

# Guide to Nonprofit Vehicles for Fundraising to Assist District of Columbia Public Schools

Prepared by the Washington Lawyers  
Committee for Civil Rights & Urban Affairs

January 2016



## Foreword/Purpose of this Guide

For more than 20 years, the Education Project of the Washington Lawyers' Committee for Civil Rights and Urban Affairs (WLC) has coordinated the DC Public School Partnership Program. To date, the program has matched more than 50 law firms and other businesses with individual DCPS elementary, middle and high schools, primarily to help bring more academic enrichment opportunities to students, and in the process, also support more parent engagement. Many of the firms have helped their partner schools with fundraising efforts, and, over the past 10 years, several have helped form nonprofit organizations to assist their partner schools with tax-exempt fundraising and necessary recordkeeping. Many more DCPS schools and parent groups have requested this type of assistance from their legal and other business community partners.

The Education Project and the law firms that have helped their schools and parent groups with nonprofit fundraising vehicles decided to share their collective experience by summarizing – in this Guide and its accompanying Toolkit Appendix – the alternatives available to schools and parent groups that wish to form a standalone nonprofit organization, and the major steps and considerations implicit in forming and operating such organizations.

This Guide is intended for DC public school parent fundraising groups and law firms or other businesses that are assisting them. The Guide's key purposes are to help schools, parents and law firm/business partners:

- make informed decisions about which nonprofit fundraising vehicles best suit the school's needs and
- implement those decisions, with support from WLC Community Partners as appropriate.

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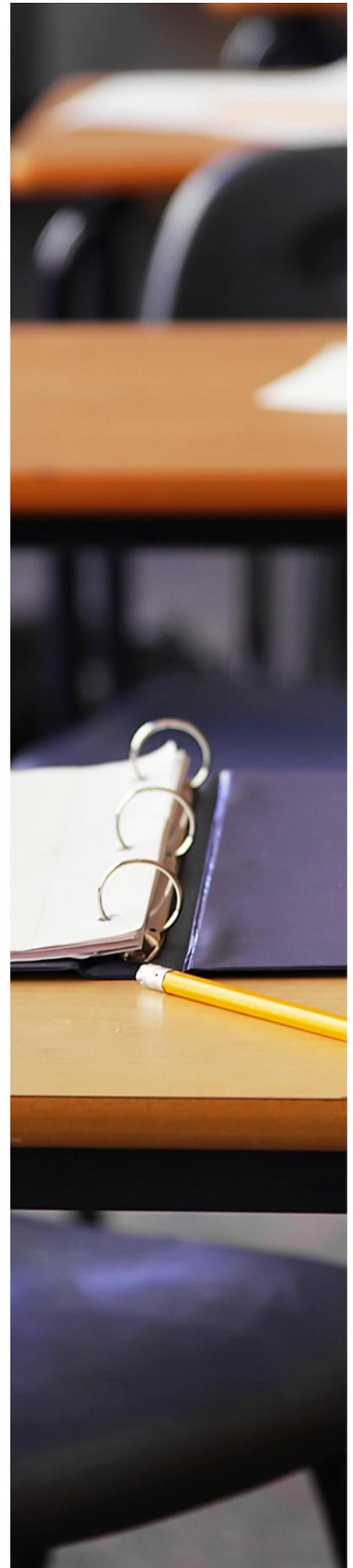
## Acknowledgements

The WLC would like to acknowledge the invaluable work of several law firms and organizations that formed our Nonprofit Fundraising Working Group or provided comments, and the individuals who were instrumental in providing the resource materials, research, analysis and drafting that made this Guide and Toolkit possible:

- **Beveridge & Diamond, PC**: Nathan Darling, Chief Business Development and Marketing Officer, helped to initiate the project, and provided resources, guidance and drafting throughout the process; Kari Twaite, Margo Ludmer, and Elizabeth Richardson provided research and organization; and the firm provided meeting space.
- **Squire Patton Boggs (US) LLP**: George Schutzer provided resources, guidance and drafting; and the firm provided final layout, graphics and printing services.
- **Akin Gump Strauss Hauer & Feld LLP**: Charlie Johnson and Ken Alderfer provided resources, guidance and drafting.
- **Carol Rhees**: provided drafting and layout.
- **Hogan Lovells US LLP**: Stuart Stein provided content and comments.
- **Fried, Frank, Harris, Shriver & Jacobson LLP**: Karen Grisez, comments.
- **Perkins Coie, LLP**: Gwen Williamson, comments.
- **Zuckerman Spaeder LLP**: Paul Hynes, comments.
- **Dentons US LLP**: Tom Hyatt and James Costan, comments.

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## Introduction

Like many schools across the United States, District of Columbia Public Schools (DCPS) often face either budgetary shortfalls or academic enrichment needs that give rise to private fundraising at the individual school level. Parents, teachers and other staff at individual schools have organized, or wish to organize, nonprofit or other tax-advantaged vehicles to solicit contributions and to assist them in their ability to manage any grant funds or other contributions that they may receive. These contributions range from a few hundred or thousand dollars per year from simple fundraising initiatives to large and sophisticated auctions, grant writing, corporate outreach, and other initiatives that can yield much more than that.

As with any nonprofit entity, raising funds is only part of the challenge. Appropriately administering raised funds, managing required financial reporting and tax filings, maintaining good corporate recordkeeping, aligning the nonprofit entity's governance and decision-making processes with existing school governance systems, ensuring succession and continuity planning, and meeting other challenges can prove especially daunting for school groups whose leadership changes frequently, or whose parent involvement may not be as robust as desired.

Some DC Public Schools and parent groups have created entire structures to manage these processes. Others need such structures. In all cases, sharing experience and learning can improve the situation for all schools and – most importantly – benefit all students and the parent groups supporting them.

Compiled based on the experience of a number of DC Public School parent organizations and WLC Education Project school partner law firms, this Guide attempts to list the major attributes, advantages, disadvantages, and key steps to forming standalone nonprofit structures for raising and administering private funds for individual DC public schools. The Guide is intended primarily for law firms and businesses that partner with DC public schools as a part of the WLC's DC Public School Partnership Program and the schools who have or who seek such partnerships. However, we hope that the Guide proves useful to all DC public schools.

Please note that this Guide is intended as a general reference and is not intended as, and does not constitute, legal advice applicable to any particular set of circumstances. Organizers of school fundraising efforts should consult legal and financial counsel, and applicable DC statutes, to ensure that their efforts comply with applicable laws.

## Forming a Nonprofit Vehicle

This Guide assumes that a school parent organization needs to establish a nonprofit entity (more specifically, a nonprofit public charity that meets the requirements of section 501(c)(3) of the Internal Revenue Code and pertinent state law requirements) to "house" its fundraising activities. This may not always be the case. For example, unless the organization can obtain free or discounted help from legal and financial professionals, if the organization's annual budget is under \$10,000, or if tax deductibility is not meaningful to the donor base, then the effort and expense required to establish and maintain nonprofit status may outweigh the benefit of accepting tax-deductible contributions.

Assuming that the organization wishes to proceed with forming a nonprofit entity, the items below and in the following matrix reflect key steps and considerations. The case studies and appendices that follow provide additional information, including a list of DC Public Schools that have established these types of entities.

## Articles of Incorporation

The sponsors of a charitable corporation form the corporation by incorporating it under the laws of one of the states or the District of Columbia. Although a DC school parent organization could be formed under the laws of one of the states and qualify to conduct business as a "foreign corporation" in the District of Columbia, most, if not all, DC school parent organizations have been formed under District of Columbia law. A nonprofit corporation that is formed under a law other than the law of the District will face annual or biennial filings in two jurisdictions and may incur fees for a professional registered agent in the "foreign" state.

The Articles of Incorporation of a DC nonprofit corporation must set forth the name of the corporation, that the corporation is incorporated as a nonprofit corporation under the DC Nonprofit Corporation Act (the "Act"), the name and address of each incorporator, the initial registered agent and whether the corporation will have members. The Articles of Incorporation may include the names of the initial directors, the names of the initial members (if any) and provisions establishing purposes for which the corporation is organized; regulating the affairs of the corporation; defining, limiting and regulating the powers of the corporation, its directors or its members; setting qualifications for membership; determining how assets will be distributed on dissolution; permitting or making obligatory indemnification of a director under standards lower than the default standards of the law.

