

CONSTITUTION AND BY-LAWS NEWPORT/MESA PROLITERACY

ARTICLE I - NAME

The name of this organization shall be:

Newport/Mesa ProLiteracy

ARTICLE II - MISSION STATEMENT

Section I - Our mission is to develop the literacy skills of adults to empower them to achieve greater success in their lives - at home, at work and in the community.

ARTICLE III - MEMBERSHIP

Section I - The membership shall consist of Active and Supporting Members:

- A) Active Members shall be all volunteers who participate in the program as a tutor, learner, or Board member, the Literacy Coordinator and any other administrative personnel.
- B) Supporting Members shall be those other than Active Members who contribute by financial support to the program or through volunteering hours in roles other than as an Active Member.

Section II - No person shall be denied membership because of sex, race, color, nationality, religion, political belief, age, disability or veteran status.

ARTICLE IV - MEETINGS OF MEMBERSHIP

Section I - An annual meeting of Active and Supporting Members of Newport/Mesa ProLiteracy for the election of members of the Literacy Advisory Board and transaction of such other business as properly may come before it shall be held at such place and time during the year as is set each year by the Board. Notice of the annual meeting shall be sent by the secretary to all members at least fourteen (14) days before the meeting.

Section II - Special meetings of Newport/Mesa ProLiteracy may be held at the call of the Literacy Advisory Board or the call of at least sixty percent (60%) of the members of Newport/Mesa ProLiteracy. Each member shall be entitled to one vote. The secretary shall be sent notices of such meetings containing the purpose of such meetings to all members at least ten (10) days before the date of the meeting.

Section III - A quorum at the annual meeting shall be based on ten (10%) percent of Active Members in attendance.

ARTICLE V - LITERACY ADVISORY BOARD

Section I - The Literacy Advisory Board shall act in an advisory capacity to the Newport/Mesa ProLiteracy's Literacy Coordinator; and have fiscal responsibility for the management and control of the private funds of Newport/Mesa ProLiteracy.

Section II - The Literacy Advisory Board shall consist of not fewer than five (5) and not more than twenty (20) members.

Section III – Election and Term of Literacy Advisory Board members:

At the annual meeting, the nominating committee shall present the slate of the board nominees to the members, and the membership shall vote for the entire slate of new nominees. Board nominees shall be elected by a majority vote of those members voting at the annual meeting. Board members shall serve for a term of three years. No board members may serve more than two consecutive terms. Term limits will become effective for all board members beginning on January 1, 2009.

Section IV – Vacancies on the Literacy Advisory Board: The Board shall have the power to fill vacancies in its own membership. Such new Board members shall hold office until the next annual meeting of the members of Newport/Mesa ProLiteracy. At that time they may be included in the slate presented by the nominating committee.

Section V – Quorum: A minimum of thirty percent (30%) of the Literacy Advisory Board members shall constitute a quorum at any meeting of the Board.

Section VI – Meetings: The Literacy Advisory Board shall meet at least four (4) times per year and at any other time and place specified by the President or the Board.

ARTICLE VI – OFFICERS

Section I – Officers of Newport/Mesa ProLiteracy shall be members of the Literacy Advisory Board, and consist of a President, one or more Vice-Presidents, a Treasurer, a Secretary, and such other officers as the Board may designate. These officers shall be elected by the members of the Literacy Advisory Board and shall serve for a one year term.

These officers shall constitute the Executive Committee of the Board. In addition, the Executive Committee may invite an immediate past President of the Board to serve one additional year on the Executive Committee, as President Emeritus, provided that the past President is still a member of the Literacy Advisory Board.

Section II – The Literacy Advisory Board shall have the power at any time to fill vacancies among the officers. Officers so elected to fill such vacancies shall serve until the next Board meeting after the annual meeting.

Section III – Any officer may be removed from office by a majority vote of the full membership of the Literacy Advisory Board at any regular or special meeting.

