



San Diego Opera Association
Board of Directors
Governance Guidelines

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Introduction

The San Diego Opera Association (the “**Association**” or the “**San Diego Opera**”) is a nonprofit public benefit corporation founded in 1953 as a presenting Association; in 1965, it became a producing Association. The Association operates under the laws of the State of California for the purpose of producing and staging operatic and musical performances.

The Association’s bylaws are the foundation for the Association’s structure, while these Governance Guidelines (“**Guidelines**”) provide guidance for situations that may not be specifically addressed in the Bylaws. The Association’s Board of Directors (the “**Board**”) looks to these guidelines to help guide its own conduct as well as the conduct of those who serve or represent it. These Guidelines’ principal purpose is to embody the standard of conduct that the Board strives to achieve, so as to make that standard readily available and understood.

The Board will regularly reevaluate these Guidelines upon recommendation of the Board’s Governance Committee, in light of changing circumstances, in order to continue serving the Association’s and its members’ best interests. Accordingly, these Guidelines are not a fixed policy or resolution by the Board, but merely a statement of current guidelines that are subject to continuing assessment and change.

Mission Statement

The Mission of the San Diego Opera Association is to deliver exceptional vocal performances and exciting, accessible programs to diverse audiences, focusing on community engagement and the transformative power of live performance.

The Purpose of the Board of Directors

The Board of Directors helps the Association’s management develop business plans, policy objectives, and business strategy, and assists in raising funds to achieve those purposes. The Board selects the Association’s General Director, supports him or her, and reviews his or her performance, holding him or her accountable for meeting agreed-upon goals and objectives.

Through regular meetings, the Board helps ensure effective planning and oversees the management of the Association’s resources. The Board also oversees the Association’s compliance with applicable regulatory requirements.

Directors monitor the Association’s financial performance and the achievement of its strategic and artistic goals. Directors are expected to follow developments affecting the Association’s business. They must set aside any potential conflict between their personal business interests and those of the Association to support the well-being of the Association they serve.

The most effective Board will be a group of people who bring a breadth of skills, experience and diversity to the San Diego Opera. Ideally, members of the Board should have backgrounds and contacts that differ from but complement those of the other directors.

We, the members of the Board of the San Diego Opera, believe that effective Boards:

- *know the importance of the mission;*
- *are accountable;*
- *educate the public about the Association's work;*
- *are inspired advocates for the vocal arts;*
- *realize self-criticism leads to improvement;*
- *encourage curiosity and a sense of humor;*
- *put great effort into recruitment;*
- *share fundraising responsibilities;*
- *are collegial, and respectful of each other's ideas*

Board Members' Bill of Rights

Board members have the following rights which must be upheld by other Board members and observed by the Association's staff.

The right to understand the Board member's role

A Board member's role is to represent the community in the Association's work and to ensure conformity with the Association's mission as well as the availability of resources necessary to the fulfillment of that mission.

The right to be informed

Board members begin as outsiders but should quickly become insiders as the Association's staff shares inside information. Staff will provide regular Association information and reports on activities and finances, explaining how the Association is achieving its annual goals and objectives.

The right to participate in the Board's work

All Board members should have the opportunity to serve on a committee or task force or participate in other Board activities.

The right to staff support

Board (not individual) activities should be supported by staff, who shall provide information and materials and handle meeting logistics.

The right to try something different

Board members are encouraged to serve in positions or on committees which allow them to learn new skills. The Board should remain open to new ideas and new ways of doing things.

The right to be protected from liability

Directors' and Officers' liability insurance must be provided at appropriate levels and terms. The Association must strive to engage professionals with skill and knowledge to ensure proper handling of all of the Association's business.

Board Governance

What is the role of governance?

At the San Diego Opera, Board members are understood to bring different skills and play different roles to support and build the Association while working toward common goals. While Board members should and do act as supporters and builders, they should also be questioners and monitors of the Association. As part of the team, the Board stands with the Association as it operates in a demanding and competitive world. By contrast, in its governing role, the Board must stand outside the Association and hold it accountable to the public interest.

