

Chapter 4

SUBSIDIARY AND AFFILIATE CORPORATIONS AND ADJUNCT ENTITIES

A. Authorization of Subsidiary Corporations

4300. The General Conference may authorize the incorporation of any agency, institution (for matters relative to a general educational institution, cf. 2362), board, organization or similar body as a subsidiary corporation of The Wesleyan Church, and shall approve the articles of incorporation and bylaws and any amendments thereto (1590:6). The General Board shall carry out the directions of the General Conference regarding such subsidiary corporations, assign each one to the supervision of a General Superintendent (1915:3); and, in the interim of General Conference sessions, may authorize such an incorporation by a two-thirds majority vote of all its members, and may approve the articles of incorporation and bylaws and any amendments thereto for any subsidiary corporation except as otherwise restricted by the General Conference (1655:17).

B. Subsidiary Corporations

4310. Definition. Those corporate units of The Wesleyan Church which are intrinsic to the priority mission of the Church are known as subsidiary corporations. These include the following:

(1) Districts (cf. 4100-4150). Local churches, whether incorporated or unincorporated (cf. 4000-4070), are units of the related district and subject to the authority of said district as set forth in *The Discipline* of The Wesleyan Church (cf. 1233:28-40; 1310:12-21; 4650-4780).

(2) General Educational Institutions (cf. 2365).

(3) The Wesleyan Pension Fund, Inc. (cf. 4400-4425).

(4) Hephzibah Children's Home. The Hephzibah Children's Home in Macon, Georgia, is incorporated under the laws of the state of Georgia. It is administered by a board of directors elected by and amenable to the General Board (1655:17). The board of directors shall administer all matters pertaining to Hephzibah Children's Home in accord with *The Discipline* (4570), the articles of incorporation and bylaws of the corporation.

(5) Wesleyan Investment Foundation, Inc. The Wesleyan Investment

Foundation, Inc. is a not-for-profit corporation under the laws of the State of Indiana. It is governed by a board of directors of eleven members, with the General Secretary as recording secretary, the General Treasurer and nine other members elected by the General Board (1655:18). The board of directors shall administer all matters pertaining to the Wesleyan Investment Foundation, Inc. in accord with *The Discipline* (4570), its articles of incorporation and bylaws, and is amenable to the General Board.

(6) Other corporate units may be designated as subsidiary corporations by the General Conference or a two-thirds vote of all members of the General Board.

C. Basic Provisions of Subsidiary Corporations

4320. The articles of incorporation or charter for the incorporation of any agency, institution (other than a district, cf. 1000-1496), or a general educational institution, (cf. 2362), board, organization or similar body as a subsidiary corporation (4300; 4310:6), now established or hereafter created, and its bylaws, shall be in accord with the following basic provisions, provided that whenever such basic provisions shall conflict with the local laws under which the incorporation is effected, such provisions shall be modified to the extent required by local laws (4510):

(1) The purposes of the subsidiary corporation shall be in keeping with the religious, charitable, benevolent and educational purposes of The Wesleyan Church and consistent with its doctrines and principles as stated in *The Discipline* (cf. 100-105; 200; 2100; 2200; 2300); and pecuniary profit shall not accrue to the members of the corporation.

(2) The bylaws of the corporation shall include *The Discipline* of The Wesleyan Church as amended from time to time (4570); and no bylaws may be adopted that are inconsistent with the provisions of *The Discipline* or contrary to local laws as stated in 4510. The bylaws, and any amendments thereto, shall be subject to the approval of the General Board, who shall also have the right to initiate any such bylaws or amendments, provided they do not contravene any action of the General Conference (1655:17).

(3) The General Board shall be and constitute the board of directors or shall elect the members of the board of directors as required by the Constitution except where prohibited by local laws (340:2; 1655:18; 4510), and shall have the authority to remove for cause any member thereof (1655:39b).

(4) All members of the board of directors and all principal officers shall be covenant members or ministers of The Wesleyan Church.

