

**BYLAWS**

**OF**

**Utah Charter Academies, dba  
AMERICAN PREPARATORY ACADEMY**

**A Utah NonProfit Corporation**

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# **BYLAWS**

## **OF**

### **Utah Charter Academies, dba American Preparatory Academy**

#### **ARTICLE I**

##### **OFFICES**

Section 1.1 Business Offices. The principal office of Utah Charter Academies, dba American Preparatory Academy will be at the physical location of the school, 12892 South Pony Express Road, Draper, Utah. The Corporation may have such other offices within Utah, as the governing Board of Directors may designate or as the affairs of the Corporation may require from time to time.

Section 1.2 Registered Office. The registered office of the Corporation required by the Utah Revised Nonprofit Corporation Act (“Act”) may, but need not, be the same as the Corporation’s principal business office in Utah. The initial registered office is the office of record referenced above, but is subject to change from time to time by the governing Board of Directors (sometimes referred to herein as, the “Board of Directors”), by the officers of the Corporation, or as otherwise provided by the Act.

#### **ARTICLE II**

##### **MEMBERS**

Section 2.1 No Members. The Corporation shall have no members. The membership provisions of these bylaws may be altered from time to time in accordance with the Act, the Corporation’s Articles of Incorporation, and these bylaws, to provide for the classification, qualifications, privileges and appointment of members as may be determined by the governing Board of Directors.

#### **ARTICLE III**

##### **BOARD OF DIRECTORS**

Section 3.1 General Powers. The business and affairs of the Corporation shall be managed by its governing Board of Directors, except as otherwise provided in the Act, the Articles of Incorporation, or these bylaws.

Section 3.2 Number, Election, Tenure and Qualifications.

- (a) The number of directors of the Corporation may be a maximum of seven (7) voting members, but shall not be less than three (3).
- (b) Each director shall serve until their resignation, removal or earlier death.
- (c) Any director may be removed at any time upon majority vote of the Board of Directors.

Section 3.3 Vacancies. Any director may resign at any time by giving written notice to the Chair of the Board of Directors, or to the Secretary of the Corporation. Such resignation shall take effect at the time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

The Board of Directors may or may not elect to fill Board of Directors vacancies above the minimum number of three (3) directors. If the Board of Directors elects to fill Board of Directors vacancies, they will solicit applications from persons willing to fill a Board of Directors vacancy. The Board of Directors will set timelines for such solicitation and review of applications. Upon consideration of applications, the Board of Directors may appoint additional directors. Any vacancy occurring in the Board of Directors may be filled by the affirmative vote of a majority of the remaining directors though that number of directors may constitute less than a quorum. The Board of Directors shall elect a Chair and a Vice-Chair from the board membership and may appoint a Secretary, however the Secretary need not be a voting member of the Board of Directors.

One director shall be a parent elected by the parent population of the school. This shall be the case as long as it is required by Utah State statute.

Section 3.4 Authority and Duties of Directors. The directors of the Corporation shall have the authority and shall exercise the powers and perform the duties specified below and as may be additionally specified by the Chair of the Board of Directors, the Board of Directors or these bylaws, except that in any event each officer shall exercise such powers and perform such duties as may be required by law.

- (a) *Chair of the Board of Directors.* The Chair of the Board of Directors is the Chief Administrative Officer and shall (i) preside, when present, at all meetings of the Board of Directors; (ii) see that all orders and resolutions of the Board of Directors are carried into effect; and (iii) perform all other duties incident to the office of Chair of the Board of Directors and as from time to time may be assigned to the Chair of the Board of Directors.

(b) *Vice Chair.* The Vice Chair of the Board of Directors shall (i) in the absence of the Chair of the Board of Directors, preside at all meetings of the Board of Directors; (ii) perform all other duties incident to the office of Vice Chair as from time to time may be assigned to the Vice Chair by the Board of Directors.

Section 3.5 Regular Meetings. During the start-up phase of operation, defined as that period of time commencing with the granting of a charter until the first day of school, regular meetings of the Board of Directors shall be held at such times and places as may be determined by the Chair of the Board of Directors.

After commencement of the first day of school, regular meetings of the Board of Directors will be held at least quarterly, or as required by Utah law, as scheduled by the Chair of the Board of Directors.

Section 3.6 Special Meetings. Special meetings of the Board of Directors may be called by or at the request of the Chair of the Board of Directors or a majority of the directors. The person or persons authorized to call special meetings of the Board of Directors may fix any place as the place for holding any special meeting of the Board of Directors called by them.

Section 3.7 Notice. Notice of each meeting of the Board of Directors stating the place, day and time of the meeting shall be given to each director by written notice by personal delivery, first-class mail, or email at least two (2) days prior thereto (and the method need not be the same as to each director). Notice of each meeting shall be publicly made by posting the place, day and time of the meeting twenty-four hours in advance at the school. Additional public notice shall also be made if required by Utah law.