The roles of support and governance encompass different tasks. As supporters, Board members strive to ensure the Association's success. The Board raises money, lends the Association contacts and clout, provides special skills, and acts as ambassadors to the community. In its governance role, by contrast, the Board seeks to protect the public interest. The Board's governance responsibilities include the selecting the Association's top executive and assessing his or her performance; reviewing and authorizing plans and commitments; ensuring fiscal soundness, ethical behavior, and compliance with legal and contract requirements; and evaluation of the association's work. Both of the Board's roles are distinguished from that of management, which is the province of the general director.

Both these roles – supporting and governing – are critical to the Association's effectiveness. Rather than try to eliminate any tensions caused by its governance role, the Board must find ways to strengthen its independence and creatively use this tension for the Association's good.

Code of Conduct

The Board, upon the recommendation of the Governance Committee, is responsible for establishing a Code of Conduct that applies to each Board member, to Associatee Members, and to the Association's staff and consultants. The Code of Conduct sets standards for addressing conflicts of interests, maintaining the Association's confidential and proprietary information, and complying with the Association's policies and procedures as well as applicable federal, state and local laws and regulations.

Duties and Responsibilities

Board members have two overarching duties to the Association:

1. The duty of care requires Directors to act in a reasonable and informed manner when participating in Board decisions and overseeing the Association's management. Actions by the Board should be taken in good faith and in a manner believed to be in the Association's best interests.
2. The duty of loyalty requires the faithful pursuit of the Association's interests rather than those of any other person or organization.

Major Duties and Responsibilities of the Association's Board of Directors

The Board has a variety of responsibilities which are set forth in the Association's bylaws. Board member responsibilities include:

- **Determining the Association's mission.** It is the Board's responsibility to create and review a mission statement articulating the Association's goals, means and primary constituents served.
- **Ensuring effective Association planning.** The Board must actively participate in an overall planning process and assist in implementing the Association's goals.
- **Enhancing the Association's public standing.** The Board should clearly articulate the Association's mission, accomplishments and goals to the public and garner support from the community.
- **Determining, monitoring and strengthening the Association's programs and services.** The Board must determine which programs are consistent with the Association's mission and monitor their effectiveness.
- **Providing financial oversight.** The Board must assist in developing the annual budget and ensure that proper financial controls are in place.
- **Ensuring adequate resources.** One of the Board's foremost responsibilities is to help provide adequate resources so that the Association may fulfill its mission.
- **Ensuring legal and ethical integrity and maintaining accountability.** The Board is responsible for helping to ensure the Association's adherence to legal standards and ethical norms.
- **Recruiting and orienting new Board members and assessing Board performance.**
The Board must articulate the criteria for Board membership, educate and orient new members, and evaluate its own performance.
- **Select the General Director.** The Board must reach consensus on the General Director's responsibilities and undertake a careful search to find the most qualified person for the position.

- **Supporting the General Director and assessing his or her performance.** The Board should ensure that the General Director has the moral and professional support he or she needs to further the Association's goals.
- **Overseeing Association Controls and Procedures.** The Board must assure that adequate policies, procedures and controls are in place to help the Association adhere at all times to applicable rules and regulations.

Individual Board member duties and responsibilities

A Board member's individual responsibilities include:

- Assisting the Board in carrying out its fiduciary responsibilities, such as by reviewing the Association's annual financial statements.
- Making a personal and/or corporate financial contribution to the Association in accordance with the current Board giving requirements. (Per board resolution of 8/18/04, up to 10% of the total number of board members permitted may contribute at a level below the current Board giving level, at the discretion of the Board and the Nominating Committee.)
- Purchasing tickets to all possible Association performance events each season.
- Attending Board and committee meetings and functions.
- Becoming informed about the Association's mission, services, policies, and programs.
- Reviewing agendas and supporting materials prior to Board and committee meetings.
- Serving on committees or task forces and offering to take on special assignments.
- Keeping up to date on developments in the Association's business environment.
- Informing others about the Association by introducing new prospects and encouraging new opera enthusiasts.
- Suggesting possible nominees to the Board who can make significant contributions to the Board's and the Association's work.
- Being considerate of staff time and refraining from making unreasonable requests of the staff.
- Complying with the Code of Conduct.

