

BY-LAWS
OF
HORACE MANN SCHOOL

ARTICLE I

TRUSTEES

SECTION 1. Number and Qualifications

The property, affairs and business of the Corporation shall be managed by a Board of Trustees which shall consist of any number from twenty (20) to thirty-five (35), the number to be determined by the Board by resolution at any meeting. The Trustees shall all be persons of full age, at least two-thirds of them shall be citizens of the United States, and at least one (1) of them shall be a resident of the State of New York. No person shall be ineligible as a Trustee by reason of sex. As used in these By-Laws, the term "entire Board" shall consist of the number of Trustees that were elected as of the most recently held election of Trustees.

SECTION 2. Annual Meeting

The annual meeting of the Trustees shall be held in the month of June at a time to be set by the Chair of the Board of Trustees.

SECTION 3. Nomination and Election of Trustees.

At each annual meeting of Trustees, the offices of all Trustees whose terms of office have expired or are expiring shall be filled by majority vote of the Trustees continuing in office from among persons nominated either by the Committee on Trustees or by any other such continuing Trustee. Each nomination shall specify whether the person is being nominated for all or for a portion of a three-year term, it being intended that the Board of Trustees remain divided as evenly as possible into three groups as specified in Section IV of this Article I; provided, however, that the President of the Parents Association and/or the President of the Alumni Association for the forthcoming year may in any event be nominated for a one-year term. The names of all persons nominated by the Committee on Trustees shall be included in the notice of the annual meeting of Trustees.

SECTION 4. Term of Office.

The Board of Trustees shall be divided as evenly as possible into three groups, each group having a term of office ending at the annual meeting of Trustees in each of three successive years. Each resolution changing the number of Trustees in accordance with Section 1 of this Article, should provide for the terms of the Trustees accordingly. At the annual meeting, Trustees shall be elected in the manner provided by these By-Laws for the term, or a portion of the term, of three (3) years not to exceed more than three (3) consecutive terms; or in the case of

the President of the Parents Association, nominated as such, for the term of one (1) year not to exceed more than two (2) consecutive terms or the President of the Alumni Association, nominated as such, for the term of one (1) year not to exceed more than six (6) consecutive terms; or for such term as is required to complete the unexpired terms of any Trustees whose offices have become, or are becoming, vacant prior to completion of their elected terms. Exceptions for terms limits may be granted by the Committee on Trustees and Governance for individuals who currently serve as a member of the Executive Committee of the Board or who currently serve as Chair of a Standing Committee of the Board. Those individuals shall bear such title for such term as may be designated by the Board of Trustees without limit. Each Trustee shall, except as otherwise herein provided, serve until the expiration of his/her term of office.

An individual may be considered for reelection to the Board of Trustees after a minimum one (1) year absence, during which time the individual must demonstrate continued involvement in, and support of, the School by active participation on the volunteer level and/or as a member of the Head of School Committee.

SECTION 5. Meetings.

Meetings of the Trustees may be called at any time by the Chair. In his/her absence, such meetings may be called by a Vice-Chair designated by him/her to serve in his/her place, or, if none has been so designated by any Vice-Chair, or on the written request of three (3) Trustees, by the Secretary. Notice of the time and place of every meeting shall be: (i) delivered to each Trustee by e-mail or facsimile at least five (5) days before the day on which the meeting is to be held; or (ii) mailed not fewer than five (5) or more than thirty (30) days before the meeting, to the usual address of every Trustee. The notice of the annual meeting at which the annual election of the Trustees shall be held shall set forth the names of all persons nominated as Trustees by the Committee on Trustees.

SECTION 6. Quorum.

A majority of the number of Trustees in office shall constitute a quorum of the Board of Trustees; and unless otherwise provided by law or by these By-Laws, the act of a majority of the Trustees present at a meeting at which a quorum is present, shall be the act of the Board of Trustees. Any one or more Trustees of the Board or any committee thereof may participate in a meeting of the Board or committee by means of telephone, video conference or similar communications equipment provided that all persons participating in the meeting can hear each other at the same time and can participate in all matters before the board.

SECTION 7. Organization.

