

**BYLAWS  
OF  
ELEMENT EDUCATION, INC.  
A California Nonprofit Public Benefit Corporation**

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**BYLAWS**  
**OF**  
**ELEMENT EDUCATION, INC.**

A California Nonprofit Public Benefit Corporation

**ARTICLE I**  
**NAME: OFFICE**

- Section 1. **NAME.** The name of this corporation is ELEMENT EDUCATION, INC.
- Section 2. **PRINCIPAL OFFICE.** The principal office for the transaction of the activities and affairs of the corporation ("principal office") is located at 1441 Montiel Road, Ste. 143, Escondido, CA, 92026. The corporation may have such other offices within the State of California as the Governing Board may deem necessary or as the affairs of the corporation may require from time to time.

**ARTICLE II**  
**PURPOSES**

This corporation is a nonprofit public benefit corporation and is not organized for the private gain of any person. It is organized under the California Nonprofit Public Benefit Corporation Law for public and charitable purposes.

The specific and primary purpose and activity for which the corporation is organized is to manage, operate, guide, direct and promote one or more schools or programs which support pre-Kindergarten to grade 12 students in accordance with the laws of the State of California.

**ARTICLE III**  
**MEMBERSHIP**

This corporation shall have no "members" as that term is used in the California Nonprofit Public Benefit Corporation Law. All rights, which would otherwise vest in the members, shall vest in the Governing Board.

**ARTICLE IV**  
**BOARD MEMBERS**

- Section 1. **GENERAL CORPORATE POWERS.** Subject to the provisions and limitations of the California Nonprofit Public Benefit Corporation Law and any other applicable laws, the Governing Board may delegate the

management of the activities of the corporation to a management company, provided that notwithstanding any such delegation the activities and affairs of the corporation shall continue to be managed and all corporate powers shall continue to be exercised under the ultimate direction of the Governing Board.

Section 2. **SPECIFIC POWERS.** Without prejudice to the general powers set forth in Article IV, Section I of these Bylaws, but subject to the same limitations, the Board Members shall have the power to:

- (a) Exercise all powers vested in the Governing Board under the laws of the State of California.
- (b) Appoint and remove all officers of the corporation, the management company, if any, and corporation employees, if any; prescribe any powers and duties for such persons that are consistent with law, the Articles of Incorporation and these Bylaws; and fix their compensation.
- (c) Appoint such agents and employ such other employees, including attorneys and accountants, as it sees fit to assist in the operation of the corporation, and to fix their duties and to establish their compensation.
- (d) Adopt and establish rules and regulations governing the affairs and activities of the corporation, and take such steps as it deems necessary for the enforcement of such rules and regulation.
- (e) Enforce all applicable provisions of the Bylaws
- (f) Contract for and pay premiums for insurance and bonds (including indemnity bonds) which may be required from time to time by the corporation.
- (g) Pay all taxes and charges, which are or would become a lien on any portion of the corporation's properties.
- (h) Delegate its duties and powers hereunder to the officers of the corporation, the management company or to committees established by the Governing Board, subject to the limitations expressed in Article IV, Section I hereof.
- (i) Prepare budgets and maintain a full set of books and records showing the financial condition of the affairs of the corporation in a manner consistent with generally accepted accounting principles, and at no greater than annual intervals prepare an annual financial report, a copy of which shall be delivered to each Board Member as provided in Article VIII, Section 4 hereof.

- (j.) Open bank accounts and borrow money on behalf of the corporation and designate the signatories to such bank accounts
- (k.) Bring and defend actions on behalf of the corporation so long as the action is pertinent to the operations of the corporation.

Section 3. NUMBER AND QUALIFICATION OF BOARD MEMBERS. The authorized number of Board Members shall be no less than three (3) nor more than seven (7). All Board Members shall be designated by the existing Governing Board and, where feasible, should reflect the make-up of the charter school community of the schools operated by the Corporation, except that the following seat will be reserved: one seat shall be reserved for a parent of one of the charter schools operated by the Corporation. In accordance with Education Code Section 47604(b), the governing board of an authorizer that grants a charter to a charter school operated by the Corporation is entitled to a single representative on the Governing Board. A seat on the Governing Board shall be reserved for a student representative which may be filled at the discretion of the Governing Board by a student selected from the student body of the charter schools operated by the Corporation.

Section 4. TERM OF OFFICE. Each term of office shall be for two (2) years and shall expire at the end of the annual meeting in the year of expiration. There shall be no limit upon the number of consecutive terms to which a Board Member may be re-appointed. Each Board Member, including Board Members appointed to fill a vacancy, shall hold office until the expiration of the term for which he/she is appointed and until a successor has been appointed and qualified.

