

**RESTATED BYLAWS  
OF  
NORTHWEST EVALUATION ASSOCIATION, INC.**

(Effective April 17, 2008)

**ARTICLE I  
PREAMBLE**

Section 1.     **Location.** The registered office and registered agent shall be as shown on the records of the State of Oregon, Secretary of State, Corporation Division.

Section 2.     **Other Offices.** The corporation may also have offices at such other places, either within or without the State of Oregon, as the Board of Directors may from time to time determine or as the business of the corporation may require.

Section 3.     **Membership Organization.** This is a membership organization.

Section 4.     **Business to be Conducted Without Profit.** This corporation shall conduct and carry on its business without profit to itself or its directors, officers, or employees or agents. No directors, officers, employees or agents of this corporation shall, solely by reason of their employment by this corporation, be or become entitled at any time to receive any assets, property, income or earnings from the corporation, or to profit therefrom in any manner. This shall not preclude regular salary or bonuses.

Section 5.     **Use of Income.** All of the income, revenue, and earnings of the corporation shall be held, used, managed, devoted, expended and applied at the discretion and judgment of the directors, to carry out the charitable objects and purposes of the corporation, and without profit, direct or indirect, to any director, officer, employees or agents of the corporation, as such. Provided, however, that the directors may authorize payment of expenses, salaries, and other expenditures to directors, officers, employees or agents for the performance of corporate operations. No loans or guarantees shall be made by the corporation to or on behalf of any directors, officers, employees or agents of the corporation, other than reasonable and necessary travel advances in the ordinary course of business.

Section 6.     **Purpose and Objectives.**

(a)     **Purpose.** This corporation is organized for exclusively non-profit educational purposes.

(b)     **Objectives.** The objectives of the NWEA shall be established from time to time by the Board of Directors provided such objectives are consistent with charitable, scientific or educational purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code") with emphasis on

(1)     Promoting the sharing of information about testing and evaluation.

- (2) Facilitating the pooling of testing and evaluation resources and fostering cooperative test development between and among school districts.
- (3) Promoting the proper use and interpretation of measurement data.
- (4) Developing and maintaining the highest possible standards for the construction of measurement instruments.
- (5) Fostering the professional development and upgrading of competencies of members with regard to testing and evaluation.
- (6) Providing a vehicle for expressing measurement and evaluation concerns to other organizations including state agencies, colleges and universities, commercial test publishers and other professional and testing or evaluation organizations.
- (7) Providing a forum for members to identify common needs, establish priorities and identify resources to meet these needs.

## **ARTICLE II MEMBERSHIP**

### **Section 1. Full Member.**

- (a) Full membership is restricted to agencies that meet the criteria below:
  - (1) Full membership shall be open to all public or private school districts, educational service districts, state departments of education, institutions of higher education, and other not-for-profit educational agencies who make application, and pay an annual membership fee which shall be set by the Board of Directors.
  - (2) In the case of districts which are administratively divided into autonomous subdistricts or areas, membership application may be made independently by each such subdivision.
- (b) Full members shall receive the official communications of the corporation.
- (c) Each agency with full-member status shall appoint an authorized voting representative.
- (d) Full members shall each have one vote at the annual membership meeting and at special membership meetings called in accordance with the By-Laws.

### **Section 2. Associate Members.**

- (a) Membership as an associate member shall be open to all individuals and agencies not qualifying as full members of the corporation, who make application and pay an annual membership fee which shall be set by the Board of Directors.

(b) Associate members shall receive the official communications of the corporation.

(c) Associate members shall not vote.

**Section 3. Honorary Members.**

(a) Individuals may from time to time be elected to the status of Honorary Member by action of the Board of Directors or the membership.

(b) Honorary members shall be entitled to official communications of the corporation.

(c) Honorary members shall not vote.

**Section 4. Resignation and Involuntary Termination, Expulsion or Suspension.**

(a) A member may resign at any time by the giving of written or electronic notice to either the President-CEO, Secretary or Board Chair of the Corporation. The resignation shall be deemed effective upon the date of actual receipt of the resignation by the intended recipient or upon the placing of the resignation in the U.S. Mail, postage prepaid, certified or registered mail, addressed to the Secretary of the Corporation at either the Corporation's principal office or its registered office.

