

## **Bylaws**

Kirby Hall School

Adopted by Board on November 16, 2019

These bylaws constitute the code of rules adopted by Kirby Hall School (hereafter “the Corporation”) for the regulation and management of its affairs. Kirby Hall School is a nonprofit organization under the Texas Business Organization Code (referred to as the “Code”), and exempt under Section 501(c)(3) of the Internal Revenue Code.

### **ARTICLE 1**

#### **Registered Office and Registered Agent**

**Registered Office and Registered Agent** - The Corporation shall comply with the requirements of the Code and maintain a registered office and registered agent in Texas. The registered office may, but need not, be identical with the Corporation’s principal office in Texas. The Board of Directors may change the registered office and the registered agent as provided in the Code.

### **ARTICLE 2**

#### **Purpose**

- (1) This Corporation is organized pursuant to the Texas Business Organizations Code. The purposes for which the Corporation is organized are exclusively educational within the meaning of the Internal Revenue Service Code, Section 501 (c) (3), and the Texas Tax Code, Section 11.18:
  - (a) To prepare bright and kind young people for a life of academic success, personal fulfillment, and dedicated service to their local, national and global community.
- (2) Kirby Hall School admits students of any race, color, nationality, ethnicity, religion, socioeconomic status, sex, gender identity or sexual orientation to all the rights, privileges, programs, and activities accorded or made available to students at the school and in the administration of its educational policies, scholarship programs, athletics, and other school-administered programs.

### **ARTICLE 3**

#### **Board of Directors**

- (1) The Board of Directors (“Directors”) of this Corporation is vested with the management of the business and affairs of this Corporation, subject to the Texas Business Organizations Code, the Certificate of Formation, and these bylaws.
- (2) Qualifications - Directorship shall not be denied to any person on the basis of race, color, nationality, ethnicity, religion, socioeconomic status, sex, gender identity or sexual orientation.

(3) General Standards for Directors -

(a) A Director shall discharge the Director's duties, including duties as a committee member, in good faith, with ordinary care, and in a manner the Director reasonably believes to be in the best interest of the Corporation.

(b) A Director

(c) is not liable to the Corporation, a member, or another person for an 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 did not act:

1. in good faith;
2. with ordinary care; and
3. in a manner the Director reasonably believed to be in the best interest of the Corporation.

(4) **Number and Classes of Directors** - The Board of Directors will be comprised of three (3) to eleven (11) members. Upon majority resolution of the Board of Directors, the number of Directors may be increased or decreased from time to time, but in no event shall a decrease have the effect of shortening the term of an incumbent Director, or decreasing the total number of Directors to less than three (3) Directors.

(5) **Term of Directors** – Directors shall serve terms of (3) three years. After serving two (2) consecutive terms, a Director must vacate his or her position for at least one year before seeking re-election to another term.

(6) **Staggered Terms** - There shall be staggered terms of office for Directors so that one-third of the Directors shall be up for election each year. Initially, one third of the Directors shall be elected for a one-year term, one third for a two-year term, and one third for a three-year term. Initial Directors serving less than a full three-year term as their initial term ( i.e., Directors who draw a one-year or two-year term), shall be considered to observe the full three-year term.

(a) All Board members (including Officers) as of July 1, 2019 shall remain in office until they are assigned terms that will implement the staggered terms provision effective July 1, 2020.

(7) **Election of Directors** - Elections for Directors filling expired terms shall be held at the last meeting of the fiscal year. Any directorship to be filled by reason of an increase in the number of Directors shall be filled at the next regular meeting of the Board of Directors or at a special meeting called for that purpose by a majority vote of the board. (To be consistent, this statement is used in other areas of the bylaws.)When a re-appointment or replacement is made, the re-appointment or replacement shall end his or her term at the same time as the person s/he replaced.