Some Legal Considerations for Board Members

- Directors cannot abdicate their responsibility to monitor and oversee the Association.
- Directors must help ensure that the Association is operating within the

legal framework established by the bylaws and applicable federal and state law.

- Directors must help protect the Association's assets.
- Directors should regularly attend Board meetings. Absence from a Board meeting does not release the director from responsibility for decisions made.

There is no absolute protection against someone bringing suit against you in your role as an Association director. Conscientious performance is the standard. The best defense is a good offense: strive hard to do everything in a deliberate and thoughtful manner. Remember that the law's assumption is not that you must necessarily make the correct decision, but that you have made the decision in an appropriate manner. It helps to be able to show that the Board seriously considered an action before it was taken. Board minutes should reflect that care is taken with decisions and actions. A decision may turn out to be wrong, but the law protects directors if they asked the right questions and responded as a reasonable person would in the same situation.

While you have the right to rely on information supplied to you and on the accuracy and integrity of others (particularly in areas of special competence), you must use reasonable judgment.

Some key suggestions:

- Attend meetings.
- Read minutes and make sure they are correct.
- Record objections and ensure debate on controversial or difficult issues. It is your duty to review plans and policies and the manner in which they are carried out, rather than simply to be accommodating to people because they have been around for a long time.
- Always be sure the Association has comprehensive and up-to-date policies (such as these Guidelines), which have been reviewed by a professional, authorized by the Board and are well understood by management. If a Board member's or staff member's actions are in accord with the Association's policies, a court may assume that the Association authorized their acts.
- Ensure that the Association's employment and income taxes are paid. Understand the IRS' distinction between an "employee" and an "independent contractor."
- Schedule a presentation from an insurance agent well versed in Board liability matters. Have him or her explain: general liability, professional liability, workers compensation, asset protection, and directors' and officers' liability insurance. Be sure the directors' and officers' liability policy covers employee suits against the Association.
- Review the Association's financial statements and insist on understanding them. The Association has two levels of financial review: 1) the Audit Committee meets separately to review detailed financial reports, and 2) these reports are then discussed and reviewed with the full Board.

Board of Directors Job Descriptions

President of the Board

- Provides leadership to the Board of Directors, which establishes Association policy and to whom the General Director is accountable.
- Chairs meetings of the Board after developing the agenda with the General Director.
- Helps guide and mediate Board actions with respect to the Association's priorities and governance concerns.
- Encourages the Board's role in strategic planning.
- Attends Board committee meetings when invited.
- Monitors financial planning and financial reports.
- Plays a leading role in fundraising activities.
- Discusses issues confronting the Association with the General Director.
- Reviews with the General Director any issues of concern to the Board.
- Works closely with the General Director in achieving the Association's mission.
- With the Board, formally evaluates the General Director's performance.
- Annually evaluates the Association's performance in achieving its mission.
- Performs other duties which may become necessary.

Executive Vice President

- Reports to, and works closely with, the Board's President.
- Performs Board President responsibilities when the Board President cannot be available.
- Works closely with the Board President and other Association staff.
- Performs other duties as assigned by the Board.

Vice President of Finance

- Oversees and reports to the Board on the Association's finances.
- Reviews and oversees the process of presenting the annual budget to the Board for approval.
- Ensures development and Board review of financial policies and procedures.
- Oversees the Association's investment strategy and performance.

Board Secretary

- Oversees staff maintenance of Board records and the preparation and distribution of minutes.
- Is sufficiently familiar with legal documents (articles, bylaws, IRS letters, etc.) to note applicability during meetings.
- May be assisted by an Assistant Secretary who is appointed by the President.

Committee Chair

- Ensures that committee members have the information needed to do their jobs.
- Oversees the committee's operations.
- Reports to the full Board on the committee's decisions/recommendations.
- Works closely with the General Director and other staff.
- Assigns work to the committee members, sets the agenda and runs the meetings, prepares and submits meeting minutes, and sets tone for the committee's work.
- Initiates and leads the committee's annual evaluation.