Section 3.8 Quorum and Voting. A majority of the Board of Directors shall constitute a quorum for the transaction of business at any meeting of the Board of Directors; but if less than a majority of the directors are present at said meeting, a majority of the directors present may adjourn the meeting from time to time without further notice. No director may vote or act by proxy at any meeting of directors.

Section 3.9 Compensation. The Board of Directors may adopt and amend Board compensation schedules, including but not limited to necessary expenses.

Directors as such shall not receive compensation for their services.

Section 3.10 Committees. The Board of Directors may appoint from its members chairpersons who will organize, direct and supervise volunteers comprising committees whose purpose is to advance the work of the Corporation. Numbers and types of committees shall be determined by the Board of Directors.

## ARTICLE IV

### OFFICERS AND AGENTS

Section 4.1 Number and Qualifications. The Board of Directors may elect to conduct the business of the Corporation by hiring officers or by contracting with an education management corporation which will provide services that will oversee the business of the Corporation, including the duties of the Corporate officers.

Section 4.2 Term of Office. If the Corporation elects to hire officers, the officers of the Corporation shall serve at the pleasure of the Board of Directors.

Section 4.3 Compensation. If the Corporation elects to hire officers, the compensation of the officers, shall be as fixed from time to time by the Board of Directors. However, during any period in which the Corporation is a private foundation as described in section 509 (a) of the Internal Revenue Code, no payment of compensation (or payment or reimbursement of expenses) shall be made in any manner so as to result in the imposition of any liability under section 4941 of the Internal Revenue Code.

Section 4.4 Removal. Any officer appointed by the Board of Directors may be removed by the Board of Directors at any time with or without cause, but such removal shall be without prejudice to the contract rights, if any, of the officer so removed.

Section 4.5 Vacancies. Any officer may resign at any time, subject to any rights or obligations under any existing contracts between the officer and the Corporation, by giving written notice to the Chair or Secretary of the Board of Directors. An officer's resignation shall take effect at the time specified in such notice, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 4.6 Authority and Duties of Officers. The officers of the Corporation shall have the authority and shall exercise the powers and perform the duties specified by the Chair of the Board of Directors, the Board of Directors or these bylaws, except that in any event each officer shall exercise such powers and perform such duties as may be required by law.

- (a) *School Director*.. School Director shall, subject to the supervision of the Chair of the Board of Directors and the Board of Directors, (i) have general responsibility for all day-to-day operations of the Corporation; (ii) propose, prepare and present to the Board of Directors specific programs and activities that will further the Corporation's purposes; (iii) direct and supervise the implementation of the programs and activities approved by the Board of Directors and see that all orders and resolutions of the Board of Directors are carried into effect; and (iv) perform all other duties incident to the office of School Director and as from time to time may be assigned to the School Director by the Board of Directors.

(b) *Assistant School Director/Business Manager/Secretary/Treasurer..*  
The Assistant School Director/Business Manager shall (i) perform all duties incident to the office of Assistant School Director/Business Manager as from time to time may be assigned to the Assistant School Director/Business Manager by the Board of Directors or the School Director (ii) as Treasurer, if required by the Board of Directors, shall give a bond to the faithful discharge of his duties in such sum and with each surety or sureties as the Board of Directors shall determine. He shall have charge and custody of and be responsible for all funds and securities of the Corporation, receive and give receipts for monies due and payable to the Corporation from any source whatsoever, and deposit such all monies in the name of the Corporation in such banks, trust companies or other depositories as shall be selected by the Board of Directors; and in general perform all the duties incident to the office of Treasurer and such other duties as from time to time may be assigned him by the Board of Directors, and (iii) as Secretary, shall: keep the minutes of the meetings of the Board of Directors and any committees of the Board of Directors; see that all notices are duly given in accordance with the provisions of these bylaws or as required by law; be custodian of the corporate records and of the seal of the Corporation; and in general, perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned by the Chair of the Board of Directors, the School Director, or the Board of Directors. Assistant Secretaries, if any, shall have the same duties and powers, subject to supervision by the Assistant School Director/Business Manager. In the absence of an appointed Secretary, the Chief Administrative Officer/President or other Board of Directors member may perform or assign the duties described above.

Section 4.7 Surety Bonds. The Board of Directors may require any officer or agent of the Corporation to execute to the Corporation a bond in such sums and with such sureties as shall be satisfactory to the Board of Directors, conditioned upon the faithful performance of such person's duties and for the restoration to the Corporation of all books, papers, vouchers, money and other property of whatever kind in such person's possession or under such person's control belonging to the Corporation.

