

**American Professional Society
on the Abuse of Children**



**State Chapter
Guidebook**

As Amended: 1/28/2013

APSAC State Chapter Guidebook

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I. Introduction

A. APSAC's Mission

The mission of APSAC is to improve society's response to the abuse and neglect of its children by promoting effective interdisciplinary approaches to the identification, intervention, treatment, and prevention of child maltreatment.

State chapters play a crucial role in the fulfillment of APSAC's mission. Chapters provide an opportunity for the professionals who work in the same state to meet, share ideas and experiences, develop strategies for improving professional services to clients in their state, influence public policy, and educate the public, other professionals, and policy makers about child maltreatment.

Chapters engage in a variety of activities, including:

- Publishing newsletters
- Sponsoring conferences and training seminars
- Evaluating public policy
- Educating members of the media, legislators, and policymakers
- Convening interest groups and task forces
- Cooperating with other organizations that respond to child maltreatment

Chapters are very important to the national organization. State chapter coordinators and officers are an important conduit of information between the national staff and Board, and APSAC members at the local and regional level. APSAC Board and staff look to state chapter coordinators for nominations for Board elections and awards, for suggestions for the direction of the organization (e.g., new task forces, membership benefits, and issues to address), for feedback on ideas emanating from the Board, and for help getting information out to members. Without the energetic activity of state chapters, APSAC's work would proceed much more slowly.

- B. **The purpose of these State Chapter Guidelines** is to clarify and ease the process of becoming chartered, incorporated, and affiliated--that is, becoming a full-fledged APSAC State Chapter.

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II. Structure and Function of State Chapters

- A. **Define.** State chapters are independent, incorporated entities which are formally affiliated with the American Professional Society on the Abuse of Children. Each chapter is governed by its own Board of Directors and officers, operating in accordance with its Bylaws, the Bylaws of APSAC, and the laws of the state in which it is incorporated.
- B. **Membership.** A minimum of eight APSAC members is required for the formation of a chapter. With a few exceptions, chapters are organized state by state. (Some smaller states may join to form a regional chapter, as in northern New England.) Chapters in large states or with large numbers of members may develop regional or metropolitan councils which work in conjunction with the state chapter.
- C. **APSAC membership** is a prerequisite of chapter membership; however, APSAC members are not required to be members in their state or regional chapter. States may elect to have chapter members who are not APSAC members, however, these chapter members will not have the rights and privileges afforded members of APSAC.
- D. **Terms**
1. **Chartered.** APSAC "charters" chapters when they have achieved the initial organizational goals of forming a planning Board and collecting 8 signatures of members in good standing who support the development of a chapter. Chapters must incorporate and affiliate within one year of being chartered.
 2. **Incorporated.** Corporations are legal entities separate and distinct from their officers, directors, and members. As long as they follow the procedures articulated in the corporation's Bylaws, the individuals managing the chapter's activities generally will not be held responsible for debts or other liabilities of the corporation. All APSAC chapters must be incorporated according to the laws of their states within one year of being chartered by APSAC.
 3. **Affiliated.** As soon as chapters are incorporated, they must formalize their affiliation with APSAC by signing the State Chapter Agreement, which articulates APSAC's and the chapters' mutual responsibilities and is valid for 3 years. A copy of this agreement is provided in the Appendix.

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III. APSAC's Responsibility to State Chapters

- A. **APSAC agrees** to provide guidance in preparing and filing corporate documents, including Bylaws, articles of incorporation, and the application for federal tax exemption - 501 (C)(3) status.
- B. **APSAC agrees** to assist chapters financially by budgeting funds to be used for new chapter startup grants (maximum of \$1,000) and chapter activity grant requests (based on a formula of \$15.00/APSAC member per year). The templates for these grant requests are available on the APSAC website under the State Chapter tab.
- C. **APSAC agrees** to provide ongoing consultation with national staff individually and in teleconferences regarding program development, fundraising, marketing, and organizational development.
- D. **APSAC agrees** to provide an annual seminar for training in organizational development and for networking with other chapter leaders and national leaders.
- E. **APSAC agrees** to provide a State Chapter tab on the APSAC website where chapters can post upcoming events, news about members, contact information, fundraising information, etc.
- F. **APSAC agrees** to provide the ongoing opportunity to influence the national organization's agenda, and early information about new initiatives by the national Board of Directors.
- G. **APSAC agrees** to provide updated membership information, including lists of current members, new members, and lapsed members; membership lists sorted by profession; and mailing labels for all or any portion of the state membership (available at the members only tab at www.APSAC.org)
- H. **APSAC agrees** to provide a quarterly section of *The APSAC Advisor* in which chapters can publicize their activities. The APSAC website also is available for chapters to list events and news of their activities.
- I. **APSAC agrees** to provide APSAC publications that can be sold at chapter events.
- J. **APSAC agrees** to provide brochures to help in promoting chapter membership.

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IV. Chapters Responsibility to APSAC

- A. **Chapters agree** to sign the Affiliation Agreement with APSAC (See Appendix E, also there is a pdf located on the APSAC website under the State Chapter tab)
- B. **Chapters agree** to act in accordance with the purpose and goals of APSAC, the APSAC Bylaws, the Bylaws of the chapter, and the laws of the states in which they are incorporated.
- C. **Chapters agree** to incorporate APSAC's name in the name of the chapter. (Either, for example, "State Professional Society on the Abuse of Children (SPSAC)" or American Professional Society on the Abuse of Children - State."
- D. **Chapters agree** to use the APSAC logo and standard disclaimers on materials and correspondence.
- E. **Chapters agree** to have elected officers with terms and regular elections and to abide by corporate formalities.
- F. **Chapters agree** to communicate regularly with the national office, filing yearly reports on goals and activities, and articulating their needs.
- G. **Chapters agree** to maintain a bank account in the chapter's name, to keep chapter and personal funds strictly separate, and to file an annual financial report with the national office on the annual report form provided.
- H. **Chapters agree** to hold an annual meeting comprised of a business meeting and a program with educational content.
- I. **Chapters agree** to keep minutes of annual membership meetings, meetings of the Executive Committee (if one exists) and meetings of the Board of Directors.
- J. **Chapters agree** to fulfill in a systematic fashion the critical functions of financial oversight, membership recruitment and retention, program development and Board candidate selection.
- K. **Chapters agree**, after their first year of formal affiliation to communicate with their members at least quarterly, through a newsletter, letter, website announcements, etc.

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V. How To Organize A New Chapter

Benefits of organizing a chapter

Organizational benefits

As a membership organization, APSAC recognizes the importance of its role in promoting its mission with a strong, diverse membership. State chapters provide important capacities for the organization and its members, but as a federally recognized non-profit, APSAC has special responsibilities to retain its tax-exempt status. Under these federal rules, APSAC cannot disburse funds directly to members. State chapters that become incorporated and independent 501(c) (3) corporations, however, can receive state chapter grants from APSAC to further member activities

External Benefits

Forming a separate APSAC state chapter corporate structure with tax-exempt/tax-deductible status confers many benefits. For example, when individuals act collectively to perform certain actions, such as hosting a seminar or symposium, those individuals may be considered personally liable for any consequences that result, such as unpaid debts or personal injuries due to accidents. If those same individuals form a corporate structure to perform those acts on behalf of the corporation, their personal liability may be limited. Also, when the corporation meets the IRS requirements, it can provide tax deductions to anyone who wishes to contribute to the organization. Many states also allow not-for-profit organizations to secure sales tax exemptions for purchases such as office supplies or similar items.

The benefits of forming a state APSAC chapter are especially significant when the local APSAC members act collectively on a frequent basis to perform actions within the state.

A. Who may organize a chapter?

Any APSAC member in good standing who lives in or has his or her primary professional activity in a particular state may be chosen to begin organizing the chapter. Two or three members working as a team can be very effective in the initial organizing phase.

B. The First Step – Petition and Organizational Meeting

1. Circulating a petition asking for chapter affiliation. Eight APSAC members in good standing must sign the petition. In addition to the signatures collected at the meeting, other members may return their signatures to the petition by mail.

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2. At least six weeks in advance, notify everyone on the state membership list located in the Members Only Directory at www.APSAC.org of the time, date and place of the organizing meeting.
3. Provide a way for those who cannot attend the meeting to offer their input and be part of the organizing petition. Some states have given absentees a "Member Information Sheet," on which members can RSVP, indicate their areas of interest, help you devise an agenda for the organizational meeting, and provide signatures for the organizing petition (see Appendix C).
4. Chapter dues. Dues to join the state chapter for APSAC members are not necessary. Some chapters do solicit dues from members, generally in the range of \$10 - \$15 per year and not to exceed \$30.00. However, some states do not collect dues from APSAC members but have a separate category of membership for those individuals who do not belong to APSAC, yet desire to assist the state chapter in their activities. These individuals may be asked to pay membership dues to the state chapter not to exceed \$30.00 per year. Chapters are responsible for collecting these dues.
5. Founding member status. Some chapters invite people to become "founding members" of the chapter by paying a little extra and/or joining by a particular time. Founding members can be listed in the first issues of the chapter's newsletter. Offering founding member status can be a way to maximize peoples' sense of commitment to the chapter.

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6. Set a date and establish a location for an organizing meeting. This meeting should be held within three months of signing the statement of intent. Be sure to allow adequate time (at least two hours) to discuss your chapter's goals and organization and to elect a planning (or "interim") Board. Ideally, the meeting should be held in a central location within the state. If a conference or other professional meeting is being held in your state in the near future, you may want to schedule the organizational meeting to coincide, so the maximum number of professionals can attend. Each organizational meeting is different. Your agenda will reflect the concerns and needs of the members in your state. However, each meeting should include the following:
 - Electing a planning Board. A planning Board leads the organization through the start-up phase to the first formal Board election. Often the planning Board includes the member(s) who called the meeting. This Board should include a President, Vice-President, Secretary, Treasurer and a few members at large. Some organizations also include a Second Vice-President. A planning Board may include five to fifteen people who are willing to play an especially active role in getting a state chapter off the ground.
 - Setting goals. Setting goals keeps the chapter development on task. During the first meeting, you may want to set such first-year goals as a date by which to submit your application for formal affiliation with APSAC, substantive issues to address first and how to address them (e.g., through committee, task force, or other agency), or the number of chapter members to enroll by year's end. It is also a good idea to set a time for the next meeting of the Board of Directors, and specific tasks to be accomplished for that meeting.
 - Finding a *pro bono* corporate attorney. Every non-profit corporation needs access to low-cost legal counsel for assistance in drafting Bylaws, filing incorporation papers, and handling miscellaneous legal questions as they arise. Most APSAC chapters are fortunate enough to have the involvement of litigators whose expertise is child maltreatment. Valuable as these attorneys are to the chapter, they cannot provide the legal counsel chapters need for corporate matters.

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- You need an attorney with expertise in the corporate law of your state and, ideally, with expertise in non-profit corporations. The first place to look for such an attorney is among the contacts of APSAC members in your state. If APSAC members in your state do not have contacts with any corporate attorneys who are willing to donate some time to the organization, your state or local bar associations should be able to refer you to corporate attorneys who are willing to do pro bono work. It is never too soon to begin looking for the sympathetic attorney who will kindly lend a hand in the chapter's progress.

7. When the planning Board is in place and at least eight signatures have been collected on the petition, the chapter can be chartered. The President of the planning Board writes a brief cover letter to APSAC requesting recognition as a state chapter. With this should be included the petition(s) and the names of the planning officers and Board. When the signatures are confirmed the charter is approved. Chapters will then need to sign an affiliation agreement.

C. **Becoming Chartered**

When chapters are chartered, APSAC staff and other chapter leaders will provide guidance through the process of incorporation and affiliation. Appendices C and D provide sample Bylaws as well as advice on how to begin the process of incorporation.

D. **Becoming Incorporated and Affiliated**

Once incorporated, the Board of Directors holds what is called a "First Meeting" to transact the initial business of the corporation. Such initial business includes the adoption of Bylaws, the election of officers, the establishment of a bank account, and the adoption of the Affiliation Agreement between the chapter and APSAC. The Affiliation Agreement is attached to the guidelines (Appendix E).

E. **Filing for Federal Tax Exemption: 501(C) (3)**

Federal tax exemption is advantageous for several reasons. In addition to the potential federal and state tax savings, 501(c) (3) status confers eligibility for many foundation and corporate grants, confers eligibility for reduced postage rates, and allows contributors to deduct contributions from their income taxes. A summary of what is required can be found in Appendix H, "Non-Profit Corporate Status: An Overview."

F. **Getting Real Work Done and Having Fun**

You didn't decide to organize an APSAC chapter in order to learn corporate niceties or study abstruse legal documents. You wanted to work with your colleagues to address the problems faced by professionals in the field of child maltreatment, and to find better ways to work together to serve clients. Drudgery is involved in the initial stages of chapter development; there's no denying it. All lasting organizations are built on a firm corporate basis, and building that basis is part of the inescapable initial work for chapter leaders. This early corporation building, however, should not overshadow or stymie your efforts to address the substantive issues that concern you as leaders in the field of child maltreatment. Divide up the work; give plenty of support and recognition to those who shoulder the less fun aspects of building the organization; and don't get bogged down. If you pursue your substantive goals from the outset, the corporation building will take on its proper perspective as the firm launching pad from which you can achieve your heartfelt aims.

