LAKEVIEW MONTESSORI SCHOOL

BY-LAW: MARCH 2022

A By-law to amend, consolidate and restate the provisions of all previous by-laws.

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IT IS HEREBY ENACTED as a by-law of the Corporation, to take effect coordinate with issuance of articles of amendment pursuant to the Ontario *Not-for-Profit Corporations Act, 2010*, **as follows:**

INTERPRETATION

1. **Definitions.** In this By-law, unless the context otherwise requires:

   (a) **"Articles"** has the meaning given in the Ontario *Not-for-Profit Corporations Act, 2010* and includes articles of incorporation and letters patent, as may be continued and/or amended.[1]

   (b) **"Board"** means the board of directors of the Corporation.[2]

   (c) **"By-law"** means this by-law.

   (d) **"Chair"** means the chair of the Board.[3]

1 "Articles" are what are commonly referred to as the charter or constitution – it is the document that brings a corporation into existence. The Corporation is an Ontario, non-share capital corporation, originally incorporated November 2, 2981 by way of letters patent pursuant to the Ontario *Corporations Act* which were amended by way of articles of amendment dated [insert] pursuant to the Ontario *Not-for-Profit Corporations Act, 2010*, which superseded relevant portions of the Ontario *Corporations Act* effective October 19, 2021.

2 Boards are comprised of directors, who collectively function as a decision-making body for the corporation.

3 A chair is mandated – see Ontario *Not-for-Profit Corporations Act, 2010* section 42(2). For greater clarity, "Chair" does not mean "chair of the meeting," although it is contemplated by this By-law that the "Chair" will chair both Members and Board meetings, unless absent, unable or unwilling.

(e) **"Corporation"** means Lakeview Montessori School. [4]

(f) **"Director"** means a director of the Corporation.[5]

(g) **"Documents"** includes cheques, drafts, orders for payment, deeds, mortgages, hypothecs, charges, conveyances, transfers and assignments of property real or personal, immovable or movable, agreements, releases, receipts and discharges for the payment of money or other obligation, conveyances, transfers and assignments of shares, share warrants, stocks, bonds, debentures or other securities and all paper and electronic writings.

(h) **"Electronically"** means telephone, electronic or other communication facilities that permit all persons participating in the meeting to communicate with each other simultaneously and instantaneously.

(i) **"Family"** in connection with any child or children enrolled at the School, means such children and any individuals having custodial or access entitlements to such child or children.

(j) **"Head of School"** means the principal of, Lakeview Montessori School, being the school operated by the Corporation.

(k) **"Member"** means a member of the Corporation and **"Membership"** has a corresponding meaning.[6]

(l) **"Officer"** means an officer of the Corporation, including Chair, Vice-Chair Secretary and Treasurer.[7]

(m) **"present"** means participating in a meeting held in accordance with this By-law whether physically, Electronically or in the case of Members' meetings, by proxy.

(n) **"School"** means the school operated by the Corporation under the name, Lakeview Montessori School.

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4 The Corporation's Ontario corporation number is: 487783. The Ontario *Not-for-Profit Corporations Act, 2010* categorizes subject corporations as either public benefit or non-public benefit. Within the public benefit category, there are two subcategories: charitable and non-charitable. For further details about categorization see: https://www.ontario.ca/page/guide-not-profit-corporations-act-2010. In this case, the Corporation is categorized as a public benefit, charitable corporation. The Corporation also has registered charity status under the Canada *Income Tax Act*, having registration number 888257045 RR 0001. Registered charities are categorized as charitable organizations, public Corporations or private Corporations, with the Corporation classified as a charitable organization.

5 Directors are the individuals who are typically elected by the members to the board but can also be appointed by virtue of their office. This later type of appointment is commonly referred to as an *ex officio* appointment. In this case, all Directors are elected and there are no ex officio appointments. "Directors," "board members" and "members of the board" are synonymous terms and are in contrast to both "members" and "officers" of the Corporation.

