

**THIRD AMENDED AND RESTATED BYLAWS**  
*of*  
**THE SUSSEX ACADEMY OF ARTS & SCIENCES, INC.**

**ARTICLE I: Name and Office**

**Section 1. Name and Principal Office.** The Sussex Academy of Arts and Sciences, Inc. (the “Corporation”) is a non-profit, non-stock Delaware corporation formed under the Delaware General Corporation Law (“DGCL”) having its principal office at 21150 Airport Road, Georgetown, DE 19947.

**Section 2. Purposes.** The purposes of the Corporation are to open and operate a Charter School, as such term is defined in Title 14, Chapter 5 of the Delaware Code and regulations associated therewith (collectively, the “Charter School Code”) and to conduct such activities in connection with the foregoing as may be determined by the Board of Directors (as hereinafter defined) and as shall be permissible under the Charter School Code; provided, however, that such purposes and business shall at all times be limited exclusively to those religious, charitable, scientific and educational purposes that are “exempt purposes” within the meaning of Section 501(c)(3) of the Internal Revenue Code of the United States of America. Without limiting the generality of the foregoing, to the extent permissible under the Charter School Code, the Corporation’s purposes shall include the following:

- (a) To create, establish and operate a Charter School (hereinafter, the “School”);
- (b) To provide classroom instruction for its students, as well as such before-school programs, after-school programs and other educationally related programs offered outside the traditional school year as the Board of Directors (as hereinafter defined) shall authorize for the education of its students;
- (c) To provide an educational program for students in grades 6 through 12;
- (d) To lease or own and operate a school facility in Sussex County Delaware, or at such other location as the Board of Directors shall determine;
- (e) To employ and train sufficient staff to provide instruction to students;
- (f) To establish policies, plans and procedures for the implementation and administration of the designated purposes;
- (g) To enter into contracts agreements with outside entities in connection with the foregoing purposes; and

(h) To fulfill such other purposes and functions, consistent with the DGCL and the Charter School Code, as the Board of Directors shall determine from time to time.

**Section 3. Non-discrimination.** The Corporation shall not discriminate on the basis of race, religion, national origin, gender, sexual orientation or age in either the hiring and other employment practices of the school or in its admission policies for students. Further, the Corporation shall be open to all students in the state of Delaware on a space available basis and shall not discriminate in its admission policies or practices. The Corporation shall conduct all of its activities in accordance with all applicable local, state, and federal anti-discrimination laws, as well as in accordance with the Charter School Code and all other laws and regulations applicable to the operation of charter public schools in the State of Delaware.

## **ARTICLE II: Membership**

**Section 1. Members.** The members of the Corporation shall be the Board of Directors (the “Board” or “Board of Directors”). All corporate power shall be exercised by or under the authority of the Board of Directors.

## **ARTICLE III: Board of Directors**

**Section 1. Number and Qualifications.** The number of Directors shall be not less than nine (9) and no more than thirteen (13) and shall include a Director who is a certificated teacher at the School (the “Teacher Director”) and a Director who is a parent of a current student at the School (the “Parent Director”). All Directors shall be at least 21 years of age.

**Section 2.** [Omitted – combined with Section 5]

**Section 3. Powers.** Subject to the limitations imposed by law, the Certificate of Incorporation, or these Bylaws, the Board of Directors shall have all powers and authority, for the management of the business, property, and affairs of the Corporation, to do such lawful acts as it deems proper and appropriate to promote the objectives and purposes of the Corporation. The Board of Directors may, by general resolution, delegate to committees of its own number or to officers of the Corporation such powers as it may see fit for specified periods of time.

**Section 4. Election.** The Members shall elect Directors by a vote of a majority of the full membership of the Board at the Annual Meeting (as defined below) of the Members. The Board may establish a Nominating Committee or such other committee to recruit qualified Directors. The Board shall seek to appoint Directors with expertise in one or more of the following areas: research-based curriculum and instructional strategies; business management; finance and accounting; personnel management (human resources); leadership and governance; diversity issues; at-risk populations and children with disabilities; health and wellness; school operations

(including but not limited to facilities management); and law/legal. The Board shall also seek to appoint Directors who reside in geographic areas and who are of demographics that reflect the student body. Newly selected Directors shall assume office at the first Board of Directors meeting following their selection.

