these operating functions bylaws also define the mission of the organization and explain the purpose for its existence.

The Karen Organization, founded by non-professionals, was formed through the efforts of the community of refugees from Burma living in San Diego to organize and provide basic services for itself, with special attention to newly resettled community members who find themselves more in need of guidance and assistance in navigating their new environment. When
the Karen Organization filed its Articles of Incorporation, bylaws were a necessary document, but none of the initial board members had the expertise to review and adequately understand them. As a result, the organization currently functions with a very vague and redundant document that was found for free online, which fails to adequately reflect the culture and values of the organization.

Upon undertaking a review and revision of the Karen Organizations bylaws, we as consultants, had to examine on a cultural, organizational, legal and practical level how the organization works to achieve its mission. This involved planning meetings with staff, the board, and community leaders who have a large stake in the operations of the organization as well as the ability to support the buy-in of the community at large. Furthermore, we wanted to simplify their bylaws where possible and help them better understand their bylaws so that the Karen refugees would be better empowered to run their own organization.
Process

Our team’s first goal was project definition and delineation. Due to its relative youth the Karen Organization of San Diego (KOSD) expressed an interest for consultation in several areas, but mostly focused on governance. After reviewing the scope the most immediate needs of KOSD it was determined that a revision of the existing bylaws was needed to create a document that reflected the values and culture of the community it serves.

Andrew Rae, President and Chair of the KOSD board and a member of the consulting team, acted as a liaison and primary point of contact for the group. On October 29, 2012 our group met with KOSD’s Executive Director, Noa Kabashima, to discuss the needs of the organization and the priorities of the project. Noa provided the group with a general overview of the status of the organization. KOSD was founded in 2009 to formalize the services that the Karen refugee community was already informally providing for newly arrived refugees from Burma. At the time of incorporation, the governing documents were sourced via the internet, and while they were legally sound and allowed KOSD to incorporate and earn the 501(c) 3 status, the bylaws did not reflect the values of the organization. Nao further explained that KOSD had recently go through a period of rapid growth due to an influx of revenue, the result of a three year federal grant. In the last year KOSD gone from operating in someone’s living room by a core group of mostly volunteers to a staff of seven and an office location.

The Federal grant provided funding to KOSD to provide case management services to refugees after the initial eight months resettlement services from the International Rescue Committee have ended. Thes critical services provided by KOSD include assistance with documents, issues in school, legal issues, job development, educating community leaders about issues with gangs, citizenship classes, resource connection, presentations at schools and in the
community, culture preservation, hosting a community center where refugees can get away from home, providing a place for the youth to go so they do not get recruited into gangs, community service opportunities for students in high school, encouragement of civic engagement, monthly meetings with community leaders and the Karen Youth Organization (KYSD).

Our group learned in this initial meeting that the Karen Community is very active and that serving the 800-900 members in 150-200 families means that the center is always busy. The center has official hours of 9am to 5pm, but it often opens early and closes late to accommodate the needs of the clients. The community values the organization, and many community members would like to be more involved in the organization, but because of their limited English they are intimidated. To encourage community participation, the Executive Director suggested committees be developed and that the bylaws and other governing documents be simplified. Additionally, through the meeting it was made clear that transparency and community buy-in were very important. Because of historical abuses of the Karen people and corruption in the government and civil sector, the Karen community leaders tend to be skeptical and wary by nature. This mistrust is increased when dealing with other cultures.

To help ease any misgivings, our group made sure to attend a community meeting on the same day as our first meeting with the Executive Director. The meeting was held in the traditional fashion, with all attendees seated on mats on the floor. Our group felt that it was important that we sat with the community members and discussed the motivations for the project. Through a translator and with the assistance of the Executive Director we presented the project and what our intentions were. Finally and perhaps most importantly, we explained that we were consultants, and that any proposed changes would have to be reviewed and approved by the Karen Organization before implementation.
The next step in the process was to meet with the staff members who interact with the community members on a daily basis to gain further perspective regarding the needs of the refugees. The case managers explained the major challenges for the Karen community are cultural and language barriers, inexperience with complicated legal governance documents such as bylaw and the like, and the tendency to become dependent on KOSD rather than being empowered by it. The case workers believed that if the community members could be more active in the leadership of the organizations it would empower them in other areas of their lives as well.

With a basic understanding of what KOSD and the Karen community needed, we began an initial review of the bylaws. In a joint session, we made initial changes to ensure that the bylaws did not contradict the espoused values of the organization. After working as a team to edit the document each member took charge of a section to be reviewed and edited before the next scheduled team meeting. The team used the track changes and comments function to edit the bylaws in order to maintain a history of all changes.

Once the first round of changes had been made, but before meeting with the full board, our team used the University Of San Diego Institute for Nonprofit Research best practice library to seek out potential models. Although not used for direct reference these projects served to point the team in the right direction and demonstrated the ways in which bylaws could be modified to match the culture and values of an organization. The team also requested the bylaws of a more established Karen Refugee organization in Minnesota. These bylaws provided the framework for the membership classes and the Leadership Committee.

In a final meeting with the full board of directors our team presented the proposed changes and sought feedback. The addition of a Community Leaders Committee (Pga Guh Nyo
Ko Nah) was discussed in this meeting as well. The board was very supportive and was in agreement that it could serve as a training ground for future board members and world empower the community to take charge of their organizations. The board and our team discussed the best way to establish the first committee. The preferred method for committee member selection was by community vote. However, two concerns existed: first that it would be logistically difficult, and second that due to the humility of the Karen culture there would be no volunteers. When discussed further, the board felt that it knew who the leaders of the community were based on their previous positions as Section Leaders in the refugee camp and their continued involvement in the organization. It was thus decided that the board would nominate the committee members, and that the membership would confirm these nominations. With these final suggestions from the board added to the bylaws, and our team contacted the assigned pro-bono lawyer, John O’Neil, to review the document.

In discussing the document with John O’Neil, we found that we were mostly addressing issues of style, and redundancy in the bylaws that were carryovers from what the organization had been using.

In our work towards defining the membership to the organization, John suggested that we clarify that it is a non-voting membership to make sure that the organization maintains that designation in the California Corporation Code. He reiterated our assumption that appointments to the Community Leaders Committee need to come from the board, but eliminated the option for membership participation despite our desire to have that process be more grassroots-driven.

The biggest challenge that we faced in adapting the bylaws culturally and structurally was the designation of a non-voting community leaders committee that would elect its own chair who would serve as a voting member of the board. Fortunately, our proposed language was well
formed enough that John understood exactly what our intentions were. He proposed only minor tweaks in order to clarify the voting rights of the membership as well as to simplify the process that the organization would encounter when carrying out the proposed actions. John suggested that although the committee will nominate its chair, the board must confirm the nomination in order to maintain compliance with the law regulating nonprofits with non-voting memberships.

Lastly, he provided us with language for protection from indemnity that an agent of the organization could face while acting in good faith. The language that we had in the bylaws was very vague and un-protective; his proposals offered more insurance to the organization that they would not be responsible for reparations and expenses that were related to lawsuits that could arise.

With a final set of bylaws in hand our team then began the process of creating an abridged reader friendly version that will be more accessible to the Karen community. In addition we have provided three versions of several best practice documents that the organization can implement.
Memo to Client

December 13th 2012

Dear Karen Organization of San Diego:

It was our sincere pleasure to offer our consulting in order to revamp and update your organization’s bylaws to fit more appropriately the cultural model in which your organization operates. It was an exciting challenge to mediate the various factors that influence your organization’s bylaws.

From a legal and organizational perspective, one of the objectives that our proposals work to achieve is putting the Karen Organization on the path to becoming a self-sufficient Community Based Organization (CBO) which would offer a more specific status than 501(c) 3 entails and make your organization more attractive to certain grants, as well as other discounts and tax benefits. It would involve a deeper engagement with refugee communities from Burma on a board level within the organization.

In absence of a strong pool of Refugees from Burma who could be eligible board members, our consultation seeks to establish a formalized relationship between the board and the committee of community leaders, by launching the latter as a board appointed, non-voting committee that would be represented by a voting member of the board. It is our hope that this committee will help to cultivate future board members from your membership base, and establish the desired objective of having a 51% majority of the board be refugees from Burma.

Our consultation also seeks to establish two formal, non-voting tiers of membership: client participants and volunteer participants. It is our hope that identifying these tiers of membership will further deepen the level of engagement experienced by your organization’s clients and volunteers and make them eligible to serve on committees established by the board for any purpose.

Along with our recommendations for changes to your bylaws, we have enclosed a few policy forms that your organization may benefit from having, both from a legal and logistical perspective.

Lastly, it was our pleasure to work with you and gain the perspective shared by your organization. We hope that our consultation will benefit your organization, as well as the community of refugees from Burma living in San Diego that receive the services of your organization.

Best,

John Godfrey
Laura Purdom
Jennifer Fleming
Andrew Rae
Karen Organization of San Diego Bylaws
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Written Consent of the Board Adopting Bylaws
ARTICLE 1 NAME

The name of the corporation is Karen Organization of San Diego, herein referred to as KOSD or the Corporation.

ARTICLE 2 OFFICES

SECTION 1. PRINCIPAL OFFICE

The principal office of the corporation for the transaction of its business is located in San Diego, California.

SECTION 2. CHANGE OF ADDRESS

The county of the corporation's principal office can be changed only by amendment of these bylaws and not otherwise. The board may, however, 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 an amendment of these bylaws.

SECTION 3. MEMBERSHIP

3.01: ELIGIBILITY. Eligibility for Membership to the KOSD is conferred onto an individual upon the receipt of services by the organization, active participation in committees relating to events sponsored by the Karen Organization, or volunteering to support and participate in the mission of the organization.

3.02 MEMBERSHIP CLASSES

A. Client participants. Client participants refer to recipients of the services of KOSD who are consistently engaged and active in the cultural and event functions of KOSD. Client Participants are non-voting members and must come from the nation of Burma and currently reside in San Diego, whether as refugees, asylees, permanent residents or nationalized citizens.

B. Volunteer participants. Volunteer participants are active in the organization on a volunteer basis, whether through a partnering organization, KOSD’s volunteer program, or any other substantial relationship of involvement with the organization. Volunteer participants are non-voting members and are eligible to serve on any committee established by the board.

ARTICLE 3 PURPOSES

SECTION 1. OBJECTIVES AND PURPOSES

The primary objectives and purposes of this corporation shall be: to provide social services and opportunities for cultural preservation to the Karen and other ethnic minority groups from Burma who reside in San Diego County and to improve their quality of life.

SECTION 2: LIMITATIONS

Dissolution. Upon the winding up and dissolution of this Corporation, and after paying or adequately providing for the debt and obligations of the Corporation, the remaining assets shall be distributed in a manner which furthers the purposes of the Corporation, including, without limitation, distribution to another nonprofit fund, foundation, or corporation that is organized and operated exclusively for charitable purposes, and which has established and maintained its tax status under section 501(c)(3) of the Code.

ARTICLE 4 THE BOARD

SECTION 1. NUMBER

The business and affairs of this corporation shall be managed by the board. The number of board members shall not be fewer than three and not more than eleven. The board shall fix the exact authorized number of board members at least 30 days prior to the date fixed for the annual meeting of the board; provided, however, that the board shall not fix the authorized number of board members to be less than the number of current board members whose terms in
office do not expire as of the next succeeding annual meeting. Subject to the foregoing limitation, the board may change the exact authorized number of board members at any other time, provided, however that no person shall be elected to any additional board position until 30 days following the addition of that authorized position by the board. Each board member elected at an annual meeting shall hold office until the next annual meeting.

SECTION 2. POWERS

Subject to any limitations in the articles of incorporation and bylaws, 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.

SECTION 3. DUTIES

It shall be the duty of the board to:

(a) Perform any and all duties imposed on them collectively or individually by law, by the articles of incorporation of this corporation, or by these bylaws;

(b) 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;

(c) Supervise all officers and employees of the corporation to assure that their duties are performed properly;

(d) Meet at such times and places as required by these bylaws;

(e) Act and represent the organization by upholding the following fiduciary duties entrusted to them as active members of the board:

   1. Care: to take actions aligned with the best interests of the organization.

   2. Loyalty: the conduct of any board member must be to further the goals of the organization and not their own interest.

   3. Obedience: ensure with oversight that the organization is abiding by the federal, local, and state laws in which it must be in compliance to maintain status in good standing as a designated 501(c)3 Nonprofit Corporation.

(f) Cultivate a substantial interest in and knowledge of the culture, traditions, and issues faced by the membership of the organization;

(g) Commitment to the Mission Statement and communities served by the organization;

(h) Cultivate the recruitment and empowerment of future board members from the organization’s membership base;

(i) Recruit future board members who have the capacity to facilitate generative governance of the organization, render services to the organization, and assist the organization in achieving financial sustainability;

(j) Work to enhance and support the organizations visibility in the community, among like-minded organizations, and the greater San Diego community, as well as financial sustainability of the organization.

SECTION 4. TERMS OF OFFICE

Board Members shall hold office for three years until his or her successor is elected and qualifies, unless they are elected to a second term. Board members may hold office for no more than 2 consecutive terms. Once this term limit has been reached, they may serve in an advisory capacity to the Board, as well as on its committees, in emeritus status, and may be eligible for office again after 1 year as emeritus.

When a board member reaches their term limit, and is in good standing with the organization, said board member must facilitate a 1 year period of mentoring to the incoming board member elected to fill their vacated seat during
their tenure as a member emeritus following the expiration of their term.

Board members shall be elected to their positions by the sitting board. One board position will be occupied by the elected chairperson of the Pga Gnh Nyo Ko Nah committee (community leaders committee).

Elections shall take place annually at the end of the organizations fiscal year, and board terms will be staggered to ensure that not all board members vacate within the same fiscal cycle.

SECTION 5. COMPENSATION

Board members shall serve without compensation. In addition, they shall be allowed reasonable advancement or reimbursement of expenses incurred in the performance of their regular duties as specified in Section 3 of this Article. Board members may not be compensated for rendering services to the corporation in any capacity unless such other compensation is reasonable and is allowable under the provisions of Section 6 of this article.

SECTION 6. RESTRICTION REGARDING INTERESTED BOARD MEMBERS

Notwithstanding any other provision of these bylaws, not more than forty nine percent of the persons serving on the board may be interested persons. For purposes of this Section, “interested persons” means: any person currently being compensated by the corporation for services rendered within the previous twelve (12) months, whether as a full or part-time officer or other employee, independent contractor, or otherwise, excluding any reasonable compensation paid to a board member as a board member.

Any such board member whom is also of the organization’s membership and may be any brother, sister, ancestor, descendant, spouse, brother-in-law, sister-in-law, son-in-law, daughter-in-law, mother-in-law, or father-in-law of an officer, employee, or board member of the organization shall not be considered in conflict with these bylaws so long as they are not compensated by the organization or fiscally interested.

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 place within or without the State of California, which has been designated from time to time by resolution of the board. In the absence of such designation, any meeting not held at the principal office of the corporation shall be valid only if held with the written consent of all board members given either before or after the meeting and filed with the secretary of the Corporation or after all board members have been given written notice of the meeting as hereinafter provided for special meetings of the board.

SECTION 8. REGULAR AND ANNUAL MEETINGS

Regular meetings of board members shall be held no fewer than ten times annually, preferably on a monthly basis. These meetings will be held at a time and date of mutual convenience agreed upon by at least a quorum of the board members.

At the annual meeting of the board, held at the end of the first quarter, board members shall be elected by the board members in accordance with this section.

The annual board meeting that will take place at the end of the organization’s fiscal year, and will function as a Board Retreat, during which board members will be evaluated, participate in self-evaluations, and review the performance of the Executive Director as well as set his/her compensation for the coming fiscal year.

SECTION 9. SPECIAL MEETINGS

Special meetings of board members may be called by the chairperson of the board, the president, or by any two board members, and such meetings shall be held at the place, within or without the State of California, designated by the person or persons calling the meeting, and in the absence of such designation, at the principal office of the corporation.

SECTION 10. NOTICE OF MEETINGS

Regular meetings of the board may be held without notice. Special meetings of the board shall be held upon forty-eight (48) hours’ notice delivered personally or by telephone or e-mail. Such notices shall be addressed to each board
member at his or her address as shown on the books of the corporation. Notice of the time and place of holding an adjourned meeting need not be given to absent board members if the time and place of the adjourned meeting are fixed at the meeting adjourned and if such adjourned meeting is held no more than twenty-four (24) hours from the time of the original meeting. Notice shall be given of any adjourned regular or special meeting to board members absent from the original meeting if the adjourned meeting is held more than twenty-four (24) hours from the time of the original meeting.

SECTION 11. WAIVER OF NOTICE AND CONSENT TO HOLDING MEETINGS

The transactions of any meeting of the board, however called and noticed or wherever held, are as valid as though the meeting had been duly held after proper call and notice, provided a quorum, as hereinafter defined, is present and provided that either before or after the meeting each board member not present signs a waiver of notice, a consent to holding the meeting, or an approval of the minutes thereof. All such waivers, consents, or approvals shall be filed with the corporate records or made a part of the minutes of the meeting.

SECTION 12. QUORUM FOR MEETINGS

A quorum shall consist of at least 51 percent of board members.

Except as otherwise provided in these bylaws or in the articles of incorporation of this corporation, or by law, no business shall be considered by the board at any meeting at which a quorum, as defined above, is not present, and the only motion which the Chair shall entertain at such meeting is a motion to adjourn. However, a majority of the board members present at such meeting may adjourn from time to time until the time fixed for the next regular meeting of the board.

When a meeting is adjourned for lack of a quorum, it shall not be necessary to give any notice of the time and place of the adjourned meeting or of the business to be transacted at such meeting, other than by announcement at the meeting at which the adjournment is taken, except as provided in Section 10 of this Article.

The board members present at a duly called and held meeting at which a quorum is initially present may continue to do business notwithstanding the loss of a quorum at the meeting due to a withdrawal of board members from the meeting, provided that any action thereafter taken must be approved by at least a majority of the required quorum for such meeting or such greater percentage as may be required by law, or the articles of incorporation or bylaws of this corporation.

SECTION 13. MAJORITY ACTION AS BOARD ACTION

Every act or decision done or made by a majority of the board members present at a meeting duly held at which a quorum is present is the act of the board, unless the articles of incorporation or bylaws of this corporation, or provisions of the California Nonprofit Public Benefit Corporation Law, particularly those provisions relating to appointment of committees (Section 5212), approval of contracts or transactions in which a board member has a material financial interest (Section 5233) and indemnification of board members (Section 5238e), require a greater percentage or different voting rules for approval of a matter by the board.

SECTION 14. CONDUCT OF MEETINGS

Meetings of the board 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 board members 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 15. ACTION BY UNANIMOUS WRITTEN CONSENT WITHOUT MEETING

Any action required or permitted to be taken by the board under any provision of law may be taken without a meeting, if all members of the board shall individually or collectively consent in writing to such action. For the purposes of this Section only, "all members of the board" shall not include any "interested board member" as defined in Section 5233 of the California Nonprofit Public Benefit Corporation Law. Such written consent or consents shall be filed with the minutes of the proceedings of the board. Such action by written consent shall have the same force and effect as the
unanimous vote of the board members. Any certificate or other document filed under any provision of law which relates to action so taken shall state that the action was taken by unanimous written consent of the board without a meeting and that the bylaws of this corporation authorize the board members to so act and such statement shall be self evident of such authority.

SECTION 16. VACANCIES

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

The board may declare vacant the office of a board member who has been declared of unsound mind by a final order of court, or convicted of a felony, or been found by a final order or judgment of any court to have breached any duty under Section 5230 and following the California Nonprofit Public Benefit Corporation Law by 51% vote. Board members may be removed without cause by a majority of the board members then in office.

Any board member may resign effective upon giving written notice to the chairperson of the board, the president, the secretary, or the board, unless the notice specifies a later time for the effectiveness of such resignation. No board member may resign if the corporation would then be left without a duly elected board member or board members in charge of its affairs, except upon notice to the attorney general.

Vacancies on the board may be filled by approval of the board.

A person elected to fill a vacancy as provided by this Section shall hold office until the next annual election of the board or until his or her death, resignation, or removal from office.

SECTION 17. NONLIABILITY OF BOARD MEMBERS

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

SECTION 18. INDEMNIFICATION BY CORPORATION OF BOARD MEMBERS, OFFICERS, EMPLOYEES, AND OTHER AGENTS

SECTION 18.1: DEFINITIONS.

For the purpose of this Article:

18.1.1: “Agent” means any person who is or was a director, board member, officer, employee or other agent of the corporation, or is or was serving at the request of the corporation as a director, board member, officer, employee or agent of another foreign or domestic corporation, partnership, joint venture, trust or other enterprise, or was a director, officer, employee or agent of a foreign or domestic corporation that was a predecessor corporation of the corporation or of another enterprise at the request of the predecessor corporation.

18.1.2: “Proceeding” means any threatened, pending or completed action or proceeding, whether civil, criminal, administrative or investigative.

18.1.3: “Expenses” includes, without limitation, all attorneys’ fees, costs and any other expenses incurred in the defense of any claims or proceedings against an Agent by reason of his position or relationship as Agent and all attorneys’ fees, costs and other expenses incurred in establishing a right to indemnification under this Article

18.2: SUCCESSFUL DEFENSE BY AGENT. To the extent an Agent has been successful on the merits in the defense of any proceeding referred to in this Article, or in the defense of any claim, issue or matter therein, the Agent shall be indemnified against Expenses actually and reasonably incurred by the Agent in connection with the claim. If an Agent either settles any such claim or sustains a judgment rendered against him, then the provisions of Sections 18.3 and 18.5 shall determine whether the Agent is entitled to indemnification.

18.3 ACTIONS BROUGHT BY PERSONS OTHER THAN THE CORPORATION. Subject to the required findings to be made pursuant to Section 18.5, the corporation shall indemnify any person who was or is a party, or is threatened to be made a party, to any proceeding other than an action brought by, or on behalf of, the Corporation, or by an officer, director, board member, or person granted related status by the Attorney General of the State of California, or by the Attorney General on the ground that the defendant director was or is engaging in self-dealing within the
meaning of Corporations Code Section 5233, or by the Attorney General or a person granted related status by the
Attorney General for any breach of duty relating to assets held in charitable trust, by reason of the fact that such
person is or was an Agent, for all Expenses, judgments, fines, settlements and other amounts actually and
reasonably incurred in connection with the proceeding.

18.4 ACTIONS BROUGHT BY THE CORPORATION OR THE ATTORNEY GENERAL

18.4.1 CLAIMS SETTLED OUT OF COURT. If any agent settles or otherwise disposes of a threatened or
pending action brought by or on behalf of the corporation, with or without court approval, the agent shall
receive no indemnification for either amounts paid pursuant to the terms of the settlement or other disposition
or for any expenses incurred in defending against the proceeding, unless it is settled with the approval of the
Attorney General.

18.4.2 CLAIMS AND SUITS AWARDED AGAINST AGENT. This corporation shall indemnify any person who
was or is a party, or is threatened to be made a party, to any threatened, pending or completed action brought
by or on behalf of this corporation by reason of the fact that the person is or was an Agent, for all expenses
actually and reasonably incurred in connection with the defense of that action, provided that both of the
following are met:

(i) The determination of good faith conduct required by Section 18.5 must be made in the manner
provided for in that section, and

(ii) Upon application the court in which the action was brought must determine that, in view of all the
circumstances of the case, the agent should be entitled to indemnity for the expenses incurred. If the
Agent is found to be so entitled, the court shall determine the appropriate amount of expenses to be
reimbursed.

18.5 DETERMINATION OF AGENT’S GOOD FAITH CONDUCT. The indemnification granted to an Agent in
Sections 7.3 and 7.4, is conditioned on the following:

18.5.1 REQUIRED STANDARD OF CONDUCT. The Agent seeking reimbursement must be found, in the
manner provided below, to have acted in good faith, in a manner he believed to be in the best interest of the
corporation, and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position
would use in similar circumstances. The termination of any proceeding by judgment, order, settlement,
conviction, or on a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the
person did not act in good faith or in a manner which he reasonably believed to be in the best interest of the
corporation or that he had reasonable cause to believe that his conduct was unlawful. In the case of a criminal
proceeding, the person must have had no reasonable cause to believe that his conduct was unlawful.

18.5.2 DETERMINATION OF GOOD FAITH CONDUCT. The determination that the Agent did act in a manner
complying with Section 18.5.1, shall be made by:

(i) The board, by a majority vote of a quorum consisting of board members who are not parties to the
proceeding; or

(ii) The court in which the proceeding is or was pending. Such determination may be made on
application brought by the corporation or the agent or the attorney or other person rendering a defense
to the Agent, whether or not the application by the agent, attorney or other person is opposed by the
corporation.

18.6 LIMITATIONS. No indemnification or advance shall be made under this Article 18, except as provided in Section
18.2 or Section 18.5.2 (ii) as it applies to Section 18.3, in any circumstance when it appears:

(a) that the indemnification or advance would be inconsistent with the Articles of Incorporation or an
agreement in effect at the time of the accrual of the alleged cause of action asserted in the proceeding in
which the expenses were incurred or other amounts were paid, which prohibits or otherwise limits
indemnification; or

(b) that the indemnification would be inconsistent with any condition expressly imposed by a court in
approving a settlement.

18.7 ADVANCE OF EXPENSES. Expenses incurred in defending any proceeding may be advanced by the
corporation before the final disposition of the proceeding on receipt of an undertaking by or on behalf of the Agent to
repay the amount of the advance unless it is determined ultimately that the Agent is entitled to be indemnified as
authorized in this Article 18.