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- A. Organizational timeline
- B. Job descriptions for officers, major committee chairs and board of directors
- C. Sample letters
 - 1. Letter calling an organizational meeting.
 - 2. Sample petition forms (A and B).
 - 3. Member Information sheet
 - 4. Sample agenda for a chapter organizational meeting.
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APPENDIX A Organizational Timeline

Month One	Gather an organizing team.
Month Two	Sign statement of intent
Month Three	Pick site and time for organizing meeting.
Month Four	Invite all APSAC members in the state to the meeting to help formulate a State Chapter.
Month Five	Hold organizational meeting. Select an interim board and appoint interim officers. Look for a <i>pro bono</i> corporate attorney who can help you prepare Bylaws and other corporate documents. Many state and local bar associations have lists of attorneys who provide <i>pro bono</i> counsel.
Month Six	Collect 8 signatures on petition in person and by mail Notify APSAC of intent to become recognized as a chartered APSAC State Chapter.
Month Seven	Complete documents necessary to become incorporated as a 501(3)(c) organization. Work with <i>pro bono</i> corporate attorney to tailor Bylaws and Articles of Incorporation to your state's statute
Month Eight	Complete APSAC State Chapter Agreement (available at www.APSAC.org); Request the need for startup funds from APSAC State Chapter Committee (maximum \$1,000.00).
Month Nine	Open a bank account in the State Chapter's name.
Month Ten to Twelve Months	Hold formal Board of Directors meeting to adopt Bylaws; nominate and elect officers; adopt the State Chapter Agreement; set first general membership meeting; notify APSAC members of State Chapter formation and invite them to attend general membership meeting (may be conducted in conjunction with training seminar or at a related conference).

APPENDIX B Job Descriptions

In selecting officers and members of the Board, State Chapters should take steps to ensure that there is a fair representation of disciplines, geographic areas, ethnic groups and gender.

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Liability

Generally, State Chapter Directors, officers, employees, and members are not personally liable for corporate debts. In a few situations, however, people involved with a nonprofit corporation may be personally liable for the corporation's debts. For example, corporate directors and officers owe the corporation a duty to act in its best interest. If, because of a breach of this duty, they cause financial harm to the corporation, a court may hold them personally liable for any loss sustained by the corporation. If the directors and officers of a corporation do not observe "corporate formalities" – i.e., operate according to its Bylaws, hold director meetings, keep minutes of meetings, keep corporate funds separate from the personal funds of those in charge – a court may disregard the corporate entity and hold such persons personally liable for corporate debt.

Job Descriptions

All officers and Board members should:

- Know the current national and State Chapter policies, including the Articles of Incorporation and Bylaws.
- Keep accurate minutes of Board meetings, including vote counts. Note that minutes are not a verbatim transcript of the discussion held. They indicate discussions held and decisions made.
- Develop a written procedure for approving expenditures. Provide for steps in your financial system to avoid misuse or mismanagement of funds.
- Ensure that all reports necessary are filed with APSAC's national office and with any state and /or local agencies that require them.
- Consult a corporate attorney on legal matters.
- Both to improve efficiency and to guard against liability problems, every officer should be clear about his or her responsibilities. To lessen the workload of any individual, these responsibilities can be shared, either with members of a committee assigned to address them or with additional officers (e.g. assistant secretary).

Board Members

- Determine the chapter's goals, objectives and activities, in a manner consistent with effective organizational planning.
- In many organizations the leadership of both the standing and the ad hoc committees comes from the at-large Board members. Whether or not they are Board members,

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chairs of committees must report directly and regularly to the Board of Directors. The functions below are critical to the organization.

- Committees
 - Program Committee
 - Nominating Committee
 - Membership Committee
 - Finance Committee

President

The President does the following:

- Is the State Chapter's chief operating officer and generally responsible for managing all chapter activities. The president is guided in decision by the Board of Directors and the membership.
- Oversees all chapter objectives, projects, and task force activities.
- Presides at all Board meetings and general meetings of the membership.
- Coordinates all chapter activities with the national organization's activities and objectives.
- Coordinates annual reporting to the national organization.
- Approves all disbursements consistent with the operating budget.
- Appoint regular and ad hoc committee members
- Act as the State Chapter liaison to other organizations and to the national organization.
- Review and revise by-laws, policies and procedures as needed.

Vice President

The role can take on various forms. In some organizations, the vice-president is the president-elect. Others make this officer the ex officio head of a major committee, such as

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Program or Membership. Some organizations choose to have a second vice-president as well.

The Vice President does the following:

- Acts in the capacity of the president at Board of Director meetings and general meetings when the president is absent.
- Attends meetings and act as a liaison for the chapter when the president is unable.
- Be delegated responsibility by the president at the president's discretion.
- Is responsible for the safekeeping, recording and disbursement of all chapter funds in accordance with the established policies, Board direction and the annual operating budget.
- Delegate planning of specific programs and evaluate progress and completion.
- Ensure that the chapter has adequate resources and develop a fundraising plan.
- Work to enhance the chapter's public image.
- Reports annually to the chapter Board regarding the activity of the committee.
- Evaluates the performance of the Board.

Treasurer

The Treasurer does the following:

- Chairs the Finance Committee
- Establishes and maintains the chapter checking account.
- Manage the resources effectively through oversight of annual budget and periodic financial reports.
- Issues all checks for budgeted expenditures and/or expenditures approved by the Board. Forwards these to president for signature.

The **Treasurer** can also do the following:

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- Prepares an annual budget and submits it to the Board.
- Chair a major standing committee.
- Is responsible for maintaining all chapter records and communicating data to the appropriate members and also to the national organization.
- Is familiar with and observes the record retention policy established by the chapter Board.
- Makes quarterly and annual reports to the Board on committee goals and achievements.
- Records and publishes minutes from all Board and general meetings in a timely manner.
- Oversees and directs all chapter efforts to increase membership.
- Prepares financial reports and submits them to the Board at each meeting.

Secretary

The Secretary does the following:

- Keeps records of all receipts and disbursements in a way consistent with appropriate accounting standards.
- Maintains a file of all committee reports and minutes and all publications and communications of the chapter.
- Acts as liaison to the national office in coordinating membership efforts.
- Prepares annual report and submits it to the national organization.
- Reports quarterly to the chapter Board about goals and achievements.
- Chair a major standing committee.
- Is familiar with and observes the record retention policy established by the chapter board.
- Be responsible for the ordering, inventory, and accounting for merchandise and

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publications sold by the chapter.

- Oversees and directs process of nominating new professionals to stand for election to the chapter Board.
- Maintain a database of all members.
- Order and maintain all supplies, such as stationery, labels, etc.
- Keeps records of all nominations and elections.

APPENDIX C Sample letters for organizing a state chapter

1. Sample Intent to organize letter

Dear :

We are happy to announce that we are forming a state chapter of the American Professional Society of the Abuse of Children. We think a state chapter of APSAC can help [state name] professionals in several ways:

- It can help us meet each other to form a statewide professional network for within discipline and cross-discipline referrals and consultation.
- It can provide a system through which we can share information about local and statewide developments in the field, and a base from which to respond to those developments.
- It can provide a forum in which we can articulate our professional training and information needs and devise means to meet them.
- It can give us an organized, local link with the national organization.

We are calling an organizing meeting to establish an APSAC state chapter on [day, month, year], to be held at [address, city, state] from [time].

At this critical organizational meeting, we will: (1) review the steps in chapter organization; (2) sign the petition for recognition as a chapter; (3) set goals for our first year of operation; (4) discuss chapter dues; (5) hold elections for interim officers; and (6) establish the chapter's first committees.

To help us assess your interests as we plan for the organizational meeting, please fill out the enclosed "Member Information Sheet" and return it to us at the address below. If you cannot attend the meeting but wish to be involved, please sign and return the "Petition in Support of an APSAC Chapter" as well.

If you have questions or particular interests you wish to discuss before the meeting, or if you wish to serve on the Board or on a committee, please call us at the numbers below. We are excited about getting an APSAC chapter started in [state], and hope you will help shape the chapter's goals at this early stage. We look forward to talking with you soon.

Sincerely,

Chapter organizers, with addresses and phones

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2. Sample Agenda for organizational meeting

AGENDA FOR ORGANIZING MEETING [STATE] CHAPTER OF THE AMERICAN PROFESSIONAL SOCIETY ON THE ABUSE OF CHILDREN

Date:

Time:

Location:

Sample Agenda for organizing meeting

10 - 20 minutes	Introduction of organizing committee and of attendees
20 - 30 minutes	Discussion of reasons for organizing a state chapter
20 - 30 minutes	Review of procedures for chapter organization.
10-20 minutes	Circulate petition
30 - 40 minutes	Signing of petition for recognition as chapter
10 - 20 minutes	Goal setting for the first year
10 - 20 minutes	Elections of planning Board (e.g., President, one or two Vice Presidents, Secretary, Treasurer, one or two members at large)
20 - 30 minutes	Establishment of initial committees (e.g., Finance, Membership, Organizing)
10 - 20 minutes	Setting tasks and date for next Board meeting

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3. Sample Petition A

This form can be sent to members who are not able to attend the organizational meeting

PETITION IN SUPPORT OF DEVELOPMENT OF STATE CHAPTER OF THE AMERICAN PROFESSIONAL SOCIETY ON THE ABUSE OF CHILDREN

My signature below verifies that I am a member in good standing of the American Professional Society on the Abuse of Children, work or reside in the state of and affirmatively support the development of the Professional Society on the Abuse of Children.

NAME

DISCIPLINE AND TITLE

ADDRESS

TODAY'S DATE YEAR JOINED APSAC

SIGNATURE

THANK YOU FOR SHOWING YOUR SUPPORT.
PLEASE RETURN THIS FORM TO [NAME] AT [ADDRESS] BY [DATE].
WE LOOK FORWARD TO WORKING WITH YOU!

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4. Sample Petition B

The following form can be used at the organizational meeting.

PETITION IN SUPPORT OF DEVELOPMENT OF STATE CHAPTER OF THE AMERICAN PROFESSIONAL SOCIETY ON THE ABUSE OF CHILDREN

My signature below verifies that I am a member in good standing of the American Professional Society on the Abuse of Children, work or reside in the state of _____ and affirmatively support the development of the [State] Professional Society on the Abuse of Children.

DATE

NAME

DISCIPLINE

YEAR JOINED APSAC

SIGNATURE

5. Sample Member Information Sheet

MEMBER INFORMATION SHEET

Name:
(Last) (First) (initial)

Discipline and title:

Address:

Phone: Work () Home ()

Areas of specialization in child abuse and neglect:

Will you attend the organizing meeting? Yes ___ No ___

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Do you wish to serve on the chapter's Board of Directors? Yes _____ No _____

Please indicate committees that you would be willing to serve on:

Membership

Program

Publications

Nominating

Finance

Other (**please indicate**)

What tasks do you think the chapter should address?

(Please number in order of priority, with "1" highest.)

_____ Begin a newsletter

_____ Establish a legislature-watch

_____ Establish a task force (please indicate in what area:

_____ Establish a media relations effort.

Other:

6. Sample letter to recruit other professionals for chapter membership

Dear Colleague,

The American Professional Society on the Abuse of Children (APSAC) is a non-profit interdisciplinary organization incorporated in 1987 to foster research, develop guidelines for practice, facilitate information exchange, further professional education and provide encouragement for professionals in the field of child abuse and neglect. Several thousand members from all 50 states and several U.S. territories and other countries have joined in APSAC's effort to ensure that everyone affected by child maltreatment receives the best possible professional care.

The benefits of APSAC membership include APSAC's 40-page quarterly publication, The APSAC Advisor, and a subscription to the journal, Child Maltreatment. The APSAC Advisor is highly acclaimed as the field's most valuable quarterly newsletter, regularly delivering to APSAC's members substantive articles on practice issues in all of the different disciplines in the field. Child Maltreatment is a prestigious peer-reviewed research journal that helps bridge the gap between research and practice.

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In addition, APSAC members are encouraged to participate in any of many task forces which are formulating national interdisciplinary practice guidelines for different areas of practice (see the list in the enclosed brochure and flyer). Further, APSAC members receive substantial discounts on several national conferences and on training publications and audiotapes.

Perhaps most important, APSAC membership ensures your participation in a growing national network of professionals who, like you, are dedicated to advancing knowledge and improving professional practice in the field of child maltreatment.

By joining APSAC, you automatically become eligible to participate in our state chapter. As a member of you can participate in committees at the state and local level, interacting with other professionals throughout. [Here you can highlight other activities and goals of your state chapter.]

We would like to invite you to become a member of APSAC and of [If you are having an organizational meeting or another program, you can issue the invitation here.]

If you have any questions about APSAC, please feel free to call one of us for additional information. We look forward to your joining us in benefiting children

Sincerely

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7. Sample letter to recruit new APSAC members for chapter membership

Dear Colleague,

Congratulations on becoming a member of the American Professional Society on the Abuse of Children. You have just become a part of the country's only interdisciplinary organization dedicated to facilitating the exchange of information among professionals in the area of child maltreatment.

A group of APSAC members in have formed a state chapter to better address the issues affecting child abuse professionals locally. We hope you will join our effort. For more information please contact me. We look forward to working with you.

[Include the name of your Membership Committee chair.]

APPENDIX D Sample Chapter Bylaws

Memo written by APSAC's corporate counsel advising APSAC's chapters about the appropriate uses of the draft Bylaws

Because Bylaws must conform to the corporate law of the state in which the chapter is incorporated, Bylaws differ in some details (e.g., the range in the number of directors allowed, the number of directors or members required for a quorum, etc.) from state to state. Each state's corporate law is unique, so you need the assistance of an attorney familiar with the corporate law of your state to advise you in drafting your Bylaws. These Bylaws are included to demonstrate the issues usually covered by Bylaws and the language typical of Bylaws.

In addition to differences in Bylaws dictated by state statute, Bylaws may differ based on the wishes of the corporation's Board of Directors regarding the corporation's operation.