## ARTICLE V

### STANDARDS OF CONDUCT FOR OFFICERS AND DIRECTORS

Each director and officer with discretionary authority shall discharge his or her duties in good faith, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, and in a manner the director or officer reasonably believes to be in the best interests of the corporation. In discharging duties, a director or officer is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by: (i) one (1) or

more officers or employees of the corporation whom the director or officer reasonably believes to be reliable and competent in the matters presented; (ii) legal counsel, a public accountant, or another person as to matters the director or officer reasonably believes are within such person's professional or expert competence; or (iii) in the case of a director, a committee of the Board of Directors of which the director is not a member if the director reasonably believes the committee merits confidence.

A director or officer is not acting in good faith if he or she has knowledge concerning the matter in question that makes reliance otherwise permitted by the above unwarranted. A director or officer is not liable as such to the corporation for any action taken or omitted to be taken as a director or officer, as the case may be, if, in connection with such action or omission, the director or officer performed the duties of the position in compliance with this Article V.

## ARTICLE VI

### DIRECTORS' CONFLICTING INTEREST TRANSACTIONS

Section 6.1 Conflicting Interest Transactions. As used in this Article, "conflicting interest transaction" means: a contract, transaction, or other financial relationship between the Corporation and a director of the Corporation, or between the Corporation and a party related to a director, or between the Corporation and an entity in which a director of the Corporation is a director or officer or has a financial interest.

Section 6.2 Prohibition Against Loans to Directors or Officers. No loans shall be made by the Corporation to its directors or officers. Any director or officer who assents to or participates in the making of any such loan shall be liable to the Corporation for the amount of such loan until the repayment thereof.

Section 6.3 Voidability of Conflicting Interest Transactions. No conflicting interest transaction shall be void or voidable or be enjoined, set aside, or give rise to an award of damages or other sanctions in a proceeding by or in the right of the Corporation, solely because the conflicting interest transaction involves a director of the Corporation or a party related to a director or an entity in which a director of the Corporation is a director or officer or has a financial interest or solely because the director is present at or participates in the meeting of the Corporation's Board of Directors or of the committee of the Board of Directors that authorizes, approves, or ratifies the conflicting interest transaction or solely because the director's vote is counted for such purpose if: (a) the material facts as to the director's relationship or interest and as to the conflicting interest transaction are disclosed or are known to the Board of Directors or the committee, and the Board of Directors or committee in good faith authorizes, approves, or ratifies the conflicting interest 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 conflicting interest transaction is fair as to the Corporation.

Section 6.4 Approval of Conflicting Interest Transactions. 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 which authorizes, approves, or ratifies the conflicting interest transaction.

Section 6.5 Party Related to Director. For purposes of this Article VI, a “party related to a director” shall mean a spouse, a descendent, an ancestor, a sibling, the spouse or descendent of a sibling, an estate or trust in which the director or a party related to a director has a beneficial interest, or an entity in which a party related to a director is a director, officer, or has a financial interest.

## **ARTICLE VII**

### **INDEMNIFICATION**

Section 7.1 Indemnification. To the extent permitted or required by the act (as defined below) and any other applicable law, if any director or officer (as defined below) of the Corporation is made a party to or is involved in (for example as a witness) any proceeding (as defined below) because such person is or was a director or officer of the Corporation, the Corporation (i) shall indemnify such person from and against any judgments, penalties, fines (including but not limited to ERISA excise taxes), amounts paid in settlement and reasonable expenses (including but not limited to expenses of investigation and preparation, and fees and disbursements of counsel, accountants or other experts) incurred by such person in such proceeding, and (ii) shall advance to such person expenses incurred in such proceeding.

The Corporation may in its discretion (but is not obligated in any way) to indemnify and advance expenses to an employee or agent of the Corporation to the same extent as to a director or officer.

The foregoing provisions for indemnification and advancement of expenses are not exclusive, and the Corporation may at its discretion provide for indemnification or advancement of expenses in a resolution of its directors, in a contract or in its articles of incorporation.

Any repeal or modification of the foregoing provisions of this article for indemnification or advancement of expenses shall not affect adversely any right or protection stated in such provisions with respect to any act or omission occurring prior to the time of such repeal or modification. If any provision of this article or any part thereof shall be held to be prohibited by or invalid under applicable law, such provision or part thereof shall be deemed amended to accomplish the objectives of the provision or part thereof as originally written to the fullest extent permitted by law, and all other provisions or parts shall remain in full force and effect.