Board Selection and Composition

Board Selection and Appointment.

The Board is responsible for selecting nominees, based on the recommendation of the Nominating Committee, for the annual election of directors by the Association's members. The Board is also authorized, based on the Nominating Committee's recommendations, to appoint directors to the Board to fill Board vacancies.

Size of the Board.

Based on the Nominating Committee's recommendation, the Board will regularly evaluate and change, if necessary, the Board's size. Although the actual number of directors will vary from time to time, the maximum number permitted is 75.

Board Membership Criteria.

Based on the Nominating Committee's recommendation, the Board will establish the skills and characteristics to be sought in new Board members, given the Board's current composition, and develop criteria for identifying and evaluating director candidates. These criteria include, among other things, the person's commitment to the Association, his or her business experience and skills (including skills in core areas such as operations, management, performing arts, fund raising, investing, accounting and finance, law, and strategic planning), independence, judgment, integrity and ability to commit sufficient time and attention to the Board's

and the Association's activities, as well as the absence of any potential conflicts with the Association's interests. Candidates must be willing and able to donate at least \$25,000 to the Association annually.

Board Nomination and Election Process.

The process for identifying Board candidates is as follows:

- Existing Board members are encouraged to submit names of prospective Board members to the Chair of the Nominating Committee. The name should be accompanied by a brief bio of the prospective member and by a brief statement of why she or he will be a good Board member.
- The Chair and other members of the of the Nominating Committee will conduct an appropriate evaluation of a prospective Board nominee, including a first contact (interview) with the prospect. This interview will cover the candidate's willingness to serve, and verify that he or she is willing to comply with the Association's Code of Conduct.
- Each nominee is required to execute an Acknowledgement Form in which he or she agrees to comply with the Code of Conduct, and to submit a Disclosure Form to the Nominating Committee. The Chair of the Nominating Committee will review and evaluate any potential conflicts of interest or other issues disclosed on the nominee's Disclosure Form, and share this information with the Nominating Committee's members.
- After receiving this information, the Nominating Committee will determine whether to recommend the potential nominee for appointment to the Board. Notice of any approved nominee will be provided to either (a) the general membership for a vote at the annual meeting, or (b) if there is currently a vacancy on the Board, to the Board, in which case the Board will vote on the nominee at the next scheduled meeting.
- Following election to the Board, the new member is informed of his or her election by the Chair or a designated member of the Nominating Committee or a designated member of the Nominating Committee, and a meeting with the nominee is scheduled to explain the duties and responsibilities of Board members and to provide an orientation and schedules of the Board's meetings and the Association's events.

Board and Association Leadership.

The Board is responsible for the selection of the Association's President and the General Director.

Director Levels

The directors shall be classified as follows:

Individual Directors. Individual Directors are required to make an annual contribution to the Association of \$25,000.00. Individual Directors are elected for two-year terms, and serve until his or her two-year term expires or until his or her earlier death, incapacity, resignation, removal, or failure to make the required annual contribution. An Individual Director may not serve more than one two-year term, unless the Nominating Committee determines that Director's the continued service is in the Association's best interests.

Corporate Directors. Corporate Directors are directors sponsored by Association members that are business entities. The sponsoring business entity is required to make an annual contribution to the Association in of \$25,000.00. The sponsoring business entity identifies the candidate to be considered by the Nominating Committee and the Board for election as a Corporate Director. Each Corporate Director serves for a term of one year or until his or her earlier death, incapacity, resignation or removal, or the relevant business entity fails to make the required annual contribution. The sponsoring business entity may replace the person serving as its Corporate Director by giving notice to the Nominating Committee. There is no limit on the number of terms a Corporate Director may serve.

Associate Directors. Annually the Board may elect a number of Associate Directors to serve on an Associate Director Board comprised of San Diego's business, cultural and civic leaders who offer their expertise and support. Associate Directors must make a minimum annual contribution to the Association of \$10,000.00. Associate Directors serve for a term of one year or until their earlier death, resignation or removal, or failure to make the required annual contribution. The Nominating Committee shall review the Associate Directors annually to determine their ongoing eligibility for service. There is no limit on the number of terms an Associate Director may serve.