Section IV – Duties of Officers:

President/Chair of the Board

- Oversee board and executive committee meetings
- Serve as ex-officio member of all committees
- Work in partnership with the literacy coordinator to assure that board resolutions are carried out
- Call regular and special meetings
- Appoint all committee chairs and, with the literacy coordinator, recommend who will serve on committees
- Assist literacy coordinator in preparing agenda for board meetings
- Assist literacy coordinator in conducting new board member orientation
- Oversee searches for a new literacy coordinator

- Coordinate literacy coordinator's annual performance evaluation
- Work with the nominating committee to recruit new board members
- Coordinate periodic board assessment with the literacy coordinator
- Act as an alternate spokesperson for the organization
- Fulfill all the responsibilities of a board member's job description

Vice President of the Board

- Attend all board meetings
- Serve on the executive committee
- Carry out special assignments as requested by the board president
- Understand the responsibilities of the board president and be able to perform these duties in the president's absence
- Participate as a vital member of the board leadership team
- Fulfill all the responsibilities of a board member's job description.

Secretary of the Board

- Attend all board meetings
- Serve on the executive committee
- Maintain all board records and ensure their accuracy and safety
- Take board minutes
- Assume responsibilities of the president in the absence of the board president, president-elect and vice president
- Provide notice of meetings of the board and/or of a committee when required
- Fulfill all the responsibilities of a board member's job description

Treasurer of the Board

- Attend all board meetings
- Understand financial accounting for nonprofit organizations
- Serve as financial officer of the organization and chairperson of the finance committee
- Manage, with the finance committee, the board's review of and action related to the board's financial responsibilities
- Work with the literacy coordinator to ensure that appropriate financial reports are made available to the board on a timely basis
- Prepare and file annual income reporting forms to the IRS and other agencies as required
- Fulfill all the responsibilities of a board member's job description

Board Member

- Attend all board meetings

- Have a thorough knowledge of the organization and a personal commitment to its goals and objectives
- Participate actively in committee work
- Volunteer for and willingly accept assignments, completing them thoroughly and on time
- Stay informed about organizational matters, prepare for meetings, and review and comment on minutes and reports
- Get to know other board members and build a collegial working relationship
- Participant in annual evaluation and planning efforts
- Participate in fund raising for the organization and personally support organization's annual fundraising-campaign

Learner Liaison:

**Literacy Advisory Board
Learner Liaison Job Description**

- Attend board meetings, acting as a representative for program learners and participating in general board discussions
- Attend learner network meetings and bring learner issues or concerns to the board's attention, making recommendations or suggestions for addressing them
- Participate in at least one of the classes offered by the program
- Organize learner participation in program events
- Have an understanding of the program and a personal commitment to its goals
- Maintain regular/monthly contact with liaison's mentor on the board

Other officers shall perform such duties and have such powers as may be assigned to them by the Council.

ARTICLE VII – INDEMNIFICATION

Section 6.1 Definitions. For the purposes of this Article 6, the following definitions shall apply:

- (a) "agent" means any person who is or was a director, officer, employee or other agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another foreign or domestic corporation, partnership, joint venture, trust or other enterprise, or was a director, officer employee or agent of a foreign or domestic corporation which was a predecessor corporation of the Corporation or of another enterprise at the request of such predecessor corporation;
- (b) "proceeding" means any threatened, pending or completed action or proceeding, whether civil, criminal, administrative or investigative; and
- (c) "expenses" includes without limitation attorney's fees and any expenses of establishing a right to indemnification under Sections 6.4 or 6.5(b).

Section 6.2 Indemnification in Actions by Third Parties. The Corporation shall, to the maximum extent permitted by law, indemnify any person who was or is a party or is threatened to be made a party to any proceeding, (other than an action by or in the right of

the Corporation to procure a judgment in its favor, an action brought under Section 5233 of the Law, or an action brought by the Attorney General or a person granted relator status by the attorney General for any breach of duty relating to assets held in charitable trust) by reason of the fact that such person is or was an agent of the Corporation, against expenses, judgments, fines, settlements and other amounts actually and reasonably incurred in connection with such person acted in good faith and in a manner of such person reasonably believed to be in the best interests of the Corporation and, in the case of a criminal proceeding, had not reasonable cause to believe the conduct of such person was unlawful. The termination of any proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which the person reasonably believed to be in the best interests of the Corporation or that the person had reasonable cause to believe that the person's conduct was unlawful.