(b) In the event of an involuntary termination, expulsion or suspension, the Board of Directors shall, by resolution, determine that a member shall be terminated, expelled or suspended, and the reasons therefore. The resolution shall set forth the date that the action is to be effective. Not less than fifteen (15) days prior to the effective date of the action, the Secretary shall cause a copy of the resolution to be mailed to the member, certified mail, return receipt requested, or by e-mail, to the last known address of the member on the corporation's records. The letter from the Secretary to the member transmitting the copy of the resolution shall advise the member that they have a right to be heard, orally or in writing, on a date certain, which date is not less than five (5) days before the effective date of the action. If the member wishes to be heard, the member shall notify the Secretary in writing at least five (5) days prior to the hearing date that: (i) they wish a hearing, or (ii) they are attaching a written statement and waive a hearing. In either of the above cases, the Board of Directors shall convene on the hearing date set to further consider the response made by the member. If no written request is received from the member, as provided above, the Board need not meet on the hearing date set. Unless there is an affirmative vote of the majority of the Board to reverse the action, the action will become effective on the effective date previously set.

**ARTICLE III  
BOARD OF DIRECTORS**

**Section 1. Number and Duties.**

(a) The number of directors of the corporation shall be not less than five (5) or more than nine (9). All directors shall be elected at large.

(b) The operation, affairs, and property of the corporation shall be managed and controlled by the Board of Directors. The said Board shall have the power and authority to make rules and regulations not inconsistent with the laws of the State of Oregon and the By-Laws of this corporation, including the power to fix compensation of the Directors, to call meetings of the directors, and to exercise all powers necessary for the transaction of the corporation's operations and do all such lawful acts and things which are not expressly prohibited by statute or by the Articles of Incorporation or by these By-Laws, or by Section 501(c)(3) of the Internal Revenue Code, as amended. In the case of any conflict between the above, Section 501(c)(3) of the Internal Revenue Code, as amended, shall be determinative.

(c) It is expressly understood that nothing herein contained shall be deemed to limit or restrict the general authority vested in said Board for the management and control of the corporation.

**Section 2. Board Chair.** Following the annual membership meeting, the directors shall elect a Board Chair.

(a) The Board Chair shall serve for a one-year term. He/she shall fulfill the duties and obligations prescribed by these By-Laws and parliamentary authority adopted by the corporation and such other duties as the Board of Directors may from time to time authorize, provided these other duties do not conflict with the By-Laws, parliamentary authority or status as a not-for-profit corporation.

(b) The Board Chair shall preside at all meetings of the Board of Directors and of the membership.

(c) In the event of a vacancy of the Board Chair for any reason, the Board shall appoint from amongst the directors an interim Board Chair to serve until the next annual Board meeting, at which time the newly constituted Board of Directors shall elect a new Board Chair.

**Section 3. Election.**

(a) The directors shall be elected by the members entitled to vote. Directors shall serve as at-large directors representing the entire organization and not the entity with which they are affiliated.

(b) The terms of office of such directors shall begin immediately at the annual meeting following their election, and they shall serve for three (3) years or until their successors are elected and qualified. The terms of the directors shall be staggered by dividing the total number of directors into three groups in accordance with ORS 65.317.

(c) A nominating committee shall be appointed by the Board Chair each year for the purpose of nominating candidates for the offices which become vacant that year. The Nominating Committee shall recommend a slate of candidates to the Board of Directors. The slate of candidates shall be approved by resolution of the Board and submitted to the full members for a vote via mail or electronic ballot.

(1) No candidate shall appear in the slate of candidates or on the ballot unless the nominee has agreed to serve if elected. The ballot shall be mailed to each member and each director at least thirty (30) days but not more than sixty (60) days prior to the annual membership meeting and it shall also state a date by which it must be received by the Secretary, which date shall not be more than two (2) weeks before the annual membership meeting. Any ballots received after the stated date shall not be counted unless they are presented at the time for voting at the annual membership meeting.

Additionally, the ballot shall comply with the requirements of Article V Section 1.(d).

