

BY-LAWS OF LAS CRUCES ACADEMY, INC.

ARTICLE I - BOARD OF TRUSTEES

Section 1. Number of members and qualifications for membership on the Board of Trustees

The number of members of the Board is established in the Articles of Incorporation, Article VI.

The members shall be of good character and shall adhere to the published mission of the Las Cruces Academy. The Board may choose to set additional, specific requirements by simple majority vote.

SECTION 2 . Election of Trustees

Except as provided for elsewhere in the By-laws, tenure of a member on the Board of Trustees shall be three years, with approximately one third of the members being elected each year. The term of office shall begin with the Autumn Annual Meeting following elections. Election shall be via a secret ballot by a simple majority of the entire Board of Trustees then in office. Potential Trustees shall be elected in the special summer meeting of the Board, except as provided for elsewhere in the By-laws. Names and qualifications of nominees shall be provided by the Nomination Committee. A call for potential nominees shall occur during the Open Spring Meeting.

In special circumstances, the Board may request that a new member accept a term of one or two years in order to insure that one third of the members end their term each year. The acceptance of such a shortened term shall be considered as a benefit to the entire board. If no individuals shall agree to accept shorter terms, one or more shortened terms shall be assigned by lottery.

The number of voting members of the Board shall be subject to adjustment by a simple majority vote of all the existing Board members, but it shall not be less than five or more than fifteen.

SECTION 3 . Election and Appointment of Ex-officio Members

Ex-officio members of the Board may attend all regular meetings of the Board and may speak at them; however they shall have no vote in regular matters. The term of an ex-officio member is one year. The Board may choose to have ex officio members from such groups as the Parents Association, the Faculty Association, the Student Association, and the Outreach Program. When sufficient students have graduated from the Academy to merit forming an Alumni/Alumnae Association, that Association may similarly be eligible to elect an ex-officio member. The Director may appoint one

or more ex-officio members with annual terms at his/her discretion at any time of the year. The Director is the sole paid employee of the Board and an ex officio member of the Board; an equivalent title is Head of School.

SECTION 4 . Vacancy on the Board of Trustees

Any vacancy on the Board of Trustees may be filled by a simple majority vote of the remaining Trustees, through a special election at the Board's earliest convenience by secret ballot. The Trustee so elected must have been nominated at a previous meeting, and once elected shall serve until the expiration of the term of the Trustee whom he/she replaced.

SECTION 4. Resignation and Removal of Trustees and Ex-officio Members

- a. Any member or ex-officio member of the Board of Trustees may resign by delivering a written notice to the Chairperson (hereafter also referred to alternatively as simply the Chair of the Board, to a meeting of the Board of Trustees, or to the principal office of the Academy. Such resignation shall be effective upon receipt (unless specified to be effective at some other time), and acceptance thereof shall not be necessary to make it effective unless it so states.
- b. If any Trustee or ex-officio member, after being notified by the Secretary or Chair of failure to attend two consecutive meetings of the Board without excuse, shall fail to present an excuse acceptable to a simple majority of the Board at the next meeting of the Board, said Trustee or ex-officio member shall be deemed to have resigned. However, any absence may be excused by a simple majority of the Board.
- c. Any member of the Board of Trustees may be removed from office, with or without cause, at any meeting of the Board by affirmative vote of two-thirds of the Trustees then in office by secret ballot.
- d. Any ex-officio member may be removed from their position, with or without cause, at any meeting of the Board by affirmative vote of a simple majority of the Trustees then in office by secret ballot.

ARTICLE II – DUTIES OF THE BOARD OF TRUSTEES

SECTION 1. The Board of Trustees shall have and exercise the corporate powers expressly prescribed by law, as well as those included in these by-laws and in the Articles of Incorporation.

SECTION 2. The Board of Trustees shall establish the financial needs of the Academy and the Outreach program , and oversee the raising of the required funds. The Board of Trustees shall review and approve the budgets of the Academy and its programs, and supervise the management of the endowment and all funds of investments. The fiscal year of the Corporation shall begin on 1 July of each year.