(8) **Attendance:** Directors are expected to attend at least 66% of board meetings. Any Directors not present or participating by electronic means at 66% of the board meetings in a fiscal year shall be deemed to have resigned unless the board excuses the absences by a majority vote.

- (9) **Resignation** - Any Director may resign at any time by delivering written notice to the secretary or President of the Board of Directors. Such resignation shall take effect upon receipt or, if later, at the time specified in the notice.
- (10) **Removal** - Any Director may be removed without cause, at any time, by a majority of the entire Board of Directors, at a regular or special meeting called for that purpose. Any Director under consideration of removal must first be notified about the consideration by written notice at least five days prior to the meeting at which the vote takes place.
- (11) **Vacancies** - Vacancies shall be filled by majority vote of the remaining members of the Board of Directors even if less than a quorum. The Director filling the vacancy shall serve for the remainder of the term of the directorship that was vacated. Vacancies shall be filled as soon as practical.
- (12) **Compensation** - Directors and officers shall not receive any salaries or other compensation for their services as board members or officers. The Corporation shall not loan money or property to, or guarantee the obligation of any Director or officer. Board members may, however, be reimbursed for reasonable expenses incurred in fulfilling board responsibilities. Such payment shall be defined by a policy adopted by the board.

#### **ARTICLE 4** **Board of Directors Meetings**

- (1) **Place of Board Meetings** - Regular and special meetings of the Board of Directors will be held at any place that the majority of the board may designate.
- (2) **Regular and Special Meetings** - Regular meetings of the Board of Directors shall be at least three times a year or more often if deemed necessary by the board. Special meetings may be called by the President or two-thirds of the Director.
  - (a) Meetings will be held electronically.
- (3) **Annual Meeting** - A meeting of the Board of Directors shall be held no later than November of each year when the annual budget is adopted, and actions taken on other transactions that may properly come before the Board.
- (4) **Notice of Board Meetings** - The minutes of the prior regular meeting and an agenda for the forthcoming meeting, its date, time and location shall be provided at least 10 days and no more than 60 days prior to the meeting. Notification can be by US Mail, telephone, fax or email. Said meetings are set by the President with board approval.
- (5) **Notice of Special Meetings** - Notice of the date, time, and place of special meetings shall be given to each board member using the same methods, but with no less than 8 days' notice prior to the meeting,

- (6) **Waiver of Notice** - Attendance by a Director at any meeting of the Board of Directors for which the Director did not receive the required notice will constitute a waiver of notice of such meeting unless the Director objects at the beginning of the meeting to the transaction of business on the grounds that the meeting was not lawfully called or convened.
- (7) **Quorum** - A majority of the incumbent Directors (not counting vacancies) shall constitute a quorum for the purposes of convening a meeting or conducting business. At board meetings where a quorum is present, a majority vote of the Directors attending shall constitute an act of the board unless a greater number is required by the Certificate of Formation or by any provision of these bylaws.
- (8) **Actions without a Meeting** - Any action required or permitted to be taken by the Board of Directors under the Texas Business Organizations Code, the Certificate of Formation, and these bylaws may be taken without a meeting, if all Directors individually and collectively consent in writing or e-mail or facsimile with date of signature, setting forth the action to be taken. Such written consent shall have the same force and effect as a unanimous vote of the board.
- (9) **Meetings by Remote Communications Technology** – A meeting of the Board of Directors of the Corporation, or any committee designated by the Board of Directors of the Corporation may be held by means of a remote electronic communications system, including videoconferencing technology or the Internet, only if: (1) each person entitled to participate in the meeting consents to the meeting being held by means of that system; and (2) the system provides access to the meeting in a manner or using a method by which each person participating in the meeting can communicate concurrently with each other participant.
- (10) **Duties of Directors** - A Director shall discharge the Director’s duties in good faith, with ordinary care, in a manner the Director reasonably believes to be in the best interest of the Corporation and in any other manner as set forth in the Texas Business Organization Code, as amended.
- (11) **Proxy** – No proxies are allowed.