(5) A member of the board of directors may not be held personally liable for any debts, liabilities or obligations of the corporation.

(6) All fiscal operations shall be under board control, with budget, investment and cash control by a board of directors of no less than seven members.

(7) The General Board shall be authorized to direct an annual audit of all assets, records and other affairs of the corporation, and at any other time as it shall deem necessary (1655:19), and all records shall be open to the General Superintendent having supervision over the corporation (1935:5) and to any other representative the General Board shall appoint for such a purpose.

(8) The board of directors shall make a complete and faithful report of finances and other activities to the General Board at any time as shall be required by such General Board (1655:21).

(9) An official copy of the minutes of all meetings of the board of directors and of the financial reports shall be forwarded to the General Secretary of The Wesleyan Church for permanent filing as requested.

(10) The bylaws shall establish proper safeguards for the borrowing or loaning of funds, and it shall be required that there will be adequate security by full mortgage protection or the like whenever there is an investment in property.

(11) All property, whether real, personal or mixed shall be held in trust for the use and benefit of the members and ministers of The Wesleyan Church and shall contain the appropriate trust clause as set forth in 4610.

D. Affiliate Corporations

4340. Definition. An affiliate corporation may be formed and exist when a subsidiary corporation (cf. 4310) of The Wesleyan Church seeks to develop responses to social, humanitarian or community needs which can best be achieved by a separate legal entity. This may be for the purpose of carrying on specific religious, benevolent, charitable or educational activities apart from the usual activities of the subsidiary corporation, such as, but not limited to, the operation of nursing homes, retirement centers, special educational or recreational activities and the like. When the organization and operation of such a ministry is desired, it shall be incorporated apart from the subsidiary corporation and termed an affiliate corporation.

E. Basic Provisions of Affiliate Corporations

4350. The articles of incorporation or charter for the incorporation of any affiliate corporation hereafter created (other than by an educational

institution, (cf. 2362; 4320), and its bylaws, shall be in accord with the following basic provisions, provided that, whenever such basic provisions shall conflict with the local laws under which the incorporation is effected, such provisions shall be modified to the extent required by local laws:

(1) The principal purpose of an affiliate corporation shall be to augment one or more of the religious, charitable, benevolent or educational purposes of the subsidiary corporation with which it is affiliated, and pecuniary profit shall not accrue to the members of the affiliate corporation.

(2) The bylaws of the affiliate corporation shall be in accord with the bylaws of the subsidiary corporation with which it is affiliated, as amended from time to time, and no bylaw may be adopted by the affiliate corporation that is inconsistent with the provisions of the charter or bylaws of such subsidiary corporation or contrary to local, state or federal laws governing the affiliate corporation. The bylaws, and any amendments thereto, shall be subject to the approval of the board of directors of the subject subsidiary corporation, and the concurrence in writing of the supervising General Superintendent of The Wesleyan Church after the receipt of competent legal counsel (1935:5).

(3) The board of directors of the subsidiary corporation shall be and constitute, or shall elect, the members of the board of directors of the affiliate corporation, and shall be and constitute the membership of such corporation, except where prohibited by local laws, and shall have the authority to remove for cause any member.

(4) All members of the board of directors and principal officers of the affiliate corporation shall be covenant members or ministers of The Wesleyan Church with the exception of elementary and secondary educational institutions which are affiliate corporations to Wesleyan churches or districts. In such instances the school's bylaws (4350:2) may provide for up to 20 percent of the board of directors to be believers from outside the sponsoring Wesleyan community.

(5) Except where liability is allowed by law, a member of the board of directors of the affiliate corporation may not be held personally liable for any debts, liabilities or obligations of the corporation.

(6) All fiscal operations, including budget, investment and cash control, shall be under the control of a board of directors of not less than seven members.

(7) The board of directors of the affiliate corporation, other governing board or the supervising General Superintendent, shall be authorized to direct an annual audit of all assets, records or other affairs of the corporation, and at

any other time as it or the supervising General Superintendent shall deem necessary, and all records shall be open to the supervising General Superintendent and to any other representative the board of directors of the subsidiary corporation shall appoint for such a purpose (1935:5).