(2) A director shall be elected by a majority of the full members entitled to vote. Procedures for electronic and mail ballots, counting and certifying election shall follow parliamentary authority. In the event of a tie, the election shall be decided by a flip of a coin.

(3) The Directors elected at the annual membership meeting in accordance with the above procedure shall then be announced.

Section 4. **Vacancies.** Whenever any vacancy shall occur in the Board of Directors by death, resignation, disqualification or from any other cause, the vacancy shall be filled at the next meeting of the Board of Directors. The directors so elected at such meeting shall be elected by a majority of a quorum of the Board of Directors present at such meeting. The director so elected to fill the vacancy shall hold office for the unexpired term of the director whom he/she succeeds, and until his/her successor shall have been elected and shall have qualified. In the event of multiple vacancies, the remaining directors shall be allowed to act on the Corporation's behalf even if quorum and voting requirements cannot be met.

Section 5. **Compensation.** Directors as such shall not receive any stated salaries for their services, but by resolution of the Board of Directors, a fixed sum and expenses of attendance, if any, may be allowed for attendance at any meeting of the Board; but nothing herein contained shall be construed to preclude any director from serving the corporation in any other capacity and receiving compensation therefore.

Section 6. **Voting.** Each director shall have one vote.

Section 7. **Director Conflict of Interest.**

(a) A conflict of interest transaction is a transaction with the corporation in which a director of the corporation has a direct or indirect interest. A conflict of interest transaction is neither voidable nor the basis for imposing liability on the director if the transaction is fair to the corporation at the time it was entered into or it is approved as provided below.

(b) A transaction in which a director has a conflict of interest may be approved:

(1) By the vote of the Board of Directors or a committee of the Board of Directors if the material facts of the transaction and the director's interest are disclosed or known to the Board of Directors or committee of the Board of Directors; or

(2) By obtaining approval of the:

(i) Oregon Attorney General or his designee; or

(ii) The circuit court in an action in which the Oregon Attorney General is joined as a party.

For purposes of Section (7)(b)(1) above, a conflict of interest transaction is authorized, approved or ratified if it receives the affirmative vote of a majority of the directors on the Board of Directors or on the committee who have no direct or indirect interest in the transaction. A transaction may not be authorized, approved or ratified under this section by a single director. If a majority of the directors who have no direct or indirect interest in the transaction votes to authorize, approve or ratify the transaction, a quorum is present for the purposes of taking action under this section. The presence of, or a vote cast by, a director with a direct or indirect interest in the transaction does not affect the validity of any action taken under subsection (b)(1) of this section if the transaction is otherwise approved as provided in subsection (2).

Section 8. **Order.** Business at meetings of the Board of Directors shall be transacted in such order as the Board of Directors from time to time may determine by resolution.

Section 9. **Ex-Officio Members of the Board of Directors.** The President - Chief Executive Officer shall be an ex-officio, non-voting member of the Board of Directors.

#### **ARTICLE IV OFFICERS**

##### **Section 1. Titles and Appointment.**

(a) The officers of the corporation shall consist of a President-CEO, a Secretary, and a Chief Financial Officer (CFO), and such additional officers as the Board of Directors may authorize from time to time.

(b) The Board of Directors shall by resolution appoint the officers of this corporation for such terms and with such powers and duties as shall be determined by the Board of Directors.

(c) The same person may hold more than one of the offices of this corporation as determined by the Board of Directors.

##### **Section 2. Duties of Officers.**

(a) The duties and authority of the President-CEO shall be determined from time to time by the Board of Directors. The President-CEO shall serve at the pleasure of the Board until such time as the Board appoints a new President-CEO.

(b) The duties of the Secretary are as follows:

(1) The Board of Directors shall appoint a Secretary of the corporation to serve at the pleasure of the Board.

(2) The Secretary shall attend such meetings of the Board and all meetings of the membership and record the minutes of all proceedings in a book to be kept for that purpose, and shall perform like duties for any committee when required. The Secretary shall give and/or cause to be given, notice of all meetings of the membership and the Board of Directors.

(3) The Secretary shall perform the duties and obligations prescribed by these By-Laws and by the parliamentary authority adopted by the corporation, and such other duties as the Board of Directors may from time to time authorize, provided these other duties do not conflict with the By-Laws, parliamentary authority or status as a not-for-profit corporation.