## **ARTICLE 5**

### **Officers**

- (1) **Roster of Officers** - The Corporation shall have a President, Vice- President, secretary, and Treasurer, and such other officers as may be elected by the board from amongst its members. As members of the Board of Directors, officers shall be governed by all portions of these bylaws which relate to board members. One person may hold two or more offices, except those serving as President or secretary must be different persons. All officers shall perform the duties prescribed in these bylaws and/or by the parliamentary authority adopted.
- (2) **Election, Removal and Term of Office** - Officers shall be elected by a majority vote by the Board of Directors and shall serve terms of (1) one year. After serving three (3) consecutive terms, an officer must vacate his or her position for at least one year before seeking re-election to the

same office. S/he may hold other offices during that year.

- (3) **Vacancies** - If a vacancy occurs during the term of office for any elected officer, for whatever reason, the Board of Directors shall elect a new officer to fill the remainder of the term as soon as practical by majority vote of Directors present.
- (4) **President** – The President will perform all duties incident to such office and such other duties as may be provided in these bylaws or as may be prescribed from time to time by the Board of Directors. The President shall preside at all board meetings and shall exercise parliamentary control. S/he shall serve as an ex-officio member of all standing committees, unless otherwise provided by the Board of Directors or these bylaws. The President shall, with the advice of the Board of Directors and in accordance with the requirements of these bylaws, set the agenda for each meeting of the Board of Directors.
- (5) **Vice-President** – The President Vice-President will perform such duties as assigned by the board and shall assist the President in fulfilling his/her responsibilities. In the case of the absence or disability of the secretary, or the secretary's refusal or neglect to fulfill the duties of secretary, the vice President shall perform the functions of the secretary.
- (6) **Secretary** - The secretary will be responsible for performing, or overseeing the performance of all duties incident to the office of secretary and such other duties as may be required by law, by the Certificate of Formation, or by these bylaws. S/he shall attest to and keep the bylaws and other legal records of the Corporation, or copies thereof, at the principal office of the Corporation; shall take or ensure that someone takes minutes of all meetings of the committees and Board of Directors, and shall keep copies of all minutes at the principal office of the Corporation; shall keep a record of the names and addresses of the Directors at the principal office of the Corporation; shall, with the approval of the Board of Directors, set up procedures for any elections held by the Corporation; shall keep a record of all votes cast in such elections; ensure that all records of the Corporation, minutes of all official meetings, and records of all votes, are made available for inspection by any member of the Board of Directors at the principal office of the Corporation during regular business hours; shall see that all notices are duly given in accordance with these bylaws or as required by law; shall see that all books, reports, statements, certificates, and other documents and records of the Corporation are properly kept and filed. In the case of the absence or disability of the secretary, or the secretary's refusal or neglect to fulfill the duties of secretary, the vice President shall perform the functions of the secretary.
- (7) **Treasurer** - The Treasurer will be responsible for performing, or overseeing the performance of the financial business of the Corporation, will render reports and accountings to the Directors as required by the Board of Directors, and will perform in general all duties incident to the office of Treasurer and such other duties as may be required by law, by the Certificate of Formation, or by these bylaws, or which may be assigned from time to time by the Board of Directors. S/he and the staff of the Corporation shall devise a plan providing for the acceptance and disbursement of all funds of the Corporation which shall be approved by the Board of Directors. The Treasurer, with the approval of the Board of Directors, shall set up all checking, savings, and investment accounts of the Corporation and deposit all such funds in the name of the Corporation in such accounts. The Treasurer 's signature shall be the authorized signature for all checking, savings, and

investment accounts of the Corporation unless the Treasurer, with the approval of the Board of Directors, designates another member of the Board of Directors or employee of the Corporation as the authorized signatory for a particular type of disbursement. S/he shall prepare a monthly report for the Board of Directors, providing an accounting of all transactions and of the financial conditions of the Corporation. S/he shall keep all financing records, books, and annual reports of the financial activities of the Corporation at the principal office of the Corporation and make available at the request of any Director or member of the public those documents required by law or regulation, during regular business hours for inspection.