At every meeting of the Trustees, the Chair, or in his/her absence, a Vice-Chair designated by him/her to serve in his/her place, or in the absence of the Chair and a Vice-Chair (if any) so designated, any Vice-Chair, or in the absence of the Chair and each Vice-Chair, a Chair of the meeting chosen by a majority of the Trustees present, shall preside. The Secretary of the Corporation shall act as Secretary of the Trustees. In case the Secretary shall be absent,

the presiding officer shall appoint a person who may but not need be a Trustee to act as Secretary of the meeting.

SECTION 8. Resignation and Removals.

Any Trustee may resign at any time by giving written notice to the Chair 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. Any Trustee who fails to attend three consecutive meetings shall be deemed to have offered to resign, subject to the determination of the Executive Committee to give effect to such resignation, taking into account any explanation for the non-attendance that the Trustee may provide. Any Trustee may be removed at any time by the affirmative vote of a majority of the entire Board of Trustees, provided that at least one week's prior notice of the proposed action shall have been given to each Trustee, including the Trustee whose removal is proposed. The Executive Committee may remove from office, without cause, any Trustee who was nominated by the Committee on Trustees by virtue of his/her presidency of the Parents Association or of the Alumni Association, upon the expiration or termination of such presidency.

SECTION 9. Vacancies.

The office of any Trustee shall become vacant on the expiration of his/her term and the election of his/her successor and on his/her death, resignation, refusal to act, removal from office, or any other cause specified in the charter of the Corporation. Any vacancy occurring otherwise than by expiration of the term of office and any vacancy created by an increase in the number of Trustees may be filled at any meeting of the Board of Trustees by majority vote of the Trustees remaining in office, but only for the portion of the unexpired term prior to the next ensuing annual meeting, and if such unexpired term extends beyond the next ensuing annual meeting the remainder of the term after such annual meeting shall be filled at such annual meeting in the manner provided for the election of Trustees at each annual election.

SECTION 10. Compensation.

No person shall receive compensation from the Corporation for serving as a Trustee; but subject to compliance with the Conflicts of Interest Policy as described in Article XI, a Trustee may be employed in connection with the giving or supervising of instruction, or rendering other needed services to the Corporation, and may receive compensation in such capacity provided there is full disclosure of the terms of such compensation and the arrangement has been determined to be fair and reasonable and approved by the Independent Directors of the Board (and defined in the Conflicts of Interest Policy).

ARTICLE II

EXECUTIVE COMMITTEE

SECTION 1. How Constituted.

An Executive Committee shall be established to exercise the powers hereinafter provided and shall consist of the Chair of the Board of Trustees (no employee of the School may

serve as the Chair), the Head when he/she also serves as an elected Trustee, and a minimum of seven (7) Trustees to be elected by the Board of Trustees at its annual meeting. Any vacancies in the Executive Committee may be filled by the Trustees at any meeting. The term of membership shall run until the next ensuing annual meeting or until his/her successor is duly elected.

SECTION 2. Powers.

During the interval between the meetings of the Trustees and to the extent provided by these By-Laws or by resolution of the Trustees, the Executive Committee shall possess and may exercise the powers of the Trustees in the management and direction of the property, affairs and business of the Corporation, including the power to invest and reinvest the funds of the Corporation or to sell investments held by it, but not including the power to amend the By-Laws or to make removals from office. The Executive Committee may delegate to the Finance Committee or to the Treasurer, or in part to each, the power to invest and reinvest funds, to sell investments held in the funds of the Corporation, to dispose of the income thereof, and generally to administer the funds of the Corporation in accordance with the purposes for which they were contributed.

SECTION 3. Organization.

The Chair of the Corporation shall be the Chair of the Executive Committee and the Secretary of the Corporation shall act as Secretary thereof. In the absence of the Chair or of the Secretary of the Corporation, the Executive Committee shall appoint a Chair or Secretary of the meeting or both, as the case may be. The Executive Committee may fix its own rules of procedure and may meet at such place or places and at such time or times and upon such notice to its own members as it shall from time to time determine. It shall keep a record of its proceedings and shall at the next regular or special meeting of the Board of Trustees following each meeting of the Executive Committee, report on actions taken on behalf of the Corporation since the date of the last such report.

SECTION 4. Quorum.

A majority of the members of the Executive Committee shall constitute a quorum thereof and the act of those present at a meeting at which a quorum shall be present shall be the act of said Committee.