**Section 3. Other Officers.** The President-CEO may appoint such other officers, assistant officers, and agents as it shall deem necessary or desirable, who shall hold their offices for such terms and shall have such authority and perform such duties as the President-CEO deems necessary to facilitate the handling and management of the corporation's property and interests.

**Section 4. Salaries of Officers.** The salary of the President-CEO shall be fixed by the Board of Directors or its Compensation Committee. The salaries of the other officers shall be fixed by the President-CEO, subject to the approval of the Board Compensation Committee.

**Section 5. Removal.**

(a) The officers of the corporation shall hold office until their successors are chosen and qualify in their stead. Any officer may be removed with or without cause at any meeting called expressly for that purpose by the Board of Directors whenever in its judgment the removal shall be in the best interests of the corporation, but such removal shall be without prejudice to the contract rights, if any, of the person so removed.

(b) If the office of any of the officers becomes vacant for any reason, the vacancy may be filled by the Board of Directors.

**Section 6. Financial Authority.**

(a) All checks and drafts or other orders of payment of money on behalf of the corporation must be signed by those persons designated by the Board of Directors from time to time as authorized to do so.

(b) No officer of the corporation is authorized to execute any contract, incur any indebtedness, or make any disbursement on behalf of the corporation except as specifically authorized by the Board of Directors in accordance with subsection (b)(1) or as provided in subsection (b)(2) below.

(1) The Board of Directors may from time to time designate those officers who are authorized to execute any contract, incur any indebtedness, or make any disbursement on behalf of the corporation, with any such delegation of authority to be subject to such limitations as the Board determines appropriate.

(2) In the absence of any designation of one or more officers as authorized to execute contracts, incur indebtedness or make any disbursement on behalf of the corporation, the Chief Executive Officer (CEO) and the Chief Financial Officer (CFO) will be authorized to execute any contract, incur any indebtedness, or make any disbursement on behalf of the corporation if such contract, indebtedness, or disbursement is both (1) within the ordinary course of conduct of the corporation's business and (2) a contractual commitment, indebtedness, or disbursement in an amount which does not exceed One Million Five Hundred Thousand Dollars (\$1,500,000).

## **ARTICLE V MEETINGS**

### **Section 1. Annual, Regular and Special Membership Meetings.**

#### **(a) Annual and Regular Meetings.**

(1) The annual meeting of this corporation shall be held on a day specified each year by resolution of the Board of Directors. It shall be held in the registered office of the corporation, unless a different place shall be designated in the call, and shall be for the purpose of announcing directors elected for the ensuing three-year period, considering a report of the President-CEO, showing the condition of the corporation at the close of the last fiscal year, and for the transaction of such other business as may be properly brought before the meeting. The terms of office of the directors so elected shall continue until the election and qualification of their successors as provided in Article III hereof. Regular meetings may be set by Board resolution.

(2) It shall be the duty of the secretary to cause a written or electronic notice of the annual membership meeting and any regular meetings to be mailed to each member and director at least thirty (30), but not more than sixty (60), days prior to the meeting. Such notice shall be deemed sufficient within the meaning of the Article if deposited in the United States mail, addressed to each member/director at his/her last-known mailing address, or if e-mailed to his/her last known e-mail address, at least thirty (30) days, but not more than sixty (60), before the date of each meeting. Members entitled to notice are those of record in the corporation's files seventy (70) days prior to the record date set by the Board for the annual membership meeting.

(3) Notice of an annual or regular meeting shall include a description of any matter or matters which must be approved by the members under ORS 65.361, 65.404, 65.414(1)(a), 65.437, 65.464, 65.487, 65.534 or 65.624.

(4) In the event that the annual membership meeting of this corporation shall not be held as herein provided, the election of directors and all other business which might have been transacted at such annual meeting may be transacted at any adjournment



of such meeting or at any special meeting of the membership of this corporation called for such purpose.

(b) **Special Meetings.**

(1) Special meetings of the membership may be called by the Board Chair, or any three (3) directors or a majority of the full members of this corporation by giving the same notice as required for annual meetings. A brief statement of the object or objects of such special meeting or meetings so called shall be included in the notice.

