

# Board and Corporate Structure at ACCS Member Schools

## Corporate Structure

The vast majority of ACCS member schools are organized as non-profit corporations, designated under section 501(c)(3) of the Internal Revenue Service (IRS) code. Normally, they are incorporated within the state that they operate. There are options, however, for how you may choose to organize your school.

### Non-profit corporation

Most schools incorporate as a standard corporation (sometimes called a C-corp.) so that they can apply with the IRS for tax exempt status. This allows the school to accept donations from a donor, and the donor can deduct their contribution from their itemized tax filing. This status also allows the school to operate without paying federal income taxes (though they still must file tax forms annually.)

Unless a school is a 501(c)(3) non-profit corporation or it is under the operational umbrella of a qualified church, it cannot accept donations that are tax deductible for the donor.

### Filing to be a non-profit corporation

Schools typically file to form an incorporation through the Secretary of State in the state in which the school operates. When a school first incorporates, it is simply a for-profit corporation. However, the articles of incorporation that are filed with the secretary of state when the corporation is formed must be specifically

structured to conform to the requirements of IRS non-profit designations (if you plan to file for 501(c)(3) exemption.)

IRS form 1023-i is an online tool that makes the process a bit more clear. Schools may also use IRS form 1023 or 1023-EZ

IRS requirements include:

- The school must be organized as a 'c-corp', trust, or association. (Schools are almost always corporations.)
- In most states, the corporation must have at least 3 board members and they cannot all be related by blood.
- The corporation must be operated exclusively for exempt purposes (k-12 education normally is an accepted purpose).
- None of its net Income or earnings may inure to any private individual or shareholder.
- It may not have a purpose as an "action organization". I.e. Political campaigning.
- The corporate filing must have at least 2 signatures on it as 'organizers'.
- The corporation must have a federal EIN (employer identification number) obtained by filing IRS form SS-4
- Normally, the organization must file for IRS exemption within 27 months of incorporation.

These requirements are a subset of the actual requirements found from the IRS. **This ACCS document does not provide legal or tax advice. The ACCS strongly advises that schools consult a tax accountant and attorney for advice on organizational structure.** This document is simply designed to point schools in the right direction.

The school will remain a for-profit organization until it receives a “Determination Letter” from the IRS after filing for 501(c)(3) status. The school cannot offer to accept contributions from donors who wish to ‘write off’ the contribution until the school receives a ‘Determination Letter’ from the IRS indicating that it may do so. **KEEP THIS LETTER.** It will be requested often throughout the future of the school.

To file for 501 (c) (3) status with the IRS, the school should use one of the 1023 forms (links above) . The IRS will conduct a review of the school's corporate application to confirm that the school conforms to the requirements for the section under which it applies. Upon completing that review, the IRS will issue a Determination Letter declaring that the school meets the requirements to be considered a 501 (c) (3) organization. This allows the school to file its taxes under form 990, and essentially pay no taxes since it makes no profit. Any excess money in the school's accounts cannot be declared as profit and paid to shareholders, members, or board directors. Net income must be reinvested or held within the school. And, of course, the letter allows the school to tell donors that they may deduct contributions from their tax returns. Yes, it seems odd. But the IRS Determination Letter is all that is required to accept tax deductible contributions. Larger donors will sometimes ask for a copy of the organization's Determination Letter.

Normally, the specific 990 tax form for non-profits depends on the level of gross revenue for the corporation. As a rule, organizations with revenues under \$50,000 can use form 990N. This is usually adequate for the first year of operations, if the school starts out with less than \$50,000 in revenue.

One note, some people incorrectly transpose non-profit and not-for-profit. These are two different terms and should not be confused. Schools are almost always non-profits.

Also, there are many other categories under the IRS code 501. (C) (3) is the most common section under which schools are operated. However, some choose other sections of the code. Be aware that many other sections of the IRS code cannot give tax deductions for contributions.

### Religious non-profit corporation

Exemptions under section 501(c)(3) with the IRS can be for multiple stated “purposes.” These purposes range widely, but for schools they are almost always “schools and education” or “religious” purposes. The IRS has a special designation for "religious non-profits" under 501 (c) (3).

**The ACCS recommends that schools apply as a religious non-profit unless they have a compelling reason not to.** While the IRS documentation may seem to indicate that the more natural filing purpose would be as a ‘school’, schools may apply as religious organizations with an educational purpose. More information on religious 501(c)(3)'s is available within information document p1828 from the IRS. Alliance Defending Freedom has indicated that ‘religious’ designation provides marginally more protection against federal government intrusion in areas like LGBT discrimination. However, be aware that secular granting organizations often do not grant to religious 501 (c) (3) organizations.

### Church operated schools

Churches can operate without a specific IRS designation because they are exempt from taxation outside of the 501 section of the IRS code and a church can accept contributions in a tax deductible way. When a church starts a school, it can bring the school under its organizational structure. This structure can provide the most protection from outside government influence.

However, it also limits grants from many secular

organizations. Church-run schools can also have a tenuous structure because churches often change leadership and motivations change with the congregation.