ARTICLE III

OTHER COMMITTEES

SECTION 1. Committees of the Board.

In addition to the Executive Committee, there shall be a Committee on Trustees and Governance, a Compensation Committee, a Finance Committee, an Audit Committee, an Investment Committee, and such other Committees of the Board as the Board of Trustees shall authorize at each annual meeting.

SECTION 2. Committee on Trustees and Governance.

The Committee on Trustees shall have responsibility for nominating persons to serve as Trustees and as officers of the Corporation; for making recommendations to the Board of Trustees with respect to governance structures and processes; and for preparing and proposing to the Board of Trustees such resolutions and By-Law amendments related to the foregoing as may from time to time appear to the Committee necessary or appropriate.

SECTION 3. Compensation Committee.

The Compensation Committee shall consist of the individuals serving at any given time as the officers of the Corporation. The Chair of the Board of Trustees shall serve as Chair of the Compensation Committee. The Compensation Committee shall determine the compensation of the Head of School and review and approve the compensation recommendations by the Head of School for the Chief Financial Officer and the five most highly compensated employees of the Corporation apart from the Head of School and the Chief Financial Officer. The Compensation Committee shall conduct its business in such manner, create and retain such records, and make such reports to the Board of Trustees, as the Committee deems necessary or appropriate.

SECTION 4. Finance Committee.

The Finance Committee shall be responsible for general supervision of the overall financial soundness of the Corporation and for overseeing the issuance of reports at designated intervals to reflect the financial results and condition of the Corporation. The Committee shall present to the Board of Trustees, at the appropriate time(s), the proposed annual operating and capital budgets of the Corporation, and shall be responsible for monitoring adherence by the management of the Corporation to such budgets so approved by the Board of Trustees. The Committee shall also maintain multi-year operating and capital plans for presentation to the Board at such intervals as the Committee or Board designates, and shall recommend actions necessary to comply with the Corporation's indentures, if any. Subject to the authority of the Investment Committee to manage investment of the Corporation's financial assets, the Committee shall have general supervision of all funds and securities of the Corporation.

SECTION 5. Audit Committee.

The Audit Committee shall assist the Board of Trustees in overseeing (i) the Corporation's financial reporting processes and statements, and systems of internal financial and accounting controls; (ii) the annual independent audit of the Corporation's independent auditor, including qualifications, independence, performance and compensation; (iv) the Corporation's compliance with legal, financial and regulatory requirements; and (v) such other responsibilities as may be mandated by law or by the Board of Trustees via the Charter of the Audit Committee or by specific delegation.

The Committee shall operate in accordance with, and in a manner reasonably designed to fulfill the mandate of, the Charter of the Audit Committee as adopted by the Board of Trustees.

The Committee shall:

- i. Review with the independent auditor the scope and planning of the audit prior to the audit's commencement;
- ii. Upon completion of the audit, review and discuss with the independent auditor:
 - Any material risks and weaknesses in internal controls identified by the auditor;
 - Any restrictions placed on the scope of the auditor's activities or access to requested information;
 - Any significant disagreements between the auditor and management; and
 - The adequacy of the Corporation's accounting and financial reporting processes.
- iii. Annually consider the performance and independence of the auditor; and
- iv. Report on the Committee's activities to the Board.

The Committee shall have authority (i) to conduct and/or authorize investigations into any matter within its scope of responsibility, with full access to all books, records, facilities and personnel of the Corporation; (ii) to request any officer or employee of the Corporation's independent auditor, to attend a meeting of the Committee, or to meet with any member(s) or adviser(s) to the Committee; and (iii) to engage independent outside legal, accounting, auditing or other advisors to assist the Committee in fulfilling its responsibilities.

The Committee shall consist of at least three Trustee members, at least one of whom, to the extent feasible, should be an individual who through education or experience has developed sophistication with respect to accounting principles; preparation, auditing, analyzing or evaluating financial statements; internal accounting procedures and controls for financial reporting; and/or audit committee procedures. The Trustees of the Audit Committee must all be Independent Directors as defined in the Conflicts of Interest Policy.