(2) Business transacted at any special meeting shall be confined to the purpose stated in the notice thereof.

(c) **Quorum and Approval.** Not less than 25% of the full members (one person per member) in attendance in person or by proxy at any annual, regular or special meeting shall constitute a quorum. Once a quorum is present in accordance with proper notice of the meeting, matters may be approved by a majority of the voting members who are present in person or by proxy; except for the election of directors who must be elected by a majority vote of the full Members.

(d) **Written Ballots.** Any action (except the election of directors at the annual membership meeting) which may be taken at an annual, regular or special meeting of members may be taken without a meeting if the corporation delivers a written ballot to every member entitled to vote on the matter. Approval by written ballot shall be valid only when the number of approvals equals or exceeds a majority of the full members who are entitled to vote on the matter.

(1) All written ballots shall:

(i) Set forth each proposed action.

(ii) Provide an opportunity to vote for or against each proposed action.

(2) Letters or e-mails to voting members transmitting the written ballots shall:

(i) State the number of approvals necessary to approve each matter other than the election of Directors.

(ii) Specify a reasonable time by which a ballot must be received by the corporation in order to be counted.

(3) Written ballots, whether by letter, e-mail, or facsimile, may not be revoked after they are received by the corporation.

Section 2. **Board Meetings.**

(a) **Annual and Regular Meetings.**

(1) The Board shall hold an annual meeting on a day specified each year by resolution of the Board of Directors.

(2) A schedule of regular Board meetings shall be adopted by resolution at the annual Board meeting, but in no event shall Board meetings be held fewer than four times a year. Board meetings shall be held on the dates adopted unless revised by later Board resolution.

(3) Notice for annual and regular Board meetings shall be mailed to Directors at least seven (7) days prior to the meeting. Notices shall include the time, place and tentative agenda for said meeting.

(b) **Special Meetings.**

(1) Special Board meetings may be called by the Board Chair or by two (2) or more directors.

(2) Ten (10) days' notice to all Directors shall be given by the person or persons who call the meeting or by the Secretary if so requested by the caller of the meeting. Notices shall include the time, place and tentative agenda for said meeting. The special meetings shall be restricted to the items set forth in the agenda included in the notice.

(c) **Quorum and Approval.** Four (4) directors shall constitute a quorum and the act of three (3) directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.

(d) **Telephone Meetings.** Any regular or special meeting of the Board of Directors may be conducted by telephone, provided that all directors may simultaneously hear each other during the meeting. A director participating by this means is deemed to be present in person at the meeting.

(e) **Action Without Meeting.** The Board of Directors may take action without meeting if the action is taken by all members of the Board of Directors. The action shall be evidenced by one (1) or more written consents (counterpart signatures allowed), describing the action taken, signed by each Director, and all written consents filed in the corporate records. Action taken is effective when the last Director signs the consent, unless the consent specifies an earlier or later effective date and is unanimous.

(f) **Executive Session.** All Board meetings are open to any member, except executive sessions. An executive session may be declared by a majority of the Directors present at a meeting at which a quorum is present, and the Secretary may be excluded from an executive session if an acting secretary is appointed to take written minutes from the session.

Section 3. The following are applicable to both membership and Board meetings:

(a) **Written Waiver of Notice.** Whenever any notice whatever is required to be given to any member or director under the provisions of the Oregon Non-Profit Corporation Act or under the provisions of the Articles of Incorporation or these By-Laws, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated herein, shall be deemed equivalent to the giving of such notice.

(b) **Waiver by Attendance.** Attendance of a member or director at a meeting shall constitute a waiver of notice for such meetings, except where a member or director attends a meeting for the purpose of objecting to the transactions of any business because the meeting is not lawfully called or convened.

(c) **Personal Notice.** Whenever, under the provisions of the Oregon Non-Profit Corporation Act or the Articles of Incorporation or of these By-Laws, notice is required to be given to any member or director, it shall not be construed to mean personal notice, but such notice may be given in writing, by mail, addressed to such member or director, at his/her address as it appears on the corporation's record book or similar records of the corporation with postage thereon pre-paid, and such notice shall be deemed to be given at the time when the same shall be deposited in the United States mail. Notice may also be provided electronically if sent to the member's or director's last known e-mail address.