6 Members of a corporation are a parallel to shareholders of a share capital corporation. As a non-share capital corporation, the Corporation has members and not shareholders. Members of the Corporation are in contrast to members of the Board or Directors.

7 Officers are appointed to facilitate the work of the Board in accordance with the terms of their appointments (job descriptions). Officers and directors are distinct from one another, although often officers are also directors and in the case of the chair, this is mandated by Ontario *Not-for-Profit Corporations Act, 2010* section 42(2).

(o) **"Secretary"** means the secretary of the Board.[8]

(p) **"Treasurer"** means the treasurer of the Board.[9]

(q) **"Vice-Chair"** means the vice-chair of the Board. [10]

2. **Plural.** Words that are in the singular form are deemed to include the plural form and vice versa.

3. **Include, Etc.** Whenever the words "include," "includes" or "including" (or similar terms) are used they are deemed to be followed by the words "without limitation."

4. **References to Legislation.** Any reference in this By-law to any legislation or regulation shall, unless otherwise expressly stated, be deemed to be a reference to such legislation or regulation as amended, restated or re-enacted from time to time.

5. **Severability.** The invalidity or unenforceability of any provision of this By-law shall not affect the validity or enforceability of the remaining provisions of this By-law.

6. **Footnotes.** The footnotes in this By-law are inserted for non-binding explanatory purposes only. They are not to be considered or taken into account for the purposes of construing or interpreting the provisions of this By-law, nor shall they be used in any way to clarify, modify or explain the effect of any such provisions.

LEGAL AND POLICY FRAMEWORK

7. **Hierarchy and Precedence.** In order of hierarchy, the legal and policy framework for the Corporation is as follows:
   (a) Law of the land, including statutory law[11] and common law.[12]
   (b) Articles. [13]
   (c) By-laws.[14]
   (d) Board resolutions / policy.[15]

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8 Ontario *Not-for-Profit Corporations Act, 2010* does not require the appointment of a secretary but such an appointment is customary and is required by By-law section 60(d).
9 Ontario *Not-for-Profit Corporations Act, 2010* does not require the appointment of a treasurer but such an appointment is customary and is required by By-law section 60(c).
10 Ontario *Not-for-Profit Corporations Act, 2010* does not require the appointment of a vice-chair but such an appointment is customary and is required by By-law section 60(b).
11 Statutory law of particular relevance includes the Canada *Income Tax Act* and the the Ontario *Not-for-Profit Corporations Act, 2010*. Statutory laws are available at Cannily.
12 Common law, also sometimes referred to as "judge-made law," or "caselaw" is the law that comes from court decisions. Most caselaw is available at CanLII.
13 This is in reference to what is commonly referred to as a charter or constitution – it is the document that brings a corporation into existence. In this case the Corporation was incorporated by way of letters patent dated November 2, 2981 pursuant to the Ontario *Corporations Act*, which were amended by way of articles of amendment dated [insert] pursuant to the Ontario *Not-for-Profit Corporations Act, 2010*, which superseded relevant portions of the Ontario *Corporations Act* effective October 19, 2021.
14 Ontario *Not-for-Profit Corporations Act, 2010* contemplates the passage of by-laws but it is not mandated – if by-laws are not passed within 60 days of incorporation, a standard by-law will apply - see section Ontario *Not-for-Profit Corporations Act, 2010* section 8(2).
15 Board resolutions / policy refers to the Board's decisions as captured in resolutions. Board resolutions of an

(e) Operational policy.[16]
(f) Contracts.[17]
In the event of a conflict, the policies at the higher level in the legal framework prevail.[18]

8. **Purposes.** The purposes of the Corporation are as set out in the Articles.[19]

9. **Vision and Mission.** Any vision[20] and mission[21] of the Corporation shall be within the scope of the purposes of the Corporation.