SECTION 3. The Board of Trustees shall authorize changes in tuition and fees charged by the Academy, and any such charges for the Outreach program .

SECTION 4. The Board of Trustees shall grant and confer such diplomas, certificates, or other honors on behalf of Las Cruces Academy and the Outreach program , as are usually granted by any school, academy, museum, or educational program in the United States, upon recommendations of the faculty and staff.

SECTION 5. The Board of Trustees shall appoint the Director of the Academy, who shall be the Chief Executive Officer of the Academy. The term of the Director shall be specified by the Board at the beginning of his/her term. The Director may be removed for just cause by vote of two thirds of the Trustees then in office.

SECTION 6. The Board of Trustees may adopt and use a corporate seal to endorse written documents. The form of the seal may be altered from time to time as deemed appropriate. If it is deemed appropriate, seals for the Outreach program may be similarly adopted and used.

ARTICLE III - MEETINGS OF THE BOARD OF TRUSTEES

SECTION 1. There shall be a minimum of three regular meetings of the Board of Trustees annually. At least one meeting shall be held every Autumn, Winter, and Spring on such date and place as may be designated by the Board or the Chair of the Board.

Participation in the meetings may be in person or electronically (video and audio, or audio only) by individual member choice. Members choosing electronic participation should notify the Chair in advance to allow for making the connections at the meeting time.

Every year possible, there shall be an additional special Summer meeting on such date and place as designated by the Board or Chair of the Board. The purpose of this meeting shall be for the

election of Trustees to the Board. If this meeting is not possible, election shall be by secret mail-in ballot.

SECTION 2. Special meetings may be held at any time or be called by the Chair, the Director of the Academy, or any two Trustees.

SECTION 3. A simple majority of the Board of Trustees shall constitute a quorum for the transaction of business.

SECTION 4. The Secretary or Chair shall notify the Trustees of the time and place of meetings by written notice, to be mailed, emailed, or otherwise delivered electronically, at least ten days prior to the time of the meeting. In the absence of the Secretary and Chair, notice may be given by any officer or the Director.

SECTION 5. The Director, the Treasurer, and all committees shall report to the Board of Trustees at each meeting, and they may be required to report at other times by the Board of Trustees. The records of the Treasurer and Secretary shall be open to inspection at all reasonable times by any Trustee upon his/her request.

SECTION 6. At the Spring meeting of the Board of Trustees, parents of currently enrolled students, faculty members currently employed, and the members of the Board of Advisors may be invited to hear annual reports of Board Committees and the Administration, at the discretion of the Board and the Director, taking account of time constraints and the possible discussion of sensitive information. For such invitations, a notice signed by the Chair of the Board, stating time and place of the meeting, shall be mailed, emailed, or otherwise delivered to parents, faculty members, and advisors not less than ten days before the meeting.

ARTICLE IV - ACTION WITHOUT FORMAL MEETING

Any action required or permitted to be taken by the Board of Trustees, or by any committee thereof, may be taken without a formal meeting. Meetings may be conducted by mail, email, telephone, fax, or in any other way the Trustees shall decide. However, a written consent, setting

forth the action so taken and signed by all necessary members of the Board, or of a committee, as the case may be, must be filed in the Minutes of the proceedings of the Board of the Committee.

ARTICLE V - OFFICERS OF THE BOARD OF TRUSTEES

SECTION 1. The Board of Trustees shall have such officers as they may deem necessary at the time. The number of officers may change as needed. The decision as to which officers shall be needed any given year shall be made by simple majority vote of those members present.

SECTION 2. All officers shall be elected annually by simple majority vote at the Annual Autumn Meeting. The term of office shall commence immediately following the meeting.

SECTION 3. In the event of death, resignation, or inability of any officer to serve, the Board of Trustees shall have the power to fill any vacancy so caused for the remainder of the unexpired term.