For example, Article V. Section 2 of APSAC's Bylaws (6/2008) governing the number, term of office, and election of Board members differs dramatically from section 5.2 of the sample Bylaws attached. APSAC's Bylaws allowed 30 to 35 Board members (vs. five to ten in the sample state chapter Bylaws); and APSAC's Bylaws state that Board members shall be elected for three-year terms (vs. concurrent one-year terms in the sample Bylaws). APSAC's Bylaws also allowed the Board of Directors to appoint up to 20% of its own members in any given year, to achieve diversity along the lines of discipline, area of expertise, gender, geography, and culture. Another difference is that APSAC's Bylaws added a section at Article V. Section 3, which allows for the election of Board members by mailed ballot, instead of at the annual meeting of members.

These differing sections are provided below for easy comparison.

APSAC's (June 21, 2008) Bylaws:

“Article 5 Section 2 Number and Term of Office. The affairs and general business of the Corporation shall be managed by a Board of not less than 30 and not more than 35 persons. The first Board of Directors shall be as designated in the Articles of Incorporation, and thereafter it shall be such number as shall have been last specified by resolution (if any) of the Board. The Directors shall be divided into three classes. Each class shall consist, as nearly as may be possible, of one-third (1/3) of the total number of Directors constituting the entire Board of Directors. Each year, Directors elected or appointed (as provided in Section 5.3) to succeed those whose terms expire shall be elected for a term of three years so that the term of office of one class of Directors shall expire in each year. Each Director shall begin his or her term of office on the first day of the fiscal year

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immediately following such Director's election and shall hold office for three full fiscal years and until his or her successor shall be elected or appointed and shall qualify, subject, however, to prior death, resignation, retirement, disqualification or removal from office.

If the number of Directors is changed, any increase or decrease shall be apportioned among the classes so as to maintain the number of Directors in each class as nearly equal as possible, but in no case shall a decrease in the number of Directors shorten the term of any incumbent Director.”

“Article V Section 3 Nomination and Election. During each fiscal year, the Board of Directors shall designate and appoint a Nomination Committee composed of the members of the Executive Committee then in office and not standing for reelection and at least five Members who are not Directors. The non-Director Members of such Nomination Committee shall be appointed for a term ending as of the end of such fiscal year. The Nomination Committee shall designate nominees for the Board of Directors positions held by Directors whose terms expire in such year. The Nomination Committee may consider geography, culture and fair representation of all relevant disciplines in its deliberations and selections.

The Board of Directors may appoint persons to fill up to and including 20 percent of the positions held by the Directors whose terms expire in such year. The remaining positions held by the Directors whose terms expire in such year shall be filled by the Members in accordance with the following procedures: Directors shall be elected by the affirmative vote of a majority of the votes (i) present and voted, either in person or by proxy, at a meeting at which a quorum is present or (ii) cast by mailed ballot in an election in which the number of votes equals or exceeds one-tenth (1/10) of the number of the votes entitled to vote on the election of Directors. Elections by mailed ballot shall be conducted in the following manner: A written ballot shall be delivered by mail to each Member entitled to vote on the election of Directors at such Member's address as shown by the records of the Corporation, not less than 20 nor more than 60 days before the date and time at which ballots will be counted.

Each written ballot shall (i) set forth the nominees and their proposed term of office, (ii) provide an opportunity to specify a choice of nominees and (iii) state the date on which the ballot must be received by the Corporation in order to be counted.

Written ballots are irrevocable once deposited in the United States mail addressed to the Corporation. All written ballots shall be filed with the Secretary and maintained in the records of the Corporation. The results of any election by mailed ballot shall be stated in the minutes of the next meeting of the Board of Directors and in the Corporation's next mailing to Members.”

Versus the sample Chapter Bylaws:

“Article V Section 2 Number, Term of Office and Election. The affairs and general business of the Corporation shall be managed by a Board of not less than five (5) and not

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more than ten (10) persons. The first Board of Directors shall be as designated in the Articles of Incorporation, and thereafter, it shall be such number as shall have been last specified by resolution (if any) of the Board; provided, however, that no decrease in the number of Directors shall shorten the term of any incumbent Director. At each annual meeting of Members, Directors shall be elected for concurrent one (1) year terms. A director shall hold office for the term for which elected and until his or her successor shall be elected and shall qualify, subject, however, to prior death, resignation, retirement, disqualification or removal from office.”

After Article V Section 3, APSAC's Bylaws address the same topics as the sample chapter Bylaws. APSAC's Bylaws are available to any member upon request.

Bylaws are the corporation's statement about how it will conduct business. As such, they are very important. They are not, however, cast in stone. Bylaws can be changed by the Board of Directors (but not by any subcommittee thereof) when the Board feels it is in the corporation's best interest to make such changes.

APSAC's own Board members and Executive Director are happy to confer with chapter leaders as you negotiate the process of Bylaws construction.

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MEMORANDUM

To: State Chapters of the American Professional Society on the Abuse of Children, Inc.

From: American Professional Society on the Abuse of Children, Inc.

Re: APSAC State Chapter Bylaws

Attached to this memorandum are model Bylaws derived from the Bylaws of the Illinois chapter of APSAC. Bylaws define the responsibilities of each of the officers of the corporation, establish decision-making procedures, designate Board and committee composition and address other fundamental issues of corporate governance.

The attached Bylaws are intended to be used by new APSAC chapters as a starting point for the preparation of their own Bylaws. These Bylaws should not be adopted by a state chapter without reviewing and revising them, as necessary, to conform to its respective state's nonprofit corporation law. Because state laws vary, each chapter should consult its own legal counsel to assure that its bylaw provisions are in accordance with applicable law. If your chapter currently does not have legal counsel, state and local bar associations may be able to refer you to free or inexpensive legal counsel.

APSAC will offer guidance to state chapters regarding the preparation of initial incorporation documents (i.e., Articles of Incorporation and Resolutions to be adopted at the First Meeting of Board of Directors) and application for federal tax exemption (501 (c) (3) status). On an ongoing basis, specific questions concerning corporate governance and periodic legal requirements should be addressed to the attorney for your state's chapter or to the appropriate state agency.

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(2) Sample State Chapter Bylaws

NOTE: These Bylaws are based on the Illinois General Not For Profit Corporation Act. These Bylaws should *not* be adopted by a state chapter without review and revision to conform to the requirements of the state where used.

Sample Bylaws of the [State] Professional Society on the Abuse of Children A Not-for-Profit Corporation

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ARTICLE I ***Name and Purpose***

Section 1 Name. These Bylaws constitute the code of rules adopted by the (State Chapter) Professional Society on the Abuse of Children, Inc. (the "Corporation") for the regulation and management of its affairs.

Section 2 Purpose. The purposes of the Corporation are as constituted in the Articles of Incorporation.

ARTICLE II ***Offices***

Section 1 Offices. The Corporation shall have and continuously maintain a registered agent and a registered office of the Corporation in the State of (State Chapter).. The Board of Directors may appoint a new registered agent or change the place of its registered office by duly adopted resolution and submission of the appropriate statement to the Secretary of State. The Corporation may have such other offices, both within and without the State of Illinois, as the Board of Directors may determine from time to time.

ARTICLE III ***Members***

Section 1 Class of Members. The Corporation shall have one class of Members. The designation of such class and the qualifications and rights of the Members of such class shall be as follows:

Section 2 Manner of Appointment. Upon making application therefor in writing, upon certification of compliance with Sections 3 and 4 of this Article III and upon payment of applicable dues in accordance with Article IX of these Bylaws, persons shall be admitted to membership in the Corporation and shall be entitled to all rights and privileges and subject to all the obligations, restrictions and limitations applicable to such membership as set forth in the Articles of Incorporation, these Bylaws and subsequent amendments and changes thereto, and subject to any further limitations as resolved from time to time by the Board of Directors.

Section 3 Eligibility. Membership in the Corporation is limited to (a) persons licensed, certified or holding a graduate degree in a professional discipline and/or those who work in the field of child maltreatment and (b) state, territorial and provincial public and private human service organizations that provide care and services to abused and neglected children and their families; provided, however, that all Members of the Corporation shall be Members in good standing of the American Professional Society on the Abuse of Children, Inc.

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Section 4 Standards of Conduct. The activities of each Member of the Corporation shall conform to the standards of conduct appropriate for Members, including, but not limited to, the professional and ethical standards of, and all laws and regulations relating to, such Member's profession or field.

Section 5 Voting Rights. Each Member shall be entitled to one vote on each matter submitted to a vote of the Members.

Section 6 Termination of Membership. The Board of Directors may, by affirmative vote of two-thirds (2/3) of the members of the Board, suspend or expel a Member for cause, or for non-compliance with the standards of conduct as set forth in Section 4 of this Article III, after an appropriate hearing, and may, by affirmative vote of a majority of the members of the Board, terminate the membership of any Member who becomes ineligible for membership pursuant to Section 3 of this Article III.

Section 7 Transfer of Membership. Membership in this Corporation is not transferable or assignable.

Section 8 Other Members. The Board of Directors may establish an "associate" membership category and may refer to persons or organizations included within such category as "associate members"; provided, however, that such associate members shall be entitled to the rights and privileges and subject to the obligations, restrictions and limitations applicable to such membership as set forth in an appropriate amendment to these Bylaws in accordance with Section XIII.3 hereof.

ARTICLE IV ***Meetings of Members***

Section 1 Annual Meetings. An annual meeting of the Members shall be held on such date and at such time as shall be designated from time to time by the Board of Directors and stated in the notice of the meeting, for the purpose of electing Directors and/or for the transaction of such other business as may properly come before the meeting.

Section 2 Special Meetings. Special meetings of the Members may be called by the President or the Board of Directors, and shall be called by the Secretary, or in the case of the death, absence, incapacity or refusal of the Secretary, by any other officer, upon written application of one-tenth (1/10) or more of the Members entitled to vote thereat. Business transacted at all special meetings shall be confined to the objects stated in the notice of the meeting or in a duly executed waiver of notice thereof.

Section 3 Place of Meeting. The Board of Directors may designate any place, either within or without the State of Illinois, as the place of meeting for any annual meeting or for any special meeting called by the Board of Directors and stated in the notice of the meeting

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or in a duly executed waiver of notice thereof.

Section 4 Notice. Written notice stating the place, day and hour of any meeting of Members shall be delivered, either personally or by mail, to each Member entitled to vote at such meeting, not less than five nor more than 60 days before the date of such meeting, or in the case of a removal of one or more directors, a merger, consolidation, dissolution or sale, lease or exchange of assets not less than 20 nor more than 60 days before the date of the meeting, by or at the direction of the President, or the Secretary, or the officers or persons calling the meeting. In case of a special meeting, or when required by law or by these Bylaws, the purpose or purposes for which the meeting is called shall be stated in the notice. If mailed, the notice of a meeting shall be deemed to be delivered when deposited in the United States mail addressed to the Member at his or her address as it appears on the records of the Corporation, with postage thereon prepaid.

Section 5 Informal Action. Any action required or permitted to be taken at any meeting of Members may be taken without a meeting, if a consent in writing, setting forth the action so taken, shall be signed either: (i) by all of the Members entitled to vote with respect to the subject matter thereof or (ii) by the Members having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all Members entitled to vote thereon were present and voting.

Section 6 Quorum. Members holding one-tenth (1/10) of the votes entitled to be cast on a matter, represented in person or by proxy, shall constitute a quorum at a meeting of Members. If a quorum is not present, a majority of the Members present may adjourn the meeting from time to time without further notice.

Section 7 Proxies. At any meeting of Members, a Member entitled to vote may vote by proxy executed in writing by the Member or by his or her duly authorized attorney-in-fact. No proxy shall be valid after 11 months from the date of its execution, unless otherwise provided in the proxy.

Section 8 Manner of Acting. If a quorum is present, the affirmative vote of a majority of the votes present and voted, either in person or by proxy, shall be the act of the Members, unless the vote of a greater number is required by law, by the Articles of Incorporation or by these Bylaws.

ARTICLE V ***Board of Directors***

Section 1 General Powers. The affairs of the Corporation shall be managed by and under the direction of the Board of Directors who shall represent and have full powers to act for the Corporation in the exercise of all its rights, privileges and powers and in the general

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management of its business.

Section 2 Number, Term of Office and Election. The affairs and general business of the Corporation shall be managed by a Board of Directors. [The bylaws may establish a variable range for the size of the board by prescribing a minimum and maximum (which may not be less than 3 or exceed the minimum by more than 5) number of directors. If a variable range is established, unless the bylaws otherwise provide, the number of directors may be fixed or changed from time to time, within the minimum and maximum, by the directors without further amendment to the bylaws.] The first Board of Directors shall be as designated in the Articles of Incorporation, and thereafter, it shall be such number as shall have been last specified by resolution (if any) of the Board; provided, however, that no decrease in the number of Directors shall shorten the term of any incumbent Director. At each annual meeting of Members, Directors shall be elected for concurrent one (1) year terms. A director shall hold office for the term for which elected and until his or her successor shall be elected and shall qualify, subject, however, to prior death, resignation, retirement, disqualification or removal from office.

Section 3 Vacancies. Any vacancy occurring in the Board of Directors resulting from resignation, retirement, removal or death of a Director or an increase in the authorized number of Directors may be filled by a majority of the remaining Directors, even if the number on the Board is less than a quorum. Any Director elected to fill a vacancy shall serve for the term for which elected or for the balance of the unexpired term of the predecessor in office.

Section 4 Resignation and Removal. A Director may resign at any time upon written notice to the Board of Directors. A resignation is effective when the notice is delivered unless the notice specifies a certain date. The pending vacancy may be filled before the effective date, but the successor shall not take office prior to such effective date. A Director may be removed with or without cause by the affirmative vote of two-thirds (2/3) of the votes of the Members present and voted, either in person or by proxy.

Section 5 Regular Meetings. A regular meeting of the Board of Directors shall be held without other notice than this Bylaw, immediately after, and at the same place as, the annual meeting of Members. The Board of Directors may provide by resolution the time and place, either within or without the State of Illinois, for the holding of additional regular meetings of the Board without other notice than such resolution.