As used in this Article VII, the following terms have the following meanings:

(a) *Act.* The term “act” means the Utah Revised Nonprofit Corporation Act as it exists on the date this article is adopted, and as the Utah Revised Nonprofit Corporation Act may be thereafter amended from time to time. In the case of any amendment of the Utah Revised Nonprofit Corporation Act after the date of adoption of this article, when used with reference to an act or omission occurring prior to effectiveness of such amendment, the term “act” shall include such amendment only to the extent that the amendment permits a Corporation to provide broader indemnification rights than the Utah Revised Nonprofit Corporation Act permitted prior to the amendment.

(b) *Director or Officer.* The term “director” or “officer” means (i) a director or officer of the Corporation and (ii) while an individual is a director or officer of the Corporation, the individual’s serving at the Corporation’s request as a director, officer, partner, member, manager, trustee, employee, fiduciary, or agent of another domestic or foreign Corporation, nonprofit Corporation, or other person or of an employee benefit plan, and (iii) any other position (not with the Corporation itself) in which a director or officer of the Corporation is serving at the request of the Corporation and for which indemnification by the Corporation is permitted by the act.

(c) *Proceeding.* The term “proceeding” means any threatened, pending or completed action, suit, or proceeding whether civil, criminal, administrative or investigative, and whether formal or informal.

(d) *Code.* The term “Code” means the Internal Revenue Code of 1986, as amended from time to time.

Section 7.2 Limitation. Notwithstanding any other provision of this Article VII, during any period that the Corporation is a “private foundation” within the meaning of section 509 of the Code, or any corresponding provision of any future United States tax law, the Corporation shall not indemnify any person from or against or advance to any person the cost of, such expenses, judgments, fines, or amounts paid or necessarily incurred, nor shall the Corporation purchase or maintain such insurance, to the extent that any such indemnification, purchase, or maintenance would be determined to be an act of self-dealing within the meaning of section 4941 of the Code, to be a taxable expenditure within the meaning of section 4945 of the Code, or to be otherwise prohibited under the Code, unless and to the extent (i) a court orders such indemnification, or (ii) the purchase or maintenance of such insurance can be treated as reasonable compensation to such person.

## ARTICLE VIII

### LIMITATION ON LIABILITY

Section 8.1 Limitation on Liability. No director or officer of this Corporation shall be personally liable to the Corporation for civil claims arising from acts or omissions made in the performance of such person's duties as a director or officer, unless the acts or omissions are the result of such person's intentional misconduct.

## ARTICLE VIII

### MISCELLANEOUS

Section 9.1 Books and Records. The Corporation shall keep correct and complete books and records of accounts and shall also keep minutes of the proceedings of its Board of Directors and committees having any of the authority of the Board of Directors, and shall keep at its registered or principal office a record giving the names and addresses of the directors. All books and records of the Corporation may be inspected by any director or such director's authorized agent or attorney for any proper purpose at any reasonable time.

Section 9.2 Fiscal Year. The fiscal year of the Corporation shall be as established by the Board of Directors.

Section 9.3 Conveyances and Encumbrances. Property of the Corporation may be assigned, conveyed or encumbered by such officers of the Corporation as may be authorized to do so by the Board of Directors, and such authorized persons shall have power to execute and deliver any and all instruments of assignment, conveyance and encumbrance; however, the sale, exchange, lease or other disposition of all or substantially all of the property and assets of the Corporation shall be authorized only in the manner prescribed by applicable statute.

Section 9.4 Designated Contributions. The Corporation may accept any designated contribution, grant, bequest or devise consistent with its general charitable and tax-exempt purposes, as set forth in the Articles of Incorporation. As so limited, donor-designated contribution will be accepted for special funds, purposes or uses, and such designations will generally be honored, and will always be honored with regard to constraints made upon such donations received as grants and as proscribed by the grant contributor. The Corporation shall reserve all right, title and interest in and to and control of such contributions, as well as full discretion as to the ultimate expenditure or distribution thereof, in accordance with designated constraints. Further, the Corporation shall acquire and retain sufficient control over all donated funds (including designated contributions) to assure that such funds will be used to carry out the Corporation's tax-exempt purposes.

Section 9.5 Amendments. The Articles of Incorporation of the Corporation and these Bylaws may be amended, repealed, altered, or new Bylaws adopted in whole or in part at any time by the affirmative vote of a majority of the members of the Board of Directors in office at the time of the vote.

Section 9.6 Severability. The invalidity of any provision of these bylaws shall not affect the other provisions hereof, and in such event these bylaws shall be construed in all respects as if such invalid provision were omitted.

WHEREFORE, these Bylaws are adopted by the Initial Board of Directors this \_\_\_ day of May, 2008.

\_\_\_\_\_  
\_\_\_\_\_ Chairman

\_\_\_\_\_  
\_\_\_\_\_ Director

\_\_\_\_\_  
\_\_\_\_\_ Director

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