Associate Directors are not directors of the Association and have none of the powers of Board members. They may not vote on any issue before the Board nor nominate persons to be directors. Associate Directors may serve on Board committees as requested by the Committee Chairs and/or the President. The Associate Directors shall meet at the pleasure of the Board of Directors or of the President. They may advise on matters of policy, practice, finance and development as requested by the Board of Directors or by the President. Associate Directors must be Association members.

Advisory Directors. Annually the Board may elect a number of Advisory Directors to serve on an Advisory Board. Advisory Directors shall make a minimum annual contribution to the Association of \$1,500.00. Advisory Directors serve a term one-year term, or until their earlier death, incapacity, resignation or removal, or failure to make the required annual contribution. The Nominating Committee reviews the Associate directors annually to determine their ongoing eligibility for service. There is no limit on the number of terms an Advisory Director may serve.

Advisory Directors are not directors of the Association and have none of the powers of Board members. They may not vote on any issue before the Board nor nominate persons to be directors. Advisory Directors are required to comply with the Association's Code of Conduct. The Advisory Directors shall meet at the pleasure of the Board of Directors or of the President. Advisory Directors may advise on matters of policy, practice, finance, membership, or production as requested by the Board or by the President. Advisory Directors must be Association members.

Consideration of Member Nominees.

The Nominating Committee will annually review a reasonable number of candidates for director recommended by Association members who satisfy the notice and other requirements of the bylaws, using the same criteria as it uses to review Board-recommended candidates.

Board Meeting Agenda.

The President of the Board, in consultation with the General Director establishes the agenda for each Board meeting. Directors are free to suggest the inclusion of items on the agenda.

Advance Distribution of Board Materials.

Information and material that necessary to the Board's understanding of the business to be conducted at a Board meeting will be distributed to the directors before the Board meets. Highly confidential or sensitive matters, and matters that arise immediately prior to Board meetings, may be presented and discussed without prior distribution of background material.

Board Committees

Number, Structure and Independence of Committees. The Board's 6 standing committees are the (i) the Executive Committee, (ii) the Audit Committee, (iii) the Finance Committee, (iv) the Nominating Committee, (v) the Governance Committee and (vi) the Development Committee. From time to time, the Board in its discretion may form additional Board committees or disband a current Board committee.

Assignment of Committee Members. The President will assign Board members to the various Board committees, and will appoint the Chair for each of the Board committee. Consideration should be given to periodically rotating Committee members.

Frequency of Committee Meetings. Each Board committee should meet at least three times per year, with the Audit Committee meeting at least twice annually. Committees shall report their activities to the full Board.

Committee Agendas. The Chair of each Board committee establishes the meeting agenda for the committee. Committee members are free to suggest the inclusion of items on the agenda..

Endowment Trust Advisory Council

The San Diego Opera Association Endowment Trust (“Trust”) is an irrevocable charitable endowment trust established to receive and invest funds for the benefit of the Association. The San Diego Opera Endowment Trust is a separate entity from the San Diego Opera. The Trust has its own Federal Tax identification number and files its own Federal and State tax returns. The investments are currently administered by the Bank of America,, N.A., as Trustee.

Investment direction is provided by an Advisory Council appointed by the Board in accordance with Article VI of the Trust Agreement. Unless determined otherwise by the Board, the Finance Committee serves as the Advisory Counsel for the Trust. This committee should regularly report to the Board on its activities, recommendations and conclusions regarding the Trust. Distributions from the Trust are made to the Association in accordance with the terms of the Trust Agreement.

Honorary Life Directors

From time to time, the President may recommend to the Board persons for appointment as Honorary Life Directors. The qualifications for such nominees are a minimum of 10 years of exemplary service on the Board of Directors, a minimum of \$500,000 cumulative giving to the Association, and having attained at least 75 years of age. Honorary Life Directors shall continue to hold that title until their deaths, incapacity to act, resignations, or removal. The title is entirely an honorary title, and does not confer board membership or rights on a person so appointed.