Section 5. REMOVAL OF BOARD MEMBERS AND FILLING VACANCIES ON GOVERNING BOARD.

- (a) Vacancies, Generally. A vacancy or vacancies in the Governing Board shall exist on the occurrence of any of the following: (i) the death, r resignation or removal of the Board Member; (ii) the declaration by resolution of the Governing Board of a vacancy in the office of a Board Member who has been declared of unsound mind by an order of court, convicted of a felony, or found by final order or judgment of any court to have breached a duty under Article 3 of Chapter 2 (relating to the standards of conduct of Board Members) of the California Nonprofit Public Benefit Corporation Law; or (iii) the increase of the authorized number of Board Members.
- (b) Removal of Board Members. Any Board member, except for the representative appointed by the charter authorizer, may be removed, with or

without cause, by the vote of the majority of the members of the entire Governing Board at a special meeting called for that purpose, or at a regular meeting, provided that notice of that meeting and such removal are given in compliance with the provisions of the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Division 2 of Title 5 of the Government Code) as said chapter may be modified by subsequent legislation ("Brown Act"). The representative appointed by the charter authorizer may be removed without cause by the charter authorizer or with the written consent of the charter authorizer.

- (c) Resignation of Board Members. Any Board Member may resign, which resignation shall be effective on giving written notice to the President, the Clerk, or the Governing Board, unless the notice specified a later time for the resignation to become effective. If the resignation of a Board Member is effective at a future time, the Governing Board may elect a successor to take office when the resignation becomes effective. No Board Member may resign if the corporation would then be left without a duly elected Board Member. No reduction of the authorized number of Board Members shall have the effect of removing the Board Member before that Board Member's term of office expires.
- (d) Filling of Vacancies. Vacancies on the Governing Board, except for the representative appointed by the charter authorizer, may be filled by approval of the Governing Board or, if the number of Board Members then in office is less than a quorum, by (a) the affirmative vote of a majority of the Board Members then in office at a regular or special meeting of the Board, or (b) a sole remaining director. A vacancy in the seat of the representative of the charter authorizer shall be filled by the charter authorizer.
- (e) Nominating Committee. In the event of a vacancy, and annually as Board Member terms expire, the Executive Director shall convene a Nominating Committee to recruit and interview candidates. The Nominating Committee that designates individuals to serve on the Governing Board shall consist of five (5) individuals. The Nominating Committee shall consist of three (3) parents representing more than one (1) school operated by the Corporation. The total parent population of the Corporation will be provided opportunity to elect parent representatives for the nominating committee. The remaining two (2) committee members shall consist of one (1) individual selected by the Executive Director and one (1) individual selected by the existing Governing Board. The Committee shall present a slate of candidates at the annual meeting of the Governing Board for a vote by the Governing Board. Candidates designated to fill vacancies shall be presented at the next regular meeting following Nominating Committee meeting selection. The Nominating Committee shall convene three months prior to the annual

meeting and in the event of a vacancy to select a committee leader who will facilitate the nominating procedure.

Section 6. INTERESTED PERSONS. Not more than 49% of the persons serving on the Governing Board may be interested persons. An "interested person" is: (1) any person currently being compensated by the corporation for services rendered to it within the previous 12 months, whether as a full-time or part-time employee, independent contractor or otherwise, excluding any reasonable compensation paid to a Board Member as Board Member; or (2) any sister, brother, ancestor, descendant, spouse, sister-in-law, brother-in-law, daughter-in-law, son-in-law, mother-in-law or father-in-law of any such person.

Section 7. LIMITATIONS ON POWERS.

- (a) The Corporation shall not enter into a contract or transaction in which a Board Member directly or indirectly has a material financial interest (nor any other corporation, firm, association, or other entity in which one or more of this Corporation's directors are Board Member have a material financial interest) unless all of the following apply:
  - a. The Board Member with a material financial interest in the proposed contract or transaction fully discloses his/her financial interest in such contract or transaction in good faith and said disclosure is noted in the Governing Board meeting minutes.
  - b. The Board Member with a material financial interest in the proposed contract or transaction recuses himself/herself from any participation whatsoever in the proposed contract or transaction (i.e., the interested director who recuses himself/herself shall refrain from voting on the matter and shall leave the room during Board discussion and when the final vote is taken).
  - c. Such contract or transaction is authorized in good faith by a majority of the Governing Board by a vote sufficient for that purpose.
  - d. Before authorizing or approving the transaction, the Governing Board considers and in good faith decides after reasonable investigation that the corporation could not obtain a more advantageous arrangement with reasonable effort under the circumstances.
  - e. The corporation for its own benefit enters into the transaction, which is fair and reasonable to the corporation at the time the transaction was entered into.