Section 6.3 Indemnification in Actions by or in the Right of the Corporation. The Corporation shall, to the maximum extent permitted by law, indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action by or in the right of the Corporation, or brought under Section 5233 of the Law, or brought by the Attorney General or a person granted relator status by the Attorney General for breach of duty relating to assets held in charitable trust, to procure a judgment in its favor by reason of the fact that such person is or was an agent of the Corporation, against expenses actually and reasonably incurred by such person in connection with the defense or settlement of such action if such person acted in good faith, in a manner such person believed to be in the best interests of the Corporation and with such are, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances. No indemnification shall be made under this Sections 6.3:

- (a) In respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the Corporation in the performance of such person's duty to the Corporation, unless and only to the extent that the court in which such proceeding is or was pending shall determine upon application that, in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for the expenses which such court shall determine;
- (b) Of amounts paid in settling or otherwise disposing of a threatened or pending action, with or without court approval; or
- (c) Of expenses incurred in defending a threatened or pending action which is settled or otherwise disposed of without court approval, unless it is settled with the approval of the Attorney General.

Section 6.4 Indemnification Against Expenses. To the extent that an agent of the Corporation has been successful on the merits in defense of any proceeding referred to in Sections 6.2 or 6.3 or in defense of any claim, issue or matter therein, the agent shall be indemnified against expenses actually and reasonably incurred by the agent in connection therewith.

Section 6.5 Required Determinations. Except as provided in Section 6.4, any indemnification under this Article 6 shall be made by the Corporation only if authorized in the specific case, upon a determination that indemnification of the agent is proper in the circumstances because the agent has met the applicable standard of conduct set forth in Sections 6.2 or 6.3, by:

- (a) A majority vote of a quorum consisting of directors who are not parties to such proceeding; or
- (b) The court in which such proceeding is or was pending upon application made by the Corporation or the agent or the attorney or other person rendering services in connection with the defense, whether or not such application by the agent, attorney or other person is opposed by the Corporation.

Section 6.6 Advance of Expenses. Expenses incurred in defending any proceeding may be advanced by the Corporation prior to the final disposition of such proceeding upon receipt of an undertaking by or on behalf of the agent to repay such amount unless it shall be determined ultimately that the agent is entitled to be indemnified as authorized in this Article 6.

Section 6.7 Other Indemnifications. No provision made by the Corporation to indemnify its or its subsidiary's directors or officers for the defense of any proceeding, whether contained in the Articles, Bylaws, a resolution of members or directors, an agreement or otherwise, shall be valid unless consistent with this Article 6. Nothing contained in this Article 6 shall affect any right to indemnification to which persons other than such directors and officers may be entitled by contract or otherwise.

Section 6.8 Forms of Indemnification Not Permitted. No indemnification or advance shall be made under this Article 6, except as provided in Sections 6.4 or 6.5(b), in any circumstances where it appears:

- (a) That it would be inconsistent with a provision of the articles, these Bylaws, or an agreement in effect at the time of the accrual of the alleged cause of action asserted in the proceeding in which the expenses were incurred or other amounts were paid, which prohibits or otherwise limits indemnification; or
- (b) That it would be inconsistent with any condition expressly imposed by a court in approving a settlement.

Section 6.9 Insurance. The Corporation shall have power to purchase and maintain insurance on behalf of any agent of the Corporation against any liability asserted against or incurred by the agent in such capacity or arising out of the agent's status as such whether or not the corporation would have the power to indemnify the agent against such liability under the provisions of this Article 6, provided, however, that a Corporation shall have no power to purchase and maintain such insurance to indemnify any agent of the Corporation for a violation of Section 5233 of the California Nonprofit Public Benefit Corporation Law.