ARTICLE VI - DUTIES OF OFFICERS OF THE BOARD OF TRUSTEES

SECTION 1. The Chair shall:

- a. Call all meetings of the Board of Trustees,
- b. Preside at all meetings,
- c. Have charge of the operation of the Corporation's affairs, subject to the direction of the Board of Trustees, and
- d. Be an ex-officio member of all committees of which he/she is not already a member.

SECTION 2. The Vice-Chair shall perform the duties of the Chair in the absence of the Chair.

SECTION 3. The Secretary shall:

- a. Keep the minutes of all the Board meetings,
- b. Be the custodian of the seal, record books, papers, and documents of the Corporation,
- c. Give notice of all meetings of the Board as required,
- d. Mail, email, or give copies of the previous meeting's Board minutes to all Board members at least one week prior to each meeting, and

- e. Whenever possible mail, email, or give a copy of the financial report and the agenda for the coming meeting to the Trustees for the benefit of acquainting the Trustees with the ensuing meeting.

The functions of the Secretary may be delegated to members of the Board with the consent of the Board. The Chair of the Board must assure the Board in writing that records are properly maintained and by what means, whether at any time the Board has an elected Secretary or the functions have been delegated.

SECTION 4. The Treasurer shall:

- a. Keep full and accurate accounts of receipts and disbursements in books belonging to the Corporation.
- b. Deposit all monies in the name and to the credit of the Corporation in such depository as shall be authorized by the Board,
- c. Render to the Board such statements of the transactions and accounts as may be required,
- d. Keep records of all special funds.
- e. Make reports of all accounts and funds to the Board at each meeting.
- f. When duly authorized by resolution of the Board of Trustees, the Treasurer or Chair may borrow money for the purposes of meeting Academy and Outreach expenses, and give a note or notes therefore and pledge such securities as may be necessary to secure such note or notes.

The Board has the option to engage a Chief Financial Officer (CFO), paid or unpaid, for these duties, including bookkeeping by accepted standards. The CFO must provide full information to the elected Treasurer as required. The CFO may be one of the elected members of the Board.

ARTICLE VII - COMMITTEES OF THE BOARD OF TRUSTEES

SECTION 1. There may be special, or ad hoc committees which the Board of Trustees may from time to time establish for the discharge of particular duties.

SECTION 2. The Board may have as many standing committees as it deems necessary. Members of standing committees shall be appointed annually by the Chair, after consultation with the Board, at or following the Autumn meeting of the Board of Trustees. Except as provided by the By-laws, the Chair of the Board and Director of the Academy shall be ex-officio members of all standing

committees, and each standing committee shall include at least three additional Trustees. The Director is a non-voting member of the committees. Except where otherwise provided in these By-laws, additional members, including persons who are not on the Board of Trustees, may be appointed. The Chair of each standing committee shall be a Trustee. The Board may choose to constitute any committee as a standing committee of the whole.

SECTION 3. Executive Committee

- a. The Executive Committee shall consist of the officers of the Board, the Chairs of all standing committees, and the Director of the Academy. The Chair of the Board of Trustees shall be Chair of the Executive Committee.
- b. Between meetings of the Board of Trustees, the Executive Committee shall have all the powers of the Board of Trustees, except the power to amend the By-laws. Meetings shall be called by either the Chair or the Director of the Academy.
- c. The Executive Committee shall annually review the performance of the Director of the Academy and determine his/her compensation.
- d. A simple majority of the members of the Executive Committee shall constitute a quorum for the transaction of business.
- e. Interim approval of emergency capital expenditures required between Board or Executive Committee meetings may be approved by unanimous consent of a subcommittee of at least three members of the Executive Committee, which members shall include the Chair of the Board and the Chair of the Finance Committee. Such action must be formally ratified at the subsequent Trustees' meeting.

SECTION 4. Finance Committee

The Finance Committee shall have a minimum of four members.

