

# Mountain Middle School Bylaws

## ARTICLE I. Name and Fiscal Year

**Section 1.1. Name.** The name of the corporation shall be Mountain Middle School.

**Section 1.2. Fiscal Year.** The fiscal year of corporation shall be July 1 through June 30.

## ARTICLE II. Offices

**Section 2.1. Principal office.** The principal office of Mountain Middle School (Corporation) shall be located in Durango, Colorado. The Corporation may have such other offices within Colorado as the Board of Directors of the Corporation (“Board” or “Board of Directors”) may designate or as the business of the Corporation may require from time to time.

**Section 2.2. Registered Office.** The registered office of the Corporation required by the laws of the State of Colorado to be maintained in Colorado may be, but need not be, identical with the principal office and the address of the registered office may be changed from time to time by the Board.

## ARTICLE III. No Members

**Section 3.1. No Members.** The Corporation shall have no members and, accordingly, all authority which would otherwise be vested in the members shall be vested in, and may be exercised by, the Board acting as such. While persons who participate in, contribute to, or benefit from the Corporation may be referred to as “members,” no rights, voting or otherwise, inure to such persons.

## ARTICLE IV. Board of Directors and Members of the Board

**Section 4.1. Definition of Directors.** An individual serving on the Board of Directors, sometimes hereinafter referred to as a “Director.”

**Section 4.2. General Powers.** The business of the Corporation shall be managed by the Board, except as otherwise provided in the Colorado Revised Nonprofit Corporation Act, the Articles of Incorporation, or these Bylaws.

**Section 4.3. Board of Director Responsibilities.** The duties of the Board include, but are not limited to:

- Setting policy for Mountain Middle School,
- Hiring the Head of School, supervising and reviewing his/her performance,
- Ensuring effective strategic organizational planning for the Corporation,
- Setting and approving a budget for Mountain Middle School each school year,
- Managing the Corporation’s resources responsibly,
- Monitoring the teacher, student, and staff performance at Mountain Middle School,
- Enhancing Mountain Middle School’s public image,
- Assessing its own performance as a Board, and
- Any other duties required by applicable law.

**Section 4.4. Initial Board of Directors.** The Initial Board shall be identified in the Corporation’s Charter Application the Authorizer. The Initial Board shall serve staggered terms as defined in the Charter Application Governance Section H. Thereafter, all Directors will serve three-year terms as defined below.

**Section 4.5. Nonvoting Members.**

The Head of School and Finance Director, or representative of a contracted finance firm, shall attend Board meetings in an advisory role.

**Section 4.6. Number, Tenure and Qualifications.**

(a) The Corporation shall have no fewer than three (3) and no more than seven (7) Directors. The number of Directors shall be decided annually, prior to appointing new Directors.

(b) Directors will serve for three-year terms and will be eligible for reappointment at the end of their terms, for a maximum of two consecutive terms. Term expiration dates will be staggered to the extent possible.

(c) The Directors shall be at least twenty-one years of age. No paid employee of the Corporation may serve as a member of the Board.

**Section 4.7. Board Selection Procedure.**

(a) Candidates for the Board shall submit a Mountain Middle School Prospective Board Member Interest Questionnaire to the Board Secretary for consideration. The Board or a committee of the Board shall interview every potential candidate for election or reelection to the Board. At least one week prior to these interviews, the Board shall publish a list of potential candidates.

(b) The sitting Board will appoint new Directors. The Board may assign the responsibility of identifying and evaluating potential new Directors to a committee. At a regular meeting of the Board occurring once annually, the number of Directors equal to the number whose term expires at the end of such meeting shall be appointed by the remaining Directors pursuant to these Bylaws to hold office until the end of the Director's specified three-year term. Each Director so appointed shall hold office until such Director's term expires and thereafter until such Director's successor, if applicable, shall have been appointed and qualified, or until such Director's earlier death, resignation or removal.