Section 6 Special Meetings. Special meetings of the Board of Directors may be called by or at the request of the President or any two Directors. The person or persons authorized to call special meetings of the Board may fix any place, either within or without the State of Illinois, as the place for holding any special meeting of the Board so called.

Section 7 Notice. Notice of any special meeting of the Board of Directors shall be given at least two days previously thereto by written notice delivered personally or sent by mail,

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telegram or by facsimile, if confirmed, to each Director at his address as shown by the records of the Corporation. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail in a sealed envelope so addressed, with postage thereon prepaid. If notice be given by telegram, such notice shall be deemed to be delivered when the telegram is delivered to the telegraph company. Any Director may waive notice of any meeting. The attendance of a Director at any meeting shall constitute a waiver of notice of such meeting, except where a Director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board need be specified in the notice or waiver of notice of such meeting, unless specifically required by law or by these Bylaws.

Section 8 Quorum. One third (1/3) of the Board of Directors shall constitute a quorum for the transaction of business at any meeting of the Board, but if less than a quorum of the Directors are present at said meeting, a majority of the Directors present may adjourn the meeting from time to time without further notice.

Section 9 Manner of Acting. The act of a majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors, unless the act of a greater number is required by law or by these Bylaws.

Section 10 Informal Action. Unless otherwise provided by the Articles of Incorporation or these Bylaws, any action required or permitted to be taken at any meeting of the Board of Directors, or of any committee designated by the Board, may be taken without a meeting, if all of the members of the Board of Directors or committee, as the case may be, consent thereto in writing, and the writing or writings are filed with the minutes of proceedings of the Board of Directors or committee.

Section 11 Meetings by Means of Conference Telephone. Unless otherwise provided by the Articles of Incorporation or these Bylaws, members of the Board of Directors, or of any committee designated by the Board, may participate in a meeting of the Board of Directors or such committee by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting pursuant to this Section 5.11 of this Article V shall constitute presence in person at such meetings.

ARTICLE VI ***Committees***

Section 1 Committees of Directors. The Board of Directors, by resolution adopted by a majority of the Directors in office, may designate and appoint one or more committees, each of which, if any, shall consist of two or more Directors, which committees, to the extent allowed by law and provided in said resolution, shall have and exercise the authority of the Board of Directors in the management of the Corporation, except that no such committee

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shall have the authority of the Board of Directors in reference to adopting a plan for the distribution of the assets of the Corporation, or for dissolution; approving or recommending to Members any act required by law to be approved by Members; filling vacancies on the Board or on any of its committees; electing, appointing or removing any officer or Director or member of any committee, or fixing the compensation of any member of a committee; adopting, amending or repealing the Bylaws or the Articles of Incorporation of the Corporation; adopting a plan of merger or adopting a plan of consolidation with another corporation, or authorizing the sale, lease, exchange or mortgage of all or substantially all of the property or assets of the Corporation; or amending, altering, repealing or taking action inconsistent with any resolution or action of the Board of Directors which by its terms provides that it shall not be amended, altered or repealed by action of a committee.

Section 2 Other Committees. Other committees not having and exercising the authority of the Board of Directors in the management of the Corporation may be appointed in such manner as may be designated by a resolution duly adopted by the Board of Directors. Except as otherwise provided in such resolution, members of each such committee shall be Members of the Corporation, and the President of the Corporation shall appoint the members thereof. Any member thereof may be removed by the person or persons authorized to appoint such member whenever in their judgment the best interests of the Corporation shall be served by such removal.

Section 3 Term of Office. Each member of a committee shall continue as such until such member's term shall expire and until his or her successor is appointed and has been qualified, or until such member's earlier death, resignation or removal, unless the committee shall be sooner terminated or unless such member shall cease to qualify as a member thereof.

Section 4 Chairman. One member of each committee shall be appointed chairman by the person or persons authorized to appoint the members thereof.

Section 5 Vacancies. Vacancies in the membership of any committee may, be filled by appointments made in the same manner as provided in the case of the original appointments.

Section 6 Quorum. Unless otherwise provided in the resolution of the Board of Directors designating a committee, a majority of the whole committee shall constitute a quorum and the act of a majority of the members present at a meeting at which a quorum is present shall be the act of the committee.

Section 7 Rules. Each committee may adopt rules for its own government not inconsistent with these Bylaws or with rules adopted by the Board of Directors.

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ARTICLE VII ***Officers***

Section 1 Officers. The officers of the Corporation shall be a President, one or more Vice Presidents (the number thereof to be determined by the Board of Directors), a Secretary, a Treasurer and such other officers as may be elected in accordance with the provisions of this Article VII. The Board of Directors may elect or appoint such other officers, including one or more Assistant Secretaries and one or more Assistant Treasurers, as it shall deem desirable, such officers to have the authority and perform the duties prescribed, from time to time, by the Board of Directors. Any two or more offices may be held by the same person, except the offices of President and Secretary.

Section 2 Election and Term of Office. The officers of the Corporation shall be elected annually by the Board of Directors at the regular annual meeting of the Board. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as may be convenient. New offices may be created and filled at any meeting of the Board of Directors. Each officer shall hold office and until his or her successor is elected and has been qualified, or until such officer's earlier death, resignation or removal.

Section 3 Vacancies. A vacancy in any office because of death, resignation, removal, disqualification or otherwise, may be filled by the Board of Directors for the unexpired portion of the term.

Section 4 Removal. Any officer elected or appointed by the Board of Directors may be removed by the Board whenever in its judgment the best interests of the Corporation would be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the officer so removed.

Section 5 President. The President shall be the principal executive officer of the Corporation and shall in general supervise and control all of the business and affairs of the Corporation. The President shall preside at all meetings of the Members and of the Board of Directors. The President may sign, with the Secretary or any other proper officer of the Corporation authorized by the Board of Directors, any deeds, mortgages, bonds, contracts or other instruments which the Board of Directors has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board of Directors or by these Bylaws or by statute to some other officer or agent of the Corporation; and in general the President shall perform all duties incident to the office of President and such other duties as may be prescribed by the Board of Directors from time to time.

Section 6 Vice President. In the absence of the President or in event of his or her inability or refusal to act, the Vice President (or in the event there be more than one Vice President, the Vice Presidents in the order of their election) shall perform the duties of the President, and when so acting, shall have all the powers of and be subject to all the restrictions upon the President. Any Vice President shall perform such other duties as from

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time to time may be assigned to him or her by the President or by the Board of Directors.

Section 7 Treasurer. If required by the Board of Directors, the Treasurer shall give a bond for the faithful discharge of his or her duties in such sum and with such surety or sureties as the Board of Directors shall determine. The Treasurer shall have charge and custody of and be responsible for all funds and securities of the Corporation; receive and give receipts for moneys due and payable to the Corporation from any source whatsoever, and deposit all such moneys in the name of the Corporation in such banks, trust companies or other depositories as specified by resolution of the Board of Directors; and in general perform all the duties incident to the office of Treasurer and such other duties as from time to time may be assigned to him or her by the President or by the Board of Directors.

Section 8 Secretary. The Secretary shall keep the minutes of the meetings of the Members and of the Board of Directors in one or more books provided for that purpose; see that all notices are duly given in accordance with provisions of these Bylaws or as required by law; be custodian of the corporate records and of the seal of the Corporation and see that the seal of the Corporation is affixed to all documents, the execution of which on behalf of the Corporation under its seal is duly authorized in accordance with the provisions of these Bylaws; keep a register of the post-office address of each Member; and in general perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him or her by the President or by the Board of Directors. The Secretary shall be a resident of the State of Illinois.

Section 9 Assistant Treasurers and Assistant Secretaries. If required by the Board of Directors, the Assistant Treasurers shall give bonds for the faithful discharge of their duties in such sums and with such sureties as the Board of Directors shall determine. The Assistant Treasurers and Assistant Secretaries, in general, shall perform such duties as shall be assigned to them by the Treasurer or the Secretary or by the President or the Board of Directors.

ARTICLE VIII ***Certificates of Membership***

Section 1 Certificates of Membership. The Board of Directors may provide for the issuance of certificates evidencing membership in the Corporation, which shall be in such form as may be determined by the Board; provided, however, that- such certificates (if any) shall contain the following legend:

Membership in [State]PSAC in no way constitutes an endorsement by [State]PSAC of any member's level of expertise or scope of professional competence.

Such certificates shall be signed by the President or a Vice President and by the

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Secretary or an Assistant Secretary and shall be sealed with the seal of the Corporation. The name and address of each Member and the date of issuance of the certificate shall be entered on the records of the Corporation. If any certificate shall become lost, mutilated or destroyed, a new certificate may be issued therefor upon such terms and conditions as the Board of Directors may determine.

Section 2 Issuance of Certificates. When a Member has applied and qualified for membership and has paid any dues that may then be required, a certificate of membership may be issued in his or her name and delivered to him or her by the Secretary, if the Board of Directors shall have provided for the issuance of certificates of membership under the provisions of Section 8.1 of this Article VIII.

ARTICLE IX ***Operations***

Section 1 Fiscal Year. The fiscal year of the Corporation shall begin on the first day of January and end on the last day of December in each year.

Section 2 Dues. The Board of Directors may determine from time to time the amount of initiation fee, if any, and the amount and frequency of dues payable to the Corporation by Members. Dues shall become delinquent thirty (30) days after the same shall become due and payable. When any Member shall be in default in the payment of dues for a period of three (3) months from the period for which such dues became payable, his or her membership shall automatically terminate.

Section 3 Gifts. The Board of Directors may accept on behalf of the Corporation any contribution, gift, bequest or devise for the general purposes or for any special purpose of the Corporation.

Section 4 Not-for-Profit Operations. No part of the net earnings of the Corporation shall inure to the benefit of, or be distributable to its directors, Members, officers or other private persons, except that the Corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in the Articles of Incorporation of the Corporation.

No substantial part of the activities the corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the corporation shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of or in opposition to any candidate for public office. Notwithstanding any other provision of these articles, the corporation shall not carry on any other activities not permitted to be carried on (a) by a corporation exempt from federal

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income tax under section 501(c) (3) of the Internal Revenue Code, or the corresponding section of any future federal tax code, or (b) by a corporation, contributions to which are deductible under section 170(c)(2) of the Internal Revenue Code, or the corresponding section of any future federal tax code.

Upon the dissolution 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, or the corresponding section of any future federal tax code, or shall be distributed to the federal government, or to a state or local government, for a public purpose. 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 organization or organizations, as said Court shall determine, which are organized and operated exclusively for such purposes.

Section 5 Loans to Management. The Corporation will make no loans to any of its directors, officers or Members.

ARTICLE X Books and Records

Section 1 Corporate Records. The Corporation shall keep at its registered office or at its principal office the originals, or attested copies, of records of the minutes of the proceedings of its incorporators, Members, Board of Directors and committees having any of the authority of the Board of Directors and its Articles of Incorporation and its Bylaws, including all amendments and alterations thereto to date. The Corporation shall keep at its registered office or at its principal office complete and accurate books or records of account and a record giving the names and addresses of the Members entitled to vote.

ARTICLE XI *Seal*

Section 1 The Board of Directors shall provide a corporate seal, which shall be in the form of a circle and shall have inscribed thereon the name of the Corporation and the words "Corporate Seal"

ARTICLE XII *Waiver of Notice*

Section 1 Whenever any notice is required by law, the Articles of Incorporation or these Bylaws, to be given to any director, member of a committee or Member of the Corporation, a waiver thereof in writing, signed by the person or persons entitled to said notice, whether before or after the time stated therein, shall be deemed equivalent thereto.

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ARTICLE XIII *Miscellaneous*

Section 1 Indemnification. Any person made or threatened to be made a party to any threatened, pending or completed action, suit or proceeding by reason of the fact that he or she is or was an officer, director, employee or agent of the Corporation, or who is or was serving at the request of the Corporation as an officer, director, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, 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 in connection with the defense or settlement of such action, suit or proceeding, or in connection with any appearance therein, to the fullest extent now or hereafter permitted by law. Expenses incurred in defending any such action, suit or proceeding shall be paid by the Corporation in advance of the final disposition of any such action, suit or proceeding, as authorized by the Board of Directors in the specific case, upon receipt of an undertaking by or on behalf of the officer, director, employee or agent to repay such amount, unless it shall ultimately be determined that he or she is entitled to be indemnified by the Corporation. Such right of indemnification shall not be deemed exclusive of any other rights to which such officer, director, employee or agent may be entitled apart from this provision.

Section 2 Insurance and Other Indemnification. The Board of Directors shall have the power to (a) 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 (b) give other indemnification to the extent permitted 'by law.

Section 3 Modification of Bylaws. The Bylaws may contain any provisions for the regulation and management of the affairs of the Corporation not inconsistent with law or the Corporation's stated purposes. The power to make, amend or repeal the Bylaws of the Corporation in whole or in part shall be vested solely in the Board of Directors.

APPENDIX E State Chapter Affiliation Agreement [available on-line]

AMERICAN PROFESSIONAL SOCIETY ON THE ABUSE OF CHILDREN STATE CHAPTER AFFILIATION AGREEMENT

This document establishes the agreement between The American Professional Society on the Abuse of Children (APSAC) and _____ State Chapter for the latter to be an official chapter of APSAC.

Revised 12/14/2006/mh
Revised & Updated 06/2009/kj
Revised and updated 1/28/2013

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This agreement is in effect for a 3-year period.