This can be difficult to establish governing authority. One year, the school is the gem of the church's ministry. The next, it may become a pariah. And, the church may want to influence the school to minister in areas that distract from its classical Christian mission. With careful organizational planning, these weaknesses can be overcome. And, churches and schools are natural partners.

## Other IRS Notes and Requirements

Each year non-profit schools must file some form of IRS tax form 990.

Private schools are required to file and comply with IRS form 5578. on non-discrimination.

## Non-discrimination requirements

Non-profit schools are not allowed to discriminate on the basis of race, color, national and ethnic origin. Nor should we based upon biblical standards. Sex, gender, and religion are not normally a requirement of the IRS for 501(c)(3) organizations with religious purposes. **The ACCS recommends that schools stipulate only what they must in their policies around discrimination to avoid future lawsuits.**

## For profit corporation, s-corp, or LLC

Where permitted by state law, schools can operate in any allowed business category. We do not recommend sole proprietorships (owned and attached to one individual).

This creates dangerous liabilities for the individual. While for-profits are rare because they cannot give tax deductions for contributions, this model may allow for less governmental interference (non-profit status does come with a few strings). Some for-profit schools launch non-profit foundations that raise money for scholarships.

## Should our school have 'membership' or not?

When an organization is created as a state incorporation, the articles normally indicate that the organization is either a 'membership' organization, or that it is 'board governed' organization. **We advise 'board governed', though we have both member and board operated schools within our association.** Upon gaining 501(c)(3) status, the organization will be declared as a membership or board governed school. If the membership includes the parents, then they have voting rights in the leadership of the organization. While this is sometimes necessary in rare cases, we believe this structure can erode the school's vision and mission over time. The founding parents of an ACCS school might believe that parents should have a membership stake in the school.

But, 10 years down the road, when the school is has grown and is successful, it will attract a new type of parent.

Often, this type of parent is not as committed to the original vision of the school. They tend to be attracted to 'a good school', not necessarily a school with classical Christian vision. When schools have resources (Gymns, athletic programs, buildings, teacher groups, prayer groups, coursework, etc.), people often desire to use those resources in different ways, often out of alignment with the original vision. Without a solid, board run school, these pressures will, once again, pull the school away from its classical Christian vision.

The ACCS, itself, is a 'membership' organization because we screen our members based upon their application and require members to affirm their position annually. Our bylaws provide for permanent board members to protect the original vision. However, we caution against this organizational structure for schools because they are less likely to have vision-aligned parents as members.

## Board Composition and Bylaws

The composition of ACCS member school boards is vital to the health of a classical Christian school. In fact, many studies and leaders inside the movement cite “board stability” as one of the greatest problems ACCS schools face. In our movement’s earliest days, Logos School in Moscow, Idaho structured a board with 4 permanent board members and later added 3 elected term board members. With this precedent, the Logos model was later adopted by many of our early member schools. In recent years, more ACCS schools have structured boards with more emphasis on permanent members. Two questions typically arise: *What are the lengths and limits of a board term?* and *How are those board members appointed?* These may be two of the most important questions for any board to get right.

### Permanent board members

Permanent board members may have an indefinite term or may have a fixed, rolling term. When the term is fixed (say 3 years), the permanent board member has the option of remaining on the board for another term, with no limit to the number of terms he may serve. This arrangement allows permanent members to evaluate their contribution to the board and affirm their desire to remain in place if they believe they can still contribute in a meaningful way. The decision remains with the board member. Most often, they remain on the board for at least a decade, often much longer. In some cases, where indefinite term lengths are not permitted by state law, the board member may have a very long term of 10 or 15 years or more, with options for renewing their term, when allowed. With the more common indefinite term, board members remain on until they choose to leave or are removed by a vote of the board, as permitted in the bylaws. Removal (usually for cause) normally requires a unanimous vote of the remaining board members.

### Why are permanent board members especially important for ACCS schools?

Permanent board members are indispensable in perpetuating the vision of an ACCS school. Operating schools have many pressures. Often these pressures come from parents. One headmaster put it this way “We deal with their children, their religion, and their money-- that's what makes them vested, which is good. And it makes our vision all the harder to sustain.” In the classical Christian context, these pressures will naturally work against the vision over time. Since the classical model is distinctly counter to our cultural expectations about education, even among most Christians, it stands to reason that parents who, as a whole, do not understand the model will pressure the school in directions that conflict with the vision. This effect has been seen at many schools within the ACCS, and has contributed to the failure of some. Permanent board members who understand the vision, even without children in the school, are important for board stability.

Other types of conventional Christian schools or ministries sometimes have full parent boards, or rotating terms. However, ACCS schools were started to be culturally transformational entities. In other words, ACCS schools were started to help transform education into something very different than conventional school models.

Because our mental-model of ‘school’ permeates everything around us, it is very difficult for an ACCS school to maintain a vision that stands against the vision of ‘school’ that resides on every street corner, school bus, and athletic field. For a classical Christian school to remain faithful to a vision that seeks to cultivate a renewed Christian culture, the majority of board members must understand the vision. This is not something that frequent board member rotations can sustain.