**Section 5. Term Limits.** The term of Board membership shall be for three (3) years. After the initial three-year term, a current Director may serve, upon a Director's request and election by the Board, one-year appointments for up to an additional three (3) concurrent years on the Board. The Director may serve two additional one-year appointments, if the President so requests and the Director is elected by a majority of the full membership of the Board of Directors. To the extent possible, terms shall be staggered so that no more than 1/3 of the Directors shall be up for appointment in any year, unless a vacancy(ies) needs to be filled.

**Section 6 Resignation and Removal.** A Director may resign by submitting his or her resignation in writing to the President of the Board of Directors. The resignation is then brought to the Board. A Director may be removed by the affirmative vote of supermajority of two-thirds (2/3) of the full membership of the Board of Directors. provided that: first, notice of such proposed action shall be given in the agenda of the meeting at which such removal is considered; second, the Board member has been informed in writing at least ten (10) calendar days prior to the meeting of the reason for the proposed removal; and third, the Board member is given an opportunity to be heard at the proposed removal meeting.

**Section 7. Annual Meeting.** An annual meeting (the "Annual Meeting") of the Board of Directors for the selection of Directors and Officers, and for such other business as may come before the Board, shall be held in June of each year. The meeting shall be held at the principal office of the Corporation or such other place as shall be specified in the meeting notice.

**Section 8. Regular Meetings.** In addition to the Annual Meeting, the Board shall hold no less than six meetings each school year, the dates of which shall be determined by the Board, and at such other times as the Board may, from time to time, determine.

**Section 9. Special Meetings.** Special meetings of the Board of Directors for any purpose or purposes may be called at any time by the President or by a resolution signed by a majority of the full Board of Directors.

**Section 10. Freedom of Information Act.** From and after the issuance of a charter to the Corporation permitting its operation of a charter school (the "Charter"), and so long as such Charter remains in effect, every annual, regular, or special meeting of the Board shall be open to the public, except as provided in the Delaware Freedom of Information Act, 29 Del. C. § 10001 et seq. ("FOIA"). Notice of the time and place of any meeting shall be given, and a record of the meetings shall be taken, in the manner provided in FOIA. No Directors shall conduct a meeting (as such term is defined in

FOIA), except as provided in FOIA. Directors may participate in an open or closed meeting of the Board by telephone conference call or video conference to the extent, and under the procedure, authorized under FOIA.

**Section 11. Quorum.** A majority of the full number of Directors shall constitute a quorum of the Board for the transaction of business. When a quorum is present, a majority of the Directors present may take any action on behalf of the Board, except to the extent that a larger number is required by law, by the Certificate of Incorporation, by the Charter, or by these Bylaws. Every act of a majority of the Directors present at a meeting duly held at which a quorum is present shall be regarded as the act of the Board of Directors. The Teacher Director may not vote on matters that are student or personnel related, or on other items, which may be deemed a conflict by a majority of the Directors.

**Section 12. Vacancies.** A vacancy on the Board of Directors, including a vacancy caused by an increase in the number of Directors, may temporarily be filled by a majority vote of the remaining Directors to elect a person(s) to fill the vacancy(ies) until the next Annual Meeting, at which time Director(s) so selected must be elected as specified in these Bylaws by the Board.

**Section 13. Compensation.** Directors receive no payment for their services. With board approval, Directors may be reimbursed for out-of-pocket expenses incurred on approved Board business. Directors must present receipts for all such expenses, which shall be for the Directors only, and shall be itemized and documented. Such expenses must be approved by a motion of the Board of Directors within 30 days or at the next scheduled meeting.