This Section does not apply to a transaction that is part of an educational or charitable program of this corporation if it (a) is approved or authorized by the corporation in good faith and without unjustified favoritism and (b) results in a benefit to one or more directors or their families because they are in the class of persons intended to be benefited by the educational or charitable program of this corporation.

- (b) Transactions Between Corporations Having Common Board Members. Unless it is established that the contract or transaction is just and reasonable as to the corporation at the time it is authorized, approved or ratified, this corporation shall not enter into a contract or transaction with any other corporation, association or entity in which one or more of the corporation's Board Members unless the material facts as to the transaction and the Board Member's common Board Membership are fully known or disclosed to the Governing Board. The Governing Board must approve, authorize or ratify any such contract or transaction in good faith and by a vote sufficient without counting the vote of the common Board Members.
- (c) Loans to Board Members or Officers. This corporation shall not make any loan of money or property to, or guarantee the obligation of, any Board Member or officer, unless the transaction is first approved by the California Attorney General. This provision shall not apply to any reasonable advance on account of expenses anticipated to be incurred in the performance of the Board Member's or officer's duties.
- (d) Standards for Investment. Except as provided in Sections 5240(c) and 5241 of the Nonprofit Public Benefit Corporation Law, in the investment, reinvestment, purchase, acquisition, exchange, sale and management of the corporation's investments, the Governing Board shall:
  - (i.) Avoid speculation, looking instead to the permanent disposition of the funds, considering the probable income, as well as the probable safety of the corporation's capital; and
  - (ii) Comply with additional standards, if any, imposed by the Articles of Incorporation, these Bylaws or the express terms of any instrument or agreement pursuant to which the invested assets were contributed to the corporation.
- (e) Contracts with Non-Board Member Designated Employees. The Corporation shall not enter into a contract or transaction in which a non-Board Member designated employee (e.g., officers and other key decision-making employees) directly or indirectly has a material financial interest unless all of the requirements in the Corporation's Conflict of Interest Code have been fulfilled.

**ARTICLE V**  
**MEETINGS OF THE GOVERNING BOARD**

Section 1. **ANNUAL MEETING.** The annual meeting of the Governing Board shall be held in November of each year, or on the first business day thereafter, at the time designated in the notice of meeting, at the principal business office of the corporation, unless otherwise determined by the Governing Board.

Section 2. **SPECIAL MEETINGS.** Special meetings of the Governing Board for any purpose may be called at any time by the President or a majority of the Board Members. If a President has not been elected then the Vice-President is authorized to call a special meeting in place of the President. The party calling a special meeting shall determine the place, date, and time thereof.

In accordance with the Brown Act, special meetings of the Governing Board may be held only after twenty-four (24) hours' notice is given to the public through the posting of an agenda. Board Members shall also receive at least twenty-four (24) hours' notice of the special meeting, by one of the following methods: (a) by personal delivery of written notice; (b) by first-class mail, postage prepaid; (c) by telephone, either directly to the Board Member or to a person at the Charter office who would reasonably be expected to communicate that notice promptly to the Board Member; or (d) by telegram, charges prepaid. All such notices shall be given or sent to the Board Member's address or telephone number as shown on the records of the corporation.

Notices sent by first-class mail shall be deposited in the United States mail at least four days before the time set for the meeting. Notices given by personal delivery, telephone, or telegraph shall be delivered, telephoned, or given to the telegraph company at least forty-eight (48) hours before the time set for the meeting.

The notice sent shall state the time of the meeting, and the place if the place is other than the principal office of the corporation.

Section 3. **REQUIREMENTS APPLICABLE TO MEETINGS.** Notwithstanding any other requirements contained in these Bylaws, all meetings of the corporation shall be held in compliance with all applicable requirements of the Brown Act.

Section 4. QUORUM. A majority of the authorized number of Board Members shall constitute a quorum for the transaction of business, except to adjourn. Every action taken or decision made by a majority of the Board Members present at a duly held meeting at which a quorum is present shall be the act of the Governing Board, subject to the more stringent provisions of the California Nonprofit Public Benefit Corporation Law, including, without limitation, those provisions relating to (a) approval of contracts or transactions in which a Board Member has a direct or indirect material financial interest, (b) approval of certain transactions between corporations having common Board Members, (c) creation of and appointment ' s to committees of the Governing Board, and (d) indemnification of Board Members. A meeting at which a quorum is initially present may continue to transact business, despite the withdrawal of Board Members, if any action taken or decision made is approved by at least a majority of the required quorum for that meeting.