The Committee shall meet at least twice per year at such times and upon such notice as the Chair of the Committee may determine. A portion of each meeting shall be set aside for the members of the Committee to meet in executive session, and at least once per year the Committee shall meet with representatives of the Corporation's independent auditor outside the presence of any employee of the Corporation. The Committee shall periodically review the Charter to determine whether any revisions are appropriate to reflect changes in the Corporation's activities or in the expectations and best practices developed externally, and shall present a report of its work at least annually to the Board of Trustees, which shall include any such recommended change.

SECTION 6. Investment Committee.

The Investment Committee shall have responsibility for managing the investment of the Corporation's financial assets, including retention of consultants, selection of asset managers, allocations among and within asset classes and such other, related matters as it deems necessary or appropriate. The Committee shall also be responsible for making recommendations to the Board with respect to the Corporation's incurrence of indebtedness, and for overseeing the execution of the Board's determinations with respect thereto.

SECTION 7. Committees of the Corporation.

In addition, the Board of Trustees may from time to time, by resolution, authorize Committees of the Corporation for any purpose or purposes.

SECTION 8. Committee Membership and Powers.

Eligibility for membership on any Committee of the Board or Committee of the Corporation shall not be limited to Trustees, except for the Audit Committee, which shall be comprised solely of Trustees of the Board. Any member of a Committee of the Board who is not a Trustee may not vote. Each committee shall have such powers and duties as shall be conferred upon it by the Board of Trustees. No committee other than the Executive Committee shall have power to bind the Corporation except to the extent of specific authority conferred upon it by the By-Laws or by resolution of the Board of Trustees.

ARTICLE IV

OFFICERS

SECTION 1. Number.

The officers of the Corporation shall be a Chair (who shall ipso facto be President of the Corporation), one or more Vice-Chairs of equal rank (each of whom shall ipso facto be a Vice-President of the Corporation), any one of whom may, from time to time, be designated by the Chair to perform the duties of the Chair in his/her absence or disability, a Secretary and a Treasurer. Any one person may hold any two of said offices except that no person shall at the same time be Chair and Vice-Chair, Chair and Treasurer, or Chair and Secretary. No instrument required to be signed by more than one Officer may be signed by one person in more than one capacity.

SECTION 2. Appointment, Term of Office and Qualifications.

The officers of the Corporation shall be appointed by the Trustees at the annual meeting. Each such officer shall hold his/her office until the next annual meeting of the Trustees and until his/her successor shall have been duly appointed and qualified, unless he/she shall die, or shall resign, or be removed in the manner hereinafter provided. The Chair, the Vice-Chair and the Treasurer shall be chosen from among the Trustees, and the Secretary may but need not be a Trustee.

SECTION 3. Removals.

Any officer may be removed by the affirmative vote of a majority of the entire Board of Trustees, provided that at least one week's notice shall have been given to the officer and to each Trustee.

SECTION 4. Resignations.

Any officer may resign at any time by written notice given to the Chair or the Secretary, but such resignation shall not take effect until accepted by the Trustees or by the Executive Committee, or until thirty (30) days after its receipt, whichever is the earlier.

SECTION 5. Vacancies.

A vacancy in any office because of death, resignation, removal or any other cause may be filled by the Trustees or by the Executive Committee for the unexpired portion of the term.

SECTION 6. Chair.

The Chair shall preside at all meetings of the Trustees and of the Executive Committee, when he/she shall be present, and shall be ex-officio a member of all standing and special committees. He/She shall have the power to appoint, subject to the approval of the Trustees, the Chairs and members of the several committees, other than the Executive Committee. He/She shall be the Chief Executive Officer of the Corporation and, subject to the instruction of the Trustees or the Executive Committee, he/she shall have general charge of its business, affairs, and property and control over its several officers. He/She shall have power for and in the name of the Corporation to make and execute all deeds, leases, mortgages, bonds, notes, contracts and other obligations and instruments authorized by the Trustees or by the Executive Committee, except in cases where such making and execution shall be expressly delegated by the Trustees or by the Executive Committee to some other officer or agent of the Corporation. He/She shall perform such other duties as may be incidental to his/her office or as may be assigned to him/her from time to time by the Trustees or by the Executive Committee. In the absence or disability of the Chair, the Vice-Chair designated by the Chair for the purpose, shall act as Chair, and all the duties, powers and authority of the Chair shall thereupon devolve upon and be exercised by him. The Chair shall be the President of the Corporation and shall have power to sign as President of the Corporation in all cases where such signature may be appropriate.