(d) **Parliamentary Authority.** The rules contained in the current edition of Robert's Rules of Order, Newly Revised shall govern the corporation's meetings in all cases to which they are applicable and in which they are not inconsistent with these By-Laws, the Articles of Incorporation, or State and/or Federal laws and any special rules of order the corporation may adopt.

(e) **Location of Annual, Regular and Special Meetings.** Meetings of the membership and/or Board of Directors, annual, regular or special, may be held either within or outside of the State of Oregon.

## **ARTICLE VI CORPORATE SEAL**

Section 1. **Authorization.** The Board of Directors may by resolution adopt a corporate seal for the corporation.

## **ARTICLE VII FISCAL YEAR**

Section 1. **Duration.** The fiscal year of the corporation shall be from July 1 to June 30.

## **ARTICLE VIII AMENDMENTS**

Section 1. **Bylaws.** The Bylaws of the corporation may be amended, restated, or repealed and new Bylaws adopted, by the affirmative vote of two-thirds (2/3) of the directors present at any duly called regular or special meeting of the Board of Directors. Notice of the

amended, restated or new Bylaws must be provided to all classes of members within forty-five (45) days following adoption by the Board of Directors.

## **ARTICLE IX DISTRIBUTION OF ASSETS ON DISSOLUTION**

Upon the dissolution of the corporation, the Board of Directors shall, after paying or making provisions for the payment of all of the liabilities of the corporation, dispose of all of the assets of the corporation exclusively for the purpose of the corporation in such a manner, or to such corporation, or organizations organized and operated exclusively for charitable, educational, religious or scientific purposes as shall at the time qualify as an exempt organization or organizations under Section 501(c)(3) of the Internal Revenue Code of 1954, or the corresponding provisions of any future U.S. Internal Revenue Law, as the Board of Directors shall determine. Any such assets not so disposed of shall be disposed of by the Circuit Court of the County in which the principal office of the corporation is then located, exclusively for such purpose or such organization or organizations, as said Court shall determine, which are organized and operated exclusively for such purposes.

No part of the net earnings of the corporation shall inure to the benefit of, or be distributed to, its members, trustees, officers or other private persons, except that the corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purpose set forth in the Articles of Incorporation hereof.

## **ARTICLE X GENDER**

As used in these By-Laws, the masculine, feminine and neuter shall each include the masculine, feminine and neuter, as the context requires. All captions used herein are intended solely for convenience of reference and shall in no way limit any of the provisions of these By-Laws.

## **ARTICLE XI MISCELLANEOUS**

Section 1. **Inspection of By-Laws.** The corporation shall keep in its principal office the original or a copy of the By-Laws as amended or otherwise altered to date, certified by the secretary, which shall be open to inspection by all directors at reasonable times during office hours.

Section 2. **Indemnification.** To the maximum extent allowed by law, the corporation shall indemnify and advance expenses and defend any director, officer, employee or agent against claims for the activities in connection with the corporation that

- (a) are reasonably within the scope of their work assignment, and
- (b) within established laws and regulations, and

- (c) comply with the NWEA Code of Ethics.

Section 3. **Committees.** The Board of Directors may, from time to time, appoint committees for such purposes as designated by the Board of Directors. Each committee shall have such powers and shall perform such duties as may be delegated and assigned to the committee by the Board of Directors, except such powers as are prohibited under the Oregon Nonprofit Corporation Act. Unless (1) all members of a committee are directors of the corporation and (2) the Board of Directors has specifically delegated to the committee authority to act on its behalf with respect to any matter, the authority of a committee will be limited to making recommendations to the Board of Directors. The chairperson of each committee may be designated by the Board of Directors or, if no designation is made by the Board of Directors, by the Chief Executive Officer (CEO). The chairperson and members of each committee will serve at the pleasure of the Board of Directors, and the chairperson or any committee member may be removed and/or replaced by the Board of Directors, with or without cause, at any time. Unless the appointment of the committee specifies a purpose for the committee which will expire with time or achievement of that purpose, a committee will continue in existence until its existence is terminated by the Board of Directors.