Section 5. COMPENSATION. Board Members as such shall not receive any stated salaries for their services, but by resolution of the Governing Board, a fixed sum and expenses of attendance, if any, may be allowed for attendance at one meeting of the Governing Board each month; but nothing herein contained shall be construed to preclude any Board Member from serving the corporation in any other capacity and receiving compensation therefore. Board Members may receive such reimbursement of expenses as the Governing Board may determine by resolution to be just and reasonable as to the corporation at the time that the resolution is adopted.

Section 6. COMMITTEES. The Governing Board, by resolution adopted by a majority of the Board Members then in office, provided a quorum is present, may create one or more committees, each consisting of two or more Board Members and no persons who are not Board Members, to serve at the pleasure of the Governing Board. Appointments to committees of the Governing Board shall be by majority of the Board Members then in office. The Governing Board may appoint one or more Board Members as alternate members of any such committee, who may replace any absent member at any meeting. Any such committee, to the extent provided in the Governing Board resolution, shall report its findings and recommendations to the Governing Board for its action.

## **ARTICLE VI** **OFFICERS**

- Section 1. **OFFICERS.** The officers shall be President, Vice-President, Clerk, Executive Director, or designee/Secretary, and the Chief Business Officer (CBO) Treasurer.
- Section 2. **ELECTION OF BOARD OFFICERS.** The President, Vice-President, and Clerk shall be chosen annually by the Governing Board and shall serve at the will of the Governing Board.
- Section 3. **TERM OF OFFICE.** Any officer may be removed at any time, with or without cause, by the affirmative vote of a majority of the Governing Board.
- Section 4. **VACANCIES IN OFFICE.** A vacancy in any office shall be filled in the manner prescribed in these bylaws for regular appointments to that office, provided, however, that vacancies need not be filled on an annual basis.
- Section 5. **PRESIDENT.** Subject to control of the Governing Board, the President shall preside over all Governing Board meetings. The President shall have such other powers and duties as the Governing Board or the bylaws may prescribe.
- Section 6. **VICE PRESIDENT.** The office of Vice President (V.P.) assists the president. The V.P. will assume the office of President when needed.
- Section 7. **CLERK.** The Clerk shall be the designated signee for Governing Board business.
- Section 8. **EXECUTIVE DIRECTOR.** The Executive Director shall be the general manager of the corporation and shall supervise, direct, and control the corporation's activities, affairs and officers. The Executive Director shall have the power to hire, discharge, fix and pay compensation of such agents, independent contractors and employees, as he/she deems necessary to the operations of the corporation.

As Secretary, the Executive Director, or designee, shall keep or cause to be kept, at the Corporation's principal office or such other place as the Governing Board may direct, a book of minutes of all meetings, proceedings, and actions of the Board and of committees of the Board. The minutes of meetings shall include the time and place that the meeting was held; whether the meeting was annual, regular, special, or emergency and, if special or emergency, how authorized; the notice given; the names of the Board Members present at Governing Board and committee

meetings; and the vote or abstention of each Board Member present for each action taken.

The Secretary shall keep or cause to be kept, at the principal California office, a copy of the articles of incorporation and bylaws, as amended to date.

The Secretary shall give, or cause to be given, notice of all meetings of the Board and of committees of the Governing Board that these bylaws require to be given. The Secretary shall keep the corporate seal, if any, in safe custody and shall have such other powers and perform such other duties as the Governing Board or the bylaws may require.

Section 9. **CBO/TREASURER.** The CBO/Treasurer shall keep and manage, all financial operations of the charter. The CBO/Treasurer shall send or cause to be given to the Governing Board such financial statements and reports as are required to be given by law, by these Bylaws, or by the Governing Board. The books of account shall be open to inspection by any Board Member at all reasonable times.

The CBO/Treasurer shall deposit, or cause to be deposited, all money and other valuables in the name and to the credit of the corporation with such depositories as the Governing Board may designate, shall disburse the corporation's funds as the Governing Board may order, shall render to the President, and the Governing Board, when requested, an account of all transactions as CBO/Treasurer and of the financial condition of the corporation, and shall have such other powers and perform such other duties as the Governing Board or the Bylaws may prescribe.