SECTION 7. The Vice-Chair.

In the absence or disability of the Chair, the Vice-Chair (or if there is more than one, the Vice-Chair so designated by the Chair) shall act as the Chair of the Corporation and all the duties, powers and authority of the Chair shall thereupon devolve upon and be exercised by him/her. In case the office of Chair shall become vacant and until a successor has been appointed and qualified, the Vice-Chair (or if there is more than one, the Vice-Chair so designated by the Executive Committee) shall act as Chair of the Corporation and all the duties, power and authority of the Chair shall thereupon devolve upon and be exercised by him/her. A Vice-Chair who is performing the duties of the Chair shall perform such other duties as from time to time may be assigned to him/her by the Trustees or by the Executive Committee. Each

Vice-Chair shall be a Vice-President of the Corporation, shall have power to sign as Vice-President of the Corporation in all cases where such signature shall be appropriate and shall perform any duties from time to time assigned to him/her by the Trustees or by the Executive Committee or the Chair.

SECTION 8. The Secretary.

The Secretary shall keep the minutes and act as Secretary of all meetings of the Trustees and of the Executive Committee. He/She shall give or cause to be given all notices required by these By-Laws. He/She shall be custodian of the records of the Corporation, the Trustees and Committees thereof, and of the seal of the Corporation. He/She shall see that all books, reports, statements, certificates and other documents and records required by law are properly made, kept and filed, including receiving the annual disclosure statements required by the Conflicts of Interest Policy described in Article XI, and shall perform such other duties as may from time to time be assigned to him/her by the Trustees or the Executive Committee or the Chair.

SECTION 9. The Treasurer.

The Treasurer shall have the care and custody of all funds and securities of the Corporation and shall cause the same to be deposited in the name of the Corporation in such banks or trust companies or other depositories as the Trustees may designate. He/She shall cause proper vouchers for all monies disbursed by the Corporation to be taken and preserved. He/She shall cause to be kept full and accurate books of account of all receipts, disbursements, investments and other financial affairs of the Corporation. He/She shall perform such other duties as from time to time may be assigned to him/her by the Trustees, the Executive Committee or the Chair. The Treasurer shall be ex-officio a member of the Finance & Audit Committee.

ARTICLE V

EMPLOYEES AND AGENTS

The Trustees or the Executive Committee may from time to time appoint such employees and agents, including such Assistant Secretaries and Assistant Treasurers, as to them may seem proper. Each such employee or agent, unless employed under special contract, shall serve during the pleasure of the authority by whom he/she was appointed, and shall perform such duties as may from time to time be assigned to him/her by the Trustees, the Executive Committee or the Chair.

ARTICLE VI

CONTRACTS, BANK ACCOUNTS, ETC.

SECTION 1. Contracts.

Except as in these By-Laws otherwise provided, the Trustees or the Executive Committee may authorize any officer, employee or agent of the Corporation, to enter into any

contract or execute and deliver any instrument in the name of and on behalf of the Corporation, and such authority may be general and not confined to specific instances. Unless so authorized, no officer, employee or agent shall have the power or authority to bind the Corporation by any contract or engagement, or to pledge its credit, or to render it pecuniarily liable for any purpose or in any amount.

SECTION 2. Bank Accounts.

All funds of the Corporation shall be deposited from time to time to the credit of the Corporation in such banks or trust companies as the Trustees may select. All notes, drafts, acceptances, checks, endorsements or other evidence of indebtedness shall be signed by such one or more officers, employees or agents of the Corporation as may be designated by resolution of the Trustees or of the Executive Committee.

ARTICLE VII

COMPENSATION OF OFFICERS AND EMPLOYEES

The Corporation shall be conducted in all respects as an institution having for its sole and exclusive object the promotion of education. No officer, employee or agent of the Corporation shall receive or be lawfully entitled to receive any pecuniary profit from the operations of the Corporation except reasonable compensation for services in effecting its purposes.

ARTICLE VIII

FISCAL YEAR

The fiscal year of the Corporation shall begin on July 1 and end on June 30.