REGISTERED OFFICE

10. **Registered Office.** The registered office of the Corporation shall be in Ontario at the location stated in the Articles, subject to a change of the stated municipality by special resolution[22] and subject to a change of the location within the stated municipality by way of Board resolution.[23]

FINANCIAL MATTERS

11. **Year End.** The fiscal year of the Corporation shall start on the 1st of July of each year and end on June 30th of the following year.[24]

12. **Financial Statements.** A copy of the annual financial statements of the Corporation and any related audit or review engagement report shall be made available to each Member, at least 21 days before the annual general meeting or as otherwise prescribed under the Ontario *Not-for-Profit Corporations Act, 2010*,[25] as follows:
(a) Electronic copies shall be available on the Corporation's website;
(b) hard copies shall be available for pick up at the registered office; and

enduring nature are often captured in a board policy manual.

16 Operational policy refers to the policies, guidelines, rules, protocols, practices etc. that govern the day to day ordinary business of the Corporation. Generally operational policy is established by the Head of School within any parameters established by the Board.

17 Sometimes contracts with third parties can bind an organization to establishing certain policy. This is often the case with funding, grant, donor and accreditation program agreements.

18 The hierarchy is set by law and therefore it is not possible to change the hierarchy by amending this provision.

19 The purposes are as follows:
- To establish and carry on at the County of Essex, or in the vicinity thereof, a residential and day school for children and to provide for the delivering and holding of lectures, exhibitions, public meeting, classes and conferences calculated to directly or indirectly advance the cause of education whether general, professional or technical.
- The school follows a Montessori approach to education which provides individual instruction with concrete materials. This method of education is not available in the public system.

There is an additional "object" listed but it is more in the nature of a power and so is not set out here.

20 The vision is: Lakeview is a centre of academic excellence that nurtures and inspires innovators of tomorrow.

21 The mission is: The Lakeview community inspires its students to learn, ed and succeed together.

22 Ontario *Not-for-Profit Corporations Act, 2010* defines "special resolution" in essence to be a resolution passed by a 2/3rds vote at a properly constituted members meeting or alternatively a written resolution signed by 100% of the members entitled to vote.

23 The registered office is: 13797 Riverside Drive, Tecumseh, Ontario, N8N 1B5. See Ontario *Not-for-Profit Corporations Act, 2010* section 14 for further detail with respect to changing registered office location.

24 Note Canada Revenue Agency approval is required to change year end. Details with respect to changing year end are available at: Change organization's fiscal period end - Canada.ca.

25 See Ontario *Not-for-Profit Corporations Act, 2010* section 84(2).

(c) upon request of a Member hard copies shall be mailed by pre-paid mail to such Member.

13. **Borrowing.** The Board may from time to time:[26]

(a) borrow money on the credit of the Corporation;
(b) issue, reissue, sell or pledge debt obligations of the Corporation;
(c) give a guarantee on behalf of the Corporation to secure performance of an obligation of any person; and
(d) mortgage, pledge or otherwise create a security interest in all or any property of the Corporation, owned or subsequently acquired, to secure any obligation of the Corporation,

provided that:

(e) the power to grant security shall be subject to any trust obligations[27] and third-party contractual requirements.[28]

SIGNING OF DOCUMENTS

14. **Who Can Sign.** Subject to By-law section 15, Documents requiring the signature of the Corporation may be signed by:[29]

(a) the Head of School together with any 1 Officer; or
(b) any 2 Officers.

15. **Other Authorization for Who Can Sign.** The Board may at any time direct the manner in which and the person or persons by whom any particular Document or any type of Document may or shall be signed.

16. **Signatures.** Subject to the requirements of the Document, signatures by authorized signatories, may be handwritten or electronic.

17. **Seal.** The Corporation shall not have a seal.[30]

NOTICES ETC.