(8) The board of directors of the affiliate corporation shall make a complete and faithful report of finances and other activities annually, and at any other time as shall be required, to the board of directors of the subsidiary corporation with which it is affiliated.

(9) An official copy of the minutes of all meetings of the board of directors and of the financial reports shall be forwarded to the chair and the secretary of the board of directors of the subsidiary corporation for permanent filing and to the supervising General Superintendent (1935:5).

(10) The bylaws of the affiliate corporation shall establish proper safeguards for fiscal soundness, legal requirements, integrity of purpose and protection of the assets of the corporation.

(11) All property of the affiliate corporation, whether real, personal or mixed, shall, in the event of the liquidation or dissolution of such corporation, devolve upon and pass to The Wesleyan Church Corporation or one of its subsidiary corporations.

F. Adjunct Entities

4370. Definition. An adjunct entity may exist when an entity heretofore has been developed in response to social, humanitarian or community needs for the purpose of carrying on activities which are apart from the usual activities of a subsidiary corporation, such as, but not limited to, the operation of nursing homes, retirement centers, special educational or recreational activities and the like. Where the operation of such an adjunct ministry presently exists, and where such entity fails, prior to January 1, 1990, to incorporate and hereafter exist and conduct its affairs as an affiliate corporation (4340; 4350), it shall exist apart from any subsidiary, any affiliate corporation and The Wesleyan Church Corporation, and shall be termed an adjunct entity. In all such latter cases, the governing body of the subject subsidiary corporation shall use its best efforts on a continuing basis to cause the adjunct entity to meet the following conditions:

(1) The relationship between the adjunct entity and any subsidiary corporation, affiliate corporation or The Wesleyan Church, shall only be described and shown as “related through common religious heritage” rather than by use of name or such words as “agent,” “agency,” “subsidiary,” or “affiliate.”

(2) All financial responsibility arising from conduct of any activities of the adjunct entity shall be that solely of the adjunct entity, and no such responsibility shall fall upon any subsidiary corporation, affiliate corporation, The Wesleyan Church Corporation or any member or former member of the governing body thereof.

(3) No subsidiary corporation shall directly or indirectly elect, approve nominations for or confirm elections or selections of, members of the board of directors or other governing body of any adjunct entity.

(4) The real, personal or mixed property of the adjunct entity shall not be held in trust for a subsidiary corporation, an affiliate corporation or The Wesleyan Church.

(5) The adjunct entity shall, to the satisfaction of the subject subsidiary corporation or affiliate corporation, and the supervising General Superintendent, take all necessary and other reasonable measures to avoid creating the impression to the public, or any part thereof, that its existence or operation is in any fashion sponsored, controlled or operated by the subsidiary corporation, an affiliate corporation or The Wesleyan Church Corporation (1935:5).

4390. Restriction. Except as expressly permitted by paragraphs 4310, 4320, 4340 or 4350, no two or more members of the Board of Directors of The Wesleyan Church Corporation or of the board of directors or other governing body of any subsidiary corporation or affiliate corporation of The Wesleyan Church Corporation, whether acting individually or severally, shall directly or indirectly form or become members of any corporation, association, partnership or other legal entity which promotes, sponsors, encourages or in any manner engages in any activity which directly or indirectly purports to be sponsored or operated in any manner by or in the name of The Wesleyan Church or any subsidiary or affiliate corporation, except as authorized by a two-thirds vote of the General Board. Provided, however, that nothing contained in this paragraph 4390 or elsewhere in this Chapter 4 of Part 7 of *The Discipline* is intended to prohibit the formation or operation of one or more private foundations or supporting organizations as described in Internal Revenue Code Section 170(b)(1)(E)(ii) or Section 509(a)(3) (or any successor provisions thereto of such Code) which benefit The Wesleyan Church.