## **ARTICLE 6 Committees/ Working Groups**

- (1) The Board of Directors may from time to time designate and appoint additional standing or temporary committees by majority vote of the Board of Directors. Such committees shall have and exercise such prescribed authority as is designated by the Board of Directors. The Directors may authorize these committees to exercise any powers, responsibilities, and duties consistent with this Certificate of Formation and these bylaws.
  - (a) There may be committees or working groups focusing on the school's legal and financial status, marketing and enrollment promotion, personnel and resource development/ financing among others.
- (2) The chair of each committee shall be a member of the board. Committee members consisting of a majority of board members will be appointed by the President with the advice and counsel of the board. The terms of the chair and members shall be as determined by the board based on the charge given to each committee.
- (3) Committees will make recommendations to the Board of Directors and execute such plans as approved by the board. They shall report their findings and recommendations directly to the President and provide progress reports for Board of Directors meetings.

## **ARTICLE 7 Code of Ethics**

- (1) The Corporation and its Directors and employees will comply with the following code in all of their actions. As long as the Corporation is in existence, no Director, officer or employee of the Corporation shall:
  - (a) Do any act in violation of these bylaws or a binding obligation of the Corporation;
  - (b) Do any act with the intention of harming the Corporation or any of its operations;
  - (c) Do any act that would make it unnecessarily difficult to carry on the intended or ordinary business of the Corporation;

- (d) Receive an improper personal benefit from the operation of the Corporation;
  - (e) Use the assets of this Corporation, directly or indirectly, for any purpose other than carrying on the business of this Corporation;
  - (f) Wrongfully transfer or dispose of Corporation property, including intangible property such as goodwill; and
  - (g) Use the name of the Corporation (or any substantially similar name) or any trademark or trade name adopted by the Corporation, except on behalf of the Corporation in the ordinary course of the Corporation's mission.
- (2) In addition, if any board member, officer or staff member shall be legally charged with any act that may serve as a source of embarrassment or to negatively affect the credibility and legitimacy of the Corporation, s/he shall be temporarily removed from the board and/ or from his or her position within the Corporation, until such time as such charges or allegations are resolved. During such a sabbatical, s/he shall not be considered a member of the board for the purposes of a quorum, though such time shall be considered as if served for the purposes of determining the completion of his or her term.

#### **ARTICLE 8 Rules of Procedure**

The proceedings and business of the Board of Directors shall be governed by *Robert's Rules of Parliamentary Procedure* unless otherwise provided for by the board.

#### **ARTICLE 9 Executive Director**

- (1) The Board of Directors may, upon resolution, appoint an Executive Director to serve at the board's discretion and to carry out whatever tasks the board from time to time resolves.
- (2) The Executive Director may be compensated as shall be determined by the Board of Directors. Subject to such supervisory powers as are vested in the Board of Directors, the Executive Director's powers and duties as may be prescribed by the Board of Directors or by these bylaws.
- (3) The Executive Director may engage in negotiations involving commitments of the resources of the Corporation or the acceptance of money or resources by the Corporation in furtherance of the purposes of the Corporation as set out in the Certificate of Formation and these bylaws.
- (4) The Executive Director shall serve as an ex-officio member of the Board of Directors and of school committees and working groups.