APSAC's Mission involves a strong commitment to:

- Preventing child maltreatment
- Eliminating the recurrence of child maltreatment
- Providing professional education that promotes effective, culturally sensitive, and interdisciplinary approaches to the identification, intervention, treatment, and prevention of child abuse and neglect
- Promoting research and guidelines to inform professional practice
- Connecting professionals from the many disciplines to promote the best response to child maltreatment
- Ensuring that America's public policy concerning child maltreatment is well informed and constructive
- Educating the public about child abuse and neglect

As an APSAC Chapter, the _____ State Chapter embraces this national mission and vision and accepts its important role as a vital part of this nationwide commitment. The State Chapter and APSAC are committed to maintaining the highest quality possible in our work and to implementing our work with a clear commitment to ethical standards as prescribed by APSAC.

This Affiliation Agreement ("Agreement") is made and entered into this _____ day of _____, _____, and will terminate on the ____ day of _____, _____. by and between APSAC, a not-for-profit corporation and the state corporation. Now, therefore, in consideration of the foregoing and of the mutual premises contained herein, the parties agree as follows:

I. DEFINITIONS

These provisions define certain terms appearing throughout the Agreement.

- a. "Business" means the delivery of activities directly related to APSAC's mission and goals.
- b. "Chapter policies" means APSAC's policies governing the formation, operation and revocation of Chapters. APSAC's Board may adopt new or revised policies from time to time, subject to Section V of the agreement.
- c. "Service Area" means the applicable state or region.
- d. "Service Marks" mean the service marks "American Professional Society on the Abuse of Children", "APSAC" and the APSAC logo, in the forms covered by APSAC's applications for registration and all variations adopted by Chapters,

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including without limitation, the phrase "Professional Society on the Abuse of Children", as permitted by the terms of Agreement.

II. RIGHT TO USE SERVICE MARKS

These provisions set forth the terms and conditions of the Chapter's right to use the Service Marks:

- a. APSAC grants to the Chapter in good standing a nonexclusive right without royalty to use the Service Marks in the Service Area in connection with the Chapter's business; provided that such Service Marks are preceded by the Chapter's state or regional name.
- b. During the term of the Agreement, the Chapter must continue to use a corporate name consistent with the provision above.
- c. Any variation on the form of usage set forth above requires prior written consent of APSAC
- d. The Chapter agrees that the phrase "an independent affiliate of APSAC" will appear in conjunction with the Service marks on all Chapter materials.
- e. Finally, the Chapter acknowledges and agrees not to challenge APSAC's exclusive ownership of the Service Marks and the good will associated with them.

III. REPRESENTATIONS AND WARRANTIES

These provisions specify representations and warranties of each party to the other relating primarily to their legal status and authority to enter into the Agreement. These provisions assert that each party:

- a. Is a valid existing corporation, organized under the applicable state requirements for not-for-profit or non-profit corporations. The corporate name must include the Service Marks "American Professional Society on the Abuse of Children" or "APSAC" or "Professional Society on the Abuse of Children" as part of the corporate name. Continued use by the Chapter of the Service Marks is contingent upon compliance with Chapter policies and this agreement;
- b. Is or will soon become federally tax-exempt under 501(c)(3) of the IRS tax code and will retain such status for the duration of the Agreement;
- c. Has the requisite authority to enter into the Agreement;
- d. Recognizes that this is a valid, binding and enforceable Agreement; and affirms that this Agreement does not conflict with any previous binding commitments.

IV. CONDUCT OF BUSINESS

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These provisions set forth the rights and obligations of the parties with respect to the conduct of the Chapter's business.

- a. Business conducted under the Service Marks is restricted to Business as defined in Section I. Any commercial venture engaged in by the Chapter, as part of the Business, requires APSAC's prior reasonable consent. The Chapter may not engage in any commercial venture, which is inconsistent with APSAC's mission and goals.
- b. The Chapter will restrict its Business to the Service Area, and will not promote its Business outside the Service Area. The Chapter will use its best efforts to limit fundraising efforts to the Service area. However, the Chapter may solicit donors with significant business operations in its state or region if:
 1. Such donors have previously donated to APSAC through its Service Area office or
 2. The Chapter obtains APSAC's prior reasonable approval, based on APSAC's judgment that such solicitation will not interfere with APSAC's national fundraising.
- c. The Chapter agrees to conduct its Business in compliance with APSAC's Chapter Policies and in substantial compliance with all applicable laws. Chapter Policies are included in this Agreement as Attachments. APSAC may, from time to time, amend or add to the policies. State Chapters may sign and agree to be bound by those policies, at which point the new policy will become an amendment to this Agreement. Failure to sign and agree to be bound within a reasonable time authorizes APSAC to terminate this Agreement.
- d. The Chapter agrees that members of the Chapter must be in compliance with APSAC bylaws and policies. Also, each director and officer of the Chapter must be in compliance at all times with Standards of Conduct appropriate for APSAC's members as set forth in Article III, Section 1 of APSAC's bylaws, as amended.
- e. In order to ensure consistency and uniform quality, APSAC shall have the right, at reasonable intervals and upon reasonable prior written notice, to inspect State Chapter operations. APSAC shall also have the right to review copies of all materials provided by State Chapters to the public or used in conducting the State Chapter's business. At APSAC's request, State Chapters will provide copies of such materials to APSAC for its review.
- f. Finally, the Chapter agrees that failure to comply with the Chapter policies or the terms of this Agreement authorizes APSAC to seek involuntary dissolution of the state chapter corporation and an order preventing unauthorized use of APSAC Service Marks.

V. AFFILIATION AND COOPERATION – STATE CHAPTERS

These provisions relate to a variety of matters arising under the cooperative relationship between State Chapters and APSAC.

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- a. The Board of Directors of APSAC may make changes from time to time in Chapter Policies; input from State Chapters will go into the decision-making regarding such changes in Chapter Policies.
- b. The Chapter shall recognize and not disparage APSAC's national and international standing in the development of programs and activities relating to promoting education, research, and professional intervention regarding child maltreatment.
- c. Both parties agree to confer from time to time for the purpose of sharing information on organizational development.
- d. The Chapter is responsible for reasonable expenses associated with such training that goes beyond phone calls, faxes, or e-mail.
- e. The following language must appear in all brochures, mailings or other materials related to the Chapter's Business:

“APSAC members represent a broad diversity of professional disciplines, geographic locations and conceptual orientations. Membership in APSAC or in _____ in no way constitutes an endorsement by APSAC or _____ of any member's level of expertise or scope of professional competence.”

- f. The following provision must appear in all membership applications and materials of the Chapter; each member of the Chapter must certify compliance with such provisions as a condition of membership:

“In advertising professional services, no member shall utilize the APSAC or _____ name or logo, or state or imply that APSAC or _____ has certified his or her professional competence.”

- g. Applying Chapters must be in compliance on a continuing basis with the Standards and Conduct appropriate for Society members, including, but not limited to, the professional and ethical standards of, and all laws, and regulations relating to their respective professions or fields.
- h. During the term of this Agreement, State Chapters may collect independent State Chapter dues up to an amount not to exceed \$30.00 per member. These members will be reflected in the annual state chapter report. Membership in the APSAC conveys automatic membership in the State Chapter.
- i. For those individuals who choose to only join a State Chapter, the Chapter will be responsible for accounting, collecting and tracking State Chapter dues. These members will be reflected in the annual state chapter report.

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- j. After a period of two years dues collection will be reviewed by the State Chapter Committee and in consultation with State Chapters and a recommendation made to the APSAC Board of Directors to continue or terminate this provision.
- k. State Chapters agree to endorse and actively recruit members to join the National Organization.
- l. Active State Chapters, who provide an annual report, may submit a request for funding assistance to the State Chapter Committee that delineates the Chapter's:
 - need for funding,
 - proposed plans for use of the funds, and
 - a budget, which outlines how the funds will be spent.

A State Chapter Activity Fund Request form will be available in the State Chapter Guidelines.

The State Chapter Committee will review these requests and make recommendations to the Executive Committee of APSAC. Prior to approving any State Chapter funding request, the APSAC Executive committee will verify that the State Chapter is or will soon become federally tax-exempt under 501(c)(3) of the IRS tax code and will retain such status for the duration of the Agreement. Grant requests may not exceed the average amount previously rebated to states (2003-2006), or approximately \$15.00 per APSAC member.

- m. With the submission of an appropriate plan and budget, new State Chapters may apply for startup funds up to an amount not to exceed \$1000.00. This request must be accompanied by a plan indicating the use of funds. A new State Chapter Start-up Funds Request Form will be available in the State Chapter Guidelines.
- n. State Chapters agree to provide APSAC with a written annual report summarizing all major events and activities conducted during the calendar year to which such report relates and including such other information about the State Chapter's Business. State Chapters must provide APSAC annually with a copy of their federal income tax filing, IRS Form 990 (or a statement of why such a filing is not required) and a copy of any annual report required for such organization under state law. State Chapters are not required to provide any additional financial records. The report is due December 15th of each year so that it can be presented to the National Board during its annual January meeting.

The State Chapter Annual Report Form will be available in the State Chapter Guidelines (available online).

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- o. State Chapters will provide to APSAC contact information for their President and Board members at least annually or at any time that a leadership change occurs. These will be listed on the APSAC website.

APSAC through its corporate office will provide support to State Chapters providing:

- Provide a grant fund (amount to be determined by the APSAC Board of Directors on an annual basis) for the support of State Chapter activities
- Access to the APSAC website
- Up to-date membership lists by geographic area
- Regular communication by the State Chapter Committee via telephone or e-mail
- Technical assistance with regional trainings
- Assistance with organization of new Chapters
- APSAC shall provide, upon the Chapter's request, limited consultation on Chapter development via telephone, fax or e-mail

VI. PROTECTION OF SERVICE MARKS

These provisions set forth the rights and obligations of the Chapter and APSAC with respect to the protection of APSAC's service marks.

- a. APSAC agrees to use its best efforts to obtain and maintain registrations for the Service Marks.
- b. The Chapter agrees to take proper actions, such as using appropriate statutory notice of trademark registration, to protect the Service Marks from infringement.
- c. The Chapter must notify APSAC if it becomes aware of any third party infringement. Initially, APSAC has the right to determine whether actions should be taken to protect the Service Marks. If requested by APSAC, the Chapter will join with APSAC in such actions. Alternatively, if APSAC fails to take appropriate actions, the Chapter has the right to take such actions and, if necessary to maintain suit. APSAC will join such suit as a party. Any recovery resulting from such actions will be shared between APSAC and the Chapter in proportion to the costs incurred.

VII. TERMINATION

These provisions relate to the length, renewal and termination of the Agreement.

- a. The Agreement is effective as of the date it is signed and dated.
- b. The Agreement is in effect, provided that the Chapter is not in material breach or default under the Agreement and is making sufficient use of the Service Marks to maintain APSAC's rights in the Service Marks Area. APSAC may terminate this Agreement upon thirty days' notice as it applies to any Service Mark if the Chapter discontinues the use of

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- such Service Mark, if a State Chapter loses its 501(c)(3) status; or if a State Chapter remains inactive for a period of one year; or if a State Chapter discontinues the use of such Service Mark for a continuous one-year period. The Executive Committee reserves the right to amend this agreement as needed upon notification of all parties.
- c. Upon either party's material breach of or default under the Agreement, which shall remain uncured by such party thirty days after the other party provides written notice, such other party shall have the right to terminate the Agreement.
 - d. The Agreement shall be terminated, without prior notice, if:
 - i. A bankruptcy or similar proceeding is commenced by or against the Chapter, or
 - ii. A proceeding seeking to liquidate, wind up or compose the Chapter or its debts is initiated, and such proceedings remain undismissed or unstayed for a period of ninety days.
 - e. Termination of the right to use the Service Marks under these provisions is without prejudice to any rights, which either party may otherwise have against the other.
 - f. Following the termination, the Chapter may continue to use the Service Marks for up to ninety days, solely for the purposes of winding up its affairs or allowing a reasonable transition period.

VIII. ASSIGNABILITY

The right to assign this agreement to the Chapter's corporate successors or to a purchaser of all or substantially all of the Chapter's assets is retained solely by the Board of Directors of APSAC and assignment is made only by the Board.

IX. NOTICES

These provisions set forth where notice is to be delivered, and when notice is effective, for purposes of the Agreement.

American Professional Society on the Abuse of Children
350 Poplar Avenue.
Elmhurst, IL 60126

State Chapter
Address
City, State, Zip Code

X. MISCELLANEOUS

Revised 12/14/2006/mh
Revised & Updated 06/2009/kj
Revised and updated 1/28/2013

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- a. Nothing in this agreement should be construed as placing the parties in relationship of partners or joint ventures and State Chapters have no right or authority, express or implied, to create any obligations or responsibility of APSAC.
- b. If any term or provision of the Agreement is held to be invalid or unenforceable by reason of any rule of law or public policy, this Agreement shall be deemed amended to delete the term or provision held to be invalid or unenforceable. All other remaining terms and provisions shall remain in full force and effect. If any provision is inapplicable to any circumstance, it shall nevertheless remain applicable to all other circumstances.

XI. SURVIVAL OF TERMS

Termination or expiration of this Agreement for any reason will not release the State Chapter from any liabilities or obligations set forth in Sections II, III, IV, V, and VI of this Agreement for so long as the State Chapter continues in any manner to use an APSAC Service Mark in its name or materials. Any such continued use authorizes APSAC to seek involuntary dissolution of the state chapter corporation and an order preventing unauthorized use of APSAC Service Marks.

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SIGNATURES

APSAC President

Date

Witness to Signature

Date

State Chapter President

Date

Witness to Signature

Date

ATTACHMENT A

**AMERICAN PROFESSIONAL SOCIETY ON THE ABUSE OF CHILDREN
POLICY REGARDING AMICUS CURIAE PARTICIPATION IN LEGAL PROCEEDINGS**

Purpose:

The purpose of the Amicus Curiae program is to provide a voice for APSAC and its state chapters in cases pending in federal and state courts around the country. More specifically, the program is intended to bring APSAC's unique, multidisciplinary knowledge to bear on judicial decision-making by filing briefs in selected cases that involve important question of law and public policy relating to child welfare. It is APSAC's intention to be an active participant in shaping the development of American law in the areas of interest to the organization. Further, it is APSAC's intent that its procedure for determining involvement in amicus activity be streamlined and efficient in order to maximize the organization's and the state chapters' flexibility in handling requests for amicus involvement.