**Section 14. Meeting Attendance.** Directors are expected to attend all Board meetings. Unless otherwise prohibited by law and/or limited by FOIA, Director(s) may participate by means of video-conferencing, provided each attending member's participation occurs at a noticed public location where members of the public may also attend the meeting. The participation of a Director(s) by video-conferencing shall be deemed attendance for all purposes, including purposes of establishing a quorum. When video conferencing is used, at least one (1) of the noticed public locations shall be within the geographic jurisdiction of Sussex County, Delaware. During meetings where video-conferencing is used, each member shall be identified, all participants shall be able to communicate with each other at the same time, and members of the public attending at the noticed public location or locations of the meeting shall be able to hear and view the communication among all Directors participating by video-conference. Video-conferencing participation shall not be permitted when a verbatim transcript of the meeting is required by law, except for public hearings on proposed rules and regulations, or where the chair or presiding officer determines that physical attendance is required at a single location.

**Section 15. Absences.** A Director may have no more than two unexcused absences in any given fiscal year. Failure to notify the President of an impending

absence with reason will be considered unexcused. After two unexcused absences, the President shall bring the person's name before the Board to consider removal from the Board.

**Section 16. Management Company.** The Board may employ a consulting company or consultant or agent on behalf of the Corporation, at a compensation rate established by the Board, to perform duties and services authorized by the Board. A member of the Board, or any person or entity affiliated with or related to a member of the Board, may serve as managing agent if the Board appoints such party, subject to the requirements and limitations set forth in these Bylaws.

**Section 17. Duties of Directors.** A Director shall discharge the Director's duties, including the Director's duties as a member of a committee, in good faith, with ordinary care, and in a manner the Director reasonably believes to be in the best interest of the Corporation. In the discharge of any duty imposed or power conferred on a Director, including as a member of a committee, the Director may in good faith rely on information, opinions, reports, or statements, including financial statements and other financial data, concerning the Corporation or another person that were prepared or presented by:

- (a) One or more officers or employees of the Corporation;
- (b) Legal counsel, public accountants, or other persons as to matters the Director reasonably believes are within the person's professional or expert competence; or
- (c) A committee of the Board of which the Director is not a member.

A Director is not relying in good faith, within the meaning of this Section, if the Director has knowledge concerning a matter in question that makes reliance otherwise permitted by this section unwarranted. A Director is not liable to the Corporation, any member, or any other person for any action taken or not taken as a Director if the Director acted in compliance with this Section. A person seeking to establish liability of a Director must prove that the Director has not acted in good faith, with ordinary care, and in a manner the Director reasonably believes to be in the best interest of the Corporation

#### **ARTICLE IV: Committees**

**Section 1. Establishment.** Committees may be appointed in such manner as may be designated at a meeting of the Board at which a quorum is present, and may consist of one or more Directors or others. Such committees may include (by way of illustration and without requirement or limitation) a finance committee, a recruitment/retention committee, a human resources committee, and a curriculum committee. Any committee member may be removed, at any time with or without cause, by the person or persons authorized to appoint such member.

**Section 2. Quorum.** Unless otherwise provided in the resolution of the Board of Directors designating a committee, a majority of the whole committee shall constitute a quorum and the act of a majority of the members present at a meeting at which a quorum is present shall be the act of the committee.

**Section 3. Committees.** Each committee shall have a charge specific to its permitted activities and such charge shall be incorporated into the charter school policy manual. Their responsibility is to carry out assignments of the Board and make recommendations as appropriate.

**Section 4. Open Meetings.** Every meeting of a committee shall be open to the public to the extent required under FOIA.

## **ARTICLE V: Officers**

**Section 1. Titles.** The Officers of the Corporation are a President, a Vice President, a Secretary, and a Treasurer. The Board of Directors may create such other officer positions as it thinks necessary. Each officer position shall have its duties and responsibilities specified and included in these Bylaws. No Officer may hold more than one position at the same time.

**Section 2. Selection.** The Officers shall be selected from among the Board of Directors at each Annual Meeting by a majority of the full membership of the Board of Directors. Officers shall serve for at least one year or until their successors are selected and qualified.