In addition, classical Christian education was practiced for over 1800 years, and classical for nearly 2500. In all that time, the form developed some very complex and deeply philosophical and theological roots. A deep understanding of this form is beneficial for a board. Not everyone needs to have the depth, but the majority of the members do. And this takes time to develop. Board members who have taken the time to absorb this textured and complex vision should be kept, not term-limited.

For the classical Christian movement to remain healthy over the long term, **we recommend that the majority of school board members for an ACCS school be permanent. We also recommend that the criteria for permanent board membership include an established and developed understanding of classical Christian education.**

Many ACCS schools have boards that consist entirely of permanent board members. Typically, natural turnover has allowed these boards to appoint new parents and continue representing parents well.

### When should a board consist of all permanent board members?

In cases where the school has difficulty finding board members who have a sufficient understanding of classical Christian education, the school should consider having all permanent members. Many ACCS member schools are organized in this way.

### Term-limited board members

Term board members serve for a fixed period and then must leave the board. They usually must sit out for a fixed period before they are allowed to return to the board.

Often, ACCS schools have used Term board seats for elected parent members. The term is typically 3 or 4 years, typically set to allow one term to expire per year so

that only one new board member is added at a time. Some schools elect term board members, others appoint them.

In any case, term board members may be helpful in three ways. First, they can bring skills to the board that are not necessarily tied to classical Christian education (though EVERY board member should be able to articulate, support, and understand the vision of the school and classical Christian education). Secondly, term board members can ensure that you have parent representation, especially for younger children. This is not essential, but because permanent board members may not have children in the school any longer, this can be helpful. Since the Head of School and administration can provide this input, as well as surveys and general parent interaction, it is not always necessary for that knowledge to reside on the board. Finally, term board members can be a good trial ground for new permanent board members. One criticism of permanent board members is that, if one is not performing, there is no realistic way to terminate a permanent member. This is rarely a problem when permanent board members are properly vetted. But, a term seat can help provide that vetting.

Term or permanent members can be selected in several ways. First, we'll deal with appointments

### How should board members be appointed?

Many ACCS schools have the existing board appoint new board members. Or, the existing board nominates a small slate of candidates (1 or 2) after carefully vetting them, and then they stand for approval by the parents. We believe one of these methods is the most common. **The ACCS recommends one of the above approaches because typically, the board has the best view of who would be a good candidate.** The vision remains strong when the vision is carried by the board, not the parents.

For those who have parent-elected positions, most often the board nominates the candidates who will stand for election. **The ACCS (and Independent School Management) advises against open election of**



**board members (without a nomination process by the existing board).** This can result in a ‘popularity contest’ based upon who is best known or has the best resume’ at the school. Parents rarely care as much as the existing permanent board, so they are not as careful with the decision. And, few parents often understand the vision and purpose of the school. We can think of no good reason to have open parent elections, unless the goal is to change the school away from the original vision.

## Board size

Much has been written about the best size for a non-profit board. Classical Christian schools have unique needs, so we can narrow the options to a degree. **We recommend that boards have flexible numbers of board members within a stated range (3-7, 7-12, etc.).** Should multiple board members resign, this allows the board to take their time to find the right replacement. Quick replacement often results in hasty decisions.

The maximum size of most ACCS boards is about 12. More than this can make it difficult to get things done. The minimum size is 4 or 5. This allows the school to have sufficient accountability, but still remain nimble. This is especially helpful for new or young schools. Most boards seem to have between 5 and 9 members.

## Articles of Incorporation and Bylaws

When a corporation is filed with the Secretary of State, most states require the inclusion of the Articles of Incorporation. These are normally minimal (often 1 page) and describe only those things required by the state or the IRS. They typically include the name of the individual originally filing the incorporation, a corporate address, how the organization is governed, what its purpose is, and other basic information.

Depending on the state, the school’s bylaws may or may not be required to be on file with the state. Bylaws describe the power structure and organizational controls employed within a business. They should be completed before your school incorporates.

In bylaws, ‘board members’ are typically referred to as “directors.” How many directors, how directors are appointed, the lengths of their terms, the qualifications of directors, the procedure for director removal, how meetings are governed (Robert’s rules, etc.), what committees are allowed, what offices are required, who is employed by the board, and limits to the power of the board are just a few of the things included in bylaws. The ACCS makes the bylaws of a number of our schools available for schools to browse. We suggest you not use them ‘whole-cloth’, but you can cut and paste from these examples. We make no claim on the legality or quality of the bylaws that the ACCS offers as examples.

## Appendix

Board structures of our accredited members as of the publishing of this paper:

Accredited School	Q	Type of seat	How appointed?	Length of Term	Removal
The Ambrose School, Meridian, ID	4-9 0	Permanent Term	Board Appointed NA	Indefinite NA	Unanimous vote of board.
Logos School Moscow, ID	5 3	Permanent Term	Board Appointed Board Nominated	Indefinite NA	Unanimous vote of board.
Schaeffer Academy Rochester, MN	4-9 3	Permanent* Term	Board Appointed Elected (Board Nom.)	Long-term 3 year	Unknown

\* State limited to 10 years with rolling reappointment.