If a charitable organization is to qualify for exemption from federal income tax and contributions to the organization are to be tax deductible, the Articles of Incorporation should include specific provisions required by tax law or the Internal Revenue Service but not by the Act. The IRS provides model language in its Publication 557 <https://www.irs.gov/pub/irs-pdf/p557.pdf>. The additional language relates to purposes of the organization, limitations on its activities, and the distribution of assets upon dissolution of the organization.

When a nonprofit entity is incorporated in the District, the Department of Consumer and Regulatory Affairs issues a Certificate of Incorporation.

For an example of a DCPS fundraising group's Articles of Incorporation, please see Appendix E.

## Organizational Meeting

After an organization is incorporated, the incorporators should appoint the initial directors (if not appointed in the Articles of Incorporation) and the initial directors should hold an organizational meeting. At the organizational meeting, the directors typically will:

- Adopt bylaws. (See below)
- Appoint the original officers. The Act requires a President or CEO and a Treasurer or CFO. In addition, an officer must be tasked with keeping the minutes of meetings of directors and members (if any). That person is often designated as the "Secretary."
- Elect the initial elected Board of Directors.
- Select a bank as a depository institution.
- Elect initial members (if a membership organization).
- Direct someone to prepare an Application for Recognition of Tax-Exempt Status.
- Ratify the actions of the incorporators.
- Establish a conflict of interest policy.
- Establish other policies, such as compensation, record retention, financial management, and whistleblower policies.

The initial directors can accomplish these tasks by each signing a unanimous consent resolution adopting the resolutions.

Before the organizational meeting can occur, the persons seeking to establish the organization must assemble the information needed for the resolutions and make the decisions required to adopt the resolutions (such as the identity of the officers and directors). For an example of the DCPS fundraising group's organizational meeting minutes see Appendix G.



## Bylaws

The bylaws of an organization establish the rules for governing the organization. The rights and obligations to govern the organization are usually vested in the Board of Directors and implemented by the Board or by officers. Typically, bylaws will address the following items:

- Qualifications for membership (if there are members) by class (if there are classes).
- Membership rights by class (such as what members can vote on).
- How directors are to be selected (including by whom, whether cumulative voting is permitted).
- Number and terms of directors.
- Officers, including positions, terms, how chosen, and responsibilities for each position.
- Committees and permitted and prohibited delegation of powers to committees.
- Fiscal year.
- Indemnification of officers, directors, employees, and volunteers.
- Compensation for officers and directors.
- Procedures for amending bylaws.

For an example of a DCPS fundraising group's bylaws, please see Appendix F.



# Matrix Summarizing Issues Relevant to DC Public School Private Fundraising Entities

		<b>Fundraising Entity</b>	
Issue		Independent Stand-Alone 501(c)(3) <i>(including entities incorporated as PTAs, PTOs, or HSAs)</i>	Law Firm-Controlled or “Captive” 501(c)(3)
1	Start Up & Annual Operating Costs or Fees	<p>Significant start-up time and costs</p> <p>Estimated costs (if not provided for free or at a discount):</p> <p>Start-up: \$1,500-\$4,000 (includes initial corporate filings, IRS application, D&amp;O/liability insurance)</p> <p>Annual: \$500-\$4,000 (e.g., annual corporate and tax filings, D&amp;O/liability insurance)</p> <p>The above startup cost estimate still assumes fairly substantial law firm pro bono or “low bono” assistance and school volunteers doing the legwork on filings. Costs could otherwise approach (or exceed) \$8,000-\$10,000.</p> <p>PTAs that join the national PTA organization must pay dues.</p> <p>[reference: <a href="http://www.ptotoday.com/pto-today-articles/article/705-pto-vs-pta-differences-at-a-glance">http://www.ptotoday.com/pto-today-articles/article/705-pto-vs-pta-differences-at-a-glance</a>]</p>	<p>Significant start-up time and costs</p> <p>Estimated costs (if not provided for free or at a discount):</p> <p>Start-up: \$1,500-\$4,000 (includes initial corporate filings, IRS application, D&amp;O/liability insurance)</p> <p>Annual: \$500-\$4,000 (e.g., annual corporate and tax filings, D&amp;O/liability insurance)</p> <p>The above startup cost estimate still assumes fairly substantial law firm pro bono or “low bono” assistance and school volunteers doing the legwork on filings. Costs could otherwise approach (or exceed) \$8,000-\$10,000.</p>
2	Start Up Time	90 days to 6 months, depending on how quickly the parent group can organize and make decisions. IRS tax-exempt determination can take 3 to 6 months.	90 days to 6 months, depending on how quickly the parent group can organize and make decisions. IRS tax-exempt determination can take 3 to 6 months.
3	Governance and Membership	<p>This model emphasizes parent and community input and accountability.</p> <p>Carefully consider Board structure to ensure long-term stewardship and fiduciary responsibility.</p> <p>PTA groups should consider whether or not to join the national PTA – some resources are available through that organization but national organization requires payment of dues.</p> <p>Principals often have active roles in implementation.</p> <p>Will the entity have members and dues? How will this impact voting/decision-making?</p>	<p>This model emphasizes more law firm control, with ongoing assistance from internal experts and law firm volunteers.</p> <p>Need a structure that ensures school input and coordination.</p> <p>Will the entity have members and dues? How will this impact voting/decision-making?</p>
4	Practical Limits on Fund Raising	<p>Charitable solicitation license required. Few limits.</p> <p>However, many hurdles to getting large institutional dollars at the individual school level, and many parents do not have the means to support the school at significant levels. Exercise care regarding the types of donations accepted.</p>	<p>Charitable solicitation license required. Few limits.</p> <p>Firm-sponsored fundraisers are more likely and can raise significant sums.</p> <p>Certain donors may be less likely to give to a law firm-controlled entity than a pure standalone organization.</p>

Issue		Independent Stand-Alone 501(c)(3) (including entities incorporated as PTAs, PTOs, or HSAs)	Law Firm-Controlled or “Captive” 501(c)(3)
5	Expenditures	<p>Customary restrictions to charitable activities, and specifically avoid:</p> <ul style="list-style-type: none"> <li>• Things available from DCPS</li> <li>• Related party transactions</li> <li>• Direct benefits to Board members</li> <li>• Election campaigns [portion of national PTA dues supports national PTA advocacy efforts]</li> <li>• Advocating for changes in law</li> <li>• Paying salaries or other payments to DCPS employees</li> </ul>	<p>Customary restrictions to charitable activities, and specifically avoid:</p> <ul style="list-style-type: none"> <li>• Things available from DCPS</li> <li>• Related party transactions</li> <li>• Direct benefits to Board members</li> <li>• Election campaigns</li> <li>• Advocating for changes in law</li> <li>• Paying salaries or other payments to DCPS employees</li> </ul>
6	Succession Plans, Sustainability	<p>Sustainability and continuity requires substantial and ongoing commitment from school and parent body, since there is a significant learning curve for those without nonprofit or Board experience.</p> <p>Consider staggered Board member terms to provide for continuity and smooth transitions.</p> <p>National PTA organization offers many resources for PTA leaders.</p>	<p>Easily sustainable, assuming necessary expertise, leadership and resources available through the law firm.</p> <p>Parent group will still need to consider leadership and governance issues.</p>
7	DCPS-Specific Issues	<p>Principal may not serve as officer of corporation without DCPS permission.</p> <p>Not sure if independent body can pay DCPS employee salaries (i.e., a school wants to hire an art teacher with private funds, but have that teacher be a DCPS employee).</p> <p>Also consider how the group will interact (if at all) with LSAT.</p>	<p>Principal may not serve as officer of corporation without DCPS permission.</p> <p>Not sure if independent body can pay DCPS employee salaries (i.e., a school wants to hire an art teacher with private funds, but have that teacher be a DCPS employee).</p> <p>Also consider how the group will interact (if at all) with LSAT.</p>
8	Legal Entity & Associated Legal Issues	<p>DC sales tax exemption may be difficult to get because of “certificate of occupancy” requirements.</p>	<p>DC sales tax exemption may be difficult to get because of “certificate of occupancy” requirements.</p>
9	Other Issues, Advantages & Disadvantages	<p>Delivers a high level of autonomy if the group is organized, can support infrastructure (e.g., bookkeeping, reporting), corporate-style obligations and maintenance costs.</p>	<p>Less autonomy but more reliable support and sustainability.</p>

## **Independent Stand-Alone 501(c)(3) (non-PTA) Case Study: Friends of SWS, Inc.**

The following is a narrative by Nathan Darling, founding Board Chair of Friends of SWS, Inc.