**Section 3. Terms.** Directors selected to the officer positions may serve no more than three (3) consecutive one-year terms. Former officers, after a break in service of one year, may be selected to another term as an officer.

**Section 4. Duties.** Officers shall have the duties and responsibilities belonging to their office, including those that follow:

(a) The President shall be the chief executive officer of the Corporation, responsible, along with his/her fellow Directors, for the oversight of its business and affairs. He/she shall preside at all meetings of the Board. The President shall have full and equal vote as accorded to all Directors. The President may enter into and execute in the name of the Corporation contracts or other instruments that are authorized by the Board of Directors. The President may delegate, as needed, to any other officer any or all of the duties of the office of President. He/she shall have such other powers and duties as may be prescribed by the Board of Directors or by these Bylaws.

(b) The Vice President shall have such duties and responsibilities as may be delegated to him/her by the President. The Vice President shall have full and equal vote

as accorded to all Directors. In the absence of the President, the Vice President shall perform all the duties of the President and, when so acting, shall have all the responsibilities of and be subject to all the restrictions as fall upon the President, including presiding at meetings of the Board of Directors. He/she shall have such other powers and duties as may be prescribed by the Board of Directors or by these Bylaws.

(c) The Secretary shall keep or cause to be kept the minutes of all meetings of the Board, including the time and place, the names of those present, the actions taken, and the votes on such actions. The Secretary shall present the minutes of the previous meeting at the subsequent meeting to be voted on by the Board and duly noted in the minutes of the instant meeting. The Secretary shall keep the Seal of the Corporation. He/she shall have such other powers and duties as may be prescribed by the Board or by these Bylaws.

(d) The Treasurer shall be the chief financial officer of the Corporation and shall have oversight of the Director of Finance & Operations as that employee takes responsibility of the financial records, investments, and other evidences of school properties and assets. The Treasurer shall ensure that the Director of Finance & Operations keeps regular books of account for the Corporation that set out business transactions of the Corporation, such books to be at all times open to inspection at their place of keeping to any member of the Board of Directors. The Treasurer shall be the chair of the Financial Committee.

**Section 5. Removal.** Any officer may be removed from office, with cause, by the affirmative vote of a super majority of at least 60% of the full membership of the Board of Directors at any regular meeting or special meeting called for that purpose. Any officer proposed to be removed for cause shall be entitled to at least seven (7) business days' notice in writing by mail of the meeting of the Board of Directors at which such removal is to be voted upon and shall be entitled to appear before and be heard by the Board of Directors at such meeting.

#### **ARTICLE VI: Fiscal Year and Check Signing**

**Section 1. Fiscal Year.** The fiscal year of the Corporation shall be July 1st to June 30th.

**Section 2. Checks, Etc.** All checks, drafts or orders for the payment of money, notes or other evidence of indebtedness issued in the name of the Corporation, shall be signed by such officer or officers, agent or agents of the Corporation and in such manner as shall from time to time be determined by resolution of the Board of Directors. In the absence of such determination by the Board of Directors, such instruments shall be signed by the treasurer or the president of the Corporation.

#### **ARTICLE VII: Amendments to Bylaws and Policies**

**Section 1. Amendments to Bylaws and Policies.** The Board of Directors shall have the power to make, amend, or repeal the Bylaws of the charter school, either in

whole or in part. The Board of Directors shall also have the power to make, amend, or repeal policies of the charter school in whole or in part in keeping with Article 1, Section 2(f) of these Bylaws. Bylaws and policies may be amended at any regular meeting of the Board of Directors or any special meeting called for that purpose by a majority vote of the full membership of the Board of Directors. Written notice stating the time and location of the regular meeting or special meeting must be given to all Directors and posted in all places and in newspapers as required by the Freedom of Information Act not less than ten (10) days prior to the meeting at which such change(s) shall be proposed and voted upon.