**Section 4.8. Resignation and Removal.** A Director may resign at any time by giving written notice to the President or to the Secretary of the Corporation. To the extent practicable, a Director shall give at least one-month prior written notice of the Director's intent to resign. Such resignation shall take effect at the time specified in the notice. No acceptance of the resignation is necessary to make it effective.

Any Director may be removed by affirmative vote of a two-thirds majority of the Board, regardless of whether the remaining number of Board members shall constitute a quorum, whenever, in the Board's judgment, the best interest of the Corporation would be served thereby. Election or appointment of a Director shall not itself create contract rights.

A Director who will be absent from a Board meeting shall notify the President of the Board of the Director's intended absence. A Director having two (2) or more consecutive unexcused absences from the meetings of the Board may be removed by affirmative majority vote of the Board.

**Section 4.9. Vacancies.** A vacancy of any seat on the Board, however occurring, may be filled by affirmative majority vote of the Board for the unexpired portion of the term. Any seat to be filled by reason of an increase in the number of Directors shall be filled by the affirmative majority vote of the Directors then in office. The new Director so chosen shall hold office for the remainder of the term of the vacated seat.

**Section 4.10. Standard of Care.** A Director shall perform his/her duties in good faith in a manner s/he reasonably believes to be in the best interests of the Corporation. A Director shall rely on relevant information, opinions, reports and statements in making decisions as an ordinary, prudent person in a like position.

**Section 4.11. Board Member Conflict of Interest.**

(a) In carrying out his/her fiduciary duties, a Director shall not:

- Disclose or use confidential information acquired in the course of his or her official duties in order to further substantially his or her personal financial interests.
- Accept a gift of substantial value or a substantial economic benefit tantamount to a gift of substantial value:
  - Which would tend improperly to influence a reasonable person in his or her position to depart from the faithful and impartial discharge of his or her public duties; or
  - Which he or she knows or which a reasonable person in his or her position should know under the circumstances is primarily for the purpose of rewarding him or her for official action he or she has taken.
- Engage in a substantial financial transaction for his or her private business purposes with a person whom he or she inspects or supervises in the course of his or her official duties.
- Perform an official act directly and substantially affecting to its economic benefit a business or other undertaking in which he or she either has a substantial financial interest or is engaged as counsel, consultant, representative, or agent.
- Have a direct or indirect personal interest in any contract made in his/her official capacity or by anybody, agency, or board of which he/she is a member or employee.

(b) The following exceptions are not considered to be conflicts of interest:

- A Director holding a minority interest in a corporation contracting with the School is not considered "interested" in such contract;
- Contracts in which the Director has disclosed a personal interest and has not voted thereon; and
- A Director may vote, notwithstanding any other prohibition, if participation is necessary to obtain a quorum or otherwise enable the Board to act, and if the Director complies with the voluntary disclosure procedures.

(c) Board members shall report any actual or potential conflicts of interest in writing to the Board prior to the time set for voting on any such transaction, shall recuse themselves from discussion and voting on the matter(s), and shall not attempt to influence the decision(s) of other Board members in voting on the matter.

The written disclosures will be attached to the minutes of the meeting in which Board action occurred relating to the matter disclosed.

(d) Any contract of the Corporation involving a Board member, or the Board member's family, shall be approved by the full Board with the interested Board member abstaining from voting on such contract. Each Board member is responsible to make known to the Board any circumstances that could involve a potential conflict of interest. A conflict of interest arises when an officer is unable to devote complete loyalty and singleness of purpose to the general public interest. The Board declares that a conflict of interest is a personal, pecuniary interest that is immediate, definite and demonstrable. Conflicts may arise between the public duty of a citizen in a public position and his or her private interests.