School-Within-School (SWS) was an early childhood program (Pre-kindergarten age 4 and kindergarten only) that was originally part of the Capitol Hill Cluster School. While SWS later became its own school, it was still physically housed inside of another school building. Anticipating growth due to its current status as a full DC elementary school offering programs for Pre-kindergarten age 3 through 5th grade, SWS leaders knew they needed to have private fundraising in the school's own name and under the full control of the SWS community (it was previously shared/pooled with the Capitol Hill Cluster School's PTA).

In spring 2012, Friends of SWS was incorporated as a standalone 501(c)(3) corporation and secured IRS public charity status soon thereafter. The Van Ness Feldman law firm provided template corporate formation documents and counseling on the initial setup process.

A critical factor in choosing a standalone 501(c)(3) and structuring the Board and leadership of the corporation was that one of its primary purposes is to fundraise for teacher and administrator professional development (including courses in Reggio-Emilia, Italy, as the school's curriculum has its intellectual center there). Organizations may have difficulty attaining IRS public charity status if funding recipients also serve on the decision-making body (i.e., the Board). Accordingly, the Friends of SWS bylaws reflect that no SWS teacher or member of the administrative staff may serve as a member of the Board. This fact, in addition to the fact that the Friends of SWS founding Board elected not to have a membership model for the corporation, led the founding Board not to call the entity a PTA in order to be clear that the Friends entity had no teacher participation and was only for the purpose of fundraising, not to administer or coordinate other school activities.

The Friends of SWS Board strives to stay out of day-to-day decisions about curriculum and school programming, deferring to the Principal and Local School Advisory Team on such matters while setting – and monitoring – budget expectations. This has generally worked well, though with some challenges (mostly in ensuring communication and coordination).

A major challenge for Friends is its own administration: as a standalone entity it relies primarily on volunteer support with some paid help (such as bookkeeping and annual tax filings) and some loaned help (such as from school administrative staff).

## **Law Firm –Controlled (or “Captive”) 501(c)(3) Case Study: Akin Gump School Partnership Program (501(c)(3) is a law firm entity “for the benefit of” the school)**

By Ken Alderfer, Akin Gump

In 2000, the IRS recognized the Akin Gump School Partnership Project, Inc. (the “Partnership Project”) to support Akin Gump's long-standing partnership with Tyler Elementary School, as well as other DC Public School partnership activities sponsored by the Washington Lawyers Committee. The Partnership Project has raised and provided funding for activities intended to benefit Tyler's students, and to support Akin Gump volunteers in such efforts. The Partnership Project is overseen by a team comprised of three officers, and regularly receives operational and compliance advice from counsel internal to Akin Gump who are experts in matters of not-for-profit tax and operational compliance. Akin Gump also formed a Tyler Committee, comprised of attorney and non-attorney volunteers, to support Partnership activities.

Separately, Akin Gump formed the Tyler Outdoor Classroom, LLC to manage funds raised from external sources for an outdoor, environmental learning space at Tyler Elementary. As a so-called “disregarded entity,” the activities of this single-member LLC were reflected on the Partnership Project's federal tax returns. Because the LLC managed substantial funding – ultimately in excess of \$200,000 – for the outdoor classroom project, the annual reporting obligations for the Partnership Project changed, as well. For the period during which the LLC operated, the Partnership Project filed a full Form 990 tax return versus the shorter-form (and much simpler) Form 990-N. Upon completion of the outdoor classroom, the Partnership Project dissolved the LLC and transferred the remaining project funds to the Tyler PTA – a separate 501(c)(3) described in the PTA/HSA section of this Guide – which took over management of the outdoor classroom.

## **PTA/HSA Case Study: Tyler Elementary PTA**

With some guidance from Akin Gump not-for-profit tax experts, the Tyler Elementary PTA formed its own 501(c)(3) in 2009 to conduct its own fundraising activities and other endeavors supporting the school community. The PTA replaced an earlier PTA that already had an employer identification number (EIN), but no current organizational documents.

The following is a narrative from the leaders of the Tyler PTA that tracks the issues in the matrix.

## 1. Start Up & Annual Operating Costs or Fees

Approximately 60-80 hours of volunteer time (primarily three people with advice from others) were spent forming the Tyler PTA. Time was spent primarily to research requirements and to find models for organizing documents (PTA Bylaws and Articles of Association), as well as on meetings and exchanging drafts, and completing the application for Federal 501(c)(3) status. Time and effort for D.C. applications was minimal after federal status was recognized. The PTA's bylaws were modeled after bylaws of two other nearby schools' PTAs, but membership in DC PTA (a provision in PTA's then-new bylaws) requires consistency with DC PTA bylaws. A "tool kit" such as this one could have helped reduce that time immeasurably. Annual operating costs include: paid accountant for 990-EZ filings (\$500 fee reflecting discount of volunteer grandmother); PTA insurance (approx. \$400 annually to company that insures most PTAs); P.O. Box (\$230/year); DC PTA dues (approx. \$5/member, but includes membership in national PTA). The PTA qualified as an "unincorporated nonprofit association" under DC law which allowed it to avoid some issues associated with corporations in DC, including fees and taxes associated with corporations. The PTA re-purposed a used laptop for the treasurer's use (no cost) and identified low-cost, open source accounting software equivalent to QuickBooks from techsoup.org, an on-line resource for not-for-profits and libraries.

## 2. Start Up Time

The PTA was an existing organization, so start-up was essentially seamless.

## 3. Governance

The new PTA continued the leadership structure (Executive Board) of the existing PTA, as modified by new bylaws. Officers include a President, 1st Vice-President, Treasurer, 2nd VP/communications, 2nd VP/membership, 2nd VP/fundraising, and Secretary. Officers are unpaid volunteers, either parents (or guardians or other care-givers for students) and/or school staff (including teachers, but not School administration). Membership size, obligations, and levels of commitment vary annually and are purely voluntary. The full membership votes on officers and budget. Decisions and actions taken by Executive Board are constrained by the annual budget, but otherwise Executive Board controls and operates the PTA independently.

## 4. Practical Limits on Fund Raising

Fundraising is virtually unlimited. The PTA collects dues and hosts fundraising event(s) for "unrestricted" funds and seeks grant funding (and otherwise acts as fiscal agent on behalf of the school for grants sought by parents and teachers) for "restricted" funds. Larger donations (greater than ~\$100) typically are (or should be) directed for a restricted purpose. Historically larger individual contributions have been unrestricted. Unrestricted funds are spent according to the approved budget.

## 5. Expenditures

Expenditures are driven by purpose. A local PTA's purpose is to be (1) a powerful voice for all children, (2) a relevant resource for families and communities, and (3) strong advocate for the education and wellbeing of every child. In theory, PTA funds should serve to fund learning-focused or school-support expenditures that the school is unable to fund. In practice, expenditures are directed based on views and discussions of Executive Board. Spending as a "back stop" to school spending is highly dependent on the strength of collaboration between PTA leaders and school administration. Self-dealing by (or dealings with individuals or companies with personal connections to) Executive Board members should be avoided, or at a minimum, closely restricted and transparent. Political contributions are expressly prohibited. The PTA administers a "mini-grant" program within the school community, distributing funds twice a year based on an application form and rubric.

## 6. Succession Plans, Sustainability

PTAs and other parent organizations can be difficult to sustain and grow, possibly due to nature of parent volunteerism, including officers who serve for one-year commitment, or only as long as their children are at the school. There often is a high degree of turnover, and it is difficult to sustain the enthusiasm of would-be parent volunteers throughout the school year. The Treasurer function requires some degree of expertise and frequent periodic attention. Institutional memory is adversely affected by the primary reason for parent volunteerism – the annual re-enrollment of their student – if and when parent volunteers re-enroll students elsewhere or their student is promoted to middle school. The tax reporting function was contracted out by necessity. A parent's engagement in his or her student's education does not necessarily align with the interest, willingness, capacity, or expertise to manage a nonprofit.

## 7. DCPS-Specific Rules

None, though the Tyler PTA self-conforms to requirements of DC PTA, and insurance rate requirements preclude the hiring of staff.