18.8 CONTRACTUAL RIGHTS OF NON-DIRECTORS. Nothing contained in the Article 18 shall affect any right to indemnification to which persons other than board members of the corporation, or any subsidiary hereof, may be entitled by contract, to the extent such indemnity is permitted by applicable law.

18.9 INSURANCE. The Board may adopt a resolution authorizing the purchase and maintenance of insurance on behalf of any Agent against any liability other than for violating provisions against self-dealing 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 that liability under the provisions of this Article 18.

SECTION 19. INSURANCE FOR CORPORATE AGENTS

The board may adopt a resolution authorizing the purchase and maintenance of insurance on behalf of any agent of the corporation (including a board member, officer, employee, or other agent of the corporation) against any liability other than for violating provisions of law relating to self-dealing (Section 5233 of the California Nonprofit Public Benefit Corporation Law) 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 provisions of Section 5238 of the California Nonprofit Public Benefit Corporation Law.

ARTICLE 5 OFFICERS

SECTION 1. NUMBER OF OFFICERS

The officers of the corporation shall be a president, a secretary, and a chief financial officer who shall be designated the treasurer. The corporation may also have, as determined by the board, a chairperson of the board, one or more vice presidents, one or more vice chairpersons assistant secretaries, assistant treasurers, or other officers. Any number of offices may be held by the same person except that neither the secretary nor the treasurer may serve as the president or chairperson of the board.

SECTION 2. QUALIFICATION, ELECTION, AND TERM OF OFFICE

Any person may serve as an officer of this corporation. Officers shall be elected by the board, at the annual meeting, as described in Section 4, and each officer shall hold office until he or she resigns, is removed or is otherwise disqualified to serve, or until his or her successor shall be elected and qualified, whichever occurs first.

SECTION 3. REMOVAL AND RESIGNATION

Any officer may be removed, either with or without cause, by the board, at any time. Any officer may resign at any time by giving written notice to the board or to the president chairperson or secretary of the corporation. Any such resignation shall take effect at the date of receipt of such notice or at any later date specified therein, and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

SECTION 4. VACANCIES

Any vacancy caused by the death, resignation, removal, disqualification, or otherwise, of any officer shall be filled by the board. In the event of a vacancy in any office other than that of president chairperson, such vacancy may be filled temporarily by appointment by the president until such time as the board shall fill the vacancy. Vacancies occurring in offices of officers appointed at the discretion of the board may or may not be filled as the board shall determine.

SECTION 5. DUTIES OF PRESIDENT

The president shall be the chief executive officer of the corporation and shall, subject to the control of the board, supervise and control the affairs of the corporation and the activities of the officers. 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 of this corporation, or by these bylaws, or which may be prescribed from time to time by the board. Unless another person is specifically appointed as chairperson of the board, he or she shall preside at all meetings of the board. The president shall preside at annual and special meetings of the members related to issues of governance, events, and strategic planning or visioning. 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, in the absence of the treasurer or executive director.
SECTION 6. DUTIES OF 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.

SECTION 7. DUTIES OF SECRETARY

The secretary shall:

Certify and keep at the principal office of the corporation the original, or a copy of these bylaws as amended or otherwise altered to date.

Keep at the principal office of the corporation or at such other place as the board may determine, a book of minutes of all meetings of the board members, and, if applicable, meetings of committees of board members and of members, recording therein the time and place of holding, whether regular or special, how called, how notice thereof was given, the names of those present or represented at the meeting, and the proceedings thereof.

See that all notices are duly given in accordance with the provisions of these bylaws or as required by law.

Be custodian of the records and see that the proper required signatures are affixed to all duly executed documents, the execution of which on behalf of the corporation under its seal is authorized by law or these bylaws.

Oversee the proper maintenance of, at the principal office of the corporation a membership book containing the name and address of each and any member, and, in the case where any membership has been terminated, the secretary shall record such fact in the membership book together with the date on which such membership ceased.

Exhibit at all reasonable times to any board member of the corporation, or to his or her agent or attorney, on request therefor, the bylaws, the membership book, and the minutes of the proceedings of the board members of the corporation.

In general, perform all duties incident to the office of secretary and such other duties as may be required by law, by the articles of incorporation of this corporation, or by these bylaws, or which may be assigned to him or her from time to time by the board.

SECTION 8. DUTIES OF TREASURER

Subject to the provisions of these bylaws relating to the "Execution of Instruments, Deposits, and Funds," the treasurer shall:

Oversee 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 board members as executed by the Executive Officer.

Oversee the receipt of, and give receipt for, monies due and payable to the corporation from any source whatsoever.

Oversee the disbursement, or cause to be disbursed, the funds of the corporation as may be directed by the board, taking proper vouchers for such disbursements.

Oversee the maintenance of adequate and correct accounts of the corporation's properties and business transactions, including accounts of its assets, liabilities, receipts, disbursements, gains and losses.

Exhibit at all reasonable times the books of account and financial records to any board member of the corporation, or to his or her agent or attorney, on request therefor.

Render to the president and board members, whenever requested, an account of any or all of his or her transactions as treasurer and of the financial condition of the corporation.

Prepare, or cause to be prepared, and certify, or cause to be certified, the financial statements to be included in any required reports.
In general, perform all duties incident to the office of treasurer and such other duties as may be required by law, by the articles of incorporation of the corporation, or by these bylaws, or which may be assigned to him or her from time to time by the board.

SECTION 9. COMPENSATION

The salaries of the officers and Executive Director, if any, shall be fixed annually, at the end of the fiscal cycle by resolution of the board, and no officer shall be prevented from receiving such salary by reason of the fact that he or she is also a board member of the corporation, provided, however, that such compensation paid a board member for serving as an officer of this corporation shall only be allowed if permitted under the provisions of Article 4, Section 6 of these bylaws. In all cases, any salaries received by officers of this corporation shall be reasonable and given in return for services actually rendered for the corporation which relate to the performance of the charitable or public purposes of this corporation.

ARTICLE 6 BOARD COMMITTEES

SECTION 1. EXECUTIVE COMMITTEE OF THE BOARD

The board may, by a majority vote of board members, designate two (2) or more board members to constitute an executive committee of the board and delegate to such committee any of the powers and authority of the board in the management of the business and affairs of the corporation, except with respect to:

(a) The approval of any action, which, under law or the provisions of these bylaws, requires the approval of the members or of a majority of all of the members.

(b) The filling of vacancies on the board or on any committee that has the authority of the board.

(c) The fixing of compensation of the board members for serving on the board or on any committee.

(d) The amendment or repeal of bylaws or the adoption of new bylaws.

(e) The amendment or repeal or any resolution of the board which by its express terms is not so amendable or repealable.

(f) The appointment of committees of the board or the members thereof.

(g) The approval of any transaction to which this corporation is a party and in which one or more of the board members has a material financial interest, except as expressly provided in Section 5233(d)(3) of the California Nonprofit Public Benefit Corporation Law.

By a majority vote of its members then in office, the board may at any time revoke or modify any or all of the authority so delegated, increase or decrease but not below two (2) the number of its members, and fill vacancies therein from the members of the board. The committee shall keep regular minutes of its proceedings, cause them to be filed with the corporate records, and report the same to the board from time to time as the board may require.

SECTION 2. OTHER BOARD COMMITTEES

The corporation shall have such other committees as may from time to time be designated by resolution of the board. Such other committees may consist of persons who are not also members of the board. These additional committees shall act in an advisory capacity only to the board and shall be clearly titled as “advisory” committees.

SECTION 3. MEETINGS AND ACTION OF COMMITTEES

Meetings and action of committees shall be governed by, noticed, held and taken in accordance with the provisions of these bylaws concerning meetings of the board, with such changes in the context of such bylaw provisions as are necessary to substitute the committee and its members for the board and its members, except that the time for regular meetings of committees may be fixed by resolution of the board by the committee. The time for special meetings of committees may also be fixed by the board. The board may also adopt rules and regulations pertaining to the conduct of meetings of committees to the extent that such rules and regulations are not inconsistent with the provisions of these bylaws.
ARTICLE 7. PGA GUH NYO KO NAH COMMITTEE (COMMUNITY LEADERS COMMITTEE)

SECTION 1. STRUCTURE. Within one year of the ratification of these bylaws, the board will nominate from the existing membership the Pga Guh Nyo Ko Nah committee, and will strive to ensure that the committee is representative of the make-up and values of the community. A non-voting committee, the Pga Guh Nyo Ko Nah committee members are eligible to serve on any such other committee assembled by the board. There will be no fewer than five and no more than fifteen members on the committee. The main objective of this committee will be to address the following goals:

(a) To act as a liaison between the Community Members and the board.
(b) To represent the culture and community values of the membership.
(c) To advise and inform the board.
(d) To serve as a consultant for organization objectives and decisions.
(e) When appropriate, the board will refer to the Pga Guh Nyo Ko Nah committee when addressing matters of cultural sensitivity.

SECTION 2. MEETINGS AND ACTIONS. The Committee will annually nominate a Chairperson who will serve as a voting member of the board, upon approval by the board. The Pga Guh Nyo Ko Nah committee shall participate in the annual meeting of the board for the purpose of strategic planning.

SECTION 3. SELECTION AND REMOVAL. The Pga Guh Nyo Ko Nah committee will be nominated by the board.

SECTION 4. VACANCIES. Should a vacancy occur, the board, at its next regularly scheduled meeting will nominate a replacement.

ARTICLE 8 EXECUTION OF INSTRUMENTS, DEPOSITS, AND FUNDS

SECTION 1. EXECUTION OF INSTRUMENTS

The board, 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, 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 Executive Director and, in amounts of more than $500, countersigned by the treasurer or otherwise designated board member.

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 may select.

SECTION 4. GIFTS

The board may accept on behalf of the corporation any contribution, gift, bequest, or devise for the charitable or public purposes of this corporation, based on the corporation’s gift receipt policy.

ARTICLE 9 CORPORATE RECORDS AND REPORTS

SECTION 1. MAINTENANCE OF CORPORATE RECORDS

The corporation shall keep at its principal office in the State of California:

(a) Minutes of all meetings of the board, committees of the board and, if this corporation has members, of all meetings of members, indicating the time and place of holding such meetings, whether regular or special, how called, the notice given, and the names of those present and the proceedings thereof;
(b) Adequate and correct books and records of account, including accounts of its properties and business transactions and accounts of its assets, liabilities, receipts, disbursements, gains and losses;

(c) A record of its members, if any, indicating their names and addresses and, if applicable, the class of membership held by each member and the termination date of any membership;

(d) A copy of the corporation’s articles of incorporation and bylaws as amended to date, which shall be open to inspection by the members, if any, of the corporation at all reasonable times during office hours upon written request.

SECTION 2. BOARD MEMBERS’ INSPECTION RIGHTS

Every board member shall have the absolute right at any reasonable time to inspect all books, records, and documents of every kind consistent with the organization’s confidentiality agreement and to inspect the physical properties of the corporation.

SECTION 3. RIGHT TO COPY AND MAKE EXTRACTS

Any inspection under the provisions of this Article may be made in person or by agent or attorney and the right to inspection includes the right to copy and make extracts as prescribed by California Nonprofit Law.

SECTION 4. ANNUAL REPORT

The board shall cause an annual report to be furnished not later than ninety (90) days after the close of the corporation’s fiscal year to all board members of the corporation and, if this corporation has members, to any member who requests it in writing, which report shall contain the following information in appropriate detail:

(a) The assets and liabilities, including the trust funds, of the corporation as of the end of the fiscal year;

(b) The principal changes in assets and liabilities, including trust funds, during the fiscal year;

(c) The revenue or receipts of the corporation, both unrestricted and restricted to particular purposes, for the fiscal year;

(d) The expenses or disbursements of the corporation, for both general and restricted purposes, during the fiscal year;

(e) Any information required by Section 6 of this Article.

The annual report shall be accompanied by any report thereon of independent accountants, or, if there is no such report, the certificate of an authorized officer of the corporation that such statements were prepared without audit from the books and records of the corporation.

SECTION 5. ANNUAL STATEMENT OF SPECIFIC TRANSACTIONS TO MEMBERS

This corporation shall mail or deliver to all board members and any and all members a statement within ninety (90) days after the close of its fiscal year which briefly describes the amount and circumstances of any indemnification or transaction of the following kind:

(a) Any transaction in which the corporation, or its parent or its subsidiary, was a party, and in which either of the following had a direct or indirect material financial interest:

   (1) Any board member or officer of the corporation, or its parent or its subsidiary (a mere common directorship shall not be considered a material financial interest); or

   (2) Any holder of more than ten percent (10%) of the voting power of the corporation, its parent, or its subsidiary.

The above statement need only be provided with respect to a transaction during the previous fiscal year involving more than FIFTY THOUSAND DOLLARS ($50,000) or which was one of a number of transactions with the same persons involving, in the aggregate, more than FIFTY THOUSAND DOLLARS ($50,000).

Similarly, the statement need only be provided with respect to indemnifications or advances aggregating more than TEN THOUSAND DOLLARS ($10,000) paid during the previous fiscal year to any board member or officer, except
that no such statement need be made if such indemnification was approved by the members pursuant to Section 5238(e)(2) of the California Nonprofit Public Benefit Corporation Law.

Any statement required by this Section shall briefly describe the names of the interested persons involved in such transactions, stating each person’s relationship to the corporation, the nature of such person’s interest in the transaction and, where practical, the amount of such interest, provided that in the case of a transaction with a partnership of which such person is a partner, only the interest of the partnership need be stated.

If this corporation has any members and provides all members with an annual report according to the provisions of Section 6 of this Article, then such annual report shall include the information required by this Section.

ARTICLE 10 FISCAL YEAR

SECTION 1. FISCAL YEAR OF THE CORPORATION

The fiscal year of the corporation shall begin on January 1st and end on December 31st in each year.

ARTICLE 11 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 board member 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 by 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 board member, 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 board members 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. This due diligence investigation will consider the organization's preference to support, and the intrinsic value of supporting Karen owned and local small businesses in its valuation determination of the transaction or arrangement. 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 board members 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 board members, 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 a 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 as amplified by Section 53.4958-3 of the IRS Regulations):

1. is not the person who is the subject of 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 compensation arrangement
3. does not receive compensation or other payments subject to approval by the person who is the subject of 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 and 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 this 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 action on the arrangement by the board or committee.

SECTION 6. ANNUAL STATEMENTS

Each board member, principal officer, and member of a committee with governing board-delegated powers shall annually sign a statement that 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. Additionally outside experts will only be presenting information. The governing board will have final authority in providing direction for the organization based on the information provided from the review.

ARTICLE 12 AMENDMENT OF BYLAWS

SECTION 1. AMENDMENT

Subject to any provision of law applicable to the amendment of bylaws of public benefit nonprofit corporations, these bylaws, or any of them, may be altered, amended, or repealed and new bylaws by approval of the board.

ARTICLE 13 AMENDMENT OF ARTICLES

SECTION 1. AMENDMENT OF ARTICLES
Any amendment of the articles of incorporation may be adopted by approval of the board.

ARTICLE 14 PROHIBITION AGAINST SHARING CORPORATE PROFITS AND ASSETS

SECTION 1. PROHIBITION AGAINST SHARING CORPORATE PROFITS AND ASSETS

No member, board member, officer, employee, or other person connected with this corporation, or any private individual, shall receive at any time any of the net earnings or monetary assets from the operations of the corporation, provided, however, that this provision shall not prevent payment to any such person of reasonable compensation for services performed for the corporation in effecting any of its public or charitable purposes, provided that such compensation is otherwise permitted by these bylaws and is fixed by resolution of the board; and no such person or persons shall be entitled to share in the distribution of, and shall not receive, any of the corporate assets on dissolution of the corporation. All members, if any, of the corporation shall be deemed to have expressly consented and agreed that on such dissolution or winding up of the affairs of the corporation, whether voluntarily or involuntarily, the assets of the corporation, after all debts have been satisfied, shall be distributed as required by the articles of incorporation of this corporation and not otherwise.

WRITTEN CONSENT OF THE BOARD ADOPTING BYLAWS

We, the undersigned, are all of the persons named as the current board members in the articles of incorporation of Karen Organization of San Diego (KOSD), a California nonprofit corporation, and, pursuant to the authority granted to the board by these bylaws to take action by unanimous written consent without a meeting, consent to, and hereby do, adopt the foregoing bylaws, consisting of seventeen (17) pages, as the bylaws of this corporation.

Dated: December 8, 2012

___________________________ Ralph Aachenbach, Secretary/Board Member
___________________________ Andrew Rae, President/Board Member
___________________________ Maung Sein, Treasurer/Board Member

CERTIFICATE

This is to certify that the foregoing is a true and correct copy of the bylaws of the corporation named in the title thereto and that such bylaws were duly adopted by the board of said corporation on the date set forth below.

Dated: December 8, 2012

___________________________ Ralph Aachenbach, Secretary
Annotated Bylaws

BYLAWS OF KAREN ORGANIZATION OF SAN DIEGO A CALIFORNIA PUBLIC BENEFIT CORPORATION

ARTICLE 1: NAME

The name of the corporation is Karen Organization of San Diego, herein referred to as KOSD or the Corporation.

Article 1: This section was added based on best practices when reviewing various other bylaws.

ARTICLE 2 OFFICES

SECTION 1. PRINCIPAL OFFICE

The principal office of the corporation for the transaction of its business is located in San Diego, California.

SECTION 2. CHANGE OF ADDRESS

The county of the corporation's principal office can be changed only by amendment of these bylaws and not otherwise. The board may, however, 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 an amendment of these bylaws.

____________________ Dated: ____________ ____________________ Dated: ____________

SECTION 3. OTHER OFFICES

The corporation may also have offices at such other places, within or without the State of California, where it is qualified to do business, as its business may require and as the board of directors may, from time to time, designate.

SECTION 3. MEMBERSHIP

3.01: ELIGIBILITY. Eligibility for Membership to the KOSD is conferred onto an individual upon the receipt of services by the organization, active participation in committees relating to events sponsored by the Karen Organization, or volunteering to support and participate in the mission of the organization.

3.02 MEMBERSHIP CLASSES

C. Client participants. Client participants refer to recipients of the services of KOSD who are consistently engaged and active in the cultural and event functions of KOSD. Client Participants are non-voting members and must come from the nation of Burma and currently reside in San Diego, whether as refugees, asylees, permanent residents or nationalized citizens.

D. Volunteer participants. Volunteer participants are active in the organization on a volunteer basis, whether through a partnering organization, KOSD's volunteer program, or any other substantial relationship of involvement with the organization. Volunteer participants are non-voting members and are eligible to serve on any committee established by the board.

Article 2: It was important in this article that we addressed and defined membership for the organization. In the original bylaws, membership was never defined. For this unique organization we felt it necessary to not only define who constitutes a member but to also define the different classifications. Also in this article the change of address section was removed under the advice of legal counsel.

ARTICLE 3 PURPOSES
SECTION 1. OBJECTIVES AND PURPOSES

The primary objectives and purposes of this corporation shall be: to provide social services and opportunities for cultural preservation with the aim of improving the quality of life for the various ethnic minority groups of Burma who reside in San Diego, California, to the Karen and other ethnic minority groups from Burma who reside in San Diego County and to improve their quality of life.

SECTION 2: LIMITATIONS

Dissolution. Upon the winding up and dissolution of this Corporation, and after paying or adequately providing for the debt and obligations of the Corporation, the remaining assets shall be distributed in a manner which furthers the purposes of the Corporation, including, without limitation, distribution to another nonprofit fund, foundation, or corporation that is organized and operated exclusively for charitable purposes, and which has established and maintained its tax status under section 501(c)(3) of the Code.

ARTICLE 4 THE BOARD OF DIRECTORS

SECTION 1. NUMBER

The business and affairs of this corporation shall be managed by the board. The number of board members shall not be fewer than three and not more than eleven. The number may be changed by amendment of this bylaw, or by repeal of this bylaw and adoption of a new bylaw, as provided in these bylaws. The board shall fix the exact authorized number of board members at least 30 days prior to the date fixed for the annual meeting of the board; provided, however, that the board shall not fix the authorized number of board members to be less than the number of current board members whose terms in office do not expire as of the next succeeding annual meeting. Subject to the foregoing limitation, the board may change the exact authorized number of board members at any other time, provided, however that no person shall be elected to any additional board position until 30 days following the addition of that authorized position by the board. Each board member elected at an annual meeting shall hold office until the next annual meeting.

SECTION 2. POWERS

Subject to any limitations in the articles of incorporation and bylaws relating to action required or permitted to be taken or approved by the members, if any, of this corporation, 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.

SECTION 3. DUTIES

It shall be the duty of the board to:

(a) Perform any and all duties imposed on them collectively or individually by law, by the articles of incorporation of this corporation, or by these bylaws;

(b) 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;

(c) Supervise all officers and employees of the corporation to assure that their duties are performed properly;

(d) Meet at such times and places as required by these bylaws;

(e) Act and represent the organization by upholding the following fiduciary duties entrusted to them as active members of the board:

   1. Care: to take actions aligned with the best interests of the organization.
2. Loyalty: the conduct of any board member must be to further the goals of the organization and not their own interest.

3. Obedience: ensure with oversight that the organization is abiding by the federal, local, and state laws in which it must be in compliance to maintain status in good standing as a designated 501(c)3 Nonprofit Corporation.

(f) Cultivate a substantial interest in and knowledge of the culture, traditions, and issues faced by the membership of the organization;

(g) Commitment to the Mission Statement and communities served by the organization;

(h) Cultivate the recruitment and empowerment of future board members from the organization’s membership base;

(i) Recruit future board members who have the capacity to facilitate generative governance of the organization, render services to the organization, and assist the organization in achieving financial sustainability;

(j) Work to enhance and support the organization’s visibility in the community, among like-minded organizations, and the greater San Diego community, as well as financial sustainability of the organization.

SECTION 4. TERMS OF OFFICE

Board Members shall hold office for three years until his or her successor is elected and qualifies, unless they are elected to a second term. Board members may hold office for no more than 2 consecutive terms. Once this term limit has been reached, they may serve in an advisory capacity to the Board, as well as on its committees, in emeritus status, and may be eligible for office again after 1 year as emeritus.

When a board member reaches their term limit, and is in good standing with the organization, said board member must facilitate a 1 year period of mentoring to the incoming board member elected to fill their vacated seat during their tenure as a member emeritus following the expiration of their term.

Board members shall be elected to their positions by the sitting board. One board position will be occupied by the elected chairperson of the Pga Guh Nyo Ko Nah committee (community leaders committee).

Elections shall take place annually at the end of the organization’s fiscal year, and board terms will be staggered to ensure that not all board members vacate within the same fiscal cycle.

SECTION 5. COMPENSATION

Board members shall serve without compensation. In addition, they shall be allowed reasonable advancement or reimbursement of expenses incurred in the performance of their regular duties as specified in Section 3 of this Article. Board members may not be compensated for rendering services to the corporation in any capacity unless such other compensation is reasonable and is allowable under the provisions of Section 6 of this article.

SECTION 6. RESTRICTION REGARDING INTERESTED BOARD MEMBERS

Notwithstanding any other provision of these bylaws, not more than forty nine percent of the persons serving on the board may be interested persons. For purposes of this Section, “interested persons” means: any person currently being compensated by the corporation for services rendered within the previous twelve (12) months, whether as a full or part-time officer or other employee, independent contractor, or otherwise, excluding any reasonable compensation paid to a board member as a board member.

(b) Any brother, sister, ancestor, descendant, spouse, brother-in-law, sister-in-law, son-in-law, daughter-in-law, mother-in-law, or father-in-law of any such person.

Any such board member whom is also of the organization’s membership and may be any brother, sister, ancestor, descendant, spouse, brother-in-law, sister-in-law, son-in-law, daughter-in-law, mother-in-law, or father-in-law of an officer, employee, or board member of the organization shall not be considered in conflict with these bylaws so long as they are not compensated by the organization or fiscally interested.
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 place within or without the State of California, which has been designated from time to time by resolution of the board. In the absence of such designation, any meeting not held at the principal office of the corporation shall be valid only if held with the written consent of all board members given either before or after the meeting and filed with the secretary of the Corporation or after all board members have been given written notice of the meeting as hereinafter provided for special meetings of the board.

SECTION 8. REGULAR AND ANNUAL MEETINGS

Regular meetings of board members shall be held on the first Saturday of each month at 6 o’clock PM, unless such day falls on a legal holiday, in which event the regular meeting shall be held at the same hour and place on the next business day. No fewer than ten times annually, preferably on a monthly basis. These meetings will be held at a time and date of mutual convenience agreed upon by at least a quorum of the board members.

At the annual meeting of the board, held on the first Saturday of January at the end of the first quarter, board members shall be elected by the board members in accordance with this section. Cumulative voting by directors for the election of directors shall not be permitted. The candidates receiving the highest number of votes up to the number of directors to be elected shall be elected. Each director shall cast one vote, with voting being by ballot only.

The annual board meeting that will take place at the end of the organization’s fiscal year, and will function as a Board Retreat, during which board members will be evaluated, participate in self-evaluations, and review the performance of the Executive Director as well as set his/her compensation for the coming fiscal year.

SECTION 9. SPECIAL MEETINGS

Special meetings of board members may be called by the chairperson of the board, the president, or by any two board members, and such meetings shall be held at the place, within or without the State of California, designated by the person or persons calling the meeting, and in the absence of such designation, at the principal office of the corporation.