18. **Generally.** Unless otherwise required and subject to By-law section 19, any notice or other communication required to be given under the Ontario *Not-for-Profit Corporations Act, 2010*, the Articles and/or this By-law by or to a Member, Director, Officer or other person shall be in writing and shall be delivered, mailed or sent by email as follows:

(a) delivered personally, in which case it will be deemed to have been given on the date delivered;

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26 See Ontario *Not-for-Profit Corporations Act, 2010* section 85.
27 Generally, security interests cannot be granted in relation to any donor restricted property, as generally such property can only be used according to the donor's restrictions.
28 It is not uncommon for assets acquired through government funding to be subject to a contractual obligation preventing disposition without the consent of the funder. Granting security interests in such assets can be seen as a disposition, so it is important to consider related contractual obligations.
29 Note, the authority to approve documents on behalf of the Corporation is distinct from the authority to sign Documents on behalf of the Corporation. When signing Documents, authorized signatories should ensure the Documents have been approved by those having authority to approve such Documents.
30 See Ontario *Not-for-Profit Corporations Act, 2010* section 13.

(b) delivered to the person's latest address as recorded in the Corporation's records, in which case it will be deemed to have been given on the date delivered;

(c) mailed to the person's address as recorded in the Corporation's records by prepaid mail, in which case it will be deemed to be delivered 5 days after the date of mailing; or

(d) sent to the person's latest email address as recorded in the Corporation's records, in which case it will be deemed to be delivered 1 day after the date of transmittal.

19. **Waiver of Notice.** Notice may be waived or the time for giving the notice may be abridged at any time with the consent of the person entitled thereto.

MEMBERSHIP

20. **Membership.** The Membership[31] of the Corporation (in contrast to membership on the Board) shall consist, ex officio,[32] of 1 designate from time to time, of each Family who has a child or children enrolled at Lakeview School and who is at least 18 years of age, with the exception that, if the Family has a Family member who is an employee of the Corporation, such Family shall not be permitted a designate and therefore shall have no entitlement to Membership in the Corporation.

21. **Family Designate.** With respect to identifying the Family designate (and related Membership), the designate shall be any Family member who is at least 18 years of age who claims to be the Family designate. If there is no claimant in that regard, there shall be no Family designate (and no related Membership). If there is more than one claimant in that regard, until such time as the claimants come to a consensus as to the identity of the Family designate or an authority having jurisdiction over the matter makes a determination and evidence of such determination, satisfactory to the Corporation, is submitted to the Corporation, there shall be no Family designate and no related Membership.

22. **Termination of Membership.** Membership is not transferable[33] and terminates when the Member is no longer a Family designate for whatever reason,[34] including for examples: if the Family no longer has any children enrolled at the School; the Family makes an alternate designation; and/or the Family designate dies. Upon termination of Membership, the rights of such Member shall automatically cease to exist.[35]

MEMBERS' MEETINGS

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31 Members of a corporation are a parallel to shareholders of a share capital corporation. As a non-share capital corporation, the Corporation has members and not shareholders. Members of the Corporation are in contrast to members of the Board or Directors. Members are also in contrast to the participants in the School's programs. For a further discussion about members see: You have to know who your members are (and know how to contact them).

32 See Ontario *Not-for-Profit Corporations Act, 2010* section 48(2) permitting membership by virtue of office.

33 See Ontario *Not-for-Profit Corporations Act, 2010* section 50.

34 See Ontario *Not-for-Profit Corporations Act, 2010* section 48(8).

35 See Ontario *Not-for-Profit Corporations Act, 2010* section 50.

23. **Calling Members Meetings.** Calling of Members meetings shall be subject to and in accordance with the following:

(a) **Annual General Meetings.** The annual general meeting of the Members shall be held not more than 15 months after the holding of the last preceding annual general meeting.[36]

(b) **Special General Meetings.** Members meetings may otherwise be called by the Board,[37] or pursuant to a requisition by the Members in accordance with the Ontario *Not-for-Profit Corporations Act, 2010*.[38]

24. **Notice.** Notice of Members' meetings shall be subject to and in accordance with the following:

(a) **Responsibility.** The Secretary shall give or cause to be given any required notice.