## 8. Legal Entity & Associated Legal Issues

Same caution as Independent Stand-Alone 501(c)(3), except for Charitable Solicitation license (since merged into Basic Business Licensing). DCRA will not issue certificate of occupancy to a DCPS school. Somehow, however, Tyler's PTA was able to obtain a sales tax exemption based on its federal exemption.

## 9. Other Issues, Advantages & Disadvantages

Similar to but inverse of caution for Independent Stand-Alone 501(c)(3). A PTA delivers a very high level of autonomy but is effective only if the group is organized, and can support infrastructure and maintenance costs. Recordkeeping and succession planning is a definite challenge in that a "traditional" PTA is not designed or intended to operate like a more "serious" corporate-style organization. Some Executive Board officer candidates may not fully appreciate (or be drawn to participate in) the organizational needs of a nonprofit "business" structure.

## Appendix A – List of Schools by Fundraising Vehicle

Entity Name/Website	School Name
<b>Law Firm "Captive" Entity</b>	
Akin Gump School Partnership "for the benefit of" Tyler Elementary	Tyler Elementary
Perkins Coie	Powell Elementary
<b>Standalone Nonprofit/PTA/HSA</b>	
Friends of SWS, Inc.	School-Within-School @ Goding (Elementary)
Brent PTA	Brent Elementary
Capitol Hill Cluster School PTA	Capitol Hill Cluster School (PK3-8th grade – 3 campuses)
Janney PTA	Janney Elementary
Lafayette HSA	Lafayette Elementary
Maury PTA	Maury Elementary
Tyler PTA	Tyler Elementary
Eaton HSA	Eaton Elementary
School Without Walls at Francis Stevens HSA	School Without Walls at Francis Stevens
School Without Walls High School HSA	School Without Walls High School
Orr Elementary Parent Teacher Organization	Orr Elementary

Note: This list is not meant to be exhaustive, but rather to present a representative sample of entities, many of which have posted their bylaws, lists of officers, and other possibly helpful information on their websites.



# Appendix B – DC Nonprofit Formation Guide

## Forming a Charitable Corporation In the District of Columbia

### Articles of Incorporation

A DC nonprofit corporation is formed by filing Articles of Incorporation with the DC Department of Consumer and Regulatory Affairs. This may be done electronically, by mail or courier or in person. When a nonprofit entity is incorporated in the District, the Department of Consumer and Regulatory Affairs issues a Certificate of Incorporation.

The Articles of Incorporation of a D.C. nonprofit corporation must set forth the name of the corporation, that the corporation is incorporated as a nonprofit corporation under the DC Nonprofit Corporation Act, the name and address of each incorporator, the initial registered agent and whether the corporation will have members. The Articles of Incorporation may include the names of the initial directors, the names of the initial members (if any) and provisions not inconsistent with the law establishing purposes for which the corporation is organized; regulating the affairs of the corporation; defining, limiting and regulating the powers of the corporation, its directors or its members; setting qualifications for membership; determining how assets will be distributed on dissolution; permitting or making obligatory indemnification of a director under standards lower than the default standards of the law.

If a charitable organization is to qualify for exemption from federal income tax and contributions to the organization are to be tax deductible, the Articles of Incorporation should include specific provisions required by tax law or the Internal Revenue Service but not by the DC Nonprofit Corporation Act. The Service provides model language in its Publication 557 <https://www.irs.gov/pub/irs-pdf/p557.pdf>. The additional language relates to purposes of the organization, limitations on its activities, and the distribution of remaining assets upon dissolution of the organization.

### Organizational Meeting

After an organization is incorporated, the incorporators should appoint the initial directors (if not appointed in the Articles of Incorporation) and the initial directors should hold an organizational meeting. At the organizational meeting, the directors typically will:

- Adopt bylaws. (See below)
- Appoint the original officers. A president (CEO) and treasurer (CFO) are required by the Act. In addition, an officer, usually called a “Secretary” must be appointed to take and maintain the minutes of meetings.

- Elect the initial elected Board of Directors.
- Select a bank as a depository institution.
- Elect initial members (if a membership organization).
- Direct someone to prepare an Application for Recognition of Tax-Exempt Status.
- Ratify the actions of the incorporators.
- Establish a conflict of interest policy.
- Establish other policies, such as compensation, record retention, financial management, and whistleblower policies.

The initial directors can accomplish these tasks by each signing a unanimous consent resolution adopting the resolutions.

Before the organizational meeting can occur, the persons seeking to establish the organization must assemble the information needed for the resolutions and make the decisions required to adopt the resolutions (such as the identity of the officers and directors).

### Bylaws

The bylaws of an organization establish the rules for governing the organization. The rights and obligations to govern the organization are usually vested in the Board of Directors and implemented by the Board or by officers. Typically, bylaws will address the following items:

- Qualifications for membership (if there are members) by class (if there are classes).
- Membership rights by class (such as what members can vote on).
- How directors are to be selected (including by whom, whether cumulative voting is permitted).
- Number and terms of directors.
- Officers, including positions, terms, how chosen, and responsibilities for each position.
- Committees and permitted and prohibited delegation of powers to committees.
- Fiscal year.
- Indemnification of officers, directors, employees, and volunteers.
- Compensation for officers and directors.
- Procedures for amending bylaws.

### Employer Identification Number

A new charitable organization should apply for an Employer Identification Number from the IRS on Form SS-4. Form SS-4 can be filed as soon as the organization has officers. If an organization files the Form SS-4 online, it will receive its EIN immediately.

## Federal Tax Exemption; Deductibility of Contribution

A charitable corporation that wants to be exempt from federal income tax must file with the Internal Revenue Service an application for recognition of its tax-exempt status. The application also serves as a request for determination that contributions to the organization are deductible from tax. Tax regulations generally require that an organization file the application within 27 months of formation. Generally, the determinations are retroactive to the date that the organization was formed.

The IRS now offers two forms for applying for recognition of tax-exempt status: Form 1023 in both a regular <https://www.irs.gov/pub/irs-pdf/f1023.pdf> and interactive <https://www.irs.gov/pub/irs-pdf/f1023i.pdf> form and Form 1023-EZ <https://www.irs.gov/pub/irs-pdf/f1023ez.pdf>.

Form 1023-EZ can only be used by an organization that expects to have annual gross receipts of \$50,000 or less in each of the next three years, had gross receipts of \$50,000 or less in each of the preceding three years (if applicable), has assets with a fair market value of \$250,000 or less, and satisfies other requirements set forth in a checklist in the instructions to Form 1023-EZ <https://www.irs.gov/pub/irs-pdf/f1023ez.pdf>. Form 1023-EZ is less than three pages, is much easier to complete than Form 1023, and has a lower filing fee (\$400 in 2015, rather than \$850). Form 1023-EZ must be filed electronically. The IRS usually processes Form 1023-EZ faster than Form 1023.

To complete the application on the full Form 1023, a new organization should be able to prepare a detailed narrative discussing its past, present and future activities, when the activities were or are expected to be undertaken and how they will contribute to its exempt purpose. The organization will also need a detailed three year projected budget showing both income and expenses. The form asks for expected sources of revenue and for a description of the organization's fundraising plans. The form also asks for the qualifications of the organization's officers and directors and details about the organization's grant-making activity. The IRS charges an \$850 fee for the application.

An organization seeking exemption should determine whether it expects to be a public charity or a private foundation. To qualify as a public charity, an organization must have substantial support from the general public. Contributions from most contributors are not considered contributions from the general public to the extent that the contributions from the contributor exceed 2% of the total receipts of the organization. An organization will meet an objective test for public charity status if one-third of its support comes from the general public. The organization may be able to pass a subjective test if more than 10% of its support comes from the general public and other factors indicate strong support from the general public. Special one-time grants can be excluded from the numerators and denominators of the support tests.

Public charities are subject to fewer special excise taxes than private foundations. Public charities find fundraising easier because private foundations will often contribute only to public charities and contributions to public charities can reduce individual taxable income by a greater percentage than contributions to private foundations. Private foundations will face an excise tax and lose their tax exemption if they lobby. Public charities can engage in a small amount of lobbying.

It is difficult to predict how long the IRS will take to process an application for tax-exempt status. If the application is selected for careful review, the IRS may take over ten months to process the application.