(e) For purposes of this Section 4.12, the following shall not be considered gifts of substantial value or gifts of substantial economic benefit tantamount to gifts of substantial value:

- An occasional non-pecuniary gift, insignificant in value.
- A non-pecuniary award publicly presented by a nonprofit organization in recognition of public service.
- Payment of or acceptance of an opportunity to participate in a social function or meeting which is offered to the Board member or employee which is not extraordinary when viewed in light of the position held by such Board member or employee.
- Items of perishable or nonpermanent value, including, but not limited to, meals, lodging, travel expenses or tickets to sporting, recreational, educational or cultural events.
- Payment for speeches, appearances, or publications.

**Section 4.12. Compensation.** Board Members may be reimbursed for reasonable expenses, if any, of attendance at Board meetings. No other compensation shall be provided.

**Section 4.13. Committees.** The Board may from time to time, by motion or resolution of a majority of the Board, appoint one or more Directors or other individuals to serve on one or more advisory or standing committees as will serve the Corporation's interests. The Board shall define the purpose and scope of each committee. No committee shall act independently of or in lieu of the Board. Unless authority to perform a duty is expressly delegated by the Board to a committee, committee motions and recommendations shall be advisory to the Board and shall not commit the Corporation to any policy, act, or expenditure; nor may any committee direct the Head of School or any Mountain Middle School employee to perform specific duties unless authorized by the Board. The committee chair is authorized to schedule committee meetings as deemed necessary and to preside at the meetings. Persons serving on committees shall not be deemed to be Directors, Officers or employees of the Corporation.

**Section 4.14. Board Agreement.** A "Board Member Agreement," in a form substantially similar to the Board Member Agreement attached to these Bylaws, will be signed by and adhered to by every Board member upon appointment to the Board.

## **Article V. Meetings of the Board of Directors**

**Section 5.1. Quorum and Voting.** A majority of the Directors in office immediately before a meeting begins

shall constitute a quorum for the transaction of business at any meeting of the Board. The vote of a majority of the Directors present in person at a meeting at which a quorum is present shall be the act of the Board of directors, unless otherwise required the articles of incorporation, these Bylaws or Board Manual. If less than a quorum is present at a meeting, a majority of the Directors present may adjourn the meeting from time to time without further notice other than an announcement at the meeting, until a quorum shall be present.

**Section 5.2. Voting by Proxy.** For purposes of determining a quorum with respect to a particular proposal, and for purposes of casting a vote for or against a particular proposal, a Director may be deemed to be present at a meeting and to vote if the Director has granted a signed written proxy to another Director who is present at the meeting, authorizing the other Director to cast the vote that is directed to be cast by the written proxy with respect to the particular proposal that is described with reasonable specificity in the proxy. Except as provided in this Section 5.2, Directors may not vote or otherwise act by proxy.

**Section 5.3. Presumption of Assent.** A Director who is present at a meeting of the Board at which action on any Corporate matter is taken shall be presumed to have assented to the action taken unless s/he (i) objects at the beginning of the meeting to the holding of the meeting or the transaction of business at the meeting; (ii) requests that his/her dissent be entered in the minutes of the meeting; or (iii) delivers written dissent by registered mail to the President immediately after the adjournment of the meeting. A Director who voted in favor of an action has no right of dissent as to that action taken at a meeting of the Board or a committee of the Board.

**Section 5.4. Regular Meetings.** The Board shall determine the time and place of the holding of regular Board meetings. The Board will meet at least twice per month in year one, and once per month after that beginning in year two.

**Section 5.5. Special Meetings.** Special meetings of the Board may be called by the President or shall be called by the President at the request of any two Directors.

**Section 5.6. Electronic Audio Meetings.** One or more Directors or persons serving on committees of the Board may participate in a meeting of the Board or a committee by means of conference telephone, Skype, Google Chat or similar communications equipment by which all persons participating in the meeting and the public can hear one another at the same time. Such electronic participation shall constitute presence at the Board or Committee meeting for determining a quorum.