Criteria:

- 1) It is the intention of the APSAC Board that the organization will take positions and file amicus curiae briefs in cases that have broad impact upon the relevant law or public policy; as such APSAC will not be generally be involved in cases at the trial level but will focus on cases at the appellate level.
- 2) APSAC and its state chapter affiliates will participate in cases as is consistent with the organization's mission, values, and that impact child welfare.

Procedure:

- 1) The APSAC Board of Directors will establish an Amicus Committee.
- 2) Cases may be referred to the APSAC Amicus Committee for consideration from any source internal or external to the organization.
- 3) All requests for APSAC board's involvement must come through the Amicus Committee.
- 4) If a majority of the Committee agrees that involvement in the case is consistent with APSAC's mission, then the request will be forwarded to the APSAC Board Executive Committee (EC) for final approval.
- 5) If a majority of the EC agrees that the case merits APSAC's involvement, it will charge the Amicus Committee with proceeding to have an amicus curiae brief prepared.
- 6) Briefs may be prepared by members of the Board, by staff members of the organization, by pro bono attorneys or by others as the Amicus Committee may direct.
- 7) When a draft of the brief is completed, it shall be circulated to members of the Amicus Committee and the Executive Committee with a deadline for returning comments to the Amicus Committee. After the deadline, any necessary edits will be made to the brief and the brief will be finalized. The final brief must be approved by a majority of the Executive Committee. Failure of Board member to respond by the established deadline will constitute assent to the content of the brief and its final approval. A copy of the final brief will be provided to each member of the Board.

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- 8) From time-to-time APSAC may be approached to sign on to an amicus curiae brief authored by another organization (e.g., the American Psychological Association or the NASW). The Board intends for APSAC, when appropriate, to join briefs authored by other organizations. To this end, when a brief that has been prepared by another organization is presented to the Amicus Committee, the Committee may approve joining by a majority and shall forward the recommendation to join the brief to the Executive Committee for its approval. If a majority of the Executive Committee is in favor, APSAC may sign on to the brief.
- 9) The APSAC Board recognizes that in some instances time will be of the essence in determining whether to sign a brief presented to it by another organization and an expedited decision will be necessary. In such a circumstance, APSAC may join a brief by a majority vote of the EC acting on behalf of the organization. In such a case, the Board Chair shall notify the entire Board as soon as reasonably possible. A copy of the brief shall be provided to each member of the Board by electronic means or otherwise.
- 10) The APSAC Board recognizes that from time-to-time state chapter affiliates of the organization may wish to file or join amicus briefs on their own that are consistent with the organization's mission in cases pending in the appellate courts of individual states. A state chapter affiliate may develop its own policies and procedures for doing so that are consistent with the mission of APSAC. As a recognized affiliate, before a state chapter files or joins an amicus brief, it must obtain APSAC's approval of the final brief it intends to file or join. No brief may be filed without APSAC approval. APSAC approval of the final brief before filing is absolutely essential to implementation of this policy. In such cases, state chapter affiliates are encouraged to bring these cases to the attention of then Amicus Committee as APSAC may wish to join with the state chapter or file a separate amicus brief supporting the state chapter's position. APSAC will not file a separate brief that takes a position inconsistent with a state chapter affiliate's position. The contact person for this purpose will be the Chair of APSAC's Amicus Committee.
- 11) Whenever a state chapter affiliate files an amicus brief, it shall provide a copy of the brief filed to the chair of the Amicus Committee.

Approved by the APSAC Board of Directors and in effect: January, 2012

APPENDIX F Annual Report to APSAC [available on-line]

APSAC STATE CHAPTER ANNUAL REPORT –XXXX

Name of Chapter

[State] Professional Society on the Abuse of Children

List current Board Members:

State:

Revised 12/14/2006/mh
Revised & Updated 06/2009/kj
Revised and updated 1/28/2013

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Chapter Name:

Reporting Period: January – December XXXX

Current Status: Incorporated and Affiliated

State Chapter Agreement: On file. Dated:

Author of this Report: Name and email address

Dates of Board Meetings:

Date of next Board Election:

CHAPTER ACTIVITIES

Chapter Sponsored Training (Titles and Dates):

Member Recruitment and Retention Activities:

Legislative/Policy Activities:

Media Contacts:

Fundraising Activities:

Areas of expertise that your chapter can be called upon by other chapters for consultation or training:

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Attachments: Can be attached electronically

- Names, address, phone, fax and e-mail addresses for Board Members
- Board Meeting Minutes
- Training Brochures
- Newsletter
- Treasurer's Report

Approved by the APSAC Board of Directors and in effect January, 2007.

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APPENDIX G State Chapter Grant Request Form [available on-line]

State Chapter Grant Request

To be eligible for a State Chapter Grant the State Chapter must have on file: the APSAC/State Chapter Agreement (valid for 3 years); the Annual Report to APSAC for the year prior to the request; the number of APSAC members in your state (friends of your State Chapter are not part of the formula); the amount you are requesting (# of APSAC members x \$15.00); an outline of the activities you will accomplish with the Grant funds and a budget for the funds.

State:

Chapter Name:

Grant Period:

Current Status:

**Incorporated and Affiliated
(if not explain)**

State Chapter Agreement:

On file. Dated: _____

State Chapter Annual Report Submitted:

Number of paid APSAC members in your state:

Author of this Request:

Name and email address

If approved - Address Check to be mailed: Name and address

Activities to be accomplished with Grant funding:

Budget for use of Grant funds:

Signature of State Chapter President

Date Request submitted:

Date Request approved:

Date Check mailed:

APPENDIX H Non-Profit Corporate Status: An Overview

I. INTRODUCTION

In order to become an affiliated state chapter of the American Professional Society on the Abuse of Children ("APSAC"), each chapter must incorporate under the laws of the state in which it is located. Incorporation is a process by which a new legal entity is created, separate and distinct from its officers, directors and members. A "nonprofit" corporation (also called a "not-for-profit") is organized and operated for one of the nonprofit purposes recognized under applicable state corporation law. A nonprofit corporation simply means that the corporation does not distribute its profits to shareholders; it does not mean the corporation acts for charitable purposes or that it qualifies for tax exempt status. APSAC state chapters take the form of charitable or "public benefit" nonprofit corporations. As such, they generally qualify for federal tax-exempt status under Section 501 (c)(3) of the Internal Revenue Code.

In addition to initial incorporation, other steps must be taken to organize state chapters, and ongoing requirements must be met to maintain each chapter's nonprofit status and affiliation. This memorandum provides a general overview of the benefits and obligations of nonprofit corporate status. This memorandum is not intended to substitute for legal advice or to be an exhaustive explanation of all of the requirements and implications of the nonprofit corporation, but is intended to serve as a general summary thereof. State laws vary, so your chapter should consult the secretary of state or other appropriate state agency or your own legal counsel to assure that ongoing duties are fulfilled.

On an ongoing basis, specific questions concerning corporate governance and periodic legal requirements should be addressed to the attorney for your state's chapter or to the appropriate state agency. If your chapter currently does not have legal counsel, state and local bar associations may be able to refer you to free or inexpensive legal counsel.

II. ADVANTAGES OF INCORPORATION

As a membership organization, APSAC recognizes the importance of its role in promoting its mission with a strong, diverse membership. State chapters provide important capacities for the organization and its members, but as a federally recognized non-profit, APSAC has special responsibilities to retain its tax-exempt status. Under these federal rules, APSAC cannot disburse funds directly to members. State chapters that become incorporated and independent 501(c) (3) corporations, however, can receive state chapter grants from APSAC grants to further member activities.

Incorporation allows your state chapter to function as a separate legal entity which provides its founders, directors, officers and members with limited liability. A corporation may, among other things, enter into contracts, lease or own real estate, hire employees,

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arrange conferences and sue and be sued. Those managing the chapter's activities generally will not be held responsible for the debts or other liabilities of the corporation as long as certain procedures are followed. Accordingly, in order to retain the benefits of incorporation and avoid personal liability for the chapter's debts, it is essential to understand the corporate form.

III. CORPORATE ORGANIZATION

Incorporating the State Chapter

Forming the state chapter and securing tax exempt status is a complex process with a significant number of potential pitfalls; the procedures vary significantly from state to state. The importance of securing assistance from a local attorney with experience creating such organizations cannot be overstated. For example the process in Illinois would involve the following steps:

- File Articles of Incorporation with the Illinois Secretary of State
- Record approved Articles of Incorporation with County Recorder of Deeds
- File IRS application for 501(c)(3) tax-exempt status
- Register with the Attorney General, Division of Charitable Trust and Solicitations, under either or both the Illinois Charitable Trust Act or the Illinois Solicitation Act
- Request a sales tax exemption from paying sales tax on goods purchased for the use of the organization from the Illinois Department of Revenue, Sales Tax Division

Some jurisdictions also may require review from state agencies and/or a business license from the local city or county officials.

A. Initial Meeting of the Board of Directors

A corporation is formed and comes into being upon the filing of Articles of Incorporation. The Articles of Incorporation, among other things, state the name of the corporation, indicate the purposes for which it is formed and designate the person to whom legal papers should be sent. Upon incorporation, the chapter is then eligible for affiliation with APSAC. At this point, the chapter's Board of Directors will hold its first meeting in order to transact the initial business of the corporation. Such initial business includes the adoption of Bylaws, the election of officers, the establishment of a bank account and the adoption of the Affiliation Agreement between the chapter and APSAC.

Bylaws are the corporation's "constitution." Often, corporate Bylaws must be submitted to taxation authorities or in reports to other state agencies. The Bylaws define the responsibilities of each of the officers of the corporation, establish

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decision-making procedures, designate Board and committee composition and address other fundamental issues of corporate governance. The Board may delegate many decision-making functions to the officers. Matters of fundamental policy, however, must be reserved for the Board. The Bylaws will provide sufficient flexibility to modify policies that ought to change over time. For instance, it is useful not to define membership fees in the Bylaws, because the amount should be periodically reviewed by the Board of Directors of the corporation.

At its initial meeting, the Board will adopt the Affiliation Agreement between the chapter and APSAC. A copy of the Affiliation Agreement is attached to these Guidelines (see Appendix E). The Board should also authorize the filing of applications for federal tax exemption and any applicable state and local tax exemption. A method for keeping minutes of Board meetings may be determined, and officers will be elected according to the procedures established in the Bylaws. A budget may be approved, accounting procedures set up and the opening of a bank account authorized. While these procedures may at first appear cumbersome, it is helpful for directors and officers to become acquainted now with the activities to take place at the first meeting so that the state chapter will be organized properly.

B. Powers and Duties of Directors

The directors are the ultimate decision-making authority of a corporation. Although they may delegate authority for certain matters to officers or employees, they are ultimately responsible for overseeing activities of the corporation. In general, a director owes a duty of care and loyalty to the corporation. Actions of a corporate director taken with due care and loyalty generally should not create personal liability for the director. However, if a director engages in self-dealing, utilizes the corporation as an instrument for the director's own ends or is not reasonably careful in making decisions for a corporation, the director may be personally liable for any damages to the corporation. Furthermore, if the directors and officers of a corporation do not observe certain legal formalities (operate according to its Bylaws, hold director meetings, keep minutes of meetings, file required reports, keep corporate funds separate from personal funds of those in charge), a court may disregard the corporate entity and hold such persons personally liable for corporate debts and other liabilities.

The following discussion regarding the duties of directors applies generally to officers as well.

The specific duties of directors vary from state to state, and may differ from directors' duties in the for-profit corporation context.' All directors and officers of state chapters of APSAC should be familiar with their duties under relevant state law.

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Directors should also be aware that state statutes prohibit charitable organizations from engaging in certain activities. The most common prohibition is that a charitable organization may not distribute profits or assets to its members, officers or directors. In many states, nonprofit corporations may not make loans to directors or officers. Most states regulate solicitation on behalf of charitable organizations. The chapter may be prohibited from soliciting contributions, or seeking the assistance of professional solicitors, without state approval.

IV. NEXT STEPS IN THE ORGANIZATION PROCESS

There are two other steps that state chapters should take once they have been incorporated: complete and file any necessary state or federal forms or reports, and secure tax-exempt status with federal, state and local taxation authorities.

A. State Forms and Reports

Many states require that a charitable organization register with the state attorney general's charitable trust division or equivalent regulatory authority. Such registration may be automatic upon incorporation or may require filing of additional paperwork, including copies of Bylaws and preliminary budgets. Many states publish a useful guide for nonprofit incorporation, containing addresses and phone numbers of the various state authorities who can provide specific information. Such guides are usually provided without charge by the office of the attorney general or secretary of state.

The federal government requires that all employers obtain an employee identification number from the Internal Revenue Service (IRS). To apply for 501 (c)(3) status, an organization must have either acquired an employee identification number or applied for one.

Finally, some states require that all corporations, charitable or otherwise, register with the register of deeds in the county in which they are located.

For example, unpaid directors of a charitable organization in California are not liable for mere negligence, but must be grossly negligent to violate their duty of care, while in Pennsylvania a director's duties are violated by mere negligence. As another example, California law views a "self-dealing" transaction, between a public benefit corporation and an interested director (one who directly or indirectly profits from the transaction), as inherently suspect, and the interested director may be personally liable for any loss sustained by the corporation.