## DC Tax Exemptions

The District of Columbia requires tax-exempt organizations that operate in the District of Columbia to file for recognition of tax-exempt status by filing Form 164 <http://otr.cfo.dc.gov/sites/default/files/dc/sites/otr/publication/attachments/FR-164%20REV12-12APPLICATIONPACKAGE.pdf> with the Office of Tax and Revenue. The form may be used to apply for exemption from franchise (income), sales and use and personal property taxes.

## Business Filings

Charities, particularly those that have employees, are subject to many of the same rules as for-profit businesses. They must register to do business and have registered agents in states in which they conduct their activities. If the states have tax registration forms, the charities must complete and file them. They must withhold federal and state income tax and FICA tax from employees and periodically transfer the taxes to the IRS and applicable state collection agencies. They generally are subject to unemployment tax. In some states, charities must obtain workers compensation insurance for their employees.

## State Charitable Solicitation Registrations

Most states require charities that solicit contributions within the state to register with the state. Some cities and counties also have registration requirements. Different states have different exemptions from the solicitation registration requirements. Some will not accept a registration form unless the organization has registered to do business in the state. Most, if not all, charge a fee for registering.

If a charitable organization plans to solicit charitable contributions from multiple states, it may consider, as an alternative to filing respective charitable solicitation registrations with each state, filing the Unified Registration Statement ("URS"), a standardized registration for nonprofit organizations with those cooperating states. See <http://www.multistatefiling.org/index.html>. The URS is compiled and produced by the National Association of State Charities Officials and the National Association of Attorney General in an effort to consolidate the information and data requirements of all states requiring registration. At present, the URS is accepted by most of the jurisdictions requiring registration. The following table from [http://www.multistatefiling.org/index.html#yes\\_states](http://www.multistatefiling.org/index.html#yes_states) shows states with charity registration requirements and which states accept the URS.

## Charity Registration in the States



If a corporation will solicit only in the District of Columbia, it would use the forms required by the Department of Consumer and Regulatory Affairs to file for a biennial license that covers charitable solicitation. See <http://dcra.dc.gov/node/1046502>.

## Special Issues

Questions sometimes arise relating to the distinction between “educational activity” and “lobbying,” particularly when the educational organization is directly or indirectly associated with an organization that lobbies. Questions can also arise about whether an activity is “unrelated business taxable income” (UBTI) subject to tax or whether the income generating activity meets one of the exceptions to being UBTI. Organizations that think they may be close to the lines on these issues should seek legal or tax counsel.

# Appendix C – DC Nonprofit Formation Checklist

## Tax and Corporate Compliance Checklist for District of Columbia Section 501(c)(3) Organizations

### Federal Taxes

#### 1. Tax-Exempt Status

- File for recognition of tax-exempt status on Form 1023 or 1023-EZ.

#### 2. Annual Returns

- File Form 990, 990-EZ, or 990-N (revenue and assets will determine appropriate form) by the 15th day of the 5th month after the end of the tax year (or seek an extension).
- If the organization has more than \$1,000 of gross income from an unrelated trade or business, file Form 990-T. Make quarterly estimated tax payments if the organization expects its tax liability to exceed \$500.

#### 3. Federal Wage and Tax Statement

- If organization had employees, send Form W-2 to employees on or before January 31st and file with SSA by end of February. Copies may also need to be sent to District or states if employee does not reside in the District.
- If employees paid for services, send Forms 1099 to service providers (other than corporations) who were paid more than \$600 before January 31st and file with the IRS before the end of February. Copies may need to be sent to certain states.

#### 4. Employment Tax Returns and Payroll Tax

- If organization has employees, file employment tax returns and deposit payroll tax (if any) with Treasury. See IRS Publication 15, Circular E. Preregistration is required.

#### 5. Transfers Associated with Certain Personal Benefit Contracts

- File Form 8870 if organization paid premiums or received transfers on certain life insurance, annuity and endowment contracts.

#### 6. Report of Cash Payments Over \$10,000 Received in a Trade or Business

- File Form 8300 to report cash payments over \$10,000.

#### 7. Forms Available for Public Inspection and Copying

- Make available at headquarters for public inspection and provide copies upon request of Form 1023 or Form 1023-EZ exemption application and last three Forms in the 990 series filed by the organization (other than names and addresses of contributors) and Form 990-T.

#### 8. Charitable Contributions

- Provide receipts to donors that describe contributions, provide date of contributions, and indicate any goods or services provided for the contributions or state that no goods or services are provided.
- In the case of a fundraising dinner or other similar event, provide with invitation an estimate of the fair market value of the dinner and indicate that only the price of the ticket in excess of the fair market value is deductible as a charitable contribution.
- If the organization receives gifts of property, determine whether it must complete Form 8283.

## 9. Public Support Test (for Publicly Supported Organizations)

- Before accepting a significant grant or contribution from a contributor or an additional grant from a significant contributor, run a tentative test to check impact on the organization's 1/3 public support test. If a grant or contribution would present a problem, assess whether additional small contributions can be obtained during the test period to maintain public charity status. If necessary, decide whether to accept the grant or contribution and risk loss of public charity status.
- Periodically monitor contributions and run a tentative test to see if the organization meets the 1/3 public support test to remain as a public charity. Seek additional contributions from new contributors if satisfaction of the test appears in jeopardy.
- If the organization fails to meet the public support test for two consecutive tax years and the IRS determines that it is a private foundation, consult with counsel on compliance rules and private foundation excise taxes for private foundations.

## District of Columbia Taxes

### 1. DC Business Tax Registration

- File Form FR-500, Combined Business Tax Registration

### 2. DC Corporation Exemptions

- File Form FR-164, exemption application for the DC franchise (income), sales and use and property tax
  - If the organization does not qualify for franchise tax exemption, it must file Form D-20, the corporate franchise tax return.
  - If the organization sells goods or services in DC that require collection of sales and use tax, it must file Form FR-800M (or Form FR-800A if they qualify for an annual return).
  - If the organization does not qualify for personal property tax exemption, it must file a personal property tax form, Form FR-31, by July 31st of each year.

### 3. DC Employment Taxes

- If the organization pays wages to any DC residents, it must deduct and withhold DC income tax from employees' wages and pay to DC the amount withheld, and file Form FR-900, the Employer Withholding Tax Return. (If organization has employees who reside in Maryland or Virginia, it will withhold Maryland or Virginia taxes and will need to file appropriate tax registration forms in those states.)
- The organization may also have to pay unemployment compensation tax through the DC Department of Employment Services.

## 4. Workers' Compensation Insurance

- Have a worker's compensation insurance policy in place if required by law.

## District of Columbia Corporate Filings

### 1. Biennial Report

- Organizations must file the Two Year Report for Domestic Reporting Entities (BRA-25) due by 15th April 1st every other year. Corporations formed in odd numbered years file in even-numbered years; corporations formed in even-numbered years file in odd-numbered years.

### 2. Basic Business License

- If the organization does not solicit charitable contributions in DC, it may need to file a Form FR-500 (see above) and the Basic Business License EZ form.
- If the organization does solicit contributions in DC, the Basic Business License application is included in the charitable solicitation registration

### 3. Charitable Solicitation License

- After Form FR-500 (see above) has been filed, file the Unified Registration Statement, a Basic Business License Application, a Certificate of Occupancy, a Clean Hands Certification, and required attachments (either IRS determination letter or copy of pending federal exemption application, Articles of Incorporation and Bylaws, statement of activities, resolution authorizing corporate officer to submit application, itemized financial statement, solicitor information cards, and professional fundraiser or solicitor contracts, as appropriate) to register for charitable solicitation.
- The Basic Business License is renewable every two years. The DCRA will send a renewal notice and bill to the billing name and address that the organization writes in Section D of the Basic Business License Application 30-45 days before the expiration date of the license.

## Other Filings and Related Requirements

### 1. Charitable Solicitation Registration

- Register in states in which organization is soliciting and which require registration or licenses. Solicitation on a web page could result in a need to register in states from which organization expects to receive contributions. (In some states, requests for foundation funding could trigger registration requirements.)
- File annual reports with the states in which registered.

### 2. Charitable Solicitation Notices

- Several states require that solicitations include specific notices; include notices in charitable solicitations.

### 3. Audit (Determine if One Required)

- Nonprofit/nonstock corporation acts of some states require an annual audit by a CPA.
- Some state charitable solicitation statutes require annual audits by a CPA.