- a. **It is affirmed that the members of this committee shall meet the requirements for reporting Conflicts of Interest.**
- b. The Committee shall review annual operating and capital budgets prepared and presented under the direction of the Director of the Academy, and shall make recommendations with respect thereto to the Board of Trustees.
- c. It shall review actual results of operations, including details of receipts and disbursements, in comparison with annual budgets and at each meeting report to the Board of Trustees on the conclusions reached at such reviews.

- d. It shall review major financial transactions not provided for in the budget and submit proposed variances with recommendations to the Board of Trustees or Executive Committee.
- e. The Committee shall have charge of investment of all funds of the Corporation, including the power to effect purchases, sales, or exchanges of securities, and other investment assets of the Corporation.
- f. It shall advise the Board as to the investment and reinvestment of the Corporation's funds and shall at least annually examine and verify the securities of the Corporation.
- g. The Committee may employ investment counsel and may delegate authority to purchase or sell securities for the account of the Academy to such investment counsel or to any officer of the Corporation subject to such limitations as the Committee may impose.
- h. It shall recommend the designation of an independent auditor each year and shall cause to be prepared and submitted to the Board of Trustees at least once a year an audited statement of the financial condition of the Corporation as of the close of the fiscal year and of the receipts and expenditures for each year. The Committee may choose to suspend the requirement of an annual audit,

SECTION 5. Nomination Committee

The Nomination Committee shall present to the Board of Trustees nominations for Trustees to be elected by the Board. The Committee shall furnish information to the Board members relating to the background and qualifications of all such nominees at least two weeks prior to the Board meeting at which official nomination is scheduled to occur. The Committee shall develop and administer a program of orientation for newly elected Trustees. It shall annually review the performance of all Trustees, particularly those incumbent Trustees eligible for reelection.

ARTICLE VIII - BOARD OF ADVISORS

The Board may constitute a Board of Advisors for specific terms of appointment and specific needs, such as recruiting and vetting prospective teachers or offering advice on academic or outreach programs, among a number of possibilities. The advisors shall be educators, professionals, concerned citizens, specialists in relevant fields of study, or others. Potential members may be

invited to join the Board of Advisors by the Director, or by the Chairman of the Board of Trustees, with the consent of a simple majority of the Board of Trustees.

ARTICLE IX - DUTIES OF THE DIRECTOR

SECTION 1. The Director shall have absolute authority over the management and operation of the Academy and its programs. He/she shall be responsible for the purchases of such supplies and equipment as are required to meet the goals of the Academy and its programs.

SECTION 2. Responsibility to the Board of Trustees: The Director shall be a non-voting ex officio member of the Board of Trustees. As the chief executive officer for the Board, the Director shall be expected to carry out the policies of the Academy and the Decisions of the Board, as established from time to time by the Board. He/she shall be expected to anticipate the developing needs of the Academy, its' programs, and the community, and to interpret these needs and changes to the Board. He/she shall be responsible for keeping the Board well informed on all matters pertaining to the Academy at all times. The Director may be appointed by the Board at any time as a member of all committees related to the Academy.

SECTION 3. Administration of the Academy: The Director shall be administrator and educational leader of the Academy. He/she shall have general supervision over the academic and administrative operation of the Academy, its' programs, and subsidiary activities sponsored by the Academy. The Director, with the Treasurer and Finance Committee, if such an officer and committee exist, shall be responsible for the preparation of the annual budget. All administrative, faculty, and staff members' duties shall be delineated by the Director and these employees shall be responsible to the Director. Hiring and firing of faculty and staff members shall be by the Director .

SECTION 4. Fundraising: There will be fund raising on an on-going basis, with the objective of raising operating and capital funds through solicitation of cash and in-kind gifts and grants from parents, alumni/alumnae, friends of the school, and from other potential donors and grantors, as well as through parent- and Academy-sponsored fundraising events. The Director, with the support of the Board of Trustees, shall initiate and develop leadership for such efforts.