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B. Taxation Authorities

Federal law, under Section 501(c) (3), allows certain organizations to qualify for tax-exempt status (which means they are not required to pay Federal income tax on most or all of their income) and tax-deductible status (which means that individuals and organizations that contribute to them can deduct that contribution from their income taxes). For state chapters, this tax-exempt/tax-deductible 501(c)(3) status is advantageous for several reasons. In addition to the potential federal and state tax savings, 501 (c)(3) status confers eligibility for many foundation and corporate grants, confers eligibility for reduced postage rates and allows contributors to deduct contributions from their income taxes. All questions should be addressed directly to APSAC. The following is a brief summary of what is required.

The IRS often is the first taxation authority to contact to obtain federal and state tax-exempt status because many states accept federal tax-exempt status as a sufficient condition to allow exemption from state income tax. (In the states where 501 (c) (3) status is not a prerequisite to state income tax exemption, federal and state applications may be made simultaneously.) The IRS publishes an informational booklet, IRS Publication 557 (How to Apply for and Retain Exempt Status for Your Organization), which provides details of the process. Because copies of the organization's Bylaws, statement of receipts and disbursements, current balance sheet and two-year budget are included in the 501 (c) (3) application, it is important to incorporate and hold your state chapter's first Board meeting before your chapter applies.

After federal tax-exempt status is secured, applications should be made to state income tax authorities: State requirements for tax exemption may be more stringent than federal requirements. Although exemption from state and local sales and property taxation is generally more difficult to secure, your chapter may qualify. Such exemption is a potentially large source of savings for your chapter.

V. ONGOING REQUIREMENTS OF AN INCORPORATED ENTITY

Every state's corporation laws require that a corporation hold periodic meetings and file periodic reports. Failure to meet some of these requirements could result in involuntary termination of your chapter's incorporation, which in turn could result in the loss of tax-exempt status and chapter affiliation.

As noted above, if the directors and officers of a corporation do not observe certain legal formalities (operate according to its Bylaws, hold director meetings, keep minutes of meetings, file required reports, keep corporate funds separate from personal funds of those in charge), a court may disregard the corporate entity and

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hold such persons personally liable for corporate debts and other liabilities. State laws vary, so your chapter should consult the secretary of state or other appropriate state agency or your own legal counsel to assure that these ongoing duties are fulfilled.

State chapters should prepare, and periodically update, a checklist of ongoing reporting, filing, and similar requirements. That checklist should be compared to existing operations at least annually. The attorney who prepares and submits the incorporation documents and tax-exempt applications can assist with this process. While not all legally required, typically such a checklist would, at a minimum, include the following:

- File appropriate Federal and state tax returns
- Check continuing validity of Federal and state tax-exempt status
- File appropriate tax-exempt reports
- File appropriate corporate reports
- Confirm registered agent and government contact information is up to date
- Confirm chapter has all federal, state, or local licenses as required
- Confirm all required Board Meetings were conducted
- Confirm all required elections were conducted
- Confirm all appropriate notices of Board Meetings/elections were provided
- Review chapter by-laws and confirm all required actions were completed
- Conduct annual financial audit
- Review D&O, liability, etc. insurance policies and the need for such insurance
- Confirm the Chapter maintains all past records required by Federal, state or local laws

A comprehensive checklist for ongoing compliance obligations affecting 501(c) (3) entities would vary from state to state and organization to organization. However, a good general checklist is attached at Appendix I.

A. Meetings

Most state corporation laws require that the Board of Directors meet at least once a year. The Board meeting is the appropriate time to authorize and approve the required state filings mentioned below. Also, many state nonprofit statutes require that a meeting of all members be held annually.

B. Filings and Reports

Filings and reports fall into two categories: those relating to taxation and others.

1. Taxation Filings

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Many taxation authorities require tax-exempt organizations to file annual reports even if they owe no income, sales or property taxes. As mentioned above, merely acquiring federal tax-exempt status is not necessarily sufficient to be exempt from state income, sales and property taxes. Your chapter should take care to file all necessary forms and pay all appropriate taxes.

2. Other Filings.

If your chapter has any employees, employment-related filings and reports must be made, including quarterly federal employment tax deposits, W-2 forms, 1099 forms and state employment tax filings.

Most states require that each corporation organized under its laws file an annual franchise tax report with the Secretary of State. Several states require that each charitable organization file periodic reports with the attorney general or secretary of state, among other things, to verify that the organization is still active. Such reports often require certain information relating to the chapter's activities and finances and information about officers and directors.

If your state chapter changes its registered agent or elects new directors or officers, their names and addresses may need to be reported. In most states, any change in your chapter's articles of incorporation (and, in many states, any change in the Bylaws) must be filed with the secretary of state.

Finally, several states have recently enacted legislation to protect against fraudulent solicitation on behalf of charitable organizations. As a result of this legislation, a fundraising event may need official approval and professional fundraisers may need to be licensed by or registered with the state.

3. Conflict of Interest and Fiduciary Duty obligations

Several historic corporate management disasters in the 1980 to 2002 time period resulted because Board members either failed to become adequately informed about corporate issues or placed their own personal interests above those of the corporation. These problems prompted both Congress and the IRS to place a greater emphasis on governmental oversight of boards of directors, including those for not for profit corporations. The objective is to ensure that directors of the organization are fully knowledgeable about all the issues facing them and that they are acting in the best interests of the organization rather than their own personal interests. One specific example of this increased oversight is that the IRS has published a sample conflict of interest policy that not for profit corporations are encouraged to adopt.

APSAC state chapters would be well advised to confirm that all directors are

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fully engaged and informed on all aspects of corporate finances, compliance and activities. APSAC encourages state chapters to adopt a conflict of interest policy that requires Directors to disclose potential conflicts of interest and follow appropriate procedures for such conflicts. Additional information on conflict of interest, including a sample policy and annual questionnaire for directors and officers is included at Appendix J.

VI. CONCLUSION

Because the initial and ongoing legal requirements are numerous, the chapter's Board of Directors may want to divide up responsibilities for certain reporting and filing requirements to different officers. For example, the treasurer could be responsible for financial and tax-related matters and the secretary for corporate minutes and nonfinancial reports.

Your chapter will function most effectively and will easily meet all of these initial and ongoing legal requirements if the officers and directors of your chapter become acquainted with such requirements and deal with them proactively.

APPENDIX I CHECKLIST FOR ONGOING COMPLIANCE OBLIGATIONS

State Chapters should regularly assess their compliance with the following legal formalities:

Monitoring by the Board

- - The corporation furnishes each director and officer with a copy of the corporation's articles of incorporation and bylaws.
 - The corporation assigns the responsibility for meeting all filing and reporting requirements to appropriate directors and staff.
 - The board or a board committee regularly determines that all filing and reporting requirements have been met in a timely manner, or that appropriate and timely corrective action has been taken.

Personnel/Employment

- The corporation has applied for and been assigned a federal identification number by the Internal Revenue Service (IRS).
- The corporation withholds federal income taxes and federal social security and Medicare taxes from taxable wages paid to employees, pays the employer share of taxes, and deposits all such funds in a timely manner and with the appropriate IRS forms.
- The corporation maintains personnel records for at least four years.

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- The corporation obtains a completed IRS Form I-9 and Form W-4 from all new employees.
- The corporation furnishes each employee with a completed IRS Form W-2 by January 31 for the previous calendar year.
- The corporation files quarterly wage reports (IRS Form 941) with the IRS.
- The corporation posts or provides to its employees the required employment notices, including notices and posters required by the applicable State Agency, EEOC, OSHA, and US Department of Labor.
- The corporation complies with wage and hours laws (including the Fair Labor Standards Act), workplace safety laws, and nondiscrimination laws (including Title VII and the Americans with Disabilities Act).
- The corporation complies with its employee benefit plan requirements.
- The corporation has adopted an updated personnel policy manual and complies with the personnel policies and procedures contained in the manual.
- The corporation complies with the IRS rules governing the status of independent contractors, prepares proper documentation of all independent contractor agreements, and reports compensation to independent contractors on IRS Form 1099 MISC.
- The corporation provides to each employee from whom the corporation did not withhold any income tax a notice about the Earned Income Tax Credit, by providing the employee with IRS Notice 797.

Federal Tax and Financial Filings and Reports

- The corporation files annual tax information returns (IRS Form 990 or 990-EZ). If the corporation has unrelated business income, it files IRS Form 990-T.
- The corporation obtains an annual financial audit from an independent auditor and, if required by federal funding sources, the corporation obtains an A-133 audit.
- The corporation engages legal counsel to conduct an annual review of its past year's operations and coming year's proposed operations to identify any conflicts and inconsistencies with the information previously provided to the IRS, and for an opinion on whether the corporation is or will be engaged in unrelated business activity.
- The corporation complies with IRS disclosure, substantiation, and reporting requirements for charitable contributions received.
- The corporation observes the IRS prohibition on political campaign activities.
- For corporations within the IRS advance ruling period, the corporation conducts an annual review to determine its compliance with public charity status requirements and obtains a final ruling on its public charity status from the IRS in a timely manner.
- The corporation observes the limitations on lobbying activities and maintains appropriate records to document its lobbying expenditures and activities.
- If the corporation lobbies and utilizes the 501(h) election, it makes appropriate

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filings with the IRS to comply with lobbying registration, disclosure, and reporting requirements.

- If the corporation has an employee benefit plan, the corporation makes annual benefit plan filings (IRS Form 5500) as required.

Other Filings and Reports

- The corporation has applied for and maintains the appropriate property tax exemptions with the county assessor.
- The corporation files appropriate forms with the Secretary of State as required.
- The corporation has obtained a nonprofit mailing permit to use special bulk postal rates.

Liability Protection

- The corporation understands the policy limits of insurance policies, including: the events covered, exclusions, amount of coverage, deductibles, whether policies are "occurrence" or "claims made" policies, and any gaps in coverage.
- The corporation maintains appropriate commercial general liability insurance, with reasonable exclusions and limitations, with coverage for the acts and omissions of the organization and its employees and volunteers in the amount of at least \$500,000 for each person, \$1,000,000 for each single occurrence for death or bodily injury, and \$100,000 for each single occurrence for injury to or the destruction of property.
- The corporation maintains appropriate bonding for those persons who handle its funds, with reasonable limitations and exclusions.
- The corporation maintains, as applicable, errors and omissions or other professional liability insurance, with reasonable exclusions and limitations.
- The corporation maintains appropriate director's and officer's liability insurance, with reasonable exclusions and limitations, or annually reviews the affordability of such insurance.
- The corporation maintains appropriate property and automobile insurance, with reasonable limitations and exclusions.
- The corporation maintains appropriate workers' compensation insurance, with reasonable limitations and exclusions.
- The corporation maintains appropriate employment practices liability coverage, with reasonable limitations and exclusions.
- The corporation has copies of executed waivers of liability for volunteers and clients.
- The corporation has adopted policies and procedures to modify risks and

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- monitors their implementation.
- The corporation promptly advises insurance companies of facts that could give rise to claims in accordance with notice provisions of the policies.

Operations

- The corporation has selected a bank after comparing and negotiating rates and fees.
- The corporation has authorized at least two persons as check signers.
- The corporation appropriately invests its assets that are held for investment.
- The corporation maintains an up-to-date copy of its articles of incorporation, bylaws, 501(c)(3) tax exemption application and determination letter, and franchise tax exemption letter from the appropriate state agencies and keeps a copy at its principal office.
- The corporation maintains on record with the Secretary of State a current name and address for its registered agent.
- The corporation has obtained a sales tax exemption from appropriate state agencies.
- The corporation has obtained other federal, state, or local licenses as required for its activities.
- The corporation prepares and maintains for at least three years adequate and correct books and records of account, including records relating to all income and expenditures, and prepares or approves an annual report of financial activity.
- The corporation, unless it falls under a state statutory exception, makes all of its financial records available to members of the public for inspection.
- The corporation prepares and maintains minutes of board, committee, and member meetings for a minimum of three calendar years following the end of the fiscal year.
- The corporation maintains copies of notices of board and member meetings, written waivers of notice, consents to votes taken without a meeting, and approvals of all minutes.
- The corporation maintains copies of written director and officer resignations, proxies, and similar documents.
- The corporation maintains an alphabetized list of members (if any), with name, address, and class of membership.
- The corporation makes available for public inspection a copy of its federal tax exemption application, IRS tax exemption determination letter, and IRS Forms 990 from the previous three years, and provides a copy on request.
- The corporation complies with its bylaws, including the provisions on the terms of directors, election of officers, quorums, and obtaining approval for certain actions. The corporation holds all meetings it is required to hold and provides proper notice of meetings.

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- The corporation has at least three directors, and has two different directors serving as president and secretary.

Transactions

- The corporation maintains a procurement policy to ensure that purchases are at a fair market value or are otherwise favorable to the corporation and, if applicable, the corporation complies with federal procurement standards.
- The corporation maintains a financial system that requires receipt of written invoices prior to payment for any services or goods.
- The corporation conducts appropriate investigations to ascertain that loans, leases, and other transactions are at fair market value or are otherwise favorable to the corporation.
- The corporation prepares appropriate documentation in support of all transactions with directors, officers, or other insiders, and to demonstrate the reasonableness of all compensation.
- The corporation has adopted a conflict of interest policy for transactions and meets all requirements for approval of transactions involving a conflict of interest including transactions with corporations under its control.
- The corporation engages legal counsel to review proposed contracts and agreements, corporate obligations to perform acts that might jeopardize its tax exempt status, and whether there are appropriate safeguards to assure that corporate funds granted to other organizations are being used for tax exempt purposes.
- The corporation receives the benefits of, and meets its obligations under, all leases, loans, contracts, partnerships, joint ventures, and similar agreements.
- If the corporation is the fiscal agent for another organization, it monitors the other organization's performance and compliance with all corporate formalities.