Section 6.10 Nonapplicability to Fiduciaries of Employee Benefit Plans. This Article 6 does not apply to any proceeding against any trustee, investment manager or other fiduciary of an employee benefit plan in such person's capacity as such, even though such person may also be an agent of the Corporation as defined in Section 6.1. The Corporation shall have power to indemnify such trustee, investment manager or other fiduciary to the extent permitted by subdivision (f) of Section 207 of the California General Corporation Law.

ARTICLE VII – COMMITTEES

Section I – There shall be a Nominating Committee and such additional committees as may be appointed by the president with the approval of the Board.

Section II – Three months prior to the annual meeting, the Newport/Mesa ProLiteracy Board president shall appoint a nominating committee of not fewer than three (3) and not more than five (5) Board members, whose duty shall be to present at the next annual meeting of the members, the nominations for members of the Literacy Advisory Board. Thereafter, a Nominating Committee shall function throughout the year and make recommendations to the Board to fill vacancies occurring between the annual meetings of members.

Section III – Any member of Newport/Mesa ProLiteracy at any annual meeting may, with the consent of the nominee, nominate candidates for members of the Literacy Advisory Board.

ARTICLE VIII – DISPOSITION OF ASSETS UPON DISSOLUTION

In the event of the dissolution of Newport/Mesa ProLiteracy or in the event it shall cease to carry out the objectives and purposes herein set forth, all the business, property and assets of the organization shall be distributed to such similar non-profit charitable organization or organizations as may be selected by the Literacy Advisory Board and which is or are tax-exempt organizations pursuant to Section 501(c)(3) of the Internal Revenue Code, so that business properties and assets of the organization shall in such event be used for and devoted to the purposes of promoting literacy organizations; and in no event shall any of the assets and property of the organization or the proceeds of any such property or assets in the event of such dissolution be distributed to members either for the reimbursement of any sums subscribed, donated or contributed by such members or for any other such purposes, it being the intent that in the dissolution of the organization, or upon its ceasing to carry out the objectives and purposes herein set forth, the property and assets then owned by the organization shall be devoted to carrying on the functions and purposes of such non-profit literacy programs as the Literacy Advisory Board shall determine and direct.

ARTICLE IX – USE OF THE NAME

The words “ProLiteracy America” shall not remain in a part of the Newport/Mesa ProLiteracy name if there ceases to be an affiliation between this organization and ProLiteracy America, a New York State non-profit corporation with offices in Syracuse, New York. Upon written request of ProLiteracy America, the officers, Literacy Advisory Board and members of this organization shall take all necessary measures to execute and file all necessary documents to change the organization’s name so as to omit the words, “ProLiteracy America.”

ARTICLE X – MISCELLANEOUS

Section I – Newport/Mesa ProLiteracy shall have no capital stock, its objective and purpose being solely of a charitable, literary and educational character and not for individual pecuniary gain or profit to its members. No part of the income or assets of this organization shall inure to the benefit of any private individual or member. This shall not prohibit payment to individuals for services rendered or assets purchased.

Section II – No substantial part of the activities of this organization shall consist of attempting to influence legislation or intervening in any political campaign.

Section III – This Constitution/By-laws may be amended upon a two-thirds vote of the members the Literacy Advisory Board. A copy of the proposed amendment shall have be sent to each member of the Literacy Advisory Board at least twenty (20) days before the date of the meeting at which the proposed amendment is to be acted on and a copy is posted in the Literacy Office.

Section IV – Amendments adopted by Newport/Mesa ProLiteracy shall be consistent with the national by-laws of ProLiteracy America unless approved by ProLiteracy America.

Section V – This Constitution/By-laws shall become effective immediately upon adoption by a two-thirds vote of the Literacy Advisory Board.

Revision 12-09

The above represents the official constitution and by-laws now in effect by Newport/Mesa ProLiteracy.

Signed by:

Date:

Secretary of the Board of Directors