SECTION 5. The Director shall present a report on the state of the Academy and its programs at all regular meetings of the Board of Trustees, and an annual report at the open Spring meeting. The report may be oral, while the Board may require that a report be provided in written form. In either case the contents of the report shall be entered in appropriate form in the minutes of the Board meeting.

SECTION 6. The Director shall serve at the pleasure of the Board. His/her performance shall be reviewed annually by the Board with input from students, faculty members, and parents.

ARTICLE X - DISCRIMINATION PROHIBITED

In administering its affairs, the Corporation shall not discriminate against any person on the basis of race, creed, color, national or ethnic origin, sex, physical disability, or sexual orientation.

ARTICLE XI - FINANCIAL MATTERS

In order to insure equity of salaries, no salary paid by the Corporation may be greater than three times (3X) that of the median salary of full-time employees whose primary source of income is employment by the Corporation.

ARTICLE XII - INDEMNIFICATION AND CONFLICT OF INTEREST

Each Trustee and Officer of the Academy shall be indemnified by standard law applicable to non-profit organization against all expenses actually and necessarily incurred by such Trustee or Officer in connection with the defense of any action, suit, or proceeding to which he/she has been made a party by reason of being or having been such Trustee or Officer except in relation to matters as to which such Trustee or Officer shall be adjudicated in such action, suit, or proceeding to be liable for gross negligence or willful misconduct in the performance of duty. The Board may choose to purchase additional insurance against legal action vs. Board members.

A Trustee shall be considered to have conflict of interest if: **(a)** such Trustee has existing or potential financial or other interests which impair or might reasonably appear to impair such member's independent, unbiased judgment in the discharge of his/her responsibilities to the Academy, or **(b)** such Trustee is aware that a member of his/her family or any other relative or any organization in which such Trustee (or member of his/her family) is an officer, director, employee, member, partner, trustee, or controlling stockholder, has such existing or potential financial or other

interests. In this latter case of familial relationships, the related members may vote on Board issues if there is no actual or appearance of potential financial gain. However, votes by members who are related will count as a single vote, rather than being independent votes. Each Trustee shall disclose to the Board any possible conflict of interest at the earliest possible time. No Trustee shall vote on any matter under consideration at a Board or Committee meeting in which such Trustee has a conflict of interest. A Trustee who is uncertain whether a conflict of interest may exist in any matter may request the Board or Committee to resolve the questions by simple majority vote.

ARTICLE XIII - REVIEW AND AMENDMENT OF BY-LAWS

SECTION 1. These by-laws may be changed or amended at any meeting of the Trustees by a two-thirds vote of those present, provided that notice of the substance of the proposed amendment is mailed or given to all the Trustees at least ten days before the meeting. If a proposed amendment or new set of by-laws is submitted to each Trustee and receives the signed approval of two-thirds of the whole, such amendment or new set of by-laws shall become effective on the date prescribed in the amendment or new set of by-laws without the necessity of consideration at a meeting of the Board of Trustees.

SECTION 2. Prior to each Autumn Meeting of the Board of Trustees, members of the Board shall review these by-laws and suggest any changes they consider appropriate.

Acknowledged by the following Incorporators 26 February 2007

_____ Lou Ellen Kay
_____ Sandra K. Nakamura
_____ Susan W. Brown

Amended 7 June 2011 by unanimous vote of the board as presently constituted:

_____ Vincent P. Gutschick, chair and treasurer
_____ Lou Ellen Kay, director
_____ David Gutschick

_____ Harry Hellmuth

_____ Paul J. Deason

_____ Paula L. Hines, assistant director

Amended 1 February 2023 by unanimous vote of the Board as presently constituted:

_____ Vincent P. Gutschick, Chair

_____ Paul J. Deason, member

_____ Elizabeth Brasher, member

_____ Susana Salamanca-Riba, member

_____ David Gutschick, member

_____ Pritish Chamanian, Treasurer

Signatures of above Board members are affixed to minutes of the meeting of 23 April 2023, at which meeting the amended By-laws were passed unanimously