APPENDIX J CONFLICT OF INTEREST

According to the Internal Revenue Service, a “conflict of interest” arises when a person in a position of authority over an organization, such as a director, officer, or manager, has a direct or indirect financial interest that would be affected by a decision he or she could make. Governments, both federal and state, focus on the potential financial gain an individual might make.

There are several examples of conflict of interest definitions that could be adopted. One example is as follows:

A conflict of interest will be deemed to exist whenever an individual is in the position to approve or influence policies or actions of [State Chapter] which involve or could ultimately harm or benefit financially: (a) the individual; (b) any

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member of his or her immediate family (spouse, parents, children, brothers or sisters, and spouses of these individuals); or (c) any organization in which he or she or an immediate family member is a director, trustee, officer, member, partner or more than 10% shareholder.

It is important to note that the conflict of interest provisions relate to "financial" issues. The fact that someone has strongly held position, based solely on "non-financial" concepts does not create a conflict of interest. Once a conflict of interest situation arises the individual involved has an obligation to disclose the conflict, and may have an obligation to abstain from the action that creates the conflict of interest. The abstention of the individual involved should be recorded in the minutes of the meeting or memorialized in some other written form. This documentation may be necessary should the IRS question the involvement of that individual in the decision.

Adoption of a conflict of interest policy is not required to obtain or maintain tax-exempt status. However, by adopting such a policy, you will be choosing to put in place procedures that will help your State Chapter avoid the possibility that those in positions of authority may receive an inappropriate benefit. Many organizations require affected individuals to sign an annual conflict of interest policy memorializing that they are familiar with the applicable policy and that no conflicts exist. An example form follows:

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 (State Chapter) Conflict of Interest Policy. _____ (initial)

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

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

I understand that (State Chapter) 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)

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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 (State Chapter)?

_____ 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 (State Chapter)?

_____ 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

APPENDIX K LOBBYING

A lobbyist is someone who attempts to influence federal, state or local government decisions through direct or indirect communication with government officials. In order to control nature and extent of lobbying activities, governments require that lobbyists register with the appropriate governmental agency and regularly report their activities. Any person or organization that communicates with government officials must be aware of the relevant governmental regulations. Unfortunately, for lobbyists in Illinois, state law differs from the Federal lobbying law in many respects, including the definition of lobbying. The city of Chicago also has its own regulations. This Appendix seeks to provide some guidance for 501(c)(3) organizations that might wish to have a voice in influencing governmental decisions. Be advised, however, that lobbying outside the governmental regulations can cause your organization to incur fines and can even affect your organization's tax exempt status. Therefore, we strongly advise that you seek professional advice from an attorney before engaging in extensive legislative activities.

This Appendix also discusses briefly the restrictions the law places on political campaigning for or against a candidate for elected office.

FEDERAL LOBBYING

The "Federal Regulation of Lobbying Act" (the "Act") describes lobbying and requires those who lobby to register and report on their activities. The purpose of the law is to disclose who is lobbying the Congress, how much they are spending, and where the money is coming from. While there have been many attempts to overhaul the 1946 law, none have been successful. There are several specific issues regarding lobbying, such as lobbying on behalf of foreign governments, lobbying by ex-government employees or lobbying to circumvent antitrust laws, which are beyond the scope of this brochure.

1. What is Lobbying?

The Act provides that any person who solicits or receives money (or anything of value) to be used principally in the passage or defeat of any legislation by the Congress must register as a lobbyist. A person required to register under the Act may be an individual, corporation, association, committee etc. The Act does not apply to newspapers or periodicals which advocate the passage or defeat of legislation, nor does it apply to government officials acting in their official capacity.

The Act does not apply to those who expend money, only to those who receive or solicit money. A person who is paid to lobby receives money and is therefore a lobbyist. Thus if a 501(c)(3) organization or group of organizations hires a professional lobbyist, that lobbyist must register as a paid lobbyist. An unpaid volunteer who solicits contributions would also be subject to the lobby law. However, a volunteer lobbyist who does not solicit money, or any other thing of value, is not required to register. Thus an officer of a charitable

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organization who lobbies Congress on behalf of the organization but receives no compensation for doing so, is not a lobbyist under the law and is thus not required to register.

One difficult aspect of the lobby law is determining whether the money (or other thing of value) was solicited or paid “to be used principally to aid” in the passage or defeat of legislation by the Congress. The courts have said that if a substantial part of the money or activity is directed to influencing legislation, it is lobbying. Corporations or associations that have large total incomes and small lobbying activities can easily avoid the status of a lobbyist. When total income is small and lobbying expenses are high, it will be difficult to avoid registration as a lobbyist. The law applies to more than just money. It applies to “any other thing of value.” If an organization loans paid employees to a project to support or oppose legislation, that may qualify.

When an individual is paid specifically for certain lobbying duties, that payment obviously qualifies as a lobbying expense. Where a paid individual has many functions, one of which is lobbying, is their salary a lobbying expense? The test is whether the individual would be relieved of his or her position for failing to carry out the lobbying functions. If the answer is yes, that person’s salary is a lobbying expense. An organization may register and report if it has paid lobbyists working for it, but it must name the lobbyists to relieve them of individual registration and reporting obligations.

Someone must register as a lobbyist when the activity is for the purpose of the passage or defeat of any legislation. Courts have interpreted this to mean you must have a direct communication with Members of Congress. Any attempt to encourage members of the general public to write Members of Congress is call grass roots lobbying. It is not covered. Similarly, corporate contributions to a political action committee are not covered.

The courts have hinted that efforts to contact Congressional staff members might not be covered under the law. However, the Congress considers such activity covered by the law. Since Congress administers the registration and reporting requirements, such contacts should be included.

2. What Must a Lobbyist Do?

Those who lobby must register with the Clerk of the House of Representatives, or the Secretary of the Senate, before they start lobbying. Both Houses of Congress use the same registration form. The lobbyist must keep detailed financial records of contributions and expenditure and file reports. Reports are due by April 10, July 10, October 10, and January 10 for the preceding quarter. An individual who does not lobby during a quarter, need not file a report.

The report form is very simple. It requires some basic background information, the employer, a list of legislation the lobbyist will support or oppose, and all expenditures of \$10

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or more.

3. Lobbying with Government Funds

There is a particular danger for organizations that receive any funding from the Federal government. Congress has prohibited using any part of the money appropriated by Congress to influence any officer or employee of any government agency, any Member of Congress, or any Congressional staff member, regarding certain federal actions. These include:

- a. Federal, state or local electioneering and support of such entities as campaign organizations and political action committees;
- b. Most direct lobbying of Congress and state legislatures to influence legislation;
- c. Lobbying of the Executive Branch in connection with decisions to sign or veto enrolled legislation;
- d. Efforts to utilize state or local officials to lobby Congress or state legislatures;
- e. Grass roots lobbying concerning either Federal or state legislation; and
- f. Legislative liaison activities in support of unallowable lobbying activities.

To ensure compliance, the law imposes significant reporting requirements on organizations that receive federal funds. Where that organization uses non-federal funds for activities that would be prohibited using federal funds, the reporting requirements are especially detailed.

FEDERAL TAX CONSEQUENCES OF LOBBYING

The Internal revenue Code (the "Code") imposes its own restrictions on lobbying activities. Certain lobbying expenses may not be deductible as business expenses by corporations. In addition, lobbying activities of tax exempt organizations, particularly 501(c)(3) organizations, are severely limited. Specifically such organizations may not spend more than an insubstantial portion of their revenue on lobbying and they may not engage in any political campaigning. It is important to understand that an organization may use volunteers to lobby Congress and thus not be required to register under the Federal Lobbying Act. However, any expenses incurred in connection with that person's activities, will probably constitute lobbying expenses within the meaning of the Code and will have to be taken into account for reporting purposes when the organization files its Federal Form 990 annual information return.

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1. Which Contacts Constitute Lobbying?

For most 501(c)(3) organizations the goal is to ensure their lobbying activities do not result in loss of tax exempt status. An organization will lose its 501(c)(3) status if a substantial part of its activities consist of attempting to influence legislation by propaganda or otherwise. This includes direct contact with members of a legislative body (i.e. "Direct Lobbying") and efforts to encourage the public to contact their legislators (i.e. "Grass Roots Lobbying"). Legislative bodies include the Congress, state legislatures, and local government legislative bodies. The definition includes all levels of legislative bodies but does not include the executive, judicial or administrative functions of government. The law excludes special purpose legislative bodies such as school boards, housing authorities, sewer and water districts, and other similar federal, state or local bodies.

2. What is Lobbying?

The law prohibits expenditures for direct lobbying communication and grass roots lobbying communication from exceeding specified amounts. A direct lobbying communication advocates a certain position respecting pending or proposed legislation and is directed to an official, a member or employee of a Federal, state or local legislative body.

A grass roots lobbying communication is directed to the general public. It also advocates a certain position on pending or proposed legislation and it contains a so-called "call to action" urging the recipient to take specific action respecting the legislation such as writing to a congressman or congresswoman or urging others to do so. There is an exception for mass media communications that occur within two weeks before a legislative vote on highly publicized legislation. In those circumstances the law presumes that the communication is asking the person to take action.

Where a matter has been submitted to a vote of the public by ballot or referenda, then the public becomes the legislative body. In such circumstances a communication with the public regarding that proposal is a direct lobbying communication, not a grass roots lobbying communication.

3. What is not Considered Lobbying?

Certain activities are not considered lobbying. For example, nonpartisan research material prepared for distribution to the public is considered exempt if it does not encourage legislative action. If that research material is subsequently recirculated along with a letter calling for action on the legislation, it may be transformed into a lobbying communication. Moreover, the expenses incurred during the last six months to prepare that research material now may be considered a grass roots lobbying expenditure. Organizations can avoid this result if they can demonstrate that the research materials were prepared for a primary purpose other than lobbying.

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An organization's communication to its own members may not be cast as grass roots lobbying if it satisfies three criteria:

- a. the communication is directed exclusively to members;
- b. the legislation discussed in the communication is of direct interest to the organization and its members; and
- c. the communication does not encourage direct or grass roots lobbying by the member.

In cases where the communication has lobbying and non-lobbying elements, a reasonable allocation between lobbying and non-lobbying expenses can be made.

Direct communication with a legislative body is not considered a lobbying communication where the legislative body or a committee thereof requests the advice or testimony in writing. Examinations and discussions of broad social or economic problems are not lobbying communication if the communication does not mention specific legislation. This applies even if legislative on these topics is under consideration by the legislative body. In addition, where a legislative body is considering legislation that might affect the existence of the organization, its powers or duties, communication with the legislature by the organization is not lobbying.

4. How Much Can You Lobby?

The law provides that "no substantial part of the activities of" a 501(c)(3) organization may include attempts to influence legislation. In determining what constitutes a "substantial part" the IRS will look at both the amount of money and time spent on a particular activity. Unfortunately, the term substantial part has not been defined and court opinions interpreting it have not provided a workable definition. Unless an organization makes an election (described below) to spend a prescribed amount, there is no dollar amount or percentage of income that will serve as a safe harbor for the substantial part test.

Certain 501(c)(3) organizations may elect, under Section 501(h) of the Code, to limit their lobbying expenses according to a formula. An organization making the election may expend an amount equal to 20% of the organization's first \$500,000 of expenditures made in the conduct of its exempt purpose (or \$100,000); 15% of exempt purpose expenditures from \$500,000 - \$1,000,000 (or \$75,000); 10% of exempt purpose expenditures from \$1,000,000 - 1,500,000 (or \$50,000); and 5% of exempt purpose expenditures in excess of \$1,500,000 up to \$17,000,000 (or up to \$775,000). Total lobbying expenditures may not exceed \$1,000,000 in any one fiscal year.

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An organization's grass roots lobbying activities are limited to 25% of the total amount it can spend on lobbying. If a 501(c)(3) organization exceeds the lobbying expenditure limits, it will be subject to an excise tax equal to 25% of excess lobbying expenditures. If expenditures over a four year period exceed 150% of the specified amounts, the group will lose its 501(c)(3) status.

An election under section 501(h) may be made at any time prior to the close of an organization's fiscal year and remains in effect for all subsequent years until the organization revokes it. While 501(h) provides certainty it also mandates disclosure and reporting. However, failure to make a 501(h) election leaves an organization with no means, other than the substantial part test to determine whether lobbying expenses are excessive. Unless an organization actually makes a 501(h) election, the percentage limitations of that section provide no guidance for purposes of meeting the substantiality test.

5. Political Campaigning by 501(c)(3) Organizations

While the rules regarding lobbying are complicated, the rules relating to political campaigning are very simple. A 501(c)(3) organization may not engage in any political campaign. This applies with equal force regardless of which election is made under Section 501(h). This rule is not subject to any "substantial part" test. Any action to participate in any political campaign to support or oppose any candidate for national, state or local elected office may lead to revocation of 501(c)(3) status.

Political activity may include circulation of written or printed statements, the making of oral statements or posting of signs urging support for or opposition to a specific candidate. For example, a medical society lost its 501(c)(3) status because it mentioned in its newsletter certain political candidates who happened to be members of the society and stated they supported the fight against socialized medicine.

An organization may engage in so-called "voter education" activities without loss of exemption. These may include informing its members or the public about the voting records of all the candidates in an election; conducting surveys of voter opinion; or circulating the results of polls without comment favoring or opposing any single candidate. However, the IRS has taken the position in a published ruling, that wide distribution of incumbent voting records on a narrow range of issues is prohibited political activity particularly where such information is circulated during a campaign, and not as part of an organizations normal publication activity - e.g. in its newsletter or other regularly scheduled publication. Thus, 501(c)(3) organization should be very careful that they limit such educational activities and avoid any hint of support or opposition to any single candidate or party. In addition, it is wise to avoid circulating voting records, polls and surveys close to election time, if your organization does not generally circulate such information throughout the year.