## General Corporate Requirements

### 1. Periodic meetings of the Board of Directors<sup>1</sup>

- Supervise and monitor activities of organization in accordance with good practice.
- Review and approve budget.
- Review income, expense and asset statements periodically.
- Monitor compliance with tax law.
- Take minutes of all Board meetings and place in corporate minute book.

### 2. Information and Statements from Officers and Directors

- Collect annual statements if required by Conflict of Interest Policy.
- Collect information that may be needed to answer related party, time spent on organization activities and other information for Form 990.

### 3. Election of Officers and Directors

- Elect directors when required by bylaws.
- Elect officers when required by bylaws.

### 4. Compensation

- Set compensation (if any) of officers and senior employees in accordance with policies established by Board and/or reported on Form 1023. Most of the organizations described in this Guide will not be paying compensation to officers. They may pay small compensation to bookkeepers.

### 5. Review of Form 990, Form 990-EZ or Form 990-N

- Establish policy on whether Board or a committee will review Board or committee review before filing.

### 6. Audit Committee

- If audit is required, select a committee that will select auditors.
- Meet with auditors.
- Review final audit report.

Note: This checklist contains information regarding certain federal and state filing requirements that pertain to organizations determined to be exempt under section 501(c)(3) of the Internal Revenue Code. Please consult with your accountant to determine which filing requirements specifically pertain to your organization. This checklist also lists other periodic compliance or good practice requirements for nonprofit corporations, but it is not intended as a complete compliance checklist. For example, it does not include requirements associated with the hiring of new employees (such as obtaining a Form W-4 and checking for legal status.).

## Appendix D – Other Resources

BoardSource – [www.boardsource.org](http://www.boardsource.org)

District of Columbia Regulatory Authority (DCRA) Corporations Division – <http://dcra.dc.gov/service/corporate-registration>

IRS Resources for Nonprofit & Charitable Organizations – <http://www.irs.gov/Charities-&-Non-Profits>

National PTA – <http://www.pta.org/>



<sup>1</sup> This is a partial list of general activities that directors should undertake on a regular basis.

# Appendix E – Articles of Incorporation of Friends of SWS

The undersigned persons, acting as the incorporators of a nonprofit corporation, in accordance with the NON-PROFIT CORPORATION ACT (D.C. Code, 2001 edition, Title 29, Chapter 3) hereby adopt and submit these Articles of Incorporation and state the following

## Article I

### Name of Corporation

The corporate name is Friends of SWS, Inc. (the “Corporation”).

## ARTICLE II

### Nonprofit Status

The Corporation shall be a nonprofit Corporation.

## ARTICLE III

### Duration

The period of duration of the Corporation is perpetual.

## ARTICLE IV

### Purposes

The purposes of the Corporation are:

To promote and support the ongoing educational programming, staff professional development, and future growth of SWS, a District of Columbia public school.

To carry on such other activities as are permissible under the District of Columbia Nonprofit Corporation Act.

The Corporation shall not carry on propaganda or otherwise attempt to influence legislation to an extent that would disqualify if from tax exemption under section 501(c)(3) of the Internal Revenue Code by reason of attempting to influence legislation. The Corporation shall not participate or intervene in any political campaign on behalf of or in opposition to any candidate for public office.

## ARTICLE V

### Members

The Corporation shall have no members.

## ARTICLE VI

### Regulation of the Internal Affairs of the Corporation

Except as otherwise provided by law, the business and affairs of the Corporation shall be managed by or under the direction of a Board of Directors. The number of Directors who shall constitute the Board of Directors and the manner of their election or appointment shall be as provided in the Bylaws.

## ARTICLE VII

### No Earnings To Inure To Private Persons

No part of the net earnings of the Corporation shall inure to the benefit of, nor be distributable to any director or officer of the Corporation or any other private individual, except that the Corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth above.

## ARTICLE VIII

### Dissolution

If for any reason the Corporation is to be dissolved or otherwise terminated, no part of the property of the Corporation or any of the proceeds shall be distributed to or inure to the benefit of the directors of the Corporation. Assets shall be distributed for one or more exempt purposes within the meaning of section 501(c)(3) of the Internal Revenue Code. Any such assets not so disposed of shall be disposed of by a court of competent jurisdiction of the county in which the principal office of the corporation is then located, exclusively for such purposes or to such organizations as said court shall determine, which are organized exclusively for one or more exempt purposes within the meaning of section 501(c)(3) of the Internal Revenue Code.

## ARTICLE IX

### Registered Agent

The name and Registered Office address of the Corporation's initial registered agent in the District of Columbia is:

**Nathan A. Darling**  
644 C Street, NE  
Washington, DC 20002

## ARTICLE X

### Initial Board Of Directors

The names of the initial Directors of the Corporation, who shall serve until the first annual meeting or until their successors are elected and qualified, are:

**Nathan A. Darling**  
644 C Street, NE  
Washington, DC 20002

**Julia A. Noonan**  
309 10th Street, SE  
Washington, DC 20003

**Natalie Cole**  
813 Independence Avenue, SE  
Washington, DC 20003

**M. Louise Chapman**  
638 Massachusetts Avenue, NE  
Washington, DC 20002

## ARTICLE XI

### Incorporators

The incorporators of the Corporation are:

**Daniel S. Press**  
1050 Thomas Jefferson St., NW, 7th Floor  
Washington, DC 20007

**Nathan A. Darling**  
1050 Thomas Jefferson St., NW, 7th Floor  
Washington, DC 20007

**Asha Venkataraman**  
1050 Thomas Jefferson St., NW, 7th Floor  
Washington, DC 20007

IN WITNESS WHEREOF, we have signed these Articles of Incorporation, acknowledging the same to be our act, on this the \_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
/s

Daniel S. Press

\_\_\_\_\_  
/s

Nathan A. Darling

\_\_\_\_\_  
/s

Asha Venkataraman



# Appendix F – Bylaws of the Friends of SWS Corporation

## Article 1: Name, Office and Seal

### 1.01 Name of Corporation

The name of the Corporation shall be the Friends of SWS, Inc. (hereinafter referred to as the "Corporation").

### 1.02 Principal Office

The principal offices of the Corporation shall be located in such location as shall be determined by the Board of Directors from time to time by resolution.

## Article 2: Purposes

### 2.01 Purposes

The purposes of the Corporation shall include but not be limited to:

- To promote and support the ongoing educational programming, staff professional development, and future growth of SWS, a District of Columbia public school.
- To carry on such other activities as are permissible under the District of Columbia Nonprofit Corporation Act.

### 2.02 Limitations on Activities

The Corporation shall not carry on propaganda or otherwise attempt to influence legislation to an extent that would disqualify it from tax exemption under section 501(c)(3) of the Internal Revenue Code by reason of attempting to influence legislation. The corporation shall not participate or intervene.

## Article 3: Members

### 3.01 Members

The Corporation shall have no members.

## Article 4: Board of Directors

### 4.01 Powers

The activities, affairs and property of the Corporation shall be managed, directed and controlled, and its powers exercised by, and vested in, the Board of Directors, except as otherwise provided in these Bylaws.

### 4.02 Number of Directors

The Board of Directors of the Corporation shall consist of no fewer than three and no more than nine directors, as determined by the Board of Directors.

### 4.03 Composition and Election of the Board of Directors

The Directors shall be selected at the organizational meeting of the Corporation in such manner as is determined by the representatives at the organizational meeting. Thereafter, Directors shall be elected by the existing Board of Directors. Elections for Directors shall take place at the annual meeting of the Directors. Except for the initial Board of Directors, parents of students currently enrolled in SWS shall not constitute a majority of the Board of Directors, except by affirmative vote of two-thirds (2/3) of the entire Board of Directors. No member of the SWS educational or administrative staff may serve as a Director.

### 4.04 Term of Office

The Directors shall be elected for a term of three years, except that one third of the directors elected at the organizational meeting, chosen by lot, shall serve an initial term of three years, one-third a term of four years and one-third a term of five years. All Directors shall continue to serve until replaced.

### 4.05 Resignation

A Director may resign his or her position on the Board at any time by delivering a resolution so indicating to the Chairman of the Board or to the Secretary of the Corporation. The acceptance by the Board of any such resignation, unless required by the terms thereof, shall not be necessary to make the same effective.