ARTICLE IX

AMENDMENTS

The By-Laws of the Corporation shall be subject to amendment, suspension or repeal, and new By-Laws may be adopted by the Trustees at any meeting provided that notice of the proposed change shall have been given at least five (5) days before such meeting. No By-Laws by which more than a majority vote shall be required for any specified action by the Trustees shall be amended, suspended or repealed by a smaller vote than that required for action thereunder. In all other cases, the affirmative vote of a majority of all the existing Trustees shall be sufficient.

ARTICLE X

INDEMNIFICATION

SECTION 1. Indemnification of Trustees and Others.

(a) The Corporation shall indemnify each Trustee, each officer who is also a Trustee and the Head of School, and may (but shall not be obligated to) indemnify any other person made, or threatened to be made, a party to any action or proceeding other than one by or in the right of the Corporation to procure a judgment in its favor, whether civil or criminal, including an action by or in the right of any other corporation of any type or kind, domestic or foreign, or any partnership, joint venture, trust, employee benefit plan or other enterprise, which any such individual served in any capacity at the request of the Corporation, by reason of the fact that the individual is or was a Trustee or officer of the Corporation or the Head of School, or served such other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise in any capacity, against judgments, fines, amounts paid in settlement and reasonable expenses, including attorneys' fees actually and reasonably incurred as a result of or in connection with any such action or proceeding or any appeal therein, or the defense or settlement thereof, if the individual acted in good faith, for a purpose which he or she reasonably believed to be in, or, in the case of service for any other corporation or any partnership, joint venture, trust, employee benefit plan or other enterprise, not opposed to, the best interests of the Corporation and, in criminal actions or proceedings, in addition, had no reasonable cause to believe that the conduct was unlawful.

(b) The termination of any such civil or criminal action or proceeding by judgment, settlement, conviction or upon a plea of nolo contendere, or its equivalent, shall not in itself create a presumption that any individual did not act in good faith, for a purpose which he or she reasonably believed to be in, or, in the case of service for any other corporation or any partnership, joint venture, trust, employee benefit plan or other enterprise, not opposed to, the best interests of the Corporation or that he or she had reasonable cause to believe that the conduct was unlawful.

(c) The Corporation shall indemnify each Trustee, each officer who is also a Trustee and the Head of School, and may (but shall not be obligated to) indemnify any other person made, or threatened to be made, a party to any action or proceeding by or in the right of the Corporation to procure a judgment in its favor by reason of the fact that the individual is or was a Trustee or officer of the Corporation or the Head of School, or at the request of the Corporation is or was serving in any capacity any other corporation of any type or kind, domestic or foreign, or any partnership, joint venture, trust, employee benefit plan or other enterprise, against amounts paid in settlement and reasonable expenses, including attorneys' fees, actually and reasonably incurred as a result of or in connection with any such action or proceeding or any appeal therein, or the defense or settlement thereof, if the individual acted in good faith, for a purpose which he or she reasonably believed to be in, or, in the case of service for any other corporation or any partnership, joint venture, trust, employee benefit plan or other enterprise, not opposed to, the best interests of the Corporation, except that no indemnification under this Section 1 (c) shall be made in respect of (1) a threatened action or a pending action which is settled or otherwise disposed of, or (2) any claim, issue or matter as to which such person shall have been adjudged to be liable to the Corporation, except and only to the extent that the court in which the action was brought, or, if no action was brought, any court of competent jurisdiction, determines upon application that, in view of all the circumstances of the case, the person is fairly and reasonably entitled to indemnity for such portion of the settlement amount or expenses as the court deems proper.

(d) For the purpose of Section 1 (a) and (c) of this Article X, the Corporation shall be deemed to have requested a person to serve an employee benefit plan where the performance by such person of his or her duties to the Corporation also imposes duties on, or otherwise involves services by, such person to the plan or participants or beneficiaries of the plan; excise taxes assessed on a person with respect to an employee benefit plan pursuant to applicable law shall be considered fines; and any action taken or omitted

by a person with respect to an employee benefit plan in the performance of such person's duties for a purpose reasonably believed by such person to be in the interest of the participants and beneficiaries of the plan shall be deemed to be for a purpose which is not opposed to the best interests of the Corporation.

SECTION 2. Payment of Indemnification Other than by Court Award.

(a) A person who has been successful, on the merits or otherwise, in the defense of a civil or criminal action or proceeding of the character described in Section 1 (a) or 1 (c) of this Article X shall be entitled to indemnification as authorized in such Section 1 (a) or 1 (c).