SECTION 10. NOTICE OF MEETINGS

Regular meetings of the board may be held without notice. Special meetings of the board shall be held upon forty-eight (48) hours’ notice delivered personally or by telephone or e-mail. Such notices shall be addressed to each board member at his or her address as shown on the books of the corporation. Notice of the time and place of holding an adjourned meeting need not be given to absent board members if the time and place of the adjourned meeting are fixed at the meeting adjourned and if such adjourned meeting is held no more than twenty-four (24) hours from the time of the original meeting. Notice shall be given of any adjourned regular or special meeting to board members absent from the original meeting if the adjourned meeting is held more than twenty-four (24) hours from the time of the original meeting.

SECTION 11. WAIVER OF NOTICE AND CONSENT TO HOLDING MEETINGS

The transactions of any meeting of the board, however called and noticed or wherever held, are as valid as though the meeting had been duly held after proper call and notice, provided a quorum, as hereinafter defined, is present and provided that either before or after the meeting each board member not present signs a waiver of notice, a consent to holding the meeting, or an approval of the minutes thereof. All such waivers, consents, or approvals shall be filed with the corporate records or made a part of the minutes of the meeting.

SECTION 12. QUORUM FOR MEETINGS

A quorum shall consist of at least 51 percent of board members. A quorum shall consist of two Directors.

Except as otherwise provided in these bylaws or in the articles of incorporation of this corporation, or by law, no business shall be considered by the board at any meeting at which a quorum, as defined above, is not present, and the only motion which the Chair shall entertain at such meeting is a motion to adjourn. However, a majority of the board members present at such meeting may adjourn from time to time until the time fixed for the next regular meeting of the board.
When a meeting is adjourned for lack of a quorum, it shall not be necessary to give any notice of the time and place of the adjourned meeting or of the business to be transacted at such meeting, other than by announcement at the meeting at which the adjournment is taken, except as provided in Section 10 of this Article.

The board members present at a duly called and held meeting at which a quorum is initially present may continue to do business notwithstanding the loss of a quorum at the meeting due to a withdrawal of board members from the meeting, provided that any action thereafter taken must be approved by at least a majority of the required quorum for such meeting or such greater percentage as may be required by law, or the articles of incorporation or bylaws of this corporation.

SECTION 13. MAJORITY ACTION AS BOARD ACTION

Every act or decision done or made by a majority of the board members present at a meeting duly held at which a quorum is present is the act of the board, unless the articles of incorporation or bylaws of this corporation, or provisions of the California Nonprofit Public Benefit Corporation Law, particularly those provisions relating to appointment of committees (Section 5212), approval of contracts or transactions in which a board member has a material financial interest (Section 5233) and indemnification of board members (Section 5238e), require a greater percentage or different voting rules for approval of a matter by the board.

SECTION 14. CONDUCT OF MEETINGS

Meetings of the board 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 board members 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 15. ACTION BY UNANIMOUS WRITTEN CONSENT WITHOUT MEETING

Any action required or permitted to be taken by the board under any provision of law may be taken without a meeting, if all members of the board individually or collectively consent in writing to such action. For the purposes of this Section only, "all members of the board" shall not include any "interested board member" as defined in Section 5233 of the California Nonprofit Public Benefit Corporation Law. Such written consent or consents shall be filed with the minutes of the proceedings of the board. Such action by written consent shall have the same force and effect as the unanimous vote of the board members. Any certificate or other document filed under any provision of law which relates to action so taken shall state that the action was taken by unanimous written consent of the board without a meeting and that the bylaws of this corporation authorize the board members to so act and such statement shall be prima facie self evident of such authority.

SECTION 16. VACANCIES

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

The board may declare vacant the office of a board member who has been declared of unsound mind by a final order of court, or convicted of a felony, or been found by a final order or judgment of any court to have breached any duty under Section 5230 and following the California Nonprofit Public Benefit Corporation Law by 51% vote. Board members may be removed without cause by a majority of the board members then in office.

Any board member may resign effective upon giving written notice to the chairperson of the board, the president, the secretary, or the board, unless the notice specifies a later time for the effectiveness of such resignation. No board member may resign if the corporation would then be left without a duly elected board member or board members in charge of its affairs, except upon notice to the attorney general.

Vacancies on the board may be filled by approval of the board, or, if the number of directors then in office is less than a quorum, by (1) the unanimous written consent of the directors then in office, (2) the affirmative vote of a majority of the directors then in office at a meeting held pursuant to notice or waivers of notice complying with this Article of these bylaws, or (3) a sole remaining director. If this corporation has members, however, vacancies created by the removal of a director may be filled only by the approval of the members. The members, if any, of this corporation may elect a director at any time to fill any vacancy not filled by the directors.
A person elected to fill a vacancy as provided by this Section shall hold office until the next annual election of the board or until his or her death, resignation, or removal from office.

SECTION 17. NONLIABILITY OF BOARD MEMBERS

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

SECTION 18. INDEMNIFICATION BY CORPORATION OF BOARD MEMBERS, OFFICERS, EMPLOYEES, AND OTHER AGENTS

SECTION 18.1: DEFINITIONS.

For the purpose of this Article:

18.1.1: "Agent" means any person who is or was a director, board member, officer, employee or other agent of the corporation, or is or was serving at the request of the corporation as a director, board member, officer, employee or agent of another foreign or domestic corporation, partnership, joint venture, trust or other enterprise, or was a director, officer, employee or agent of a foreign or domestic corporation that was a predecessor corporation of the corporation or of another enterprise at the request of the predecessor corporation.

18.1.2: "Proceeding" means any threatened, pending or completed action or proceeding, whether civil, criminal, administrative or investigative.

18.1.3: "Expenses" includes, without limitation, all attorneys’ fees, costs and any other expenses incurred in the defense of any claims or proceedings against an Agent by reason of his position or relationship as Agent and all attorneys’ fees, costs and other expenses incurred in establishing a right to indemnification under this Article.

18.2: SUCCESSFUL DEFENSE BY AGENT. To the extent an Agent has been successful on the merits in the defense of any proceeding referred to in this Article, or in the defense of any claim, issue or matter therein, the Agent shall be indemnified against Expenses actually and reasonably incurred by the Agent in connection with the claim. If an Agent either settles any such claim or sustains a judgment rendered against him, then the provisions of Sections 18.3 and 18.5 shall determine whether the Agent is entitled to indemnification.

18.3 ACTIONS BROUGHT BY PERSONS OTHER THAN THE CORPORATION. Subject to the required findings to be made pursuant to Section 18.5, the corporation shall indemnify any person who was or is a party, or is threatened to be made a party, to any proceeding other than an action brought by, or on behalf of, the Corporation, or by an officer, director, board member, or person granted related status by the Attorney General of the State of California, or by the Attorney General on the ground that the defendant director was or is engaging in self-dealing within the meaning of Corporations Code Section 5233, or by the Attorney General or a person granted related status by the Attorney General for any breach of duty relating to assets held in charitable trust, by reason of the fact that such person is or was an Agent, for all Expenses, judgments, fines, settlements and other amounts actually and reasonably incurred in connection with the proceeding.

18.4 ACTIONS BROUGHT BY THE CORPORATION OR THE ATTORNEY GENERAL

18.4.1 CLAIMS SETTLED OUT OF COURT. If any agent settles or otherwise disposes of a threatened or pending action brought by or on behalf of the corporation, with or without court approval, the agent shall receive no indemnification for either amounts paid pursuant to the terms of the settlement or other disposition or for any expenses incurred in defending against the proceeding, unless it is settled with the approval of the Attorney General.

18.4.2 CLAIMS AND SUITS AWARDED AGAINST AGENT. This corporation shall indemnify any person who was or is a party, or is threatened to be made a party, to any threatened, pending or completed action brought by or on behalf of this corporation by reason of the fact that the person is or was an Agent, for all expenses actually and reasonably incurred in connection with the defense of that action, provided that both of the following are met:

(i) The determination of good faith conduct required by Section 18.5 must be made in the manner provided for in that section, and
(ii) Upon application the court in which the action was brought must determine that, in view of all the circumstances of the case, the agent should be entitled to indemnity for the expenses incurred. If the Agent is found to be so entitled, the court shall determine the appropriate amount of expenses to be reimbursed.

18.5 DETERMINATION OF AGENT’S GOOD FAITH CONDUCT. The indemnification granted to an Agent in Sections 7.3 and 7.4, is conditioned on the following:

18.5.1 REQUIRED STANDARD OF CONDUCT. The Agent seeking reimbursement must be found, in the manner provided below, to have acted in good faith, in a manner he believed to be in the best interest of the corporation, and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use in similar circumstances. The termination of any proceeding by judgment, order, settlement, conviction, or on a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith or in a manner which he reasonably believed to be in the best interest of the corporation or that he had reasonable cause to believe that his conduct was unlawful. In the case of a criminal proceeding, the person must have had no reasonable cause to believe that his conduct was unlawful.

18.5.2 DETERMINATION OF GOOD FAITH CONDUCT. The determination that the Agent did act in a manner complying with Section 18.5.1, shall be made by:

(i) The board, by a majority vote of a quorum consisting of board members who are not parties to the proceeding; or

(ii) The court in which the proceeding is or was pending. Such determination may be made on application brought by the corporation or the agent or the attorney or other person rendering a defense to the Agent, whether or not the application by the agent, attorney or other person is opposed by the corporation.

18.6 LIMITATIONS. No indemnification or advance shall be made under this Article 18, except as provided in Section 18.2 or Section 18.5.2 (ii) as it applies to Section 18.3, in any circumstance when it appears:

(c) that the indemnification or advance would be inconsistent with the Articles of Incorporation or an agreement in effect at the time of the accrual of the alleged cause of action asserted in the proceeding in which the expenses were incurred or other amounts were paid, which prohibits or otherwise limits indemnification; or

(d) that the indemnification would be inconsistent with any condition expressly imposed by a court in approving a settlement.

18.7 ADVANCE OF EXPENSES. Expenses incurred in defending any proceeding may be advanced by the corporation before the final disposition of the proceeding on receipt of an undertaking by or on behalf of the Agent to repay the amount of the advance unless it is determined ultimately that the Agent is entitled to be indemnified as authorized in this Article 18.

18.8 CONTRACTUAL RIGHTS OF NON-DIRECTORS. Nothing contained in the Article 18 shall affect any right to indemnification to which persons other than board members of the corporation, or any subsidiary hereof, may be entitled by contract, to the extent such indemnity is permitted by applicable law.

18.9 INSURANCE. The Board may adopt a resolution authorizing the purchase and maintenance of insurance on behalf of any Agent against any liability other than for violating provisions against self-dealing 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 that liability under the provisions of this Article 18.

SECTION 19. INSURANCE FOR CORPORATE AGENTS

The board may adopt a resolution authorizing the purchase and maintenance of insurance on behalf of any agent of the corporation (including a board member, officer, employee, or other agent of the corporation) against any liability other than for violating provisions of law relating to self-dealing (Section 5233 of the California Nonprofit Public Benefit Corporation Law) 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 provisions of Section 5238 of the California Nonprofit Public Benefit Corporation Law.
ARTICLE 5 OFFICERS

SECTION 1. NUMBER OF OFFICERS

The officers of the corporation shall be a president, a secretary, and a chief financial officer who shall be designated the treasurer. The corporation may also have, as determined by the board, a chairperson of the board, one or more vice presidents, one or more vice chairpersons assistant secretaries, assistant treasurers, or other officers. Any number of offices may be held by the same person except that neither the secretary nor the treasurer may serve as the president or chairperson of the board.

SECTION 2. QUALIFICATION, ELECTION, AND TERM OF OFFICE

Any person may serve as an officer of this corporation. Officers shall be elected by the board, at any time at the annual meeting, as described in Section 4, and each officer shall hold office until he or she resigns, is removed or is otherwise disqualified to serve, or until his or her successor shall be elected and qualified, whichever occurs first.

SECTION 3. REMOVAL AND RESIGNATION

Any officer may be removed, either with or without cause, by the board, at any time. Any officer may resign at any time by giving written notice to the board or to the president chairperson or secretary of the corporation. Any such resignation shall take effect at the date of receipt of such notice or at any later date specified therein, and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective. The above provisions of this Section shall be superseded by any conflicting terms of a contract which has been approved or ratified by the board of directors relating to the employment of any officer of the corporation.

SECTION 4. VACANCIES

Any vacancy caused by the death, resignation, removal, disqualification, or otherwise, of any officer shall be filled by the board. In the event of a vacancy in any office other than that of president chairperson, such vacancy may be filled temporarily by appointment by the president until such time as the board shall fill the vacancy. Vacancies occurring in offices of officers appointed at the discretion of the board may or may not be filled as the board shall determine.

SECTION 5. DUTIES OF PRESIDENT

The president shall be the chief executive officer of the corporation and shall, subject to the control of the board,
supervise and control the affairs of the corporation and the activities of the officers. 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 of this corporation, or by these bylaws, or which may be prescribed from time to time by the board. Unless another person is specifically appointed as chairperson of the board, he or she shall preside at all meetings of the board. The president shall preside at annual and special meetings of the members related to issues of governance, events, and strategic planning or visioning. 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, in the absence of the treasurer or executive director.

SECTION 6. DUTIES OF 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.

SECTION 7. DUTIES OF SECRETARY

The secretary shall:

Certify and keep at the principal office of the corporation the original, or a copy of these bylaws as amended or otherwise altered to date.

Keep at the principal office of the corporation or at such other place as the board may determine, a book of minutes of all meetings of the board members, and, if applicable, meetings of committees of board members and of members, recording therein the time and place of holding, whether regular or special, how called, how notice thereof was given, the names of those present or represented at the meeting, and the proceedings thereof.

See that all notices are duly given in accordance with the provisions of these bylaws or as required by law.

Be custodian of the records and see that the proper required signatures are affixed to all duly executed documents, the execution of which on behalf of the corporation under its seal is authorized by law or these bylaws.

Oversee the proper maintenance of, Keep at the principal office of the corporation a membership book containing the name and address of each and any member, and, in the case where any membership has been terminated, the secretary shall record such fact in the membership book together with the date on which such membership ceased.

Exhibit at all reasonable times to any board member of the corporation, or to his or her agent or attorney, on request therefor, the bylaws, the membership book, and the minutes of the proceedings of the board members of the corporation.

In general, perform all duties incident to the office of secretary and such other duties as may be required by law, by the articles of incorporation of this corporation, or by these bylaws, or which may be assigned to him or her from time to time by the board.

SECTION 8. DUTIES OF TREASURER

Subject to the provisions of these bylaws relating to the "Execution of Instruments, Deposits, and Funds," the treasurer shall:

Oversee 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 board members as executed by the Executive Officer.

Oversee the receipt of, and give receipt for, monies due and payable to the corporation from any source whatsoever.

Oversee the disbursement, or cause to be disbursed, the funds of the corporation as may be directed by the board, taking proper vouchers for such disbursements.

Oversee the maintenance of adequate and correct accounts of the corporation's properties and business transactions, including accounts of its assets, liabilities, receipts, disbursements, gains and losses.
Exhibit at all reasonable times the books of account and financial records to any board member of the corporation, or to his or her agent or attorney, on request therefor.

Render to the president and board members, whenever requested, an account of any or all of his or her transactions as treasurer and of the financial condition of the corporation.

Prepare, or cause to be prepared, and certify, or cause to be certified, the financial statements to be included in any required reports.

In general, perform all duties incident to the office of treasurer and such other duties as may be required by law, by the articles of incorporation of the corporation, or by these bylaws, or which may be assigned to him or her from time to time by the board.

SECTION 9. COMPENSATION

The salaries of the officers and Executive Director, if any, shall be fixed annually, at the end of the fiscal cycle by resolution of the board, and no officer shall be prevented from receiving such salary by reason of the fact that he or she is also a board member of the corporation, provided, however, that such compensation paid a board member for serving as an officer of this corporation shall only be allowed if permitted under the provisions of Article 4, Section 6 of these bylaws. In all cases, any salaries received by officers of this corporation shall be reasonable and given in return for services actually rendered for the corporation which relate to the performance of the charitable or public purposes of this corporation.

ARTICLE 6 BOARD COMMITTEES

SECTION 1. EXECUTIVE COMMITTEE OF THE BOARD

The board may, by a majority vote of board members, designate two (2) or more board members to constitute an executive committee of the board and delegate to such committee any of the powers and authority of the board in the management of the business and affairs of the corporation, except with respect to:

(a) The approval of any action, which, under law or the provisions of these bylaws, requires the approval of the members or of a majority of all of the members.

(b) The filling of vacancies on the board or on any committee that has the authority of the board.

(c) The fixing of compensation of the board members for serving on the board or on any committee.

(d) The amendment or repeal of bylaws or the adoption of new bylaws.

(e) The amendment or repeal or any resolution of the board which by its express terms is not so amendable or repeatable.

(f) The appointment of committees of the board or the members thereof.

(g) The expenditure of corporate funds to support a nominee for director after there are more people nominated for director than can be elected.

(g) The approval of any transaction to which this corporation is a party and in which one or more of the board members has a material financial interest, except as expressly provided in Section 5233(d)(3) of the California Nonprofit Public Benefit Corporation Law.

By a majority vote of its members then in office, the board may at any time revoke or modify any or all of the authority so delegated, increase or decrease but not below two (2) the number of its members, and fill vacancies therein from Article 5: In this article we wanted to make sure there were efficient and effective procedures for signatures, defined expectations for reporting, and that all responsibilities for officers were defined.
the members of the board. The committee shall keep regular minutes of its proceedings, cause them to be filed with the corporate records, and report the same to the board from time to time as the board may require.

SECTION 2. OTHER BOARD COMMITTEES

The corporation shall have such other committees as may from time to time be designated by resolution of the board. Such other committees may consist of persons who are not also members of the board. These additional committees shall act in an advisory capacity only to the board and shall be clearly titled as “advisory” committees.

SECTION 3. MEETINGS AND ACTION OF COMMITTEES

Meetings and action of committees shall be governed by, noticed, held and taken in accordance with the provisions of these bylaws concerning meetings of the board, with such changes in the context of such bylaw provisions as are necessary to substitute the committee and its members for the board and its members, except that the time for regular meetings of committees may be fixed by resolution of the board by the committee. The time for special meetings of committees may also be fixed by the board. The board may also adopt rules and regulations pertaining to the conduct of meetings of committees to the extent that such rules and regulations are not inconsistent with the provisions of these bylaws.

ARTICLE 7. PGA GUH NYO KO NAH COMMITTEE (COMMUNITY LEADERS COMMITTEE)

SECTION 1. STRUCTURE. Within one year of the ratification of these bylaws, the board will nominate from the existing membership the Pga Guh Nyo Ko Nah committee, and will strive to ensure that the committee is representative of the make-up and values of the community. A non-voting committee, the Pga Guh Nyo Ko Nah committee members are eligible to serve on any such other committee assembled by the board. There will be no fewer than five and no more than fifteen members on the committee. The main objective of this committee will be to address the following goals:

(f) To act as a liaison between the Community Members and the board.
(g) To represent the culture and community values of the membership.
(h) To advise and inform the board.
(i) To serve as a consultant for organization objectives and decisions.
(j) When appropriate, the board will refer to the Pga Guh Nyo Ko Nah committee when addressing matters of cultural sensitivity.

SECTION 2. MEETINGS AND ACTIONS. The Committee will annually nominate a Chairperson who will serve as a voting member of the board, upon approval by the board. The Pga Guh Nyo Ko Nah committee shall participate in the annual meeting of the board for the purpose of strategic planning.

SECTION 3. SELECTION AND REMOVAL. The Pga Guh Nyo Ko Nah committee will be nominated by the board.

SECTION 4. VACANCIES. Should a vacancy occur, the board, at its next regularly scheduled meeting will nominate a replacement.

ARTICLE 8 EXECUTION OF INSTRUMENTS, DEPOSITS, AND FUNDS

SECTION 1. EXECUTION OF INSTRUMENTS
The board, 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, 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 Executive Director and, in amounts of more than $500, countersigned by the treasurer or otherwise designated board member.

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 may select.

SECTION 4. GIFTS

The board may accept on behalf of the corporation any contribution, gift, bequest, or devise for the charitable or public purposes of this corporation, based on the corporation’s gift receipt policy.

ARTICLE 9 CORPORATE RECORDS AND REPORTS

SECTION 1. MAINTENANCE OF CORPORATE RECORDS

The corporation shall keep at its principal office in the State of California:

(a) Minutes of all meetings of the board, committees of the board and, if this corporation has members, of all meetings of members, indicating the time and place of holding such meetings, whether regular or special, how called, the notice given, and the names of those present and the proceedings thereof;

(b) Adequate and correct books and records of account, including accounts of its properties and business transactions and accounts of its assets, liabilities, receipts, disbursements, gains and losses;

(c) A record of its members, if any, indicating their names and addresses and, if applicable, the class of membership held by each member and the termination date of any membership;

(d) A copy of the corporation's articles of incorporation and bylaws as amended to date, which shall be open to inspection by the members, if any, of the corporation at all reasonable times during office hours upon written request.

SECTION 2. CORPORATE SEAL

The board of directors may adopt, use, and at will alter, a corporate seal. Such seal shall be kept at the principal office of the corporation. Failure to affix the seal to corporate instruments, however, shall not affect the validity of any such instrument.

SECTION 2. BOARD MEMBERS’ INSPECTION RIGHTS

Every board member shall have the absolute right at any reasonable time to inspect all books, records, and documents of every kind consistent with the organization’s confidentiality agreement and to inspect the physical properties of the corporation.

SECTION 3. RIGHT TO COPY AND MAKE EXTRACTS
Any inspection under the provisions of this Article may be made in person or by agent or attorney and the right to inspection includes the right to copy and make extracts as prescribed by California Nonprofit Law.

SECTION 4. ANNUAL REPORT

The board shall cause an annual report to be furnished not later than ninety (90) days one hundred and twenty (120) days after the close of the corporation's fiscal year to all board members of the corporation and, if this corporation has members, to any member who requests it in writing, which report shall contain the following information in appropriate detail:

(a) The assets and liabilities, including the trust funds, of the corporation as of the end of the fiscal year;

(b) The principal changes in assets and liabilities, including trust funds, during the fiscal year;

(c) The revenue or receipts of the corporation, both unrestricted and restricted to particular purposes, for the fiscal year;

(d) The expenses or disbursements of the corporation, for both general and restricted purposes, during the fiscal year;

(e) Any information required by Section 6 of this Article.

The annual report shall be accompanied by any report thereon of independent accountants, or, if there is no such report, the certificate of an authorized officer of the corporation that such statements were prepared without audit from the books and records of the corporation.

SECTION 5. ANNUAL STATEMENT OF SPECIFIC TRANSACTIONS TO MEMBERS

This corporation shall mail or deliver to all board members and any and all members a statement within ninety (90) days one hundred and twenty (120) days after the close of its fiscal year which briefly describes the amount and circumstances of any indemnification or transaction of the following kind:

(a) Any transaction in which the corporation, or its parent or its subsidiary, was a party, and in which either of the following had a direct or indirect material financial interest:

   (1) Any board member or officer of the corporation, or its parent or its subsidiary (a mere common directorship shall not be considered a material financial interest); or

   (2) Any holder of more than ten percent (10%) of the voting power of the corporation, its parent, or its subsidiary.

The above statement need only be provided with respect to a transaction during the previous fiscal year involving more than FIFTY THOUSAND DOLLARS ($50,000) or which was one of a number of transactions with the same persons involving, in the aggregate, more than FIFTY THOUSAND DOLLARS ($50,000).

Similarly, the statement need only be provided with respect to indemnifications or advances aggregating more than TEN THOUSAND DOLLARS ($10,000) paid during the previous fiscal year to any board member or officer, except that no such statement need be made if such indemnification was approved by the members pursuant to Section 5238(e)(2) of the California Nonprofit Public Benefit Corporation Law.

Any statement required by this Section shall briefly describe the names of the interested persons involved in such transactions, stating each person's relationship to the corporation, the nature of such person's interest in the transaction and, where practical, the amount of such interest, provided that in the case of a transaction with a partnership of which such person is a partner, only the interest of the partnership need be stated.

If this corporation has any members and provides all members with an annual report according to the provisions of Section 6 of this Article, then such annual report shall include the information required by this Section.

Article 9: In this article an addition was made referencing the importance of the confidentiality policy.
ARTICLE 10 FISCAL YEAR

SECTION 1. FISCAL YEAR OF THE CORPORATION

The fiscal year of the corporation shall begin on January 1st and end on December 31st in each year.

ARTICLE 11 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 board member 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 by 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 board member, 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 board members 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. This due diligence investigation will consider the organization's preference to support, and the intrinsic value of supporting Karen owned and local small businesses in its valuation determination of the transaction or arrangement. 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 board members 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 board members, 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 a 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 as amplified by Section 53.4958-3 of the IRS Regulations):

1. is not the person who is the subject of 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 compensation arrangement
3. does not receive compensation or other payments subject to approval by the person who is the subject of 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 and 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 this 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 action on the arrangement by the board or committee.

SECTION 6. ANNUAL STATEMENTS

Each board member, principal officer, and member of a committee with governing board-delegated powers shall annually sign a statement that 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. Additionally outside experts will only be presenting information. The governing board will have final authority in providing direction for the organization based on the information provided from the review.

Article 11: In this article the “due diligence investigation” was more clearly defined. Also clarification was added regarding the use of outside experts. This was done with the focus of ensuring the governing board would have final authority in providing the direction of the organization based on the information provided in the review.

Also in this article, preference for Karen owned and local businesses was added to the due diligence process to promote community growth.