### 4.06 Removal

A Director may be removed at any time for cause, including continued gross or willful neglect of his or her duties, or conduct derogatory to the best interest of the Corporation. The affirmative vote of two-thirds (2/3) of the entire Board of Directors shall be necessary to remove any Director for cause.

### 4.07 Annual Meeting

The annual meeting of the Board of Directors for the transaction of such business as may properly come before it, shall be at a time and place chosen by the Board of Directors.

### 4.08 Other Meetings

Regular quarterly meetings of the Board of Directors shall be held at a time and place to be determined by the Board of Directors. Special meetings shall be held at any time when called by order of the Chairman of the Board or a majority of the Directors.

### 4.09 Notice

Notice of each meeting of the Board of Directors shall be mailed or electronically delivered to each Director, addressed to him or her at his or her residence or usual place of business, or via the email address provided to the Secretary of the Corporation, not less than five (5) nor more than twenty (20) days before the day on which the meeting is to be held.

Each such notice shall state the purposes of the meeting, the time and place of such meeting, and by whose order it was called. Notice of any meeting of the Board of Directors need not be given to any Director who shall waive such notice in writing, whether before of after such meeting, or if he or she shall be present at the meeting. No notice need be given of any adjourned meeting.

#### 4.10 Quorum

The presence at any meeting of a simple majority of the Board of Directors shall be necessary and sufficient to constitute a quorum. In the absence of a quorum, a majority of the members present may by resolution adjourn the meeting. At any duly adjourned meeting at which a quorum is present any business may be transacted which might have been transacted at the meeting originally called.

#### 4.11 Organization

At each meeting of the Board of Directors, the Chairman of the Board shall act as Chairman thereof, or, in case of his or her absence, the Vice-Chairman.

#### 4.12 Voting

At all meetings of the Board of Directors, except as otherwise expressly required by these Bylaws, all matters shall be decided by the vote of a majority of the Directors present at the meeting.

#### 4.13 Action by Board of Directors Without a Meeting or By Telephone

Any action required or permitted to be taken by the Board of Directors may be taken without a meeting if a majority of the Directors shall individually or collectively consent in writing (including via electronic mail) to the action. The written consent or consents shall be filed with the minutes of the proceedings of the Board, and the action taken shall have the same force and effect as a vote of the Directors. Meetings may also be held by telephone conference call.

#### 4.14 Committees

The Board of Directors from time to time may, by resolution adopted by a majority of the whole Board of Directors, establish committees, which shall have such duties and the members of which shall hold office for such periods as the Board of Directors from time to time may determine. The rules of procedure of such committees shall be determined from time to time by the Board of Directors, or, if authorized by the Board of Directors, by the respective committees. Any such committee may be abolished or any member thereof removed, with or without cause, at any time by the Board of Directors.



## Article 5: Officers

### 5.01 Titles and Qualifications

The officers of the Corporation shall consist of a Chairman of the Board, a Vice-Chairman, a President, a Secretary, a Treasurer, and such other officers as the Board may from time to time designate. Any person may hold more than one office of the Corporation concurrently, except that the offices of President and Treasurer must be held by different persons.

### 5.02 Appointment and Term of Office

The Officers of the Corporation shall be elected each year by the Board of Directors at its annual meeting. Unless an officer resigns, dies or is removed prior thereto, he or she shall hold office until his or her successor has been chosen and qualified.

### 5.03 Resignation

Any Officer may resign at any time by delivering a written resignation to the Chairman of the Board or the Secretary. The acceptance of any such resignation, unless required by the terms thereof, shall not be necessary to make the same effective.

### 5.04 Removal

Any Officer may be removed at any time, with or without cause, by absolute majority vote of the Directors at a duly held meeting of the board, a quorum being assembled. Proper notice specifying the grounds for proposed removal shall be given prior to any meeting of the Board of Directors at which such removal shall be considered.

### 5.05 Vacancies

Any vacancy in an office may be filled for the unexpired portion of the term by the Board of Directors.

### 5.06 Chairman of the Board

The Chairman of the Board shall preside at all meetings of the Board of Directors of the Corporation, and shall have such other powers and duties not inconsistent with these Bylaws as may be assigned from time to time by the Board of Directors.

### 5.07 Vice-Chairman of the Board

The Vice-Chairman of the Board shall preside at meetings of the Board of Directors of the Corporation in the absence of the Chairman, shall perform such other duties as assigned by the Chairman, and shall perform such other duties not inconsistent with these Bylaws as may be assigned from time to time by the Board of Directors.

### 5.08 President

The President shall be the chief executive officer of the Corporation, shall supervise all of the affairs of the Corporation in accordance with policies and directives approved by the Board of Directors, and shall perform such other duties as the Board of Directors may from time to time proscribe. The President may be a member of the Board of Directors.

### 5.09 Secretary

The Secretary shall have the general powers and duties usually vested in the Office of Secretary of a corporation and shall have such other powers and duties not inconsistent with these Bylaws as may be assigned to him or her from time to time by the Board of Directors, including the powers and duties to (i) be custodian of all records, documents and the seal of the Corporation which are to be kept at the principal office of the Corporation; (ii) affix the Corporation's seal to any instrument requiring it and to attest the same by his or her signature when authorized by the Board of Directors or when such instrument shall first have been signed by the Chairman or other duly authorized officer or agent; (iii) keep the minutes of the Board of Directors' meetings and the Executive, and other committee meetings of the Corporation to be recorded in one or more books provided for that purpose, with the time and place of the holding of such meetings, how they were called or authorized, the notice given thereof, the names of those present, and the proceedings thereof indicated in the record; and (iv) provide that proper notices are given in accordance with the provision of these Bylaws.

### 5.10 Treasurer

The Treasurer shall be responsible for all funds and securities of the Corporation and shall have the general powers and duties usually vested in the Office of Treasurer of a corporation and shall have such other powers and duties not inconsistent with these Bylaws as may be assigned to him or her from time to time by the Board of Directors, including the powers and duties to (i) act for, receive and give receipt for monies due and payable to the Corporation; (ii) deposit all monies received in the name of the Corporation in such banks, trust companies or other depositories as from time to time may be designated by the Board of Directors; (iii) have charge of the disbursement of monies of the Corporation in accordance with the directions of the Board of Directors; (iv) enter or cause to be entered regularly in the books to be kept by the Treasurer or under his or her direction for that purpose a complete and correct account of all monies received and disbursed by the Corporation; (v) render a statement of the financial accounts of the Corporation to the Board of Directors at such times as may be requested; and (vi) exhibit the books of account of the Corporation and all securities, vouchers, papers and documents of the Corporation in his or her custody to any member or designee of the Board of Directors upon request.

## 5.11 Records

There shall be maintained at the principal office of the Corporation all financial books and records of account, all minutes of the Board of Directors' meetings and other committee meetings of the Corporation, and copies of all other material Corporation records, books, documents and contracts shall be made available for inspection at any reasonable time during usual business hours by any Director of the Corporation, or duly authorized representative thereof, for any lawful purpose. Upon leaving office, each Officer or agent of the Corporation shall turn over to his or her successor in good order, such Corporation monies, books, records, minutes, lists, documents, contracts or other property of the Corporation as have been in the custody of such Officer or agent during his or her term of office.

## Article 6: Property, Deposits, Checks, Loans, Contracts

### 6.01 Title

The title to all property and equipment shall be vested in the name of the Corporation and shall be accounted for by the Treasurer.

### 6.02 Deposit of Funds

All funds of the Corporation not otherwise employed shall be deposited in such banks, trust companies, or other reliable depositories as the Board of Directors from time to time may determine.

### 6.03 Checks, etc.

All checks over \$5,000.00 shall be signed by the Treasurer and either the Chairman or President, or any other individual so authorized by the Board of Directors by resolution.

### 6.04 Loans

No loans or advances shall be contracted on behalf of the Corporation, and no note or other evidence of indebtedness shall be issued in its name, unless and except as authorized by the Board of Directors. Any such authorization shall relate to specific transactions, and may include authorization to pledge, as security for loans or advances so authorized, any and all securities and other personal property at any time held by the Corporation.

### 6.05 Contracts

The Chairman, President, or any other officer specifically authorized by the Board of Directors, may, in the name of and on behalf of the Corporation, enter into those contracts or execute and deliver those instruments that are specifically authorized by the Board of Directors. Without the express and specific authorization of the Board of Directors, no Officer or other agent of the Corporation may enter into any contract or execute and deliver any instrument in the name of and on behalf of the Corporation.