(b) Except as provided in Section 2 (a) of this Article X, any indemnification under Section 1 (a) or 1 (c) of this Article X, or otherwise permitted by Section 7 of this Article X, unless ordered by a court, shall be made by the Corporation, only if authorized in the specific case:

- (1) By the Board acting by a quorum consisting of Trustees who are not parties to such action or proceeding upon a finding that the Trustee or officer or the Head of School has met the standard of conduct set forth in Section 1 (a) or 1 (c) of this Article X or established pursuant to Section 7, as the case may be, or
- (2) If a quorum under subparagraph (1) is not obtainable or, even if obtainable, a quorum of disinterested Trustees so directs, by the Board upon the opinion in writing of independent legal counsel that indemnification is proper in the circumstances because the applicable standard of conduct set forth in such sections has been met by such Trustee or officer or the Head of School.

SECTION 3. Advancement of Expenses.

(a) Expenses incurred in defending a civil or criminal action or proceeding shall (in the case of any Trustee, officer who is a trustee or the Head of School) and may (in the case of any other person) be paid by the Corporation in advance of the final disposition of such action or proceeding upon receipt of a written undertaking by or on behalf of the individual to repay such amount as, and to the extent, required by this Section 3. The right, if any, to have such payment of expenses by the Corporation is herein referred to as the "Right to Advancement."

(b) All expenses incurred in defending a civil or criminal action or proceeding which are advanced by the Corporation under this Section 3 or allowed by a court shall be repaid in case the individual receiving such advancement or allowance is ultimately found, under the procedure set forth in this Article X, not to be entitled to indemnification or, where indemnification is granted, to the extent the expenses so advanced by the Corporation or allowed by the court exceed the indemnification to which the individual is entitled.

SECTION 4. Other Provisions.

(a) With a view to minimizing the cost to the Corporation of fees and disbursements of counsel representing persons seeking indemnification or advances of fees or disbursements of counsel and of assuring that fees and disbursements of counsel for which indemnification and/or the Right to Advancement are sought are reasonably incurred, it is the policy of the Corporation that, to the extent it is reasonable to do so, each person seeking indemnification or advances of fees or disbursements of counsel (I) shall use his or her reasonable

efforts (x) to cooperate with, and to coordinate his or her defense with, other defendants in a litigation, and (y) to minimize unnecessary duplication of research and effort by separate counsel involved in the litigation, and (ii) unless there is a conflict of interest or it would otherwise be unreasonable, shall use counsel selected or approved by the Corporation, which may be the Corporation's counsel, counsel representing other parties to the litigation, or other counsel (the "Corporation Selected Counsel"). In furtherance of such policy, except as may otherwise be required by law or as may otherwise be authorized in accordance with the provisions of Section 2 (b) of this Article X no person shall be indemnified and/or have the Right to Advancement under Section 3 of this Article X in respect of any fees or disbursements of any counsel other than the Corporation Selected Counsel, unless such person furnishes written notification to the Corporation of his or her request for indemnification and/or the Right to Advancement ("Written Notification") which notification provides a detailed description of the claim against such person to the extent known, together with copies of documents which have been filed in any related court proceeding, and if indemnification or advances of fees or disbursements will be requested for counsel other than a Corporation Selected Counsel, the name of such other counsel and the reason, if any, why such person believes (i) that the Corporation Selected Counsel previously selected, if any, or a Corporation Selected Counsel to be selected has or may have a conflict of interest in representing such person or (ii) that any other person or entity represented by the Corporation Selected Counsel has or may have a conflict of interest with such person which makes it inappropriate for such Corporation Selected Counsel to represent such person. Except as may otherwise be required by law or as may otherwise be authorized in accordance with the provisions of Section 2 (b) of this Article X, if the Board or a committee of the Board established for such purpose (the "Special Committee") determines within thirty days of receipt of the Written Notification that no such conflict of interest exists, or that no such conflict of interest would exist with another Corporation Selected Counsel, (i) the person seeking indemnification and/or the Right to Advancement shall not be entitled to receive indemnification and/or the Right to Advancement in respect of any fees or disbursements incurred by such person (with respect to counsel other than the Corporation Selected Counsel) during the period prior to the date of the Written Notification or during the period commencing ten days after such determination by the Board or Special Committee, and (ii) if following such determination by the Board or the Special Committee, such person retains a Corporation Selected Counsel, such person shall be entitled (to the extent provided in these By-Laws) to receive indemnification and/or the Right to Advancement in respect of any fees or disbursements incurred by other counsel from the period beginning on the date of the Written Notification and ending ten days after the determination by the Special Committee. Except as may otherwise be required by law or as may otherwise be authorized in accordance with the provisions of Section 2 (b) of this Article X, if the Corporation shall fail to designate a Corporation Selected Counsel for such person, such person shall be entitled (to the extent provided in these By-Laws) to receive indemnification and/or the Right to Advancement in respect of any fees or disbursements incurred by the other counsel, provided that, in connection with a litigation with respect to which two or more persons are seeking indemnification and/or the Right to Advancement, such person shall use counsel being used by another defendant (including without limitation, the Corporation) in the litigation unless there is a conflict of interest or such use would otherwise not be reasonable or not be possible.