**ARTICLE VII**  
**INDEMNIFICATION OF BOARD MEMBERS,**  
**OFFICERS, EMPLOYEES AND OTHER AGENTS**

Section 1. **RIGHT OF INDEMNITY.** To the fullest extent permitted by law, this corporation may indemnify its Board Members, officers and employees, and other persons described in Section 5238(a) of the California Corporations Code, including persons formerly occupying any such position, against all expenses, judgments, fines, settlements and other amounts actually and reasonably incurred by them in connection with any "proceeding," as that term is used in that Section, and including an action by or in the right of the corporation, by reason of the fact that the person is or was a person described in that section. "Expenses," as used in this Bylaw, shall have the same meaning as in Section 5238(a) of the

California Corporations Code. On written request to the Governing Board by any person seeking indemnification under Corporations Code Section 5238 (b) or Section 5238 (c) the Governing Board shall promptly decide under Corporations Code Section 5238 (e) whether the applicable standard of conduct set forth in Corporations Code Section 5238 (b) or Section 5238 (c) has been met and, if so, the Governing Board shall authorize indemnification.

## **ARTICLE VIII** **RECORDS AND REPORTS**

- Section 1. **MAINTENANCE OF CORPORATE RECORDS.** The corporation shall keep: (1) adequate and correct books and records of accounts; and (2) written minutes of the proceedings of the Governing Board and committees of the Governing Board.
- Section 2. **INSPECTION BY BOARD MEMBERS.** Every Board Member shall have the absolute right at any reasonable time to inspect the corporation's books, records, documents of every kind, physical properties, and the records of each of its subsidiaries. The inspection may be made in person or by the Board Members' agent or attorney. The right of inspection includes the right to copy and make extracts of documents as permitted by California and federal law. This right to inspect may be circumscribed in instances where the right to inspect conflicts with California or federal law (e.g., restrictions on the release of educational records under FERPA) pertaining to access to books, records, and documents.
- Section 3. **ANNUAL STATEMENT OF CERTAIN TRANSACTIONS AND INDEMNIFICATIONS.** The corporation shall annually prepare and furnish to each Board Member a statement of any transaction or indemnification of the following kind within 120 days after the end of the corporation's fiscal year:
- (a) Any transaction (i) in which the corporation, its parent, or its subsidiary was a party, (ii) in which an "interested person" had a direct or indirect material financial interest, and (iii) which involved more than \$50,000, or was one of a number of transactions with the same interested person involving, in the aggregate, more than \$50,000. For this purpose, an "interested person" is any Board Member or officer of the corporation, its parent, or subsidiary (but more common Board Membership shall not be considered such an interest).

The statement shall include a brief description of the transaction, the names of interested persons involved, their relationship to the corporation,

the nature of their interest in the transaction and, if practicable, the amount of that interest, provided that if the transaction was with a partnership in which the interested person is a partner, only the interest of the partnership need be stated.

- (b) The amount and circumstances of any indemnifications aggregating more than \$10,000 paid during the fiscal year to any Board Member or officer of the Corporation pursuant to Article VII of these Bylaws.

Section 4. YEAR-END REPORT. Within 120 days after the close of the fiscal year, a year-end report consisting of at least the following shall be distributed to Board Members. That report shall contain the following information, in appropriate detail:

- a. The assets and liabilities, including the trust funds, or the Corporation as of the end of the fiscal year;
- b. The principal changes in assets and liabilities, including trust funds;
- c. The Corporation's revenue or receipts, both unrestricted and restricted to particular purposes;
- d. The Corporation's expenses or disbursement for both general and restricted purposes;
- e. Any information required under these bylaws; and
- f. An independent accountant's report or, if none, the certificate of an authorized officer of the Corporation that such statements were prepared without audit from the Corporation's books and records.

## **ARTICLE IX** **OTHER PROVISIONS**

Section 1. AMENDMENT OF BYLAWS. The Governing Board may adopt, amend, or repeal these Bylaws, provided that any such amendment does not conflict with the Articles of Incorporation or with any laws.

Section 2. FISCAL YEAR. The fiscal year of the corporation shall be from July 1<sup>st</sup> through June 30<sup>th</sup> of each year.

Section 3. CONSTRUCTION AND DEFINITIONS. Unless the context requires otherwise, the general provisions, rules of construction, and definitions in the California Nonprofit Corporation Law shall govern the construction of these Bylaws.



**CERTIFICATE OF SECRETARY**

I certify that I am the duly elected and acting Secretary of the Element Education, Inc., a California nonprofit public benefit corporation; that these bylaws, consisting of 13 pages, are the bylaws of the Corporation as adopted by the Governing Board on \_\_\_\_\_; and that these bylaws have not been amended or modified since that date.

Executed on \_\_\_\_\_ at \_\_\_\_\_, California.

\_\_\_\_\_  
\_\_\_\_\_, Secretary

1984