ARTICLE 12 AMENDMENT OF BYLAWS

SECTION 1. AMENDMENT

Subject to any provision of law applicable to the amendment of bylaws of public benefit nonprofit corporations, these bylaws, or any of them, may be altered, amended, or repealed and new bylaws by approval of the board.
(a) Subject to the power of members, if any, to change or repeal these bylaws under Section 5150 of the Corporations Code, by approval of the board of directors unless the bylaw amendment would materially and adversely affect the rights of members, if any, as to voting or transfer, provided, however, if this corporation has admitted any members, then a bylaw specifying or changing the fixed number of directors of the corporation, the maximum or minimum number of directors, or changing from a fixed to variable board or vice versa, may not be adopted, amended, or repealed except as provided in subparagraph (b) of this Section; or

(b) By approval of the members, if any, of this corporation.

Article 12: This article was significantly simplified to ensure user readability and user accessibility.

ARTICLE 13 AMENDMENT OF ARTICLES

SECTION 1. AMENDMENT OF ARTICLES

Any amendment of the articles of incorporation may be adopted by approval of the board. Before any members have been admitted to the corporation, any amendment of the articles of incorporation may be adopted by approval of the board of directors.

SECTION 2. AMENDMENT OF ARTICLES AFTER ADMISSION OF MEMBERS

After members, if any, have been admitted to the corporation, amendment of the articles of incorporation may be adopted by the approval of the board of directors and by the approval of the members of this corporation.

SECTION 3. CERTAIN AMENDMENTS

Notwithstanding the above sections of this Article, this corporation shall not amend its articles of incorporation to alter any statement which appears in the original articles of incorporation of the names and addresses of the first directors of this corporation, nor the name and address of its initial agent, except to correct an error in such statement or to delete such statement after the corporation has filed a “Statement by a Domestic Nonprofit Corporation” pursuant to Section 6210 of the California Nonprofit Corporation Law.

Article 13: This article was significantly simplified to ensure user readability and user accessibility.

ARTICLE 14 PROHIBITION AGAINST SHARING CORPORATE PROFITS AND ASSETS

SECTION 1. PROHIBITION AGAINST SHARING CORPORATE PROFITS AND ASSETS

No member, board member, officer, employee, or other person connected with this corporation, or any private individual, shall receive at any time any of the net earnings or monetary assets from the operations of the corporation, provided, however, that this provision shall not prevent payment to any such person of reasonable compensation for services performed for the corporation in effecting any of its public or charitable purposes, provided that such compensation is otherwise permitted by these bylaws and is fixed by resolution of the board; and no such person or persons shall be entitled to share in the distribution of, and shall not receive, any of the corporate assets on dissolution of the corporation. All members, if any, of the corporation shall be deemed to have expressly consented and agreed that on such dissolution or winding up of the affairs of the corporation, whether voluntarily or involuntarily, the assets of the corporation, after all debts have been satisfied, shall be distributed as required by the articles of incorporation of this corporation and not otherwise.

WRITTEN CONSENT OF THE BOARD ADOPTING BYLAWS

We, the undersigned, are all of the persons named as the current board members in the articles of incorporation of Karen Organization of San Diego (KOSD), a California nonprofit corporation, and, pursuant to the authority granted to the board by these bylaws to take action by unanimous written consent without a meeting, consent to, and hereby do,
adopt the foregoing bylaws, consisting of seventeen (17) pages, as the bylaws of this corporation.

Dated: December 8, 2012

___________________________ Ralph Aachenbach, Secretary/Board Member
___________________________ Andrew Rae, President/Board Member
___________________________ Maung Sein, Treasurer/Board Member

CERTIFICATE

This is to certify that the foregoing is a true and correct copy of the bylaws of the corporation named in the title thereto and that such bylaws were duly adopted by the board of said corporation on the date set forth below.

Dated: December 8, 2012

____________________ Ralph Aachenbach, Secretary

Article 14: Minimal changes to this article. Board member names were updated to reflect the current board composition.
APPENDICES

Section I – Appendix Documents Explained

Section II – Additional Bylaw Information
  Appendix A KOSD Bylaw Explanation by Article

Section III- Required and Recommended Policies
  Appendix B SAMPLE: Conflict of Interest Policy 1
  Appendix C SAMPLE: Conflict of Interest Policy 2
  Appendix D SAMPLE: Conflict of Interest Policy 3
  Appendix E SAMPLE: Conflict of Interest Form
  Appendix F SAMPLE: Whistleblower Policy 1
  Appendix G SAMPLE: Whistleblower Policy 2
  Appendix H SAMPLE: Whistleblower Policy 3
  Appendix I SAMPLE: Document Destruction and Retention Policy 1
  Appendix J SAMPLE: Document Destruction and Retention Policy 2
  Appendix K SAMPLE: Document Destruction and Retention Policy 3
  Appendix L SAMPLE: Gift Receipt Policy 1
  Appendix M SAMPLE: Gift Receipt Policy 2
  Appendix N SAMPLE: Gift Receipt Policy 3
  Appendix O SAMPLE: Confidentiality Disclosure 1
  Appendix P SAMPLE: Confidentiality Disclosure 2
  Appendix Q SAMPLE: Confidentiality Disclosure 3

Section VI – Board and Committee Roles
  Appendix R Board Job Descriptions
  Appendix S Understanding Committees: Purpose and Practice
Appendix Documents Explained

In the next sections we have provided several documents to assist the Karen Organization of San Diego. In Section II there is an explanation and summary of each of the articles included in the new bylaws being presented to the organization. The goal of this is provide a simple overview of the bylaws for the Karen refugee population involved with the organization since English is a second language for them and bylaws can contain some confusing legalese.

In addition to the Articles of Incorporation and Bylaws, several other documents are important for the protection of the nonprofit organization. In fact, the Sarbanes-Oxley Act required nonprofits to “develop, adopt, and disclose” a whistleblower policy and “have a written, mandatory document retention and periodic destruction policy” (BoardSource & Independent Sector, 2003). Additionally it is best practices for organizations to maintain conflict of interest policy, gift receipt policy and confidentiality disclosure statement. We have therefore provided three samples of each of these documents in Section III for consideration by the Karen Organization of San Diego. These samples should be reviewed thoroughly by the organization before choosing the one that will best fit their needs and the organization is encouraged to seek the advice of a professional advisor before adopting any of these documents.

Finally, Section IV provides some general information on board and committee roles. These can be used when establishing a new committee or in the creation of job descriptions for the varying positions within the governance structure. Job descriptions are highly recommended to help each person involved understand their roles and responsibilities, especially in an organization where many individuals are new to the American culture and the nonprofit sector.
Appendix A
KOSD Bylaw Explanation by Article

Articles 1 and 2: Name/Office

This section identifies the name and location of the main office of the Karen Organization of San Diego. It explains that the office cannot be moved, without approval of the board, and should be close to the population of refugees from Burma that it serves.

Section 3: Membership

This section identifies the people that the organization considers members. There are two tiers of membership: client participants and volunteer participants. Client participants are any person who receives services from KOSD and is active in helping and planning events. Volunteer participants are anyone who helps with the organization as a volunteer, family mentor, intern or anything else. It points out that these people can serve on committees established by the board. None of the members of the Karen Organization have the chance to vote on issues of governance and leadership, but have the opportunity in committees to voice their opinion and bring issues to the board.

Article 3: Purpose

This section explains that KOSD’s purpose is to provide social services and opportunities for cultural preservation to the Karen and other ethnic minority groups from Burma who reside in San Diego County and to improve their quality of life. This includes cultural celebrations such as Karen New Years, afterschool programs for Karen youth, and help with translation and services that newly resettled refugees from Burma may not be able to find or understand on their own.

Article 4: The Board

This section explains the board, and who and how the board will function. The board will consist of between 3 and 11 members and will be in charge of making decisions about the vision and future of the organization, as well as offering oversight of the organization’s finances and wellbeing. The board is also responsible to act in the best interest of KOSD, and has the responsibility or recruiting new board members that can help further the mission. The board also has the responsibility to recruit and empower more refugees from Burma to serve as voting board members.

Board members can serve two consecutive 3 year terms as officers, at which point they must take a break for 1 year in order to serve as an officer. During that 1 year, board members may serve on the board, but not vote as an active board member. Board members can be appointed or removed by the board for any reason, and are not liable for any debts that the organization may have.

The board will meet roughly 10 times per year, and will have a strategic meeting for planning in March, during which the board will appoint new members and elect officers. Board members are
volunteers and will serve without compensation; board members may also not offer contracts to their personal business through KOSD. 51% of board members must be present at a meeting in order for business to be voted on and ratified.

**Article 5: Officers**

This section explains the roles of the officers, which includes the president, secretary and treasurer. Officers are elected by the board at the annual meeting and will be in office until they either resign, are removed or another person is election. An officer can be removed from office for any reason by the board. If an officer position is vacant, the president of the board can pick someone to take on the role until the board is able to elect someone new. The section also explains how the board will decide on the salary of the executive direction and that board members can be compensated as long as it is not for service as a board member.

**Article 6: Board Committees**

This section explains how the executive committee will be selected by majority vote of the board and that the board may give some powers to this committee except certain actions that the board is required to do. The board may also remove authority from this committee.

The board may create other committees as needed and the members of these committees do not need to be board members.

All committees will be governed by the board.

**Article 7: Pga Guh Nyo Ko Nah Committee**

The section explains the roles of the PGA Ghu Nyo Ko Nah Committee. These include representing the Karen culture, being a sounding board for the board of directors in making decisions for the organization and acting as a liaison between the board and the Karen community. This committee will consist of between 5 and 15 members. Committee members will be nominated by the board and if a vacancy opens up the board will nominate a replacement at their next scheduled meeting. This committee will nominate a Chairperson who will serve on the board as a voting member and the entire committee will participate in at least one strategic planning meeting with the board.

**Article 8: Execution of Instruments, deposits and funds**

This section explains that any check written on behalf of the organization larger than $500 must be signed by the Executive Director and countersigned by the treasurer or other eligible board member. The voting board must approve any expense, contract, promise, or credit larger than this amount.

**Article 9: Corporate records and reports**
This section explains that records of all board meetings, decisions, votes and actions taken by the board shall be maintained and kept at the office. Any member of the board has the right to inspect those documents at any time. An annual report of such documents, including transactions, assets, changes in assets and expenses shall be presented to the board no later than 3 months after the end of the fiscal year, and shall be available to the organization’s membership upon request.

**Article 10: Fiscal year**

This section explains that the organization’s fiscal year ends on December 31\textsuperscript{st} and begins on January 1\textsuperscript{st} of each year.

**Article 11: Conflict of interest**

This section explains that a conflict of interest may occur if any agent of the organization, staff or board, benefits financially from a financial transaction with the organization. It states that to avoid a conflict of interest, an agent of the organization must disclose any and all information relating to it for a vote by the board. If the board decides that no conflict of interest exists, the transaction may proceed, however the agent with the perceived conflict of interest may not vote on the matter.

This section also explains that if a board member receives compensation for their service on the board, they are not allowed to vote on their own compensation, and that their compensation must be approved by committee.

**Article 12 and 13: Amendments to Bylaws and Articles**

This section explains that any changes to the bylaws can be adopted by a majority vote of the board, within the legal parameters of the California Corporations Code.
Appendix B  
SAMPLE: Conflict of Interest Policy 1

Article I -- Purpose
1. The purpose of this Board conflict of interest policy is to protect KOSD’s interests when it is contemplating entering into a transaction or arrangement that might benefit the private interests of an officer or director of KOSD or might result in a possible excess benefit transaction.

2. This policy is intended to supplement, but not replace, any applicable state and federal laws governing conflicts of interest applicable to nonprofit and charitable organizations.

3. This policy is also intended to identify “independent” directors.

Article II -- Definitions
1. Interested person -- Any director, principal officer, or member of a committee with governing board delegated powers, who has a direct or indirect financial interest, as defined below, is an interested person.

2. Financial interest -- A person has a financial interest if the person has, directly or indirectly, through business, investment, or family:
   a. An ownership or investment interest in any entity with which KOSD has a transaction or arrangement,
   b. A compensation arrangement with KOSD or with any entity or individual with which KOSD has a transaction or arrangement, or
   c. A potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which KOSD 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. A person who has a financial interest may have a conflict of interest only if the Board or Executive Committee decides that a conflict of interest exists, in accordance with this policy.

3. Independent Director -- A director shall be considered “independent” for the purposes of this policy if he or she is “independent” as defined in the instructions for the IRS 990 form or, until such definition is available, the director --
   a. is not, and has not been for a period of at least three years, an employee of KOSD or any entity in which KOSD has a financial interest;
   b. does not directly or indirectly have a significant business relationship with KOSD, which might affect independence in decision-making;
c. is not employed as an executive of another corporation where any of KOSD’s executive officers or employees serve on that corporation’s compensation committee; and
d. does not have an immediate family member who is an executive officer or employee of KOSD or who holds a position that has a significant financial relationship with KOSD.

Article III -- Procedures

1. 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 Board or Executive Committee.

2. Recusal of Self -- Any director may recuse himself or herself at any time from involvement in any decision or discussion in which the director believes he or she has or may have a conflict of interest, without going through the process for determining whether a conflict of interest exists.

3. 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 Board or Executive Committee meeting while the determination of a conflict of interest is discussed and voted upon. The remaining Board or Executive Committee members shall decide if a conflict of interest exists.

4. Procedures for Addressing the Conflict of Interest

   a. An interested person may make a presentation at the Board or Executive 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.

   b. The Chairperson of the Board or Executive Committee shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.

   c. After exercising due diligence, the Board or Executive Committee shall determine whether KOSD 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.

   d. If a more advantageous transaction or arrangement is not reasonably possible under circumstances not producing a conflict of interest, the Board or Executive Committee shall determine by a majority vote of the disinterested directors whether the transaction or arrangement is in KOSD’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.

5. Violations of the Conflicts of Interest Policy
a. If the Board or Executive 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.

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

**Article IV – Records of Proceedings**

The minutes of the 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 Board's or Executive 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.

**Article V – Compensation**

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

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

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

**Article VI – Annual Statements**

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

   a. Has received a copy of the conflict of interest policy,

   b. Has read and understands the policy,
c. Has agreed to comply with the policy, and
d. Understands KOSD 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.

2. Each voting member of the Board shall annually sign a statement which declares whether such person is an independent director.

3. If at any time during the year, the information in the annual statement changes materially, the director shall disclose such changes and revise the annual disclosure form.

4. The Executive Committee shall regularly and consistently monitor and enforce compliance with this policy by reviewing annual statements and taking such other actions as are necessary for effective oversight.

**Article VII – Periodic Reviews**
To ensure KOSD 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 (if reasonably available), and the result of arm's length bargaining.

b. Whether partnerships, joint ventures, and arrangements with management organizations, if any, conform to KOSD's written policies, are properly recorded, reflect reasonable investment or payments for goods and services, further charitable purposes and do not result in inurement or impermissible private benefit or in an excess benefit transaction.

**Article VIII – Use of Outside Experts**
When conducting the periodic reviews as provided for in Article VII, KOSD may, but need not, use outside advisors. If outside experts are used, their use shall not relieve the Board of its responsibility for ensuring periodic reviews are conducted.

*Source: Montana Nonprofit Association, 2008*
Appendix C
SAMPLE: Conflict of Interest Policy 2

Article I. Purpose
The purpose of a conflict-of-interest policy is to protect KOSD’s interest when it is contemplating entering into a transaction or arrangement that might benefit the private interest of one of its officers or directors, or might result in a possible excess benefit transaction. This policy is intended to supplement, but not replace, any applicable state and federal laws governing conflicts of interest.

Article II. Definitions
1. Interested Person
An Interested Person is any director, principal officer, or member of a committee with governing board delegated powers who has a direct or indirect Financial Interest, as defined below.

2. Financial Interest
A person has a Financial Interest if the individual has, directly or indirectly, any actual or potential ownership, investment, or compensation arrangement with KOSD or with any entity that conducts transactions with KOSD.

A Financial Interest is not necessarily a conflict of interest in all cases. Under Article III, Section 2 of IRS Form 1023, a person with a Financial Interest may have a conflict of interest only if the appropriate governing board or committee decides that a conflict of interest exists.

Article III. Procedures
1. 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 the committees with governing board-delegated powers considering the proposed transaction or arrangement. In an effort to aid such disclosure, each member (board, committee, or staff) shall complete a conflict-of-interest questionnaire as circumstances warrant, but no less frequently than annually.

2. Determining whether a conflict of interest exists
The board shall review each member questionnaire and any other disclosures regarding the Financial Interests of its members. After disclosure of the Financial Interest, the Interested Person shall leave the board meeting while the remaining board members discuss and vote on whether a conflict of interest exists.

3. Procedures for addressing the conflict of interest
After exercising due diligence, the governing board or committee shall determine whether the organization can obtain with reasonable effort a more advantageous transaction or arrangement from a person or entity that would not produce a conflict of interest. The Interested Person shall not be present in the room during the determination.
If an alternative transaction or arrangement is not possible, the governing board or committee shall determine by a majority vote of the disinterested directors whether the transaction or arrangement is in the best interests of the organization, for its own benefit, and fair and reasonable. Based on these determinations, the board or committee shall make its decision on whether to enter into the transaction or arrangement.

4. Disciplinary action
If the committee has reason to believe an individual has failed to disclose actual or potential conflicts of interest, it will inform the member and allow him/her to explain the alleged failure to disclose. If the committee still has reason to believe a conflict of interest exists after the alleged conflict is explained, it will take corrective action.

Source: The Vanguard Group, 2009
Appendix D
SAMPLE: Conflict of Interest Policy 3

It is in the best interest of KOSD to be aware of and properly manage all conflicts of interest and appearances of a conflict of interest. This conflict of interest policy is designed to help directors, officers, employees and volunteers of the KOSD identify situations that present potential conflicts of interest and to provide KOSD with a procedure to appropriately manage conflicts in accordance with legal requirements and the goals of accountability and transparency in KOSD’s operations.

1. **Conflict of Interest Defined.** In this policy, a person with a conflict of interest is referred to as an “interested person.” For purposes of this policy, the following circumstances shall be deemed to create a Conflict of Interest:

   a. A director, officer, employee or volunteer, including a board member (or family member of any of the foregoing) is a party to a contract, or involved in a transaction with KOSD for goods or services.

   b. A director, officer, employee or volunteer, (or a family member of any of the foregoing) has a material financial interest in a transaction between KOSD and an entity in which the director, officer, employee or volunteer, or a family member of the foregoing, is a director, officer, agent, partner, associate, employee, trustee, personal representative, receiver, guardian, custodian, or other legal representative.

   c. A director, officer, employee or volunteer, (or a family member of the foregoing) is engaged in some capacity or has a material financial interest in a business or enterprise that competes with KOSD.

Other situations may create the appearance of a conflict, or present a duality of interests in connection with a person who has influence over the activities or finances of the nonprofit. All such circumstances should be disclosed to the board or staff, as appropriate, and a decision made as to what course of action the organization or individuals should take so that the best interests of the nonprofit are not compromised by the personal interests of stakeholders in the nonprofit.

**Gifts, Gratuities and Entertainment.** Accepting gifts, entertainment or other favors from individuals or entities can also result in a conflict or duality of interest when the party providing the gift/entertainment/favor does so under circumstances where it might be inferred that such action was intended to influence or possibly would influence the interested person in the performance of his or her duties. This does not preclude the acceptance of items of nominal or insignificant value or entertainment of nominal or insignificant value which are not related to any particular transaction or activity of KOSD.

2. **Definitions.**

   a. A "Conflict of Interest" is any circumstance described in Part 1 of this Policy.
b. An "Interested Person" is any person serving as an officer, employee or member of the Board of Directors of KOSD or a major donor to KOSD or anyone else who is in a position of control over KOSD who has a personal interest that is in conflict with the interests of KOSD.

c. A "Family Member" is a spouse, parent, child or spouse of a child, brother, sister, or spouse of a brother or sister, of an interested person.

d. A "Material Financial Interest" in an entity is a financial interest of any kind, which, in view of all the circumstances, is substantial enough that it would, or reasonably could, affect an Interested Person’s or Family Member's judgment with respect to transactions to which the entity is a party.

e. A "Contract or Transaction" is any agreement or relationship involving the sale or purchase of goods or services, the providing or receipt of a loan or grant, the establishment of any other type of financial relationship, or the exercise of control over another organization. The making of a gift to KOSD is not a Contract or Transaction.

3. Procedures.
   a. Prior to board or committee action on a Contract or Transaction involving a Conflict of Interest, a director or committee member having a Conflict of Interest and who is in attendance at the meeting shall disclose all facts material to the Conflict of Interest. Such disclosure shall be reflected in the minutes of the meeting. If board members are aware that staff or other volunteers have a conflict of interest, relevant facts should be disclosed by the board member or by the interested person him/herself if invited to the board meeting as a guest for purposes of disclosure.

   b. A director or committee member who plans not to attend a meeting at which he or she has reason to believe that the board or committee will act on a matter in which the person has a Conflict of Interest shall disclose to the chair of the meeting all facts material to the Conflict of Interest. The chair shall report the disclosure at the meeting and the disclosure shall be reflected in the minutes of the meeting.

   c. A person who has a Conflict of Interest shall not participate in or be permitted to hear the board's or committee's discussion of the matter except to disclose material facts and to respond to questions. Such person shall not attempt to exert his or her personal influence with respect to the matter, either at or outside the meeting.

   d. A person who has a Conflict of Interest with respect to a Contract or Transaction that will be voted on at a meeting shall not be counted in determining the presence of a quorum for purposes of the vote.

   e. The person having a conflict of interest may not vote on the Contract or Transaction and shall not be present in the meeting room when the vote is taken, unless the vote is by secret ballot. Such person's ineligibility to vote shall be reflected in the minutes of the meeting. For purposes of this paragraph, a member of the Board of Directors of KOSD
has a Conflict of Interest when he or she stands for election as an officer or for re-election as a member of the Board of Directors.

f. Interested Persons who are not members of the Board of Directors of KOSD, or who have a Conflict of Interest with respect to a Contract or Transaction that is not the subject of Board or committee action, shall disclose to their supervisor, or the Chair, or the Chair’s designee, any Conflict of Interest that such Interested Person has with respect to a Contract or Transaction. Such disclosure shall be made as soon as the Conflict of Interest is known to the Interested Person. The Interested Person shall refrain from any action that may affect KOSD’s participation in such Contract or Transaction.

In the event it is not entirely clear that a Conflict of Interest exists, the individual with the potential conflict shall disclose the circumstances to his or her supervisor or the Chair or the Chair's designee, who shall determine whether full board discussion is warranted or whether there exists a Conflict of Interest that is subject to this policy.

4. **Confidentiality.** Each director, officer, employee and volunteer shall exercise care not to disclose confidential information acquired in connection with disclosures of conflicts of interest or potential conflicts, which might be adverse to the interests of KOSD. Furthermore, directors, officers, employees and volunteers shall not disclose or use information relating to the business of KOSD for their personal profit or advantage or the personal profit or advantage of their Family Member(s).

5. **Review of policy.**

   a. Each director, officer, employee and volunteer shall be provided with and asked to review a copy of this Policy and to acknowledge in writing that he or she has done so.

   b. Annually each director, officer, employee and volunteer shall complete a disclosure form identifying any relationships, positions or circumstances in which s/he is involved that he or she believes could contribute to a Conflict of Interest. Such relationships, positions or circumstances might include service as a director of or consultant to another nonprofit organization, or ownership of a business that might provide goods or services to KOSD. Any such information regarding the business interests of a director, officer, employee or volunteer, or a Family Member thereof, shall be treated as confidential and shall generally be made available only to the Chair, the Executive Director, and any committee appointed to address Conflicts of Interest, except to the extent additional disclosure is necessary in connection with the implementation of this Policy.

   c. This policy shall be reviewed annually by each member of the Board of Directors. Any changes to the policy shall be communicated to all staff and volunteers

*Source: The Nonprofit Risk Management Center, 2008*
Appendix E
SAMPLE: Conflict of Interest Form

Director and Officer Annual Conflict of Interest Statement

1. Name: ______________________________ Date: __________________

2. Position: ______________________________

Are you a voting Director? Yes No

Are you an Officer? Yes No

If you are an Officer, which Officer position do you hold:
__________________________________________.

3. I affirm the following:

I have received a copy of the KOSD Conflict of Interest Policy. _______ (initial)

I have read and understand the policy. _______ (initial)

I agree to comply with the policy. _______ (initial)

I understand that KOSD is charitable and in order to maintain its federal tax exemption it must engage primarily in activities which accomplish one or more of tax-exempt purposes. _______ (initial)

4. Disclosures:

a. Do you have a financial interest (current or potential), including a compensation arrangement, as defined in the Conflict of Interest policy with KOSD? Yes No

   i. If yes, please describe it: ____________________________________________

   ii. If yes, has the financial interest been disclosed, as provided in the Conflict of Interest policy? Yes No

b. In the past, have you had a financial interest, including a compensation arrangement, as defined in the Conflict of Interest policy with KOSD? Yes No

   i. If yes, please describe it, including when (approximately):

   ____________________________________________

   ii. If yes, has the financial interest been disclosed, as provided in the Conflict of Interest policy? Yes No
5. Are you an independent director, as defined in the Conflict of Interest policy?
   Yes   No

   a. If you are not independent, why? ________________________________

   ____________________________________________  Date: ______________
   Signature of director

   Date of Review by Executive Committee: ___________________________

Source: Montana Nonprofit Association, 2008
Appendix F
SAMPLE: Whistleblower Policy 1

Employee Protection (Whistleblower) Policy
If any employee reasonably believes that some policy, practice, or activity of KOSD is in violation of law, a written complaint must be filed by that employee with the Executive Director or the Board President.