(b) Any settlement of a matter for which a person will seek indemnification from the Corporation shall be subject to the prior written consent of the Corporation if such settlement will require the Corporation, or would have the effect of the Corporation being obligated, to pay any amounts pursuant to the provisions of this Article X.

(c) No indemnification, advancement or allowance shall be made under this Article X in any circumstance where it appears:

- (1) That the indemnification would be inconsistent with a provision of the Corporation's charter, a By-Law, a resolution of the Board, an agreement or other proper corporate action, in effect at the time of the accrual of the alleged cause of action asserted in the threatened or pending action or proceeding in which the expenses were incurred or other amounts were paid, which prohibits or otherwise limits indemnification; or
- (2) If there has been a settlement approved by the court, that the indemnification would be inconsistent with any condition with respect to indemnification expressly imposed by the court in approving the settlement to the extent the condition would make such indemnification impermissible under applicable law.

(d) If any expenses or other amounts are paid by way of indemnification, otherwise than by court order, the Corporation shall prepare a statement specifying the persons paid, the amounts paid, and the nature and status at the time of such payment of the litigation or threatened litigation and shall include the statement in the records of the Corporation open to public inspection if and to the extent required by applicable law.

(e) If any action with respect to indemnification of Trustees, officers or the Head of School is taken by way of amendment of the By-Laws, resolution of Trustees, or by agreement, then a statement specifying the action taken shall be included in the records of the Corporation open to public inspection if and to the extent required by applicable law.

SECTION 5. Insurance.

The Corporation shall have the power to purchase and maintain such insurance as shall be permitted under Section 726 of the Not-for-Profit Corporation Law or other applicable law.

SECTION 6. Entitlement Rights.

All rights of indemnification provided for under this Article X shall inure to the specific individuals as well as their respective estates, heirs, devisees, successors and assigns.

SECTION 7. Non-Exclusivity.

The indemnification and advancement of expenses granted pursuant to, or provided by, this Article X shall not be deemed exclusive of any other rights to which a Trustee or officer or the Head of School seeking indemnification or advancement of expenses may be entitled, whether contained in (a) the charter or the By-Laws, or (b) a resolution of Trustees, or (c) an agreement providing for such indemnification, provided that no indemnification may be made to or on behalf of any Trustee or officer or the Head of School if a judgment or other final adjudication adverse to the Trustee or officer or the Head of School establishes that his or her acts were committed in bad faith or were the result of active and deliberate dishonesty and were material to the cause of action so adjudicated, or that he or she personally gained in fact a financial profit or other advantage to which he or she was not legally entitled.

ARTICLE XI
CONFLICTS OF INTEREST

The Board of Trustees has adopted a Conflicts of Interest Policy to protect the interests of the Corporation when it is contemplating entering into a transaction or arrangement that might benefit the private interest of a Trustee, Officer, or Key Employee (as defined in the Conflict of Interest Policy) of the Corporation. The Corporation will not enter into any such transaction or arrangement unless it has been determined by the Board in the manner described in the Conflicts of Interest Policy to be fair, reasonable and in the best interests of the Corporation at the time of such determination. Each Trustee, Officer, and Key Employee must annually sign and submit to the Secretary of the Corporation a statement affirming that the individual has received a copy of the Conflicts of Interest Policy, understands such Policy, and has agreed to comply.