#### **ARTICLE VIII: Dissolution**

**Section 1. Plan of Liquidation or Dissolution.** A plan providing for the distribution of assets, not inconsistent with the provisions of these Bylaws, the Certificate of Incorporation or the DGCL, may be adopted by the Corporation in the process of dissolution and shall be adopted by the Corporation for the purpose of authorizing any transfer or conveyance of assets for which the Corporations code requires a plan of distribution, in the following manner: A plan of distribution shall be adopted at a meeting of the Board of Directors upon receiving the vote of a majority of the full membership of the Board of Directors.

#### **ARTICLE IX: Books and Records**

**Section 1. Books and Records.** The Corporation shall keep correct and complete books and records of account and shall also keep minutes of the proceedings of the Board of Directors and committees having any of the authority of the Board of Directors. All books and records of the Corporation may be inspected by any Director, or his or her agent or attorney, for a proper purpose and for a reasonable time.

**Section 2. Financial Accounting.** The Corporation shall use financial accounting practices consistent with the Delaware financial accounting manual; shall obtain an annual audit of its financial affairs by a certified public accountant; and shall, in all respects, comply with the financial accounting requirements imposed under the DGCL and the Charter School Code.

**Section 3. Public Records.** All “public records,” as such term is defined in FOIA, shall be collected, assembled, maintained, preserved or destroyed, withheld or disclosed or otherwise made available to the public, all as provided in such chapter.

#### **ARTICLE X: Additional Provisions**

**Section 1. Indemnification.** The Corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceedings, where civil, criminal, administrative or investigate (other than an action by or in the right of the Corporation) by reason of the fact that he or she is or was a Director, officer, employee or agent of the Corporation, or is or was

serving at the request of the Corporation as a Director, officer, employee or agent or another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him or her in connection with such action, suit or proceeding, if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Corporation and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. This indemnification shall be to the fullest extent authorized or permitted under the DGCL or other applicable law, and shall be subject to the limitations, restrictions, and conditions for indemnification set forth in the DGCL.

The indemnification provided by this section shall not be deemed exclusive of any other rights to which any person seeking indemnification may be entitled under any bylaws, agreement, statute, court decision or otherwise, now or hereafter in effect, both as to action in his or her official capacity, and as to action in another capacity when holding such office, and shall continue to a person who has ceased to be a Director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

Expenses incurred in defending a civil or criminal action, suit, or proceeding described in this section may be paid by the Corporation in advance of the final disposition of the action, suit, or proceeding as authorized by the Board of Directors on receipt of an undertaking by or on behalf of the Director, an officer, an employee, or an agent to repay the amount unless it is ultimately determined that the party is entitled to be indemnified by the Corporation as authorized in this section.

**Section 2. Insurance.** The Board of Directors shall provide for the liability and other forms of insurance considered to be necessary and prudent as protection against possible claims.

**Section 3. Conflicts.** A contract or transaction between the Corporation and one or more of its Directors or officers or between the Corporation and any other corporation, partnership, association, or other organization in which one or more of its Directors or officers are Directors, officers, or members, or have a financial interest, is not void or voidable solely for that reason, solely because the Director or officer is present at or participates in the meeting of the Board or committee of the Board that authorizes the contract or transaction, or solely because the Director's or officer's votes are counted for that purpose, if:

a) The material facts as to the relationship or interest and as to the contract or transaction are disclosed or are known to the Board of Directors or the committee, and the Board, or committee, in good faith and with ordinary care authorizes the contract or transaction by the affirmative vote of a majority of the disinterested Directors, even though the disinterested Directors are less than a quorum; or

b) The contract or transaction is fair to the Corporation when it is authorized, approved, or ratified by the Board of Directors or a committee of the Board.

Common or interested Directors may be counted in determining the presence of a quorum at a meeting of the Board of Directors or of a committee that authorizes the contract or transaction.

**Section 4. Severability.** If any of the provisions of these Bylaws are held to be partially or wholly invalid or unenforceable for any reason, that holding shall not affect, alter, or impair any of the other provisions of these Bylaws or the remaining part of any provision that is held to be partially invalid or unenforceable. In such an event, these Bylaws shall be construed as if the invalid or unenforceable provisions were omitted.