**Section 5.7. Executive Sessions.** By an affirmative vote of two-thirds of the quorum present, the Board may recess a public meeting to an executive session to discuss contract negotiations, personnel matters, receive advice of legal counsel, and/or for any other purpose allowed by the Colorado Sunshine Act, but in no case shall the Board take action on any matter during the executive session. Executive sessions shall be electronically recorded, except where the Corporation's legal counsel certifies on the record that the executive session shall constitute a privileged attorney-client communication. The electronic recording of an executive session shall be retained for 90 days from the date of the executive session. Unless a majority of the Board votes otherwise, the electronic recording of an executive session shall be destroyed on the 91<sup>st</sup> day following the executive session.

**Section 5.8. Open Meetings Law.** Upon signing the Charter Contract, as defined in applicable Colorado law, the Corporation will be subject to Colorado Open Meetings Law (C.R.S. Section 24-6-401 et seq.). Notice, including specific agenda information where possible, of any meetings of the Board at which time adoption of

any proposed policy, position, resolution, rule, regulations, or formal actions occur at which a majority or quorum of the Board is, or is expected to be, in attendance will be posted twenty-four hours in advance at the Mountain Middle School campus and on the Mountain Middle School website. The posting of such notice shall be the primary means of providing full and timely notice to the public. The Board will designate the public place or places for posting public notice of Board meeting at the Board's first regular meeting of each calendar year.

**Section 5.9. Meeting Notice to Directors.** Notice to Directors of any Board meeting shall be given in good faith with as much notice as is possible, but at all times at least three (3) days prior to the meeting by written notice delivered personally mailed, or emailed to each Director at his/her address, or by notice given at least one (1) day prior to the meeting by telephone or e-mail in case of an emergency meeting. If mailed, such notice shall be deemed to have been delivered three (3) days after such notice is deposited in the United States mail, with postage thereon prepaid. A Director waives notice of a Board meeting by attending or participating in the meeting unless, at the beginning of the meeting, s/he objects to the holding of the meeting or the transaction of business at the meeting. The requirement of advance notice may be satisfied by establishing a schedule of Board meeting distributed to each Director.

## **ARTICLE VI. Officers**

**Section 6.1. General.** The Officers of the Corporation shall be a President, Vice President, Secretary and a Treasurer. The Board shall appoint such Officers from among the Directors.

**Section 6.2. Appointments and Term of Office.** Officers shall be appointed annually by the Board at a regular meeting of the Board. Each Officer shall hold office until the first of the following occurs: his/her successor has been duly appointed; his/her death; s/he resigns; or s/he has been removed in the manner provided in these Bylaws.

**Section 6.3. President.** The President of the Board will act as the official representative of the Board to the Mountain Middle School community. The President presides at all meetings of the Board and sees that all decisions of the Board are carried into effect. The President shall perform such other duties as may be necessary incident to performing the responsibilities of his/her office and as delegated by the Board from time to time. In the absence of the Secretary, the President will prepare and distribute meeting agendas and Board packets in accordance with Colorado Open Meetings Law. The President shall serve as the Chairperson at all meetings at which the President is in attendance. The Chairperson leads the meetings and ensures the Board follows appropriate parliamentary procedures.

**Section 6.4. Vice President.** In the event the President resigns, or is removed, absent, or disabled, the Vice President shall perform the President's duties. The Vice President also shall perform such other duties as may be necessary incident to performing the responsibilities of his/her office and as delegated by the Board from time to time. If the President is absent from a meeting, or disqualified from participating in an agenda item, the Vice President shall perform the duties of the Chairperson.

**Section 6.5. Secretary.** The Secretary will keep the minutes of the Board; distribute copies of the minutes to the Board; and make copies of the minutes of Board meetings available to the public. The Secretary will prepare and distribute meeting agendas and Board packets in accordance with Colorado Open Meetings law. S/he will 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; keep at the Corporation's registered office or principal place of business, within or outside Colorado, a record containing the names and addresses of all Directors; and in

general, perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him/her by the Board. In the absence of the Secretary, the Board may designate a person other than the Secretary to keep the minutes of any Board meetings and to prepare or maintain other records and information of MMS.