It is the intent of KOSD to adhere to all laws and regulations that apply to the organization and the underlying purpose of this policy is to support the organization’s goal of legal compliance. The support of all employees is necessary to achieving compliance with various laws and regulations. An employee is protected from retaliation only if the employee brings the alleged unlawful activity, policy, or practice to the attention of KOSD and provides the KOSD with a reasonable opportunity to investigate and correct the alleged unlawful activity. The protection described below is only available to employees that comply with this requirement.

KOSD will not retaliate against an employee who in good faith, has made a protest or raised a complaint against some practice of KOSD, or of another individual or entity with whom KOSD has a business relationship, on the basis of a reasonable belief that the practice is in violation of law, or a clear mandate of public policy.

KOSD will not retaliate against employees who disclose or threaten to disclose to a supervisor or a public body, any activity, policy, or practice of KOSD that the employee reasonably believes is in violation of a law, or a rule, or regulation mandated pursuant to law or is in violation of a clear mandate of public policy concerning the health, safety, welfare, or protection of the environment.

My signature below indicates my receipt and understanding of this policy. I also verify that I have been provided with an opportunity to ask questions about the policy.

___________________________________   _____________  
Employee Signature      Date

Source: Nonprofit Risk Management Center
Appendix G
SAMPLE: Whistleblower Policy 2

1. Purpose.

KOSD requires board members, committee members and employees to observe high standards of business and personal ethics in the conduct of their duties and responsibilities, and all directors, committee members and employees to comply with all applicable laws and regulatory requirements.

2. Reporting Responsibility.

KOSD seeks to have an “Open Door Policy” and encourages board members and employees to share their questions, concerns, suggestions, or complaints regarding the [Insert Organization name here] and its operations with someone who can address them properly. In most cases, a board member or committee member should present his or her concerns to the Chair of the Board. The Executive Director is generally in the best position to address an employee’s area of concern. However, if a board member is not comfortable speaking with the Board Chair or is not comfortable with the Board Chair’s response, or if an employee is not comfortable speaking with the Executive Director or if the employee is not satisfied with the Executive Director’s response, the board member, committee member or employee is encouraged to speak with anyone on the Board whom the employee is comfortable in approaching, or to directly contact the KOSD’s outside legal counsel, whose contact information can be obtained from the Executive Director.

3. No Retaliation.

No board member, committee member, or employee who in good faith reports a violation of a law or regulation requirement shall suffer harassment, retaliation, or adverse employment consequence. An employee who retaliate’s against someone who has reported a violation in good faith is subject to discipline up to and including termination of employment. This Whistleblower Policy is intended to encourage and enable persons to raise serious concerns within KOSD prior to seeking resolution outside KOSD.

4. Compliance Officer.

KOSD’s Executive Director, working with the Chair of the Board, will act as KOSD’s Compliance Officer. The Compliance Officer is responsible for investigating and resolving all employee complaints and allegations concerning violations of the Principles and/or Code. The Board Chair or his or her designee will take on the Compliance Officer role if the complaint involves the Executive Director. If the complaint involves both the Executive Director and Board Chair, outside legal counsel [Or another board member] will carry out the functions of the Compliance Officer.
5. **Accounting and Auditing Matters.**

The Finance Committee of the Board of Directors shall address all reported concerns or complaints regarding corporate accounting practices, internal controls or auditing. The Compliance Officer shall immediately notify the Finance Committee of any such complaint and work with the Committee until the matter is resolved.

6. **Requirement of Good Faith.**

Anyone filing a complaint concerning a violation or suspected violation of the law or regulation requirements must be acting in good faith and have reasonable grounds for believing the information disclosed indicates a violation. Any allegations that prove not to be substantiated and which prove to have been made maliciously or knowingly to be false will be viewed as a serious disciplinary offense.

7. **Confidentiality.**

Violations or suspected violations may be submitted on a confidential basis by the complainant or may be submitted anonymously. Reports of violations or suspected violations will be kept confidential to the extent possible, consistent with the need to conduct an adequate investigation.

8. **Handling of Reported Violations.**

The Compliance Officer, or the person responsible for carrying out the Compliance Officer’s role with respect to a reported or suspected violation, will acknowledge receipt of the reported violation or suspected violation by writing a letter (or e-mail) to the complainant within five business days. All reports will be promptly investigated and appropriate corrective action will be taken if warranted by the investigation.
Appendix H
SAMPLE: Whistleblower Policy 3

General
The Organization's Code of Ethics and Conduct ("Code") required directors, officers and employees to observe high standards of business and personal ethics in the conduct of their duties and responsibilities. As employees and representatives of the Organization, we must practice honesty and integrity in fulfilling our responsibilities and comply with all applicable laws and regulations.

Reporting Responsibility
It is the responsibility of all directors, officers and employees to comply with the Code and to report violations or suspected violations in accordance with the Whistleblower Policy.

No Retaliation
No director, officer or employee who in good faith reports a violation of the Code shall suffer harassment, retaliation or adverse employment consequence. An employee who retaliates against someone who has reported a violation in good faith is subject to discipline up to and including termination of employment. This Whistleblower Policy is intended to encourage and enable employees and others to raise serious concerns within the Organization prior to seeking resolution outside the Organization.

Reporting Violations
The Code addresses the Organization's open door policy and suggests that employees share their questions, concerns, suggestions or complaints with someone who can address them properly. In most cases, an employee's supervisor is in the best position to address an area of concern. However, if you are not comfortable speaking with your supervisor or you are not satisfied with your supervisor's response, you are encouraged to speak with someone in the Human Resources Department or anyone in management whom you are comfortable in approaching. Supervisors and managers are required to report suspected violations of the Code of Conduct to the Organization's Compliance Officer, who has specific and exclusive responsibility to investigate all reported violations. For suspected fraud, or when you are not satisfied or uncomfortable with following the Organization's open door policy, individuals should contact the Organization's Compliance Officer directly.

Compliance Officer
The Organization's Compliance Officer is responsible for investigating and resolving all reported complaints and allegations concerning violations of the Code and, at his discretion, shall advise the Executive Director and/or the audit committee. The Compliance Officer has direct access to the audit committee of the board of directors and is required to report to the audit committee at least annually on compliance activity. The Organization's Compliance Officer is the chair of the audit committee.

Accounting and Auditing Matters
The audit committee of the board of directors shall address all reported concerns or complaints regarding corporate accounting practices, internal controls or auditing. The Compliance Officer
shall immediately notify the audit committee of any such complaint and work with the committee until the matter is resolved.

**Acting in Good Faith**
Anyone filing a complaint concerning a violation or suspected violation of the Code must be acting in good faith and have reasonable grounds for believing the information disclosed indicates a violation of the Code. Any allegations that prove not to be substantiated and which prove to have been made maliciously or knowingly to be false will be viewed as a serious disciplinary offense.

**Confidentiality**
Violations or suspected violations may be submitted on a confidential basis by the complainant or may be submitted anonymously. Reports of violations or suspected violations will be kept confidential to the extent possible, consistent with the need to conduct an adequate investigation.

**Handling of Reported Violations**
The Compliance Officer will notify the sender and acknowledge receipt of the reported violation or suspected violation within five business days. All reports will be promptly investigated and appropriate corrective action will be taken if warranted by the investigation.

*Source: National Council of Nonprofits*
Appendix I
SAMPLE: Document Destruction and Retention Policy 1

1. Policy and Purposes

This Policy represents the policy of KOSD (the “organization”) with respect to the retention and destruction of documents and other records, both in hard copy and electronic media (which may merely be referred to as “documents” in this Policy). Purposes of the Policy include (a) retention and maintenance of documents necessary for the proper functioning of the organization as well as to comply with applicable legal requirements; (b) destruction of documents which no longer need to be retained; and (c) guidance for the Board of Directors, officers, staff and other constituencies with respect to their responsibilities concerning document retention and destruction. Notwithstanding the foregoing, the organization reserves the right to revise or revoke this Policy at any time.

2. Administration

2.1 Responsibilities of the Administrator. The organization’s [CEO, President, Executive Vice President, Vice President for __, etc.] shall be the administrator (“Administrator”) in charge of the administration of this Policy. The Administrator’s responsibilities shall include supervising and coordinating the retention and destruction of documents pursuant to this Policy and particularly the Document Retention Schedule included below. The Administrator shall also be responsible for documenting the actions taken to maintain and/or destroy organization documents and retaining such documentation. The Administrator may also modify the Document Retention Schedule from time to time as necessary to comply with law and/or to include additional or revised document categories as may be appropriate to reflect organizational policies and procedures. The Administrator is also authorized to periodically review this Policy and Policy compliance with legal counsel and to report to the Board of Directors as to compliance. The Administrator may also appoint one or more assistants to assist in carrying out the Administrator’s responsibilities, with the Administrator, however, retaining ultimate responsibility for administration of this Policy.

2.2 Responsibilities of Constituencies. This Policy also relates to the responsibilities of board members, staff, volunteers and outsiders with respect to maintaining and documenting the storage and destruction of the organization’s documents. The Administrator shall report to the Board of Directors (the board members acting as a body), which maintains the ultimate direction of management. The organization’s staff shall be familiar with this Policy, shall act in accordance therewith, and shall assist the Administrator, as requested, in implementing it. The responsibility of volunteers with respect to this Policy shall be to produce specifically identified documents upon request of management, if the volunteer still retains such documents. In that regard, after each project in which a volunteer has been involved, or each term which the volunteer has served, it shall be the responsibility of the Administrator to confirm whatever types of documents the volunteer retained and to request any such documents which the Administrator feels will be necessary for retention by the organization (not by the volunteer). Outsiders may include vendors or other service providers. Depending upon the sensitivity of the documents involved with the particular outsider relationship, the organization, through the Administrator,
shall share this Policy with the outsider, requesting compliance. In particular instances, the Administrator may require that the contract with the outsider specify the particular responsibilities of the outsider with respect to this Policy.

3. Suspension of Document Destruction; Compliance. The organization becomes subject to a duty to preserve (or halt the destruction of) documents once litigation, an audit or a government investigation is reasonably anticipated. Further, federal law imposes criminal liability (with fines and/or imprisonment for not more than 20 years) upon whomever “knowingly alters, destroys, mutilates, conceals, covers up, falsifies, or makes a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the investigation or proper administration of any matter within the jurisdiction of any department or agency of the United States … or in relation to or contemplation of any such matter or case.” Therefore, if the Administrator becomes aware that litigation, a governmental audit or a government investigation has been instituted, or is reasonably anticipated or contemplated, the Administrator shall immediately order a halt to all document destruction under this Policy, communicating the order to all affected constituencies in writing. The Administrator may thereafter amend or rescind the order only after conferring with legal counsel. If any board member or staff member becomes aware that litigation, a governmental audit or a government investigation has been instituted, or is reasonably anticipated or contemplated, with respect to the organization, and they are not sure whether the Administrator is aware of it, they shall make the Administrator aware of it. Failure to comply with this Policy, including, particularly, disobeying any destruction halt order, could result in possible civil or criminal sanctions. In addition, for staff, it could lead to disciplinary action including possible termination.

4. Electronic Documents; Document Integrity. Documents in electronic format shall be maintained just as hard copy or paper documents are, in accordance with the Document Retention Schedule. Due to the fact that the integrity of electronic documents, whether with respect to the ease of alteration or deletion, or otherwise, may come into question, the Administrator shall attempt to establish standards for document integrity, including guidelines for handling electronic files, backup procedures, archiving of documents, and regular checkups of the reliability of the system; provided, that such standards shall only be implemented to the extent that they are reasonably attainable considering the resources and other priorities of the organization.

5. Privacy. It shall be the responsibility of the Administrator, after consultation with counsel, to determine how privacy laws will apply to the organization’s documents from and with respect to employees and other constituencies; to establish reasonable procedures for compliance with such privacy laws; and to allow for their audit and review on a regular basis.

6. Emergency Planning. Documents shall be stored in a safe and accessible manner. Documents which are necessary for the continued operation of the organization in the case of an emergency shall be regularly duplicated or backed up and maintained in an off-site location. The Administrator shall develop reasonable procedures for document retention in the case of an emergency.
7. Document Creation and Generation. The Administrator shall discuss with staff the ways in which documents are created or generated. With respect to each employee or organizational function, the Administrator shall attempt to determine whether documents are created which can be easily segregated from others, so that, when it comes time to destroy (or retain) those documents, they can be easily culled from the others for disposition. For example, on an employee-by-employee basis, are e-mails and other documents of a significantly non-sensitive nature so that they might be deleted, even in the face of a litigation hold with respect to other, more sensitive, documents? This dialogue may help in achieving a major purpose of the Policy -- to conserve resources -- by identifying document streams in a way that will allow the Policy to routinely provide for destruction of documents. Ideally, the organization will create and archive documents in a way that can readily identify and destroy documents with similar expirations.

<table>
<thead>
<tr>
<th>Document Type</th>
<th>Retention Period</th>
</tr>
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</table>

**Accounting and Finance**
- Accounts Payable: 7 years
- Accounts Receivable: 7 years
- Annual Financial Statements and Audit Reports: Permanent
- Bank Statements, Reconciliations & Deposit Slips: 7 years
- Canceled Checks – routine: 7 years
- Canceled Checks – special, such as loan repayment: Permanent
- Credit Card Receipts: 3 years
- Employee/Business Expense Reports/Documents: 7 years
- General Ledger: Permanent
- Interim Financial Statements: 7 years

**Contributions/Gifts/Grants**
- Contribution Records: Permanent
- Documents Evidencing Terms of Gifts: Permanent
- Grant Records: 7 yrs after end of grant period

**Corporate and Exemption**
- Articles of Incorporation and Amendments: Permanent
- Bylaws and Amendments: Permanent
- Minute Books, including Board & Committee Minutes: Permanent
- Annual Reports to Attorney General & Secretary of State: Permanent
- Other Corporate Filings: Permanent
- IRS Exemption Application (Form 1023 or 1024): Permanent
- IRS Exemption Determination Letter: Permanent
- State Exemption Application (if applicable): Permanent
- State Exemption Determination Letter (if applicable): Permanent
- Licenses and Permits: Permanent
- Employer Identification (EIN) Designation: Permanent

**Correspondence and Internal Memoranda**
Hard copy correspondence and internal memoranda relating to a particular document otherwise addressed in this Schedule should be retained for the same period as the document to which they relate.

- Hard copy correspondence and internal memoranda relating to routine matters with no lasting significance: Two years
- Correspondence and internal memoranda important to the organization or having lasting significance: Permanent, subject to review
**Electronic Mail (E-mail) to or from the organization**

Electronic mail (e-mails) relating to a particular document otherwise addressed in this Schedule should be retained for the same period as the document to which they relate, but may be retained in hard copy form with the document to which they relate.

E-mails considered important to the organization or of lasting significance should be printed and stored in a central repository. Permanent, subject to review

E-mails not included in either of the above categories 12 months

**Electronically Stored Documents**

Electronically stored documents (e.g., in pdf, text or other electronic format) comprising or relating to a particular document otherwise addressed in this Schedule should be retained for the same period as the document which they comprise or to which they relate, but may be retained in hard copy form (unless the electronic aspect is of significance).

Electronically stored documents considered important to the organization or of lasting significance should be printed and stored in a central repository (unless the electronic aspect is of significance). Permanent, subject to review

Electronically stored documents not included in either of the above categories Two years

**Employment, Personnel and Pension**

Personnel Records 10 yrs after employment ends
Employee contracts 10 yrs after termination
Retirement and pension records Permanent

**Insurance**

Property, D&O, Workers’ Compensation and General Liability Insurance Policies Permanent
Insurance Claims Records Permanent

**Legal and Contracts**

Contracts, related correspondence and other supporting documentation 10 yrs after termination
Legal correspondence Permanent

**Management and Miscellaneous**

Strategic Plans 7 years after expiration
Disaster Recovery Plan 7 years after replacement
Policies and Procedures Manual Current version with revision
Property – Real, Personal and Intellectual

Property deeds and purchase/sale agreements  Permanent
Property Tax  Permanent
Real Property Leases  Permanent
Personal Property Leases  10 years after termination
Trademarks, Copyrights and Patents  Permanent

Tax
Tax exemption documents & correspondence  Permanent
IRS Rulings  Permanent
Annual information returns – federal & state  Permanent
Tax returns  Permanent

Source: National Council of Nonprofits, 2009
Appendix J
SAMPLE: Document Destruction and Retention Policy 2

Purpose
In accordance with the Sarbanes-Oxley Act, which makes it a crime to alter, cover up, falsify, or destroy any document with the intent of impeding or obstructing any official proceeding, this policy provides for the systematic review, retention, and destruction of documents received or created by KOSD in connection with the transaction of organization business. This policy covers all records and documents, regardless of physical form, contains guidelines for how long certain documents should be kept, and how records should be destroyed (unless under a legal hold). The policy is designed to ensure compliance with federal and state laws and regulations, to eliminate accidental or innocent destruction of records, and to facilitate KOSD operations by promoting efficiency and freeing up valuable storage space.

Document Retention
KOSD follows the document retention procedures outlined below. Documents that are not listed, but are substantially similar to those listed in the schedule, will be retained for the appropriate length of time.

Corporate Records
Annual Reports to Secretary of State/Attorney General Permanent
Articles of Incorporation Permanent
Board Meeting and Board Committee Minutes Permanent
Board Policies/Resolutions Permanent
Bylaws Permanent
Construction Documents Permanent
Fixed Asset Records Permanent
IRS Application for Tax-Exempt Status (Form 1023) Permanent
IRS Determination Letter Permanent
State Sales Tax Exemption Letter Permanent
Contracts (after expiration) 7 years
Correspondence (general) 3 years

Accounting and Corporate Tax Records
Annual Audits and Financial Statements Permanent
Depreciation Schedules Permanent
IRS Form 990 Tax Returns Permanent
General Ledgers 7 years
Business Expense Records 7 years
IRS Form 1099 7 years
Journal Entries 7 years
Invoices 7 years
Sales Records (books) 5 years
Petty Cash Vouchers 3 years
Cash Receipts 3 years
Credit Card Receipts 3 years

Bank Records
Check Registers 7 years  
Bank Deposit Slips 7 years  
Bank Statement and Reconciliation 7 years  
Electronic Fund Transfer Documents 7 years  
*Payroll and Employment Tax Records*  
Payroll Registers Permanent  
State Unemployment Tax Records Permanent  
Earnings Records 7 years  
Garnishment Records 7 years  
Payroll Tax Returns 7 years  
W-2 Statements 7 years  
*Employee Records*  
Employment and Termination Agreements Permanent  
Retirement and Pension Plan Documents Permanent  
Records Relating to Promotion, Demotion or Discharge 7 years after termination  
Accident Reports and Worker's Compensation Records 5 years  
Salary Schedules 5 years  
Employment Applications 3 years  
I-9 Forms 3 years after termination  
Time Cards 2 years  
*Donor and Grant Records*  
Donor Records and Acknowledgment Letters 7 years  
Grant Applications and Contracts 7 years after completion  
*Legal, Insurance, and Safety Records*  
Appraisals Permanent  
Copyright Registrations Permanent  
Environmental Studies Permanent  
Insurance Policies Permanent  
Real Estate Documents Permanent  
Stock and Bond Records Permanent  
Trademark Registrations Permanent  
Leases 6 years after expiration  
OSHA Documents 5 years  
General Contracts 3 years after termination  

**Electronic Documents and Records**  
Electronic documents will be retained as if they were paper documents. Therefore, any electronic files, including records of donations made online, that fall into one of the document types on the above schedule will be maintained for the appropriate amount of time. If a user has sufficient reason to keep an e-mail message, the message should be printed in hard copy and kept in the appropriate file or moved to an “archive” computer file folder. Backup and recovery methods will be tested on a regular basis.

**Emergency Planning**
KOSD records will be stored in a safe, secure, and accessible manner. Documents and financial files that are essential to keeping KOSD operating in an emergency will be duplicated or backed up at least every week and maintained off-site.

**Document Destruction**
KOSD’s manager of operations is responsible for the ongoing process of identifying its records, which have met the required retention period, and overseeing their destruction. Destruction of financial and personnel-related documents will be accomplished by shredding. Document destruction will be suspended immediately, upon any indication of an official investigation or when a lawsuit is filed or appears imminent. Destruction will be reinstated upon conclusion of the investigation.

**Compliance**
Failure on the part of employees to follow this policy can result in possible civil and criminal sanctions against KOSD and its employees and possible disciplinary action against responsible individuals. The manager of operations and finance committee chair will periodically review these procedures with legal counsel or the organization’s certified public accountant to ensure that they are in compliance with new or revised regulations.

*Source: CBO Center, 2009*
Appendix K
SAMPLE: Document Destruction and Retention Policy 3

I. Purpose

A. KOSD recognizes the importance of maintaining records for many reasons, including, but not limited to, the following:

1. Maintain a record of the legal structure of KOSD
2. Document Board and board committee membership, decisions and activities
3. Document membership, membership votes and other activities related to involvement of members in the governance of KOSD
4. Maintain a list of non-voting affiliates
5. Maintain KOSD’s policies -- both board and administrative policies
6. Allow KOSD to demonstrate effective pursuit of its mission, to evaluate the success of its programs and to determine whether the organization is achieving desired results
7. Maintain a record of federal and state tax filings and important supporting information
8. Maintain a record of financial statements and budgets and important supporting information, to monitor budgetary and financial results and activities, and to identify sources of receipts
9. Identify all donations and grants and to maintain required documents
10. Maintain personnel and employment records
11. Maintain records of all contracts or other documents creating legal obligations or potential legal liabilities, including insurance contracts, vendor contracts, personal services contracts, leases and other property related contracts, as well as notices of any legal processes involving MNA or of any government investigations.

B. KOSD’s goal is to maintain such documents for a time period defined at a minimum by law, but otherwise for as long as such documents create an important historical record of KOSD’s activities or may be relevant to KOSD’s business needs, legal obligations, or any litigation or investigation.

II. Method of Retention

A. KOSD may maintain records in electronic form or paper or in any other safe and reliable manner.

B. Records shall be stored in a secure location, which may be in the KOSD offices or in a storage facility or other location.

C. KOSD shall maintain a record of where records are stored or located so that they may be accessed within a reasonable period of time.
III. Document Destruction, Including Prohibition on Document Destruction

D. Documents not covered by this policy shall be destroyed when no longer useful to KOSD and the files of KOSD should be periodically culled of such documents.

E. Documents covered by this policy must be maintained for the period established in this policy, at a minimum, but may be maintained for a longer period of time.

F. Documents may not be destroyed and must be preserved and not altered in any manner if KOSD knows or has been informed that they may be relevant to an investigation by any government entity or to litigation or potential litigation.

IV. Executive Director’s Authority

G. The Executive Director is authorized and directed to take steps to reasonably implement this policy and shall report to the Board on any issues, resource constraints, or concerns related to adequate implementation of this policy.

H. The Executive Director shall notify the Board or the Governance and Nominating Committee of any additional document retention requirements mandated by law that should be added to this policy, and is directed to implement such requirements, even if not included in this policy.

I. The Executive Director may, by administrative policy and without Board authorization, create additional document retention requirements, as long as such requirements are not more restrictive than this policy.

V. Documents that must be maintained and retention periods

Legal structure of KOSD

1. Articles of Incorporation and any amendments

   Permanently

2. Annual filing with the Secretary of State

   Permanently

3. Bylaws and any amendments

   Permanently

4. IRS Form 1023 and amendments

   Permanently

5. IRS letter recognizing MNA’s tax exempt status

   Permanently
**Board and Board Committee membership, decisions and activities**

1. Minutes of Board and standing committee meetings  
   Permanently

2. Financial statements and budgets approved by the Board or any committee of the Board  
   Permanently

3. List of board members, contact information, and their terms  
   Permanently

*Source: Montana Nonprofit Association, 2011*
Appendix L
SAMPLE: Gift Acceptance Policy 1

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I. **INTRODUCTION**

KOSD (hereinafter referred to as the Charity), a nonprofit organization organized under the laws of the State of California encourages the solicitation and acceptance of gifts for purposes that will help to further and fulfill its mission. The following policies and procedures govern solicitation, acceptance, and administration of gifts.

a. **Mission**

To provide social services and opportunities for cultural preservation to the Karen and other ethnic minority groups from Burma who reside in San Diego County and to improve their quality of life.

b. **Purpose of Gift Acceptance and Administration Policy**

These policies and procedures govern the solicitation, acceptance, and administration of gifts by the Charity and provide guidance to prospective donors and their advisors when making gifts. The provisions of these policies shall apply to all gifts received by the Charity for any of its programs or services.

c. **Administrative Responsibility**

The Governing Board of Directors of the Charity empowers the (INSERT APPLICABLE EXECUTIVE, i.e. EXECUTIVE DIRECTOR, CEO, ETC) to ensure appropriate compliance with this policy by all staff, consultants, and volunteers.

d. **Ethical Standards**

i. **NCPG and AFP Guidelines**

   Every employee or person interacting with donors in the gift planning process on behalf of the Charity shall adhere to the “Model Standards of Practice of the Charitable Gift Planner” set forth by the National Committee on Planned Giving provided in Attachment I and the “Donor Bill of Rights” set forth in Attachment II, developed by the American Association of Fundraising Counsel (AAFRC), Association for Health Care Philanthropy (AHP), Council for Advancement and Support of Education (CASE), and Association of Fundraising Professionals (AFP).

ii. **Independent Counsel**

   Donors are advised to secure the advice of independent counsel with regard to the legal, investment, estate, and tax consequences resulting from gifts to the Charity. It is the policy of the Charity that the donor’s attorney may not also represent the Charity on a specific gift. Additionally, donor advisors that serve on a governing or advisory board for the Charity must disclose any conflicts of interest and refrain from voting on gifts in which they serve as counsel to the donor.
iii. Confidentiality and Donor Disclosures
All information concerning donor’s or prospective donors’ gifts, including names of beneficiaries, gift amounts, and other personal information shall be kept confidential unless permission is obtained from the donor to release such information. The role and relationship of all parties involved in the gift planning process shall be fully disclosed to donors, including how and by who each is compensated, if applicable. Donors receiving advice, recommendations, and/or illustrations for deferred and other major gift arrangements from the Charity in contemplation of a gift transaction may be requested to sign the “Donor Disclosure” provided as Attachment III, which acknowledges that neither the Charity nor any employee or agent is in the business of rendering legal, investment, or tax advice and that the donor has been advised to seek independent counsel on these matters.

iv. Public Disclosure
The Charity will comply with section 6104(d) of the Internal Revenue Section code as amended by the Tax and Trade Relief Extension Act of 1998 that became effective June 8, 1999, with regard to documents that must be made available for public inspection. These documents include application for tax exemption and annual information returns for the past three years including all schedules and attachments filed with the IRS except for parts of the return that identify names and addresses of contributors. These documents will be available for public inspection at the Charity’s principal office during normal business hours. Written requests will be honored within 30 days from the date the request is received.