(b) **Amount of Notice.** Amount of notice shall be subject to and in accordance with the following:

(i) Subject to By-law section 23(b)(ii), at least 20 days' notice but not more than 50 days' notice shall be given.[39]

(ii) For Members meetings that are adjourned, no notice is necessary, other than announcement at the meeting that is adjourned, unless the adjournment or cumulative adjournments are for 30 days or more.[40]

(c) **Content.** Notice shall include:

(i) the date, time and place of the meeting,[41]

(ii) an agenda describing the nature of the business to be transacted in sufficient detail to allow a Member to make a reasoned judgment on the business; [42]

(iii) the text of any special resolutions[43] to be submitted to the meeting;

(iv) any proposals properly submitted by Members (see By-law section 27(a)(i)), along with, if requested by such Members, any related supporting statements and their names and addresses, provided that:

- the same are submitted at least 60 days prior to the meeting;[44]and
- the Board has not refused inclusion;[45]

(v) information on how Members can make nominations for Directors so as to

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36 See Ontario *Not-for-Profit Corporations Act, 2010* section 52(1) relating to timing of annual general meetings.
37 See Ontario *Not-for-Profit Corporations Act, 2010* section 52(2).
38 See Ontario *Not-for-Profit Corporations Act, 2010* section 60 detailing how Members can requisition meetings.
39 See Ontario *Not-for-Profit Corporations Act, 2010* section 55(1) which provide a minimum of 10 days' notice but in this case because By-law section 24(b)(i) provides for a longer notice period, the longer period applies.
40 See Ontario *Not-for-Profit Corporations Act, 2010* section 55(1).
41 See Ontario *Corporations Act* section 93(1)(a) made operative by section 133(1)
42 See Ontario *Not-for-Profit Corporations Act, 2010* section 55(8).
43 Ontario *Not-for-Profit Corporations Act, 2010* defines "special resolution" to in essence be a resolution passed by a 2/3rds vote at a properly constituted members' meeting or alternatively a written resolution signed by 100% of the members entitled to vote. Certain matters require special resolution, such as for example, amending the Articles.
44 See Ontario *Not-for-Profit Corporations Act, 2010* section 56(6)(a).
45 See Ontario *Not-for-Profit Corporations Act, 2010* section 56(6) for a list of reasons when a board can refuse to include a proposal in a notice of meeting.

comply with the requirements of By-law section 35.
(vi) a statement that the Corporation's financial statements and any related audit or review engagement report are available as per By-law section 12.
(vii) an acceptable form of proxy;[46] and
(viii) the time fixed, if any, for the deposit of any proxy with the Corporation.[47]

(d) **To Whom Given.** Notice shall be given to:
(i) each Member, who is on record[48] as being a Member, as at the end of the day immediately before the day on which notice is given;[49]
(ii) each Director;[50]
(iii) each Officer;
(iv) the auditor or person appointed to conduct a review engagement, if there has been such an appointment;[51] and
(v) all School employees, including the Head of the School.
For greater clarity, if a person is entitled to notice in more than one capacity, notice need only be provided once.

(e) **Manner.** Notice shall be given in the manner specified in By-law section 18 and it shall be posted on the Corporation's website.

(f) **Waiver.** Members meetings may be held without notice if all the Members entitled to notice have waived the notice, provided that attendance of any such person at a Members' meeting shall constitute a waiver of notice of the meeting except where such person attends for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called or held.[52]

(g) **Evidence of Notice.** The statutory declaration of the Secretary that notice has been given pursuant to this By-law shall be sufficient and conclusive evidence of the giving of such notice.

(h) **Errors or Omissions.** No error or omission in giving notice for a meeting of Members shall invalidate such meeting or invalidate or make void any proceedings taken or had at a meeting of Members.

25. **Place and Means of Meetings.** Members' meetings shall be held at a physical place in Ontario,[53] Electronically[54] or some combination thereof, as may from time to time be determined by the Board.[55]

26. **Chair of Meeting.** The Chair shall chair Members' meetings or if absent, unable or unwilling, the Vice-Chair and in the absence, inability or unwillingness of both the Chair

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46 See Ontario *Not-for-Profit Corporations Act, 2010* section 65.
47 See Ontario *Not-for-Profit Corporations Act, 2010* section 64(4). Also see By-law section 28(d) regarding the time limit for proxy deposit.
48 See Ontario *Not-for-Profit Corporations