**Section 6.6. Treasurer.** The Treasurer shall oversee the care and custody of all funds, securities, evidences of indebtedness and other personal property of the Corporation and shall see that the same are deposited in accordance with the instructions of the Board. The Treasurer shall serve as a member of the Corporation's Finance Committee; review the receipt and expenditure of grant monies consistent with the terms of such grant; oversee the Corporation's financial transactions; review financial and audit reports prepared for the Board; distribute quarterly financial reports to all Directors; and see that proper financial procedures are being followed, as established by the Board. S/he shall have such other powers and perform such other duties as may from time to time be prescribed by the Board. If the President and Vice President are absent from a meeting, or are disqualified from participating in an agenda item, the Treasurer shall perform the duties of the Chairperson.

#### **ARTICLE VII. The Head of School**

**Section 7.1 Head of School.** The Head of School shall serve as chief administrator for the day-to-day operations of Mountain Middle School, as well as such other services and duties as shall be assigned by the Board and as listed in the Head of School job description, as may be amended from time to time in the sole discretion of the Board. The Head of School shall be appointed by the Board and may be removed by a vote of the majority of the Board, with or without cause, whenever, in their judgment, the best interest of Mountain Middle School is served by such actions.

#### **ARTICLE VIII. Contracts and Grants**

**Section 8.1 Contracts.** The Board may authorize any member or members of the Board to enter into any contract and to execute and to deliver an instrument in the name of, and on behalf of, Mountain Middle School.

**Section 8.2 Grants.** The Board or any members of the Board may accept, on behalf of Mountain Middle School, any contribution, gift, grant, bequest or device for the general purpose of or any special purpose of Mountain Middle School.

#### **ARTICLE IX. Books and Records**

**Section 9.1 Books and Records.** Mountain Middle School shall keep correct records and shall also keep minutes of the proceedings of its Board meetings, and committee meetings, and shall keep at its office a record giving the names and addresses of the Directors, all of which may be inspected by any Board member at any reasonable time. However, student records, personnel records and any other record protected under privacy laws are excluded.

#### **ARTICLE X. Construction**

**Section 10.1 Construction.** The masculine gender, where appearing in these Bylaws shall be deemed to include the feminine gender and the singular shall be deemed to include the plural unless the context clearly indicates to the contrary.

## **ARTICLE XI. Indemnification of Certain Persons**

**Section 11.1. Indemnification.** The Corporation shall indemnify its Directors, Officers, employees, and volunteers to the extent required under Colorado law, including the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.* After evaluation and upon a finding that indemnification is appropriate and in the Corporation's best interests, the Board may adopt a written resolution whereby it agrees to provide indemnification beyond the requirements of Colorado law.

## **ARTICLE XII. Provision of Insurance**

**Section 12.1. Provision of Insurance.** By action of the Board, the Corporation may purchase and maintain insurance, in such scope and amounts as the Board deems appropriate, on behalf of any Proper Person who is or was a Director, officer, employee, fiduciary, or agent of the Corporation against any liability asserted against, or incurred by, him/her in any such capacity or arising out of his/her status as such, whether or not the Corporation would have the power to indemnify him/her against such liability under the provisions of Article XI of these Bylaws or applicable law.

## **ARTICLE XIII. Miscellaneous**

**Section 13.1. Waiver of Notice.** Whenever notice is required by law, by the Corporation's Articles of Incorporation or by these Bylaws, a waiver thereof in writing signed by the Director or other person entitled to said notice, whether before, at or after the time stated therein, shall be equivalent to such notice.

**Section 13.2. Amendments.** The Board shall have power to make, amend and repeal the Bylaws of the Corporation at any meeting of the Board. The Bylaws shall be reviewed by the Board for any useful or necessary amendments at least biannually at a regular meeting of the Board.