II. Gift Acceptance
a. Types of Gifts
The policy of the Charity shall be to encourage gifts of any type and description that are consistent with its charitable objectives. However, the Charity reserves the right to abstain from accepting any and all gifts that are not consistent with its purpose for any reason. Gifts that will be considered for acceptance include:

<table>
<thead>
<tr>
<th>Cash</th>
<th>Bargain Sales</th>
<th>Retirement Plan Designations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tangible Personal Property</td>
<td>Life Insurance</td>
<td>Bequests</td>
</tr>
<tr>
<td>Securities</td>
<td>Charitable Gift Annuities</td>
<td>Pooled Income Funds</td>
</tr>
<tr>
<td>Real Estate</td>
<td>Charitable Remainder Trusts</td>
<td>Ownership Interests</td>
</tr>
</tbody>
</table>
Remainder Interests in Property | Charitable Lead Trusts | Other Beneficiary Designations
---|---|---
Oil, Gas, and Mineral Rights | Patents/Royalties | Retained Life Estates

### b. Authority

(INSERT APPROPRIATE INDIVIDUAL OR INDIVIDUALS) may accept any and all gifts, except for those listed in section “c.” below, requiring Board approval.

### c. Gifts Requiring Board Approval

The following gifts require Board approval. (IF REVIEW BY ANOTHER COMMITTEE IS REQUIRED BEFORE CONSIDERATION BY THE BOARD, INSERT THAT FACT HERE WITH THE NAME OF COMMITTEE; FOR EXAMPLE: EXECUTIVE COMMITTEE, DEVELOPMENT COMMITTEE, FINANCE COMMITTEE, ETC.)

#### i. Tangible Personal Property

Requires Board approval if the gift requires ongoing costs to maintain; entails restrictions on the use, display, or sale; or is not readily marketable.

#### ii. Closely Held Securities and Interests in LLPs and LLCs or Other Ownership Forms

All gifts of these types shall be submitted to the Board for approval and will consider restrictions that would prevent or hamper liquidation, marketability issues, potential unrelated business income tax consequences, etc.

#### iii. Real Estate

All gifts of real estate require Board approval and will consider evaluation of the usefulness of the property for the organization’s purposes, marketability, physical condition, zoning restrictions, appraised value, appreciation potential, management responsibilities, related expenses, environmental issues, and risk.

Donors contemplating a current gift of real estate must provide the following:

1. **Qualified Appraisal**
2. **Phase I Environmental Audit** as part of the “due diligence” to protect against liability exposure under Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). This requirement may be waived for residential properties used exclusively for residential purposes for a period of
30 years with no known indication of environmental contamination.

3. Disclosure of all restrictions, reservations, easements, mechanic liens, and encumbrances.

4. Carrying Costs, including but not limited to, taxes, insurance, maintenance, association dues, membership fees, and other expenses.

5. Phase II Environmental Impact Study and/or an “Agreement to Indemnify” if requested by the Board of Directors.

iv. **Retained Life Estates**

All retained life estates in residential property require Board approval and will consider the donor’s life expectancy, age and condition of the property, appreciation potential, and area property information. Donors must enter into a “Life Estate Agreement” with the Charity that fully outlines the responsibilities of both parties.

v. **Bargain Sales**

All bargain sales (real estate, tangible personal property, inventory, artwork, etc.) require Board approval and will consider use of the property, marketability, debt, holding period costs, and other facts having effect on acceptance. Donors will be required to obtain a qualified appraisal prior to consideration for acceptance, and provide items #2-#5 listed in section iii if it is a bargain sale of real property. Generally, the Charity will obtain an independent appraisal substantiating the value of the property and will not enter into bargain sales in which the debt ratio exceeds 50% of the appraised market value.

vi. **Life Insurance**

The Charity must be named as both beneficiary and irrevocable owner of an insurance policy before it can be recorded as an outright gift. The gift value for income tax purposes is the lesser of the policy’s value or the donor’s basis. If the policy is paid in full, its value is generally equal to its replacement value (cost of identical policy given the donor’s age and health). If the policy is not paid up, the policy’s value will be based on the interpolated terminal reserve value (ITRV) plus any unearned premium. The insurance company provides the ITRV. Beneficiary designations do not require Board approval.

1. **Paid-up Policies:**
Although paid-up policies may be accepted without Board approval, the Board shall determine if the policy will be held, surrendered for cash value, or exchanged for another policy.

2. **Other than Paid-up Policies:**
   Insurance policies that are not paid-up require Board approval. If accepted the donor must provide a statement that the Charity did not select the policy donated and that the Charity has no liability and gives no guarantees as to the financial performance of the policy or underlying insurer. If the donor contributes future premium payments, the Charity will include the entire amount of the additional premium payment as a gift in the year that it is made. If the donor does not elect to continue to make gifts to cover premium payments on the life insurance policy, the Board shall determine whether it will continue to pay the premiums, convert or exchange the policy, or surrender the policy for cash value.

vii. **Oil, Gas, Mineral Interests and Conservation Easements**
Oil, gas, mineral interests and conservation easements require Board approval. Working interests are generally not acceptable. Surface rights must be free of extended liabilities, of substantial value, and generate a reasonable amount of annual income in royalties. Donors are required to provide a qualified appraisal and may be requested to provide environmental impact reports.

viii. **Patents**
All gifts of patents and royalties require Board approval.

d. **Deferred and Split-Interest Gifts—Deferred and split-interest gifts not listed above may include the following and do not require board approval:**

<table>
<thead>
<tr>
<th>Bequests</th>
<th>Charitable Remainder Trusts</th>
<th>Pooled Income Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>Beneficiary Designations</td>
<td>Charitable Lead Trusts</td>
<td>Charitable Gift Annuities</td>
</tr>
</tbody>
</table>

i. **Bequests, Beneficiary Designations, and Charitable Trusts**
The Charity may or may not be informed of its status as a beneficiary or remainder-man with regard to bequests, beneficiary designations, or charitable trusts. If informed, the Charity will provide guidance and appropriate language to the donor and/or donor’s counsel to assist in ensuring that the donor’s intentions are fulfilled. At gift maturity, all acceptance guidelines listed in sections II(b) and II(c) shall apply.
ii. Pooled Income Funds  (INCLUDE ONE OF THE TWO CHOICES)

(CHOICE ONE)
The Charity provides the following Pooled Income Fund(s):
Name of Fund: (INSERT NAME OF FUND OR FUNDS)
Minimum Initial Contribution: (INSERT DOLLAR AMOUNT HERE)
Minimum Additional Contribution: (INSERT DOLLAR AMOUNT HERE)
Minimum Age to Participate: (INSERT AGE)

(CHOICE TWO)
The Charity does not operate a Pooled Income Fund but may refer donors interested in Pooled Income Funds to The San Diego Foundation. Agreements are between the donor and The San Diego Foundation and the Charity assumes no responsibility for fulfillment of agreement terms. Participation requirements are subject to policies of The San Diego Foundation.

iii. Charitable Gift Annuities (INCLUDE ONE OF THE TWO CHOICES)

(CHOICE ONE)
The Charity was licensed as a grants and annuities society with the California Department of Insurance in (INSERT YEAR), which is backed by the net unrestricted assets of the Charity.
Minimum Age to Receive Income:  (INSERT AGE)
Minimum Contribution:  (INSERT $ VALUE)
Acceptable Assets:  (INSERT ALL THAT APPLY OF:  CASH, PUBLICLY TRADED SECURITIES, REAL PROPERTY, LIFE ESTATES)
Types of Contracts Offered:  (INSERT ALL THAT APPLY OF: IMMEDIATE, DEFERRED, FLEXIBLE, EDUCATIONAL)
Maximum Rates Offered:  As established by the American Council on Gift Annuities

(INSERT OTHER LANGUAGE IF NOT THE CASE)

(CHOICE TWO)
The Charity is not licensed as a grants and annuities society but may refer donors interested in charitable gift annuities as a planned giving option to The San Diego Foundation. Contracts are between the donor and The San Diego Foundation and the Charity assumes no responsibility for
fulfillment of contract terms. Participation requirements are subject to policies of The San Diego Foundation.

e. Restricted Gifts
Restricted gifts must be consistent with the Charity’s mission and purpose. The following guidelines apply:

i. Temporarily Restricted Gifts
Principal and income is available for expenditure on gifts made for a specific purpose or in support of a specific program of the Charity.

ii. Permanently Restricted Gifts (Endowments)
1. Permanently restricted gifts are subject to appropriate investment and spending policies.
2. Gifts of any size are acceptable for addition to existing endowment funds.
3. New endowments require the following minimum contribution:
   a. As determined by (INSERT APPROPRIATE PARTY)
   b. As required by community foundation policy, if established through a community foundation for our benefit.
4. Donors will be requested to sign the Donor Disclosure Waiver allowing alternate use of a permanently restricted gift in such case that it becomes impractical to administer the fund or if the purpose for which the fund was established no longer exists.

iii. Quasi or Board-Established Endowments
The Charity maintains the following unrestricted Board-established funds that are invested and managed like endowments: (LIST NAMES OF FUNDS IF APPROPRIATE). Donors are advised that these are unrestricted funds and that a change of Board policy could result in the expenditure of the corpus.

f. Expense Reimbursement
Donors shall be responsible for all expenses related to making a gift, including but not limited to, attorney and other advisor fees, appraisal fees, and environmental surveys. Exceptions to this policy require Board approval.

III. GIFT ADMINISTRATION
a. Receipts
Gift receipts will be issued for all gifts within 30 days from the date received. Receipts will state the name of the donor, date received, restrictions if applicable, and a description of the gifted property. If the donor received something of value
in exchange for the gift (quid pro quo), the receipt will state the value of the item received; otherwise, the receipt shall state: “No goods or services were received in exchange for this gift.” Gifts of tangible personal property (including securities) shall not include a valuation of the asset, which is the responsibility of the donor.

b. Record Keeping
Gift records reflecting the name of the donor and details of the gift will be maintained in an electronic database and a hard copy of all gift receipts filed for reference. The (INSERT NAME OF STAFF) and/or others as they may designate are responsible for maintaining gift records.

c. Recognition
It is the Charity’s intent to communicate appreciation of gifts whenever it is acceptable to the donor and appropriate. Recognition of gifts will be guided by the Charity’s current Recognition Program Policies.

d. Valuation Standards and Gift Counting Policies
The following valuation standards and gift counting policies govern gifts to the Charity:

- **Publicly traded securities:** Average of the high and low value (or bid and ask) on the date received into the Charity’s brokerage account.
- **Closely-held stock:** If $10,000 or less, the value of the per-share purchase price of the most recent transaction will be used; If over $10,000-the certified appraisal value will be used.
- **Life insurance:** Policies are valued at interpolated terminal reserve value, or cash surrender value, upon receipt. Death benefits are credited to the donor’s record less any previously reported cash surrender values.
- **Pledges:** Pledge payments are reported as gifts on the date received.
- **Real property:** Certified appraisal value.
- **Tangible personal property (other than securities):** Values of $5,000 or less will result in a soft credit to donor’s record using an estimate of value provided by the donor or other expertise; values of over $5,000 will use the certified appraisal value.
- **Vehicles, boats, airplanes:** Gift credit will be equal to sale proceeds received by the Charity if vehicle is valued at over $500, unless an approved IRS exception applies. The Charity will issue a 1098-C, required by the IRS, to all vehicle donors following the end of the year in which the gift was made.
- **Deferred Gifts:** No credit to the donor’s record will be made unless the interest of the Charity is irrevocable. If the Charity’s interest is irrevocable, the gift will be credited at the net-present value, based on life expectancy tables and discount values chosen by the Charity’s CFO or Accountant.

e. Allocation of Gift Resources
The following policies will govern the allocation of gift resources:

i. **Endowment Policy**

   It is the intent of the Charity to maintain policies that support the growth of endowment funds for the long-term financial stability of the organization by allocating a portion of unrestricted gift resources toward this objective. The following policies govern the allocation of resources to endowment: (IDENTIFY SPECIFIC FUNDS IF APPROPRIATE)

   (EXAMPLES)

   1. 75% of all unrestricted realized deferred gifts (i.e., bequests, charitable trust distributions, gift annuities, etc.) will be allocated to endowment and 25% to the Charity’s operating fund.

   2. A minimum of 5% of capital campaign proceeds shall be earmarked for endowment and incorporated into campaign goals.

   3. A minimum of 10% of revenues in excess of the approved budget will be allocated to endowment.

ii. **Cash Reserves Policy**

   (INSERT EXISTING POLICY)

   EXAMPLE: It is the policy of the Charity to keep 8 months of operating capital on hand at all times in cash reserves. The (INSERT APPLICABLE OVERSIGHT PARTY) is responsible for ensuring that adequate cash reserves are maintained.

iii. **Operating Overhead (INSERT IF DESIRABLE)**

   It is the policy of the Charity to assess overhead costs against all restricted gift funds to support operating expenses. The appropriate percentage is determined annually by the CFO and assessed at the time of the gift or as may be consistent with the Charity’s accounting procedures. Exceptions to this policy must be approved by (INSERT APPROPRIATE PARTY).

f. **Fund Management**

   i. **Endowment and Quasi-Endowment Assets Held by the Charity:**

      Written investment and spending policies shall be maintained for endowment and quasi-endowment assets and reviewed at least annually. In order to ensure appropriate fiduciary conduct, these policies will be in conformance with the standards of the Uniform Management of Institutional Funds Act and the Uniform Prudent Investor Act, and the process of managing these assets will include:

      a. Documentation of the process used to derive investment decisions.
b. Diversification of portfolio assets with regard to specific risk/return objectives of the beneficiaries.

c. The use of professional money managers and consultants (prudent experts) to assist with the investment decision process.

d. Control and accounting for all investment expenses.

e. Monitoring of all money manager and service provider activities.

f. Avoidance of conflicts of interest.

ii. Assets Held at The San Diego Foundation or Other Community Foundation

The San Diego Foundation (or other community foundation) is responsible for maintaining investment and spending policies with regard to funds it is holding for the Charity’s benefit.

iii. Cash Reserves and Short-Term Pools

The (INSERT CFO OR OTHER RESPONSIBLE PERSON OR ENTITY) shall be responsible for decisions with regard to the investment of cash reserves and short-term assets.

g. Special Procedures

i. Appraisals and Donor Reporting Requirements

Donors are required to file Form 8283 for gifts of tangible personal property if the aggregate reported value of the property exceeds $5,000 (or in the case of non-publicly traded stock - $10,000) and obtain qualified appraisals as may be required. (INSERT RESPONSIBLE PARTY) will be responsible for signing on behalf of the Charity on Form 8283 when presented for signature by the donor.

ii. Donee Reporting Requirements

(INSERT RESPONSIBLE PARTY) will be responsible for filing IRS Form 8282 within 125 days from the date of sale of any asset sold within three years of receipt by the Charity when the charitable deduction value of the item is more than $5,000.

iii. Security Liquidation

It is the policy of the Charity as a fiduciary to liquidate publicly traded securities as soon as possible after receipt to avoid unnecessary market fluctuation. Realized gains or losses on security sales shall be reported as such and do not have an effect on the amount credited to the donor’s gift record.
iv. **Serving as Trustee**

To avoid potential conflicts of interest, the Charity will not generally serve in a trustee capacity on trusts established by donors, in which the Charity has a beneficial or remainder interest. Staff of the Charity is prohibited from serving in any fiduciary capacity for donors, other than for members of their immediate family.

v. **Accounting and Reporting Standards**

The Board of Directors of the Charity is responsible for setting the standards for financial accounting. These standards are derived from the Financial Accounting Standards Board (FASB), the American Institute of Certified Public Accountants (AICPA), and the U.S. Federal Office of Management and Budget (OMB).

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THIS POLICY WAS APPROVED BY THE KOSD’S BOARD OF DIRECTORS ON (INSERT DATE):

________________________________________

Secretary, Board of Directors

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**ATTACHMENT I**

**Model Standards of Practice of the Charitable Gift Planner**

**Preamble**

The purpose of this statement is to encourage responsible charitable gift planning by urging the adoption of the following Standards of Practice by all who work in the charitable gift planning process, including charitable institutions and their gift planning officers, independent fundraising consultants, attorneys, accountants, financial planners and life insurance agents, collectively referred to hereafter as “Gift Planners.”

This statement recognizes that the solicitation, planning, and administration of a charitable gift is a complex process involving philanthropic, personal, financial, and tax considerations, and often involves professionals from various disciplines whose goals should include working together to structure a gift that achieves a fair and proper balance between the interests of the donor and the purposes of the charitable institution.

I. **Primacy of Philanthropic Motivation**
The principal basis for making a charitable gift should be a desire on the part of the donor to support the work of charitable institutions.

II. Explanation of Tax Implications

Congress has provided tax incentives for charitable giving, and the emphasis in this statement on philanthropic motivation in no way minimizes the necessity and appropriateness of a full and accurate explanation by the Gift Planner of those incentives and their implications.

III. Full Disclosure

It is essential to the gift planning process that the role and relationships of all parties involved, including how and by whom each is compensated, are fully disclosed to the donor. A Gift Planner shall not act or purport to act as a representative of any charity without the express knowledge and approval of the charity, and shall not, while employed by the charity, act or purport to act as a representative of the donor, without the express consent of both the charity and the donor.

IV. Compensation

Compensation paid to Gift Planners shall be reasonable and proportionate to the services provided. Payments of finder’s fees, commissions, or other fees by a donee organization or an independent Gift Planner as a condition for the delivery of a gift are never appropriate. Such payments lead to abusive practices and may violate certain state and federal regulations. Likewise, commission-based compensation for Gift Planners who are employed by a charitable institution is never appropriate.
V. Competence and Professionalism

The Gift Planner should strive to achieve and maintain a high degree of competence in his or her chosen area, and shall advise donors only in areas in which he or she is professionally qualified. It is a hallmark of professionalism for Gift Planners that they realize when they have reached the limits of their knowledge and expertise, and as a result, should include other professionals in the process. Such relationships should be characterized by courtesy, tact and mutual respect.

VI. Consultation with Independent Advisers

A Gift Planner acting on behalf of a charity shall in all cases strongly encourage the donor to discuss the proposed gift with competent independent legal and tax advisers of the donor’s choice.

VII. Consultation with Charities

Although Gift Planners frequently and properly counsel donors concerning specific charitable gifts without the prior knowledge or approval of the donee organization, the Gift Planners, in order to ensure that the gift will accomplish the donor’s objectives, should encourage the donor early in the gift planning process to discuss the proposed gift with the charity to whom the gift is to be made. In cases where the donor desires anonymity, the Gift Planners shall endeavor, on behalf of the undisclosed donor; to obtain the charity’s input in the gift planning process.

VIII. Explanation of the Gift

The Gift Planner shall make every effort, insofar as possible, to ensure that the donor receives a full and accurate explanation of all aspects of the proposed charitable gift.

IX. Full Compliance

A Gift Planner shall fully comply with and shall encourage other parties in the gift planning process to fully comply with both the letter and spirit of all applicable federal and state laws and regulations.

X. Public Trust

Gift Planners shall, in all dealings with donors, institutions, and other professionals, act with fairness, honesty, integrity, and openness. Except for compensation received for services, the terms of which have been disclosed to the donor, they shall have no vested interest that could result in personal gain.

Developed by the National Committee on Planned Giving
ATTACHMENT II
Donor Bill of Rights

Philanthropy is based on voluntary action for the common good. It is a tradition of giving and sharing that is primary to the quality of life. To assure that philanthropy merits the respect and trust of the general public, and that donors and prospective donors can have full confidence in the not-for-profit organizations and causes they are asked to support, we declare that all donors have these rights:

1. To be informed of the organization’s mission, of the way the organization intends to use donated resources, and of its capacity to use donations effectively for intended purposes.

2. To be informed of the identity of those serving on the organization’s governing board, and to expect the board to exercise prudent judgment in its stewardship responsibilities.

3. To have access to the organization’s most recent financial statements.

4. To be assured that their gifts will be used for the purposes for which they were given.

5. To receive appropriate acknowledgment and recognition.

6. To be assured that information about their donations is handled with respect and with confidentiality to the extent provided by law.

7. To expect that all relationships with individuals representing organizations of interest to the donor will be professional in nature.

8. To be informed whether those seeking donations are volunteers, employees of the organization, or hired solicitors.

9. To have the opportunity for their names to be deleted from mailing lists that an organization may intend to share.

10. To feel free to ask questions when making a donation and to receive prompt, truthful, and forthright answers.

Developed by the American Association of Fundraising Counsel (AAFRC), Association for Health Care Philanthropy (AHP), Council for Advancement and Support of Education (CASE), and Association of Financial Professionals (AFP).
ATTACHMENT III
Donor Disclosure and Waiver

Privacy Notice
All information you supply to us is considered confidential and will not be disseminated to others except as required by law.

Consent to Use Personal Information
We are grateful for the support we have received from you and other donors. One of the ways our appreciation is expressed may be through the listing of your name in publications. Should you wish that your name not appear as a donor, please let us know.

Independent Counsel
Our policy requires that we advise you to consult with your own independent counsel to review any gift transaction prior to completion. The undersigned acknowledges that neither the Charity nor its representatives render legal, investment, or tax advice.

Fiduciary Responsibility
The KOŚD is a California nonprofit, public-benefit corporation with the responsibility for governance vested in its Board of Directors.

Recovery of Operating Costs from Private Gifts
It is the general policy of the Charity to set-aside a percentage of restricted gifts into the Operations Fund to support overhead expenses of the Charity. Currently that percentage is (INSERT PERCENTAGE).

I have read and understand the above disclosures.

____________________________________________
Donor Name (Print)

________________________________________   __________________________________
Signature of Donor      Date

_________________________________________ ___________________________________
Signature of Charity Representative    Date

WAIVER
Should the purpose designated for my gift no longer exist or become impractical in the opinion of the Charity’s Board of Directors, I direct that the Board elect an alternate use for the gift and make every effort to apply the proceeds of my gift to a related purpose or purposes, which in the Directors’ opinion will most nearly accomplish my wishes while meeting the needs of the Charity.

_______________________________________        ___________________________________
Signature of Donor       Date
ATTACHMENT IV
SAMPLE LANGUAGE FOR CHARITABLE BEQUESTS

GIFT OF A PERCENTAGE OF THE ESTATE

“I give, devise, and bequeath to KOSD, a public benefit corporation, with offices currently at 5343 University Avenue #1, _________% of the residue of my estate for its unrestricted use (OR INSERT SPECIFIC PURPOSE) in carrying out its benevolent purposes.

GIFT OF A SPECIFIC DOLLAR AMOUNT

“I give, devise, and bequeath to KOSD, a public benefit corporation, with offices currently at 5343 University Avenue #1, the cash sum of $__________ for its unrestricted use (OR INSERT SPECIFIC PURPOSE) in carrying out its benevolent purposes.

GIFT OF SPECIFIC PROPERTY

“I give and devise to KOSD, a public benefit corporation, with offices currently at 5343 University Avenue #1, the following real property (here describe the premises with exactness and particularity) with power to lease, mortgage, or sell the same at its discretion, for its unrestricted use (OR INSERT SPECIFIC PURPOSE) in carrying out its benevolent purposes.

GIFT OF THE RESIDUE OF AN ESTATE

“I give the residue of my estate, including all failed and lapsed gifts, to KOSD, a public benefit corporation, with offices currently at 5343 University Avenue #1, for its unrestricted use (OR INSERT SPECIFIC PURPOSES) in carrying out its benevolent purposes.

Further information or assistance, contact:
KOSD

Source: San Diego Foundation, 2009
Appendix M
SAMPLE: Gift Receipt Policy 2

1. Policy and Purposes
This Policy represents the policy of KOSD (the “Organization”) governing the solicitation and acceptance of gifts by the Organization. The board of directors or trustees or authorized committee (“Governing Body”) of the Organization and its staff solicit current and deferred gifts from individuals, corporations, foundations and others for purposes that will further and fulfill the Organization’s mission. Purposes of this Policy include: (a) guidance for the Governing Body, officers, staff and other constituencies with respect to their responsibilities concerning gifts to the Organization; and (b) guidance to prospective donors and their professional advisors when making gifts to the Organization. The provisions of this Policy shall apply to all gifts received by the Organization. Notwithstanding the foregoing, the Organization reserves the right to revise or revoke this Policy at any time, and to make exceptions to the Policy.