**ARTICLE 10**  
**Indemnification**

- (1) **Insurance** - The Corporation will provide indemnification insurance for its board members, and the board shall select the amount and limits of such insurance policy.
- (2) **Indemnification** - To the extent permitted by law, any person (and the heirs, executors, and administrators of such person) made or threatened to be made a party to any action, suit, or proceeding by reason of the fact that he is or was a Director or officer of the Corporation shall be indemnified by the Corporation against any and all liability and the reasonable expenses, including attorney's fees and disbursements, incurred by him (or by his heirs, executors or administrators) in connection with the defense or settlement of such action, suit, or proceeding, or in connection with any appearance therein.
- (3) **Limits on Indemnification** - Notwithstanding the above, the Corporation will indemnify a person only if he acted in good faith and reasonably believed that his conduct was in the Corporation's best interests. In the case of a criminal proceeding, the person may be indemnified only if he had no reasonable cause to believe his conduct was unlawful.

**ARTICLE 11**  
**Operations**

- (1) **Execution of Documents** - Unless specifically authorized by the Board of Directors or as otherwise required by law, all final contracts, deeds, conveyances, leases, promissory notes, or legal written instruments executed in the name of and on behalf of the Corporation shall be signed and executed by the President, Treasurer, or Executive Director (or such other person designated by the Board of Directors), pursuant to the general authorization of the board. All conveyances of land by deed must be approved by a resolution of the Board of Directors and shall be signed by the President.
- (2) **Disbursement of Funds** - Financial transactions of over \$5,000 which are not included in the annual budget shall require majority approval of the Board of Directors. In all other transactions, the Treasurer and President may dispense with the funds of the Corporation in accordance with expenditures approved by the Board of Directors and the purposes of the Corporation as set out in the Certificate of Formation and these bylaws. For purposes of this clause, "signature" shall include electronic approval.
- (3) **Records** - The Corporation will keep correct and complete records of account and will also keep minutes of the proceedings of the board meetings and committees. The Corporation will keep at its principal place of business the original or a copy of its bylaws, including amendments to date certified by the secretary of the Corporation.
- (4) **Inspection of Books and Records** - All books and records of this Corporation may be inspected by any Director for any purpose at any reasonable time on written demand. The Corporation shall keep correct and complete books and records of account.

- (5) **Deposits** - All funds of the Corporation shall be deposited to the credit of the Corporation in banks, trust companies, or other depositories that the Board of Directors selects.
- (6) **Loans** – The Corporation will make no loans to any of its employees, Directors or officers.
- (7) **Fiscal Year** - The fiscal year of the Corporation shall be July 1 through June 30.
- (8) **Annual Statements** - Each Director, principal officer and member of a committee with governing board delegated powers shall annually sign a statement which affirms such person: (a) Has received a copy of the conflicts of interest policy; (b) Has read and understands the policy; (c) Has agreed to comply with the policy; and (d) Understands the Corporation is charitable and in order to maintain its federal tax exemption it must engage primarily in activities which accomplish one or more of its tax-exempt purposes.

## **ARTICLE 12**

### **Amendments**

- (1) **Articles of Amendment** - The Board of Directors may adopt Articles of Amendment (amending the Certificate of Formation) by a vote of three-quarters of Directors present at a meeting where a quorum is present.
- (2) **Bylaws** - These bylaws may be altered or amended in whole or in part, or repealed and new bylaws may be adopted by a vote of two-thirds of Directors present at any regular meeting or any special meeting, if at least ten (10) days and not later than 60 (sixty) days written notice is given of an intention to alter, amend, or repeal these by-laws or to adopt new bylaws at such meeting, and such notice contains a statement of the nature of the proposed amendment(s), and shall become effective upon adoption.

## **ARTICLE 13**

### **Dissolution or Sale of Assets**

- (1) A unanimous vote of the Board of Directors shall be required to dissolve the Corporation. Upon dissolution of the Corporation, any assets remaining after payment of or provision for its debts and liabilities shall, consistent with the purposes of the Corporation, be paid over to charitable organizations exempt under the provisions of Section 501 (c)(3) of the U.S. Internal Revenue Code or corresponding provisions of subsequently enacted federal law. No part of the net assets or net earnings of the Corporation shall inure to the benefit of or be paid or distributed to an officer, Director, member, employee, or donor of the Corporation.