**Section 13.3. Conflicts.** In the event of any irreconcilable conflict between these Bylaws and either the Corporation's Articles of Incorporation or applicable law, the latter shall control. In the event of any irreconcilable conflict between the Corporation's Charter Contract and these Bylaws, the Charter Contract shall prevail.

**Section 13.4. Definitions.** Except as otherwise specifically provided in these Bylaws, all terms used in these Bylaws shall have the same definitions as in the Colorado Revised Nonprofit Corporation Act.

**Section 13.5. Dissolution.** After signing a Charter Contract (as defined in applicable Colorado law), any dissolution will result in the property of Mountain Middle School reverting to its Authorizer (as defined in applicable Colorado law).

## Board Member Agreement

**As a Board Member of Mountain Middle School (MMS), I understand that the public is entitled to expect certain duties and responsibilities from me including the following:**

1. I have pledged myself to carry out the mission of MMS. I am fully committed and dedicated to this mission and the health and well-being of the mission and how it lives inside this organization.
2. I am fiscally responsible for this organization. It is my duty to know the MMS budget and to take an active part in planning the budget and implementing the fundraising to meet it.
3. I will actively engage in fundraising for this organization as deemed necessary by the Board and in whatever ways are best suited to me. This may include individual solicitation, special events; grant writing or writing mail appeals and the like.
4. I am legally responsible to this organization and to act in its best interests. I am responsible to know and approve all policies and educational programming, and to oversee their implementation.
5. I will attend Board meetings and be available for phone and email consultation. I understand that commitment to this Board may involve at least 12 hours per month.
6. I will review my MMS email at least twice per week (and more often as requested by the President of the Board during times of need) provided a computer and internet access is available, read and respond to internal correspondence in a timely manner, prepare for meetings in advance, and be prepared to discuss agenda items.
7. I will not share confidential personal information about Board members, students, parents, staff or family members of the previously cited.
8. I am responsible for working collaboratively with the Board on: a) developing and approving major policies; b) Head of School recruiting, hiring, performance appraisal and development; c) securing facilities; and d) budgeting and financial oversight.
9. I will be a vehicle for collaboration and partnership with other educational systems and institutions, as well as local businesses and members of the larger community in which we reside.
10. I will work to enhance the public image of MMS by being an ambassador of our school.
11. I acknowledge that this Board trusts each other to carry out the above duties to the best of our ability with knowledge, support and approval of all. I know if I fail to act in good faith I must resign, or expect the Board to ask me to resign.

**Mountain Middle School is responsible to me in two primary ways:**

1. I will be sent, without request, quarterly financial reports and other documents necessary to

allow me to fulfill my responsibilities as a Director.

2. Board members will respond in a straightforward and thorough fashion to any questions I have that I feel necessary to carry out my fiscal, legal, and ethical responsibilities to this organization.

### **Board Member Code of Conduct and Ethics**

As a member of the Board team, I will:

- Listen carefully and graciously to fellow Board members.
- Respect the opinion of my fellow Board members, even when I disagree, and speak with one voice following any decision-making.
- Recognize that authority rests only with the Board as a whole and not in its individual members.
- Respect and support the majority decisions of the Board.
- Recognize all authority is vested in the full Board only when it meets in legal session.
- Never allow any personal conflicts of interest to exist. Bring any personal conflicts of interest to the attention of the Board President as soon as possible. I will recuse myself from deliberations and voting in connection with conflicts except as expressly permitted by applicable law.
- Keep well-informed of developments related to issues, which may come before the Board.
- Participate actively in Board meetings and actions.
- Refer the press to the Board President.
- Bring to the attention of the Board any issues I believe will have an adverse effect on MMS or those we serve.
- Foster openness and trust among the Board and the public.
- Recognize my job is to ensure that MMS is well-managed, rather than attempt to directly manage the organization myself.
- Represent all the people this nonprofit serves and not a particular geographic area or interest group.
- Consider myself a trustee of MMS and do my best to ensure it is well-maintained, financially secure, growing and always operating in the best interests of the mission and those we serve.