The mission (or a summary of the mission) of the Organization is: to provide social services and opportunities for cultural preservation to the Karen and other ethnic minority groups from Burma who reside in San Diego County and to improve their quality of life.

2. Use of Legal Counsel

A. The Organization. The Organization shall seek the advice of legal counsel in matters relating to acceptance of gifts when appropriate. Review by legal counsel is recommended for:
   (1) Closely held stock transfers that are subject to restrictions or buy-sell agreements;
   (2) Documents naming the Organization as trustee;
   (3) Gifts involving contracts such as bargain sales, partnership agreements, or other documents requiring the Organization to assume an obligation;
   (4) Transactions with a potential conflict of interest;
   (5) Gifts of real estate;
   (6) Pledge agreements;
   (7) Any gift with restrictions

B. Donor. For non-standard gifts, in order to avoid potential any conflicts or potential conflicts of interest, the Organization should encourage prospective donors to seek the assistance of their own legal and financial advisors in matters relating to their gifts and the resulting tax and estate planning consequences.

3. General Policy
The Organization shall not accept gifts that:
   (1) Violate the terms of the Organization’s organizational documents;
   (2) Would jeopardize the Organization’s status as an exempt organization under federal or state law;
   (3) Are too difficult or expensive to administer;
   (4) Are for purposes that do not further the Organization’s objectives; or
   (5) Could damage the reputation of the Organization.
Subject to Section 4 below, all final decisions on the acceptance or refusal of a gift, shall be made by the Governing Body.

4. Policy Regarding Specific Types of Gifts

A. Gifts Generally Accepted Without Review (Unrestricted Gifts of Cash). The Organization will accept unrestricted gifts of cash without prior review by the Governing Body, provided that, for donations of $____________ or more, the identity of the donor has been vetted with respect to any reputational or policy issues. Unrestricted gifts of cash are acceptable in any form. Checks shall be made payable to the Organization.

B. Gifts Subject to Governing Body Review Prior to Acceptance. All gifts, other than unrestricted gifts of cash, must be reviewed by the Governing Body prior to acceptance, unless the Governing Body authorizes certain de minimis gifts or categories of gifts to be accepted without its review. The following guidelines also apply:

1. **Tangible Personal Property:** The Governing Body shall review and decide whether to accept gifts of tangible personal property by considering the following factors:
   i. Whether the property furthers the mission of the Organization;
   ii. The marketability of the property;
   iii. The restrictions on the use, display, or sale of the property; and
   iv. Carrying costs and possible liability for the property.

2. **Marketable Securities:**
   i. Unrestricted marketable securities may be transferred to an account maintained by the Organization at one or more brokerage firms or delivered physically with the transferor's signature or stock power attached. All marketable securities shall normally be sold as soon as practical following receipt, unless otherwise directed by the Organization’s Governing Body.
   ii. If the marketable securities are restricted by applicable securities laws, the Governing Body shall make the final determination on the acceptance of the restricted securities.

3. **Closely-Held Securities:** Closely-held securities, including debt and equity positions in non-publicly traded companies, interests in LLPs and LLCs, or other ownership forms, can be accepted subject to the approval of the Governing Body of the Organization. The Governing Body shall review and decide whether to accept closely held securities based on the following factors:
   i. Restrictions on the security that would prevent the Organization from ultimately converting the securities to cash;
   ii. The marketability of the securities; and
   iii. Any undesirable consequences for the Organization from accepting the securities.

   If potential problems arise on initial review of the security, further review and recommendation by an outside professional may be sought before making a final decision on acceptance of the gift. The final determination on the acceptance of closely held securities shall be made by the Governing Body of the Organization with advice of legal counsel when deemed necessary. Non-marketable securities shall be sold as quickly as possible.
(4) **Bequests:** Donors may make bequests to the Organization under their wills and trusts. A bequest will not be recorded as a gift until the gift is irrevocable. When the gift is irrevocable, but is not due until a future date, the gift will be recorded in accordance with GAAP.

(5) **Charitable Remainder Trusts:** The Organization may accept designations as remainder beneficiary of a charitable remainder trust. The Organization [may] [shall not] accept appointment as trustee of a charitable remainder trust.

(6) **Charitable Lead Trusts:** The Organization may accept designations as income beneficiary of a charitable lead trust. The Organization [may] [shall not] accept an appointment as trustee of a charitable lead trust.

(7) **Retirement Plan Beneficiary Designations:** The Organization may accept designations as beneficiary of donors’ retirement plans. Designations will not be recorded as gifts until the gift is irrevocable. When the gift is irrevocable, the gift will be recorded in accordance with GAAP.

(8) **Life Insurance:** The Organization may accept designations as beneficiary and owner of a life insurance policy. The life insurance policy will be recorded as a gift once the Organization is named as both beneficiary and irrevocable owner of a life insurance policy. The gift shall be valued in accordance with GAAP rules. If the donor contributes future premium payments, the Organization will include the entire amount of the additional premium payment as a gift in the year that it is made. If the donor does not elect to continue to make gifts to cover premium payments on the life insurance policy, the Organization may:
   i. Continue to pay the premiums;
   ii. Convert the policy to paid up insurance, or
   iii. Surrender the policy for its current cash value.
Donors may name the Organization as beneficiary or contingent beneficiary of their life insurance policies. Designations will not be recorded as gifts until the gift is irrevocable. Where the gift is irrevocable, the gift shall be recorded in accordance with GAAP.

(9) **Charitable Gift Annuities:** The Organization may offer charitable gift annuities. The minimum gift for funding is $___________. The minimum age for life income beneficiaries of a gift annuity shall be ______. Where a deferred gift annuity is offered, the minimum age for life income beneficiaries shall be ____. No more than ____ life income beneficiaries will be permitted for any gift annuity. The Governing Body may make exceptions to these minimums.

**Payment Schedule.** Annuity payments may be made on a quarterly, semiannual, or annual schedule. The Governing Body may approve exceptions to this payment schedule.

**Illiquid Assets.** The Organization [may] [shall not] accept real estate, tangible personal property, or any other illiquid asset in exchange for current charitable gift annuities. The Organization may accept real estate, tangible personal property, or other illiquid assets in exchange for deferred gift annuities if there is at least a five (5) year period before the commencement of the annuity payment date, the value of the property is reasonably certain, and the Governing Body approves the arrangement.

**Handling of Funds.** Funds required as reserves for gift annuities should be established and maintained in accordance with applicable state insurance laws.
(10) **Real Estate:** Gifts of real estate may include developed property, undeveloped property, or gifts subject to a prior life interest.

*Environmental Review.* Prior to acceptance of real estate, the Organization shall require an initial environmental review of the property to ensure that the property has no environmental problem. If the initial inspection reveals a potential problem, the Organization shall retain a qualified inspection firm to conduct an environmental audit. The cost of the environmental audit shall be an expense of the donor.

*Title Binder.* A title binder shall be obtained by the Organization prior to the acceptance of the real property gift when appropriate. The cost of this title binder shall be an expense of the donor.

*Factors for Acceptance.* The Governing Body and legal counsel shall review and decide whether to accept real property based on the following factors:

i. Whether the property is useful for the purposes of the Organization;
ii. The marketability of the property;
iii. Any encumbrances, leases, restrictions, reservations, easements, or other limitations associated with the property;
iv. Any carrying costs associated with the property, including insurance, property taxes, mortgages, notes or other costs;
v. Any concerns which the environmental audit revealed.

(11) **Remainder Interests in Property:** The Organization will accept a remainder interest in a personal residence, farm, or vacation property subject to the provisions of this Paragraph 4. The donor or other occupants may continue to occupy the real property for the duration of the stated life. At the death of the life tenant(s), the Organization may use the property or reduce it to cash. Expenses for maintenance, real estate taxes, and any property indebtedness shall be paid by the donor or primary beneficiary.

(12) **Oil, Gas, and Mineral Interests:** The Organization may accept oil and gas property interests when appropriate. The Governing Body and legal counsel shall review and decide whether to accept oil, gas, and mineral interests subject to the following limitations:

i. Gifts of surface rights should have a value of $___________ or greater.
ii. Gifts of oil, gas and mineral interests should generate at least $________ per year in royalties or other income (as determined by the average of the three years prior to the gift).
iii. The property should not have extended liabilities or other considerations that make receipt of the gift inappropriate.
iv. A working interest should only be accepted after consideration of potential liability and tax consequences.
v. The property should undergo an environmental review to ensure that the Organization has no current or potential exposure to environmental liability.

(13) **Restricted Gifts:** A gift with restrictions will be accepted only if and when the restrictions are approved by the Governing Body.

(14) **Named Funds:** A donor, or group of donors, may contribute and name a fund and restrict the use of the income or principal of the fund. Named funds require a minimum contribution of $________ and are subject to Governing Body approval like any other restricted gift.
5. Additional Provisions

A. Gift Agreements. Where appropriate, the Organization shall enter into a written gift agreement with the donor, specifying the terms of any restricted gift, which may include provisions regarding donor recognition.

B. Pledge Agreements. Acceptance by the Organization of pledges by donors of future support of the Organization (including by way of matching gift commitments) shall be contingent upon the execution and fulfillment of a written charitable pledge agreement specifying the terms of the pledge, which may include provisions regarding donor recognition.

C. Fees. The Organization will not accept a gift unless the donor is responsible for (1) the fees of independent legal counsel retained by donor for completing the gift; (2) appraisal fees; (3) environmental audits and title binders (in the case of real property); and (4) all other third-party fees associated with the transfer of the gift to the Organization.

D. Valuation of Gifts. The Organization shall record gifts received at their valuation on the date of gift, except that, when a gift is irrevocable, but is not due until a future date, the gift may be recorded at the time the gift becomes irrevocable in accordance with GAAP.

E. IRS Filings upon Sale of Gifts. To the extent applicable, the Governing Body shall file IRS Form 8282 upon the sale or disposition of any charitable deduction property sold within three (3) years of receipt by the Organization. “Charitable deduction property” means any donated property (other than money and publicly traded securities) if the value claimed by the donor exceeds $5,000 per item or group of similar items donated by the donor to one or more donee organizations (e.g., the property listed in Section B on Form 8283). The Organization shall file this form within 125 days of the date of sale or disposition of the asset.

F. Written Acknowledgement. The Governing Body of the Organization shall provide written acknowledgement of all gifts made to the Organization and comply with the current IRS requirements in acknowledgement of the gifts.

G. Changes to or Deviations from the Policy. This Policy has been reviewed and accepted by the Organization’s Governing Body, which has the sole power to change this Policy. In addition, the Governing Body [or _____________________] must approve in writing any deviations from this Policy.

H. Donor Recognition. [Consider whether to include criteria for recognition of donors and details of recognition.]

In California, charitable pledge agreements are generally not enforceable in the absence of consideration flowing to the pledgor. To assure collectability of the pledge, the Organization should enter into a valid contract with the pledgor.

Source: National Council of Nonprofits, 2012
Appendix N
SAMPLE: Gift Receipt Policy 3

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Gift Acceptance Policy 3
Introduction
This policy statement is designed to ensure that all gifts to, or for the use of, KOSD are structured to provide maximum benefits for both the donor and KOSD. Throughout its existence, MVNU has benefited from gifts from friends, churches, corporations and foundations. Due to the ever-increasing complexity of giving plans and concepts, this policy has been developed to establish standards by which all gifts to KOSD will be evaluated, as well as a formal process for carrying out such evaluations.

All gifts to KOSD shall be evaluated within the following guiding principles:

• In accepting a gift, KOSD also accepts the responsibility to the donor to steward that gift properly. This includes administering the gift properly, providing the donor with accurate, timely financial information about the gift, and, when appropriate, reporting to the donor about the use of the gift.
• Donations of gifts for unrestricted, general purposes are encouraged because of the flexibility they provide to the University.
• KOSD does not provide legal, accounting, tax, or other such advice to donors. Each donor is ultimately responsible for ensuring their proposed gift meets and furthers their charitable, financial, and estate planning goals. As such, each donor is encouraged to meet with a professional advisor before making any gift to the University.
• KOSD reserves the right not to accept certain gifts, including:
  o Those which would not be in the best interest of the donor (i.e., ones that might be inappropriate in light of the donor’s personal or financial situation)
  o Those that might benefit the donor in certain ways that are not available to others of similar status and interest
  o Those from which KOSD will realize little or no financial gain
  o Those that are offered for purposes inconsistent KOSD mission
  o Those which have restrictions that might violate KOSD’s ethical standards or require any form of discrimination
• KOSD shall acknowledge all gifts and donations in a manner that respects and honors the donor.
**Terms and Definitions**

Conditional Gift: Gifts that, because of some qualifier or restriction, are considered non-routine. Conditional gifts may commit the University to act within a specified time or use a gift for a specific purpose.

Endowment: A gift of at least $15,000 to be invested for the purpose of producing present and future income that may be expended or reinvested with the original gift. The principal (or corpus) of the endowment is to be kept intact. Income is expended according to the current policy of the KOSD and may be restricted or unrestricted according to the donor’s intent.

Gift: A gift is not consideration in the legal sense and therefore the donor receives no direct benefit and requires nothing in exchange beyond an assurance that the intent of the contribution will be honored.

Major Gift: Currently at KOSD, a gift of $1,000 or more is considered a major gift to KOSD. During building campaigns, a major gift is $100,000 or more.

Outright Gift: These gifts are typically gifts of cash, stocks, bonds, real property, tangible personal property, or gifts-in-kind.

Planned Gift: Planned gifts generally are gifts or commitments made in the present with the benefit to KOSD “deferred” until a future date. However, planned gifts may include outright gifts of appreciated property (securities and real estate) or gifts of tangible personal property.

Pledge: Pledges are commitments to give a specific dollar amount according to a fixed time schedule.

Restricted Gift: A restricted gift is any gift on which a donor places special, out-of-the-ordinary restrictions as to its use. Please be aware that discriminatory restrictions could cause KOSD to lose its tax-exempt status or the donor to lose the charitable income tax deduction for the gift.
**General Policies**

*Gift Acknowledgement*

All donors are to be sent a gift receipt within a reasonable timeframe. When appropriate, donors shall be given tokens of appreciation not to exceed federal requirements. The Development Associate shall be responsible for oversight and compliance with the requirements regarding gift acknowledgement and receipts.

*Compliance Responsibility for Gift Acceptance Policy*

Overall responsibility for ensuring compliance with the requirements of this policy rests with the Chief Development Officer. All gifts should be screened by the Development Associate and/or the Chief Development Officer. In appropriate cases, gift proposals will be further screened by the Chief Development Officer.

*Evaluation of Costs Associated with Acceptance of Certain Gifts*

Proposed gifts of property and gifts-in-kind must be evaluated to determine whether the costs to KOSD associated with receiving the gift can be accommodated prudently. Such evaluations might include the possible cost of transportation to KOSD, storage costs while making adequate campus space available, cost of maintenance, repair and insurance, and cost of disposal. For example, accepting real property might require payment of closing costs, payoff of debt secured by the property, and physical changes to the property necessary to ensure safety or to control environmental hazards. Similarly, the cost to retrofit space on campus and provide necessary utilities associated with a proposed gift may be deemed excessive. Occasionally, associated costs might weigh against the acceptance of a gift. The authority and responsibility for prompt, careful evaluation of such costs shall rest with the Development Associate, who shall, after conferring with the appropriate campus offices, bring the gift proposal to the Chief Development Officer for a review and decision.

*Acceptance and Administration of Restricted Gifts*

Frequently, donors require the University to use gifts in particular ways. It is the responsibility of KOSD to comply with such arrangements if such a gift is accepted. The Development Associate, under the direction of the Chief Development Officer, is responsible for ensuring compliance with the requirements regarding gift acknowledgements and receipts.
Memorandum of Understanding
Before completing major and/or planned gift arrangements with donors, the Chief Development Officer, on behalf of KOSD and the donor, will sign a memorandum of understanding which shall contain the following elements:
- The purpose for the gift
- The background behind the gift
- How funding will be made
- Criteria specifying who will benefit
- KOSD’s responsibilities
- Use(s) of the gift
- Academic year of activation
- Plan for public announcement of the gift

Qualified Appraisals
Legal and ethical requirements prohibit KOSD from appraising gifts. This protects both the donor and the University. Such appraisals are to be conducted by certified, independent appraisers not associated in any way with KOSD, and the cost shall be the donor’s responsibility.

Gift Acceptance Policies
Policies
The following policies relate to the types of gifts typically received by KOSD. It is understood that special gifts or circumstances might require a case-by-case review by the Chief Development Officer and might not be addressed by this document.

Outright Gifts
Cash
Cash is often the easiest way to give and the form of gift most frequently accepted by the University. These gifts can take the form of currency, check, or credit card contribution. Cash may be delivered in person, by mail, by Electronic Funds Transfer (EFT), or by wire transfer. Cash (currency and check) gifts are reported the day the Records Assistant receives the cash. With EFT or wire transfer gifts, the date of the gift shall be the date the money is transferred into KOSD’s bank account. Credit card gifts are reported on the day the credit card gift is received.
Gifts of Insurance
KOSD will accept life insurance policies as gifts only when the University is named as the irrevocable owner and sole beneficiary of the policy.
KOSD prefers life insurance policies that are fully paid. Those gifts will be valued at the replacement cost of the policy. All partially paid policies must have written explanation of how further premiums are to be paid. Said proposed gifts must be presented to and approved by the Chief Development Officer prior to gifting. Said gifts will be valued at the surrender value of the policy the day the gift transaction is completed.

Personal Property
Please refer to the section above regarding costs associated with acceptance of certain gifts.
Gifts of personal property and gifts-in-kind include, but are not limited to, such items as precious metals, jewelry, artwork, collections and equipment.
Gifts of personal property shall be sold or used for the benefit of KOSD, at the sole discretion of the Chief Development Officer.
KOSD, with direction from the Development Office, is responsible for issuing the Form 8283 (Non-cash Charitable Contributions) to the donor, and for issuing the Form 8282 (Donee Information Return) to the Internal Revenue Service. The form 8282 will be issued in the event the gift of personal property is sold within two years from the date of gift.
Donors will also be informed at the time of the acceptance of said gift that KOSD will, as a matter of policy, cooperate fully in any and all matters related to IRS investigations of non-cash, personal property charitable gifts.

Real Estate
No gift of residential, rental, commercial, industrial or agricultural real estate shall be accepted without a visit by the Chief Development Officer and subsequent approval by the Chief Development Officer. Prior to acceptance, an independent appraisal for all properties is required. Any costs associated with obtaining a certified appraisal shall be the responsibility of the donor. MVNU will accept these appraisals unless the Chief Development Officer feels a second appraisal is warranted. In that case, KOSD will be responsible for all costs of the second appraisal. The average of the two independent appraisals will be considered to constitute the “fair market value” of the real estate, thus the value of the gift. No gift of real estate encumbered by a mortgage or lien shall be accepted. No property will be accepted that has violations of local, state or federal law. There must a clear title to the property, one not encumbered by recorded or unrecorded rights of way or easements.

It is the common practice of KOSD to accept gifts of real estate with a market value of more than $10,000. Upon the recommendation from the Chief Development Officer, KOSD may accept real estate with a value of less than $10,000 on a case-by-case basis.
It is the policy of KOSD to maximize the benefit of gifts of real estate and to liquidate said gifts in a prudent and timely manner. The Vice President for Finance will handle the sale of said property (s). The Chief Development Officer must review all potential sales of real estate that would result in net proceeds less than or equal to 80% of the gift value prior to closing.
All gifts of real estate shall be evaluated in light of the need for an environmental audit whose cost shall be borne by the donor. A qualified environmental professional will be hired to conduct the audit. In the unlikely event that the gifted real estate incurs environmental clean-up expenses,
under CERCLA (Comprehensive Environmental Response, Compensation and Liability Act) or any similar legislation either before the gift transfer has occurred or after, the University retains the right and authority to seek reimbursement from the gift account for any and all expenses involved in environmental analysis or clean up if the Chief Development Officer decides to pursue further the gift of real estate. KOSD retains the right to this reimbursement, if the hazard is discovered after the gift of real estate has been accepted and closed, even if the cost of clean up completely depletes the gift account. The University will not be liable for any lawsuits resulting from environmental hazards discovered on gifted property.

In the event a donor is giving a retained life estate gift, the donor shall pay all or a part of the property’s maintenance costs, real estate taxes and insurance for the duration of their life and acknowledge that in writing prior to KOSD’s acceptance of the gift.

Securities
Securities or mutual funds that are traded on any recognized stock exchange or that have prices quoted daily and are readily marketable will be accepted as outright gifts or towards a pledge. The value of said securities is determined by averaging the high and low trading price on the day the securities are received by KOSD in accordance with established IRS policy. Regarding closely held securities: all such gifts must be examined prior to acceptance for valuation and marketability. The Chief Development Officer must approve all such proposed gifts prior to acceptance.
**Pledges**
Pledges are commitments to give a specific dollar amount according to a fixed time schedule. Annual fund pledges are usually for amounts less than $1,000 and less than one year.

All other pledges must have written documentation that contains the following:
- The amount of the pledge must be clearly specified
- There should be a clearly defined payment schedule
- There shall be no contingencies or conditions
- The donor must be considered to be financially capable of making the gift
- The acknowledgement and any naming opportunity associated with the pledge shall be removed if for any reason the pledge is not completed within the agreed upon payment schedule

**Pledge Recording Policies**
- Anticipated matching gifts will not be included in pledge amounts
- Pledges and expected matching gifts will qualify separately for donor recognition in appropriate giving level groups
- For gift recognition purposes, donors will not be recognized publicly until the pledge is paid in full
- If for any reason (rounding, gift evaluation or continued incremental giving) the pledge amount is altered, the donor will be recognized at the level of final payment
- In the event of death, pledge balances will be written off when the University is notified, unless there are provisions in the donor’s will or the family has indicated there is an intent to complete the pledge
- All requests to deactivate a pledge must be presented to, and approved by the Chief Development Officer

**Planned Gifts**
KOSD encourages donors to disclose their bequest intentions to the Development Office in writing to ensure the University is able to carry out their wishes and that the gifts conform to the principles stated in this Gift Acceptance Policy.

If there is a gift from the estate of a deceased donor KOSD is unaware of that does not meet the principles of this Gift Acceptance Policy, that decision will be communicated to the legal representative of the estate. Attempts will be made to achieve a mutually acceptable gift agreement between both parties.
Charitable Gift Annuities
A charitable gift annuity is a contract between KOSD and the donor, whereby the donor makes an initial payment of cash or marketable securities to KOSD and KOSD agrees to pay the donor an annuity for the rest of his/her lifetime.
No gift annuity that names an income beneficiary younger than age 60 shall be accepted without approval of the Chief Development Officer.
Gift annuities will be accepted for a single life or two life-joint and survivor only unless otherwise approved in advance by the Chief Development Officer.
The minimum initial contribution for a Gift Annuity shall be $10,000. Additional gifts to an existing annuity can be made in $5,000 payments.
KOSD will use the payout rate schedule suggested by the American Council on Gift Annuities (ACGA) for its gift annuities.

Charitable remainder trusts
Charitable remainder trusts (CRAT) are established when a donor irrevocably transfers money or securities to a trustee (not affiliated in any way to KOSD) who invests the assets to pay annual lifetime income to the donor or others chosen by the donor. At the end of the beneficiaries’ lives, the remaining assets are distributed to KOSD.
Annuity trusts provide the tax advantages of current contributions with the security of fixed, lifetime incomes, generally for the donor and spouse. The agreed-upon annual payments remain unchanged regardless of how the investments perform.
A Charitable Remainder Unitrust (CRUT) differs from the annuity trust as it provides a variable income to the donor. Payment in this case is based on a fixed percentage of the net fair market value of the trust’s assets as valued on a certain day annually.

Charitable Lead Trusts
This type of gift provides an income stream for a specified period of time to KOSD. The University receives the income from the trust and applies it, usually to a pre-determined project. The principal is then returned at the end of the set period to whomever the donor designates.

Endowments
Bequest gifts can be used to create endowments at KOSD. The University would prefer the donor contact Development staff as part of the donor’s estate planning so that the University would have record of the donor’s intent. Bequest endowments must be funded with at least $15,000 and contain express scholarship criteria instructions. The Chief Development Officer must review all bequest endowments prior to acceptance. In the event the Chief Development Officer feels the instructions are not complete or too restrictive, an attempt will be made to reach an acceptable agreement with a legal representative of the deceased.

Gifts of Life Insurance
Gifts of life insurance as part of planned giving should name KOSD as beneficiary of the policy upon death or as beneficiary and owner. All previously mentioned conditions also apply to planned gifts of insurance.

Life Estate
Donors interested in receiving a charitable income tax deduction by gifting their primary residence or farm to KOSD, while retaining full use of and rights to the property during their lifetime, may do so. *See section on real estate (p. 8).*

*Reporting Policy*

All irrevocable planned gifts will be reported at full fair market value

*Source: Mount Vernon Nazarene University, 2011*
Appendix O
SAMPLE: Confidentiality Disclosure 1

As a member of the KOSD’s Board of Trustees, you may have access to confidential information to which a non-member would not have access.

During the course of your service, you may hear confidential information about our clients, donors, volunteers, employees, other former and current members of the Board of Trustees, or KOSD. This information must be held in the strictest of confidence. Under no circumstances should such information be transmitted to persons outside KOSD, including family or associates, or to other members of the Board of Trustees, or employees of the Center unless they have a need to know such information to discharge their duties.

“Confidential information” shall mean any information disclosed by one party to another party, either directly or indirectly, in writing, orally or by inspection of tangible objects (including without limitation documents, prototypes, samples, plans and equipment) or material belonging to or specifically designated by KOSD as confidential information which is not generally known by non- KOSD personnel or board members, or by which a board member may obtain knowledge of and/or access to as a result of his or her service to KOSD.