## Article 7: Compensation of and Contracts With Directors and Officers

### 7.01 Compensation of Directors and Officers

The Directors of the Corporation shall serve as such without salary, but the Board of Directors may authorize the payment by the Corporation of the reasonable expenses incurred by the Directors and officers in the performance of their duties and or reasonable compensation for special services rendered by any Director. Except as provided in this section, no Director or Officer of the Corporation shall receive, directly or indirectly, any salary, compensation or gift from the Corporation unless specifically authorized by the Board of Directors.

### 7.02 Contracts With Directors or Officers

No Director or Officer of the Corporation shall be interested, directly or indirectly, in any contract relating to the operations conducted by it, nor in any contract for furnishing services or supplies to it unless approved by the Board of Directors. All Directors and Officers shall have an affirmative responsibility to disclose any potential interest to the full Board of Directors.

## Article 8: Indemnification of Directors and Officers

### 8.01 Indemnification

Any person (and the heirs, executors and administrators of such person) made or threatened to be made a party to any action, suit or proceeding by reason of the fact that he or she is or was a Director or Officer of the Corporation shall be indemnified by the Corporation against any and all liability and the reasonable expenses, including attorneys' fees and disbursements, incurred by him or her (or by his or her heirs, executors or administrators) in connection with any appearance therein, except in relation to matters as to which it shall be adjudged in such action, suit or proceeding that such Director or Officer is liable for negligence or misconduct in the performance of his or her duties. Such rights of indemnification shall not be deemed exclusive of any other rights to which such Director or Officer (or such heirs, executors or administrators) may be entitled apart from the Article.

### 8.02 Insurance and Other Indemnification

The Board of Directors shall have the power to (i) purchase and maintain, at the Corporation's expense, insurance on behalf of the Corporation and on behalf of others to the extent that power to do so has been or may be granted by statute, and (ii) give other indemnification to the extent permitted by law.

## Article 9: Non-Profit Status and Dissolution of The Corporation

### 9.01 No Earnings to Inure to Private Persons

No part of the net earnings of the Corporation shall inure to the benefit of, nor be distributable to any Director or Officer of the Corporation or any other private individual, except that the Corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth above.

### 9.02 Dissolution

If for any reason the Corporation is to be dissolved or otherwise terminated, no part of the property of the Corporation or any of the proceeds shall be distributed to or inure to the benefit of the directors of the Corporation. Assets shall be distributed for one or more exempt purposes within the meaning of section 501(c)(3) of the Internal Revenue Code. Any such assets not so disposed of shall be disposed of by a court of competent jurisdiction of the county in which the principal office of the corporation is then located, exclusively for such purposes or to such organizations as said court shall determine, which are organized exclusively for one or more exempt purposes within the meaning of section 501(c)(3) of the Internal Revenue Code.

## Article 10: Adoption and Amendment of Bylaws

### 10.01 Adoption

These Bylaws shall be effective upon their approval by two-thirds (2/3) of the Directors of the entire Board at any regularly scheduled meeting.

### 10.02 Amendment

These Bylaws may be altered, amended or repealed and new Bylaws may be adopted by two-thirds (2/3) of the Directors of the entire Board of Directors, provided that written notice of such meetings, setting forth in detail the proposed revisions with explanations therefore, be given not less than seven (7) days prior to such meeting.

## Article 11: Miscellaneous

### 11.01 Fiscal Year

The fiscal year of the Corporation shall begin on July 1st of each year and shall end on June 30th.

### 11.02 Construction

Whenever the context so requires, the masculine shall include the feminine and neuter, and the singular shall include the plural, and conversely. If any portion of these Bylaws shall be invalid or inoperative, then so far as is reasonable and possible:

- A. The remainder of these Bylaws shall be considered valid and operative; and
- B. Effect shall be given to the intent manifested by the portion held invalid or inoperative

## Secretary's Certification

I, Louise Chapman, Secretary of Friends of SWS Inc. (the "Corporation"), DO HEREBY CERTIFY that the foregoing is a true and correct copy of the Corporation's Bylaws as adopted by the Board of Directors of the Corporation on May 22, 2012.

IN WITNESS THEREOF, I have hereunto set my hand this 22nd day of May, 2012.

/s \_\_\_\_\_

Signature

## Appendix G – Minutes of Organizational Meeting of Friends of SWS, Inc.

The following were unanimously elected to the Board of Directors of the Corporation:

**Nathan A. Darling**  
**Julia A. Noonan**  
**Natalie Cole**  
**M. Louise Chapman**

The following were unanimously elected as the officers of the Corporation:

**Chairman of the Board** – Nathan Darling  
**Vice-Chairman of the Board** – Julia Noonan  
**President** – John Burst  
**Secretary** - Louise Chapman  
**Treasurer** – Sonja Schulken

The chairman announced that the Articles of Incorporation of the Corporation had been approved by the District of Columbia. He presented to the meeting a certified copy of the Articles of Incorporation, and thereupon the following resolutions were offered, seconded and unanimously adopted:

**RESOLVED**, that the approved Articles of Incorporation are hereby accepted by the Directors and that a certified copy of the Articles be annexed to the minutes of this meeting and made a part of the records of the Corporation.

The Chairman then presented to the meeting the Bylaws for the conduct and regulation of the business and affairs of the Corporation. The Bylaws were read and the following resolutions were offered, seconded and unanimously adopted:

**RESOLVED**, that the Bylaws submitted to and read at this meeting of the Directors of the Corporation be and the same are hereby declared to be the Bylaws of this Corporation.

**RESOLVED**, that the Secretary of this meeting be instructed and he is hereby instructed to cause the Bylaws referred to in the foregoing resolution to be annexed to the minutes of this meeting and made a part of the records of the Corporation.

The following resolutions were offered, seconded and unanimously adopted:

### Bank Account

WHEREAS, the opening of a bank account for the use of this Corporation is deemed advisable.

**RESOLVED**, That this Corporation shall establish a bank account with the National Capital Bank and that all checks written on the Corporation's bank account must be signed by two of the officers of the Corporation. The five officers of the Corporation, as set out above, shall immediately file signature cards for the Corporation's bank account with the National Capital Bank.

### Application for 501(c)(3) Status

**RESOLVED**: That the Officers of the Corporation are authorized to submit an application to the Internal Revenue Service on behalf of the Corporation for certification as a 501(C) non-profit corporation.

### General Authority

**RESOLVED**, that any and all actions heretofore or hereafter taken by the officers of this Corporation within the terms or in furtherance of any of the foregoing resolutions be, and hereby are, ratified and confirmed as the act and deed of this Corporation; and

**RESOLVED FURTHER**, that each of the officers and directors of this Corporation be, and hereby is, authorized and directed to execute and deliver any and all agreements, instruments, certificates or documents, and to take such other action as he or she deems necessary, advisable or appropriate, to carry out the purposes and intent of the foregoing resolutions; and the execution by such officers or directors of any documents or the performing by such officers or directors of any act or thing in connection with the foregoing matters shall conclusively establish such authority therefore from this Corporation and the approval and ratification of this Corporation of the documents so executed and the actions so taken.

### Organization Expenses

WHEREAS, it is necessary to make provisions to pay all expenses and reimburse all persons for expenditures made in connection with the organization of this Corporation.

**RESOLVED**, that the Treasurer of this Corporation be, and hereby is, authorized to pay all charges and expenses incident to or arising out of the organization of this Corporation and to reimburse the persons who have made any disbursements therefore.

### Legal Representation

The President of this Corporation is authorized to enter into a retainer agreement with the Van Ness Feldman, P.C. law firm, or other law firm approved by the Board of Directors, to provide all necessary legal services to the Corporation, subject to the availability of funds.

### Accounting Representation

The President of this Corporation is authorized to enter into a retainer agreement with the accounting firm of Brian Davis, CPA, PLLC, or other accounting firm approved by the Board of Directors, to provide all necessary accounting services to the Corporation, subject to the availability of funds.

There being no further business of the Company, the meeting was adjourned.

Approved, this the 22nd day of May, 2012.

/s \_\_\_\_\_

Secretary



**WASHINGTON  
LAWYERS'  
COMMITTEE**

**FOR CIVIL RIGHTS & URBAN AFFAIRS**