Confidential information shall include, but not be limited to, the following type of information: all information concerning consumers including their names, records, services being received, diagnosis, progress reports and flow charts, case files, any electronic records; all information concerning donors, including their names, contact information, and donation records; all information concerning volunteers, including their names and contact information; KOSD policies, procedures, incident reports, and financial information gained by direct contact, by observation, by telephone, or information received while in contact with a consumer, staff member, or through Board of Trustees communications.

Confidential information shall also include without limitation: technical data; trade secrets and know-how, including research, plans, services, suppliers, prices and costs, markets, software, developments, inventions, processes, formulas, technology, designs, drawings, engineering, hardware configuration information, marketing, licenses, finances, budgets and other business information; and any information that KOSD treats as or designates as confidential information.

The protection of confidential, sensitive, and proprietary information is of critical importance to KOSD, its work force, board members, and its consumers. It is therefore essential that all members of the Board of Trustees take steps to safeguard such information. Members of the Board of Trustees must not use any confidential, sensitive, or proprietary information of KOSD in any manner that is unauthorized or detrimental to the best interests of KOSD. Members of the Board of Trustees shall not, at any time during or following their service to KOSD, reveal, report, publish, disclose, transfer or cause to be revealed, reported, published, disclosed or transferred, any confidential information that was gained by direct contact, by observation, by telephone, overheard or any other indirect contact, for any purpose except in the approved course and scope of their work for and service to KOSD.
Do not leave documents of a confidential nature accessible in a public area when you are not using them. Do not leave Board of Trustee meeting notes or minutes in a public place. In addition, do not leave any confidential information on an unattended or inactive computer screen. If particularly sensitive information is involved, such as medical information about consumers, additional precautions should be taken. Confidential files and word processing disks and tapes should be kept in a locked cabinet or other secure place. Care also should be taken not to discuss any matter of a confidential nature on public conveyances, in restaurants, or in other public places where the conversation might be overheard.

The protection of confidential information and trade secrets is essential to KOSD, its clients, and the future security of its employees and Board of Trustees. To protect such information, current and former members of the Board of Trustees may not disclose any trade secrets or confidential information. Members of the Board of Trustees who improperly disclose any sensitive information, confidential information, or trade secrets may be removed from the Board of Trustees. The following are examples of potentially compromising situations, which must be avoided.

- Revealing confidential information to outsiders or misusing confidential information. Unauthorized disclosure of confidential information is a violation of this policy regardless of whether information is disclosed for personal gain and regardless of whether harm to KOSD is intended or results.

- Participating in other civic or professional organizations that might involve divulging confidential information of KOSD.

- Using or disclosing to KOSD any proprietary information or trade secrets of another person or entity with whom obligations of confidentiality exist.

- Discussing, under any circumstances, donor or consumer information with a non-member of the Board of Trustees, or with an employee of KOSD who would not otherwise have access to such information.

Violations of this confidentiality policy may result in your removal from the Board of Trustees, with or without warning.

I acknowledge that I have read and fully understand this policy.

___________________________________    ___________________
Member Signature       Date
___________________________________
Print or Type Name

Source: St. Madeleine Sophie’s Center, 2012
Appendix P
SAMPLE: Confidentiality Disclosure 2

The purpose of the following policy and procedures is to complement KOSD’s bylaws to prevent the personal interest of staff members, board members, and volunteers from interfering with the performance of their duties to KOSD, or result in personal financial, professional, or political gain on the part of such persons at the expense of KOSD or its Members, supporters, and other stakeholders.

Definitions: Conflict of Interest (also Conflict) means a conflict, or the appearance of a conflict, between the private interests and official responsibilities of a person in a position of trust. Persons in a position of trust include staff members, officers, and board members of KOSD. Board means the Board of Directors. Officer means an officer of the Board of Directors. Volunteer means a person -- other than a board member -- who does not receive compensation for services and expertise provided to KOSD and retains a significant independent decision-making authority to commit resources of the organization. Staff Member means a person who receives all or part of her/his income from the payroll of KOSD. Member means a Member of KOSD which shall be a state association of nonprofit organizations that represent a statewide and multi-sector or subsector 501 (c )(3) constituency with a diverse range of corporate identities, or a regional association of nonprofit organizations that represent a specific region within a state or multi-state geographic area and a multi-sector or subsector constituency with a diverse range of corporate identities. Supporter means corporations, foundations, individuals, 501 (c ) (3) nonprofits, and other nonprofit organizations who contribute to KOSD.

POLICY AND PRACTICES
1. Full disclosure, by notice in writing, shall be made by the interested parties to the full Board of Directors in all conflicts of interest, including but not limited to the following:

   a. A board member is related to another board member or staff member by blood, marriage or domestic partnership.
   b. A staff member in a supervisory capacity is related to another staff member whom she/he supervises.
   c. A board member or their organization stands to benefit from an KOSD transaction or staff member of such organization receives payment from KOSD for any subcontract, goods, or services other than as part of her/his regular job responsibilities or as reimbursement for reasonable expenses incurred as provided in the bylaws and board policy.
   d. A board member's organization receives grant funding from KOSD.
   e. A board member or staff member is a member of the governing body of a contributor to NCNA.
   f. A volunteer working on behalf of KOSD who meets any of the situations or criteria listed above.

2. Following full disclosure of a possible conflict of interest or any condition listed above, the Board of Directors shall determine whether a conflict of interest exists and, if so the Board shall vote to authorize or reject the transaction or take any other action deemed necessary to address
the conflict and protect KOSD’s best interests. Both votes shall be by a majority vote without counting the vote of any interested director, even if the disinterested directors are less than a quorum provided that at least one consenting director is disinterested.

3. A Board member or Committee member who is formally considering employment with KOSD must take a temporary leave of absence until the position is filled. Such a leave will be taken within the Board member's elected term which will not be extended because of the leave. A Board member or Committee member who is formally considering employment with KOSD must submit a written request for a temporary leave of absence to the Secretary of the KOSD Board, c/o the NCNA office, indicating the time period of the leave. The Secretary of KOSD will inform the Chair of the Board of such a request. The Chair will bring the request to the Board for action. The request and any action taken shall be reflected in the official minutes of the KOSD Board meeting.

4. An interested Board member, officer, or staff member shall not participate in any discussion or debate of the Board of Directors, or of any committee or subcommittee thereof in which the subject of discussion is a contract, transaction, or situation in which there may be a perceived or actual conflict of interest. However, they may be present to provide clarifying information in such a discussion or debate unless objected to by any present board or committee member.

5. Anyone in a position to make decisions about spending KOSD’s resources (i.e., transactions such as purchases contracts) – who also stands to benefit from that decision – has a duty to disclose that conflict as soon as it arises (or becomes apparent); s/he should not participate in any final decisions.

6. A copy of this policy shall be given to all Board members, staff members, volunteers or other key stakeholders upon commencement of such person's relationship with KOSD or at the official adoption of stated policy. Each board member, officer, staff member, and volunteer shall sign and date the policy at the beginning of her/his term of service or employment and each year thereafter. Failure to sign does not nullify the policy.

7. This policy and disclosure form must be filed annually by all specified parties.

Source: Nonprofit Risk Management Center, 2010
CONFIDENTIALITY AGREEMENT
This confidentiality Agreement is hereby made and entered into as of the _____ day of______
two thousand and eleven by and between KOSD (“Organization”) and ______________
(“Employee”).

AGREEMENT
Organization wishes to protect its confidential information. Employee and Organization are
entering into this Confidentiality Agreement (“Agreement”) to provide such protection to the
Organization upon the terms and conditions set forth in this Agreement. In consideration of the
foregoing and the mutual agreements herein contained the Parties agree as follows.

ARTICLE 1. DEFINITIONS
Confidential Information shall mean, but is not limited to, plans, processes, reports, financials,
business or strategic plans, compensation, donor lists and donors, client lists and clients
(including, but not limited to, clients or donors of the Organization who Employee calls or with
whom Employee became acquainted with during the term of employment) and any information
relating or belonging to Organization’s clients, donors, customers, and any other third-party
individuals Organization transacts with whether furnished before or after the date hereof, oral or
written, and regardless of the form of communication or the manner in which it is furnished.
Organization Records shall mean any document or record concerning the business and affairs
of the Organization.
Party shall mean Organization or Employee and Parties shall mean both Organization and
Employee.
Representative shall mean any person, such person's affiliates and its and their directors,
shareholders, partners, members, officers, employees, consultants, independent contractors,
agents, advisors (including, without limitation, financial advisors, counsel and accountants) and
controlling persons.

ARTICLE 2. CONFIDENTIALITY
Employee acknowledges that the provision of services, goods and resources to those
economically or traditionally disadvantaged largely depends upon the public’s trust (herein the
“Mission”). Any direct or indirect disclosure of Confidential Information to anyone outside of
the Organization would threaten the Mission and operations of Organization, cause the public to
lose trust in the Organization, and would do damage, monetary or otherwise, to the
Organizations Mission. Employee’s employment with the Organization has or will expose
Employee to Confidential Information. Employee expressly acknowledges the status of the
Confidential Information and that the Confidential Information constitutes a protectable interest
of the Organization.
For the purposes of this Agreement, Confidential Information shall not include information that
is:
(a) readily available to the public in the same or an equally useable form as that
maintained by Organization;
(b) has been lawfully received from an independent third party without any restriction and without any obligation of confidentiality; or
(c) has been independently developed without access to or knowledge or use of the Confidential Information.

ARTICLE 3. MAINTAINING CONFIDENTIALITY
Employee shall not divulge, disclose, provide or disseminate, in any manner to any person or entity at any time, the Confidential Information described in Article 2 of this Agreement, Confidential Information which may affect the Mission of Organization or matters relating to the Mission of Organization without Organization's express consent in writing. Employee agrees to maintain security measures to safeguard the Confidential Information. Pursuant to such maintenance, Employee shall: (i) attempt in every reasonable way to prevent intentional or unintentional unauthorized use or disclosure of Confidential Information and Organization Records; (ii) promptly notify the Organization of an unauthorized use, copying or disclosure of Confidential Information or Organization Records; and (iii) assist the Organization in every reasonable way to retrieve wrongfully disclosed Confidential Information, or Organization Records, and/or terminate unauthorized use or disclosure. Moreover, Employee shall adhere to following measures to comply with their confidentiality obligations herein:
(a) Take reasonable steps to maintain the secrecy of Confidential Information, including, but not limited to, maintaining the physical security of Confidential Information by using locked drawers, computer passwords and marking documents as “Confidential.”
(b) Refrain from discussing Organization’s Mission or its donors with anyone other than personnel or Representatives within Organization.
(c) Refrain from discussing the business of Organization or its donors in public places or common areas.
(d) Take reasonable efforts to avoid inadvertent disclosure caused by things including, but not limited to, open doors, speaker phones, etc.; and
(e) When destroying Organization Records or documents containing Confidential Information, take the appropriate steps to ensure that such destruction is done properly.

ARTICLE 4. USE OF CONFIDENTIAL INFORMATION
Employee may use Confidential Information, and Organization Records, to the extent necessary to perform their authorized duties. Notwithstanding the foregoing, Employee shall not use Confidential Information, or any Organization Record, for any purpose not permitted herein without the prior written authorization of a corporate officer. Employee agrees not to use Confidential Information in any way which would be harmful to Organization.

ARTICLE 5. DISCLOSURE OF CONFIDENTIAL INFORMATION
Employee shall not, directly or indirectly, in any capacity, make known, disclose, furnish, make available or utilize any of the Confidential Information of the Organization other than in the proper performance of the duties contemplated herein, or as required by a court of competent jurisdiction or other administrative or legislative body. In the event Employee is requested pursuant to, or required by, applicable law or regulation or by legal process to disclose any Confidential Information, the Employee shall provide the Organization with prompt written notice of such request or requirement so that Organization may; (i) seek an appropriate protective order or other remedy with respect thereto, (ii) consult with the Employee in taking steps to resist
or narrow the scope of such request or legal process, or (iii) waive compliance, in whole or in part, with the terms of this Agreement. Notwithstanding the foregoing, Organization may consent to information being disclosed, or relieve Employee from having to comply with this Agreement, in whole or in part, provided prior written consent is obtained.

**ARTICLE 6. TERMINATION OF CONFIDENTIALITY, RETURN OF CONFIDENTIAL INFORMATION**

Employee shall be released from obligations in this Agreement, in whole or in part, if; (i) Organization provides a written demand that any Confidential Information be returned, (ii) the employment of Employee expires, is voluntarily or involuntarily terminated or suspended, or (iii) Employee breaches any terms in this Agreement. Upon such release, Employee shall return all Confidential Information within seven (7) business days, from the day Employee is released, along with all copies including, but not limited to, anything disclosed by Organization or made by the Employee. Anything that cannot be returned shall be completely destroyed, including deletion from all computers of all copies, reproductions, summaries, analyses or extracts thereof or based thereon (whether in hard-copy form or on intangible media, such as electronic mail or computer files) in the Employee's possession. If a legal proceeding has been instituted to seek disclosure of Confidential Information, such material shall not be destroyed until the proceeding is settled or a final judgment with respect thereto has been rendered. The Organization reserves the right to inspect any and all devices used to conduct business or store Organization’s information.

**ARTICLE 7. GOVERNING LAW AND REMEDIES**

This Agreement shall be governed by, and construed in accordance with, the laws of the State of Texas, without giving effect to its principles or rules regarding conflicts of laws. Each party hereby consents to, and subsequently waives any objection of, the institution and resolution of any action, or proceeding, of any kind or nature with respect to, or arising out of, this agreement brought by either Party in the federal or state courts located within the State of Texas.

**ARTICLE 8. SEVERABILITY**

In the event any one or more of the provisions of this Agreement are held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remainder of this Agreement shall not in any way be affected or impaired thereby. Moreover, if any one or more of the provisions contained in this Agreement shall be held to be excessively broad as to duration, activity or subject, such provisions shall be construed by limiting and reducing them so as to be enforceable to the maximum extent allowed by applicable law.

**ARTICLE 9. WAIVER**

The failure of either Party to this Agreement to enforce any of its terms, provisions or covenants shall not be construed as a waiver of the same or of the right of such Party to enforce the same. The consent, waiver, or change rendered by either Party to this Agreement with respect to a certain event shall only be applicable to that event, and shall not be presumed as the approach of that Party to any event of the same kind which may occur in the future, unless otherwise expressly indicated in writing.

**ARTICLE 10. ENTIRE AGREEMENT**
This Agreement sets forth the entire agreement between the Parties with respect to its subject matter and merges and supersedes all prior discussions, agreements and understandings of every kind and nature between any of them and neither Party shall be bound by any term or condition other than as expressly set forth or provided for in this Agreement. This Agreement may not be changed or modified nor may any of its provisions be waived, except by an agreement in writing, signed by the Parties hereto.

**ARTICLE 11. GENERAL PROVISIONS**

**Injunctive Relief.** Each Party recognizes that the unauthorized use or disclosure of Confidential Information may give rise to irreparable injury and acknowledges that remedies other than injunctive relief may not be adequate. Accordingly, Organization has the right to equitable and injunctive relief to prevent the unauthorized use or disclosure of its Confidential Information, as well as such damages or other relief as is occasioned by such unauthorized use or disclosure.

**Headings.** Section headings are provided in this Agreement for convenience only and shall not be deemed to substantively alter the content of such sections.

**EACH PARTY TO THIS AGREEMENT REPRESENTS AND WARRANTS TO EACH OTHER PARTY THAT SUCH PARTY HAS READ AND FULLY UNDERSTANDS THE TERMS AND PROVISIONS HEREOF, HAS HAD AN OPPORTUNITY TO REVIEW THIS AGREEMENT WITH LEGAL COUNSEL, AND HAS EXECUTED THIS AGREEMENT BASED UPON SUCH PARTY'S OWN JUDGMENT AND ADVICE OF INDEPENDENT LEGAL COUNSEL (IF SOUGHT).**

__________________________________  __________________________________
(Employee’s Signature)    (Organization’s Signature)

__________________________________  __________________________________
(Type/Print Employee’s Name)   (Type/Print Organization’s Name)

__________________________________  __________________________________
(Date)       (Date)

*Source: IdeaEncore, 2011*
Appendix R
Board Job Descriptions

Board Job Descriptions
What is the job description of a board chair?
☐ Oversees board and executive committee meetings
☐ Works in partnership with the chief executive to make sure board resolutions are carried out
☐ Calls special meetings if necessary
☐ Appoints all committee chairs, and with the chief executive, recommends who will serve on committees
☐ Assists chief executive in preparing agenda for board meetings
☐ Assists chief executive in conducting new board member orientation
☐ Oversees searches for a new chief executive
☐ Coordinates chief executive's annual performance evaluation
☐ Works with the governance committee to recruit new board members
☐ Acts as an alternate spokesperson for the organization
☐ Periodically consults with board members on their roles and helps them assess their performance

What is the job description of a board vice chair?
☐ Attend all board meetings
☐ Serve on the executive committee if one exists
☐ Carry out special assignments as requested by the board chair
☐ Understand the responsibilities of the board chair and be able to perform these duties in the chair's absence
☐ Participate as a vital part of the board leadership

What is the job description of a board secretary?
☐ Attend all board meetings
☐ Serve on the executive committee if one exists
☐ Ensure the safety and accuracy of all board records
☐ Review board minutes
☐ Assume responsibilities of the chair in the absence of the board chair, chair-elect, and vice chair
☐ Provide notice of meetings of the board and/or of a committee when such notice is required

What is the job description of a board treasurer?
☐ Attend all board meetings
☐ Maintain knowledge of the organization and personal commitment to its goals and objectives
☐ Understand financial accounting for nonprofit organizations
☐ Serve as the chair of the finance committee
☐ Manage, with the finance committee, the board's review of and action related to the board's financial responsibilities
Work with the chief executive and the chief financial officer to ensure that appropriate financial reports are made available to the board on a timely basis

Present the annual budget to the board for approval

Review the annual audit and answer board members' questions about the audit

*Source: BoardSource, 2008*
Appendix S
Understanding Committees: Purpose and Practice

Purpose of Committees:
Committees are one of the main tools for making decisions in most organizations. They are at the top of the organizational pyramid and it should be clear that any, even small, improvements at this level will trickle down and benefit the entire organization.

Committees perform four main functions.
1. Preparatory work leading up to board decisions - such as developing policy options and recommendations for the consideration of the board. This is a function of committees in all four board models. However, board committees only do preparatory work in areas of board responsibility. In policy governance and policy boards, this is restricted to policy. In working boards and collectives, this includes preparation and recommendations on programs and operations.
2. Carry out tasks on behalf of the board in areas such as fundraising or community relations. Policy governance and policy boards which delegate tasks to committees must establish clear parameters, as staff may take over the kinds of activities they are used to handling on their own. Working boards and collectives are more likely to have committees carrying out these functions.
3. Work with the staff to implement certain operations and activities. This function exists only for committees of working boards and collectives.
4. Serve as a training ground for future board members. This is most commonly a function of committees in policy and working boards. It is unusual in policy governance boards as they have very few committees. It is redundant in collectives, as the members of the group are the board.

Note: The board should annually review the list of standing committees and re-consider whether each of them is necessary. Simply because the topic of the committee is important does not mean that a standing committee is the best way to do the work. Sometimes an ad hoc committee, with a short-term and specific task, is a better option.

Creating a Committee:
Before establishing a committee, a board should consider the following:
- Committees vary according to board model
  The board model will have an impact on the extent of the committee structure. It will determine whether the purpose of the committee is solely to support the work of the board or to support the delivery of the service that the committee is concerned with.
- Committees require specific Terms of Reference
  The board identifies the committees needed to support the work which is required and approves the terms of reference for each committee. The terms of reference comprise of the following: a definitive statement which clearly describes the purpose of the committee; time frame; membership composition (that is to say, the kinds of people the board wants on the committee, e.g. a nurse, a union representative, a retired person, a lawyer); authority, and major areas of responsibility.
- Selecting the committee chair
The chair/president of the board can invite someone to become a committee chair or the chair can be chosen by committee members. The committee chair is the key to an effective committee. She/he sets the tone, pace and strategies. She/he must be thoroughly acquainted with the goals of the organization and the part that his/her committee plays in the achievement of these goals. She/he delegates and co-ordinates work and establishes a climate in which thoughtful deliberation is possible.

Selecting committee members
Specific committee members may be appointed by either the board or the committee Chair. It is very important that members have a clear view of the committee’s goals and have an awareness of the skills brought by each committee member to assist in the achievement of those goals. Interestingly enough, many boards consider committee membership as an opportunity for committee members to get to know an organization prior to nomination for a board position. Committees can serve as a useful training ground for future board members and can provide boards with a screening program for succession planning.

Staff Support
In order for committee Chairs to carry out their work effectively, they generally require staff support. Staff must work closely with the Chair, assisting in the preparation of agendas, providing all information that a Chair requires to operate effectively, and providing advice or recommendations where necessary.

Reporting
The board receives and responds to reports forwarded to it by the committees. Reports are either prepared regularly for the board, indicating progress, or they may be final reports that are created at the completion of the committee’s tasks. The content should include findings and recommendations.

Regular Evaluation
Regular evaluations ensure that committees’ terms of reference are being followed. Evaluations may also allow a board to address a possible need for revision of terms of reference, ensure effective leadership and allow for member turnover. Evaluations should be scheduled regularly.

Types of Committees
There are two basic types of committees and a third which is used occasionally:

1) Standing
A standing committee is the most common and most criticized type of committee. Members of standing committees study problems within an assigned area and provide specialized assistance and advice to the Board on an ongoing basis. Examples include: executive, membership, personnel, health, finance, fundraising and nominating committees. A standing committee frequently has extensive authority and responsibility to accomplish its work. The board usually follows the advice and recommendations of a standing committee.

2) Ad hoc
An ad hoc committee is formed to handle a specific situation or issue that falls outside of the assigned function of an existing standing committee. It is dissolved when the job is completed. Examples of the assignments of ad hoc committees include: design a brochure, arrange a conference, prepare a presentation to government, build a playground. Depending on the situation/issue, an ad hoc committee may have extensive authority and responsibility. The board usually takes all advice and recommendations coming from an ad hoc committee.

3) Advisory
The advisory committee is only used occasionally. This committee advises the board on any issues for which the board requests data, e.g. policy, plans, public relations. This type of committee may be standing or ad hoc. What distinguishes advisory committees from the others is that the board is under no obligation to take the advice or recommendations that it puts forward (although it frequently does). Advisory committees are usually established at the request of or on the condition of a funding body.

**Recommendations for Effective Use of Committees**

- **Use ad hoc committees where possible:**
  Ad hoc committees enable people to do useful work, be recognized for a valuable contribution, and then move on in other directions. Committees will quickly become plagued by a lack of interest if they aren’t really doing anything. Short-term commitments often appeal to busy people with special skills or to people who are testing out their involvement and may get “hooked” into becoming full board members at a later date.

- **Have other people besides board members on a committee:**
  The chairperson should be a member of the board; however, staff, clients, professionals, interested local citizens, parents, and other organization members can provide an outside perspective on topics such as programs delivered by the organization. Making contributions alongside people external to the board helps members develop their teamwork skills in another context.

- **Develop a committee only for a specific reason:**
  Design a committee to fill your needs and to help your organization realize its goals in an exciting and dynamic way. If you don’t need the committee, get rid of it!

- **Be sure that a committee has written terms of reference** (a clear description of its purpose, time frame, authority and responsibilities)

- **Require regular reports to the board so that you are up to date on the committee’s work**

**Potential Standing Committees**

*The following descriptions are intended to portray various functions often conducted by standing board committees, i.e., committees that exist year round. Note that the following list is not intended to suggest that all of these committees should exist; it's ultimately up to the organization to determine which committees should exist and what they should do.*

1. **Board Development:** Ensure effective board processes, structures and roles, including retreat planning, committee development, and board evaluation; sometimes includes role of nominating committee, such as keeping list of potential board members, orientation and training.
2. **Evaluation:** Ensures sound evaluation of products/services/programs, including, e.g., outcomes, goals, data, analysis and resulting adjustments
3. **Finance:** Oversees development of the budget; ensures accurate tracking/monitoring/accountability for funds; ensures adequate financial controls; often led by the board treasurer; reviews major grants and associated terms
4. **Fundraising:** Oversees development and implementation of the Fundraising Plan; identifies and solicits funds from external sources of support, working with the Development Officer if available; sometimes called Development Committee
5. **Marketing:** Oversees development and implementation of the Marketing Plan, including identifying potential markets, their needs, how to meet those needs with products/services/programs, and how to promote/sell the programs

**Potential Ad Hoc Committees**
The following descriptions are intended to portray various functions often conducted by ad hoc board committees, i.e., committees that exist to accomplish a goal and then cease to exist. Note that the following list is not intended to suggest that all of these committees should exist; it's ultimately up to the organization to determine which committees should exist and what they should do.

1. Audit: Plans and supports audit of a major functions, e.g., finances, programs or organization
2. Campaign: Plans and coordinates major fundraising event; sometimes a subcommittee of the Fundraising Committee
3. Ethics: Develops and applies guidelines for ensuring ethical behavior and resolving ethical conflicts
4. Events: Plans and coordinates major events, such as fundraising (nonprofits), teambuilding or planning; sometimes a subcommittee of the Fundraising Committee
5. Nominations: Identifies needed board member skills, suggests potential members and orients new members; sometimes a subcommittee of the Board Development Committee
6. Research: Conducts specific research and/or data gathering to make decisions about a current major function in the organization

Source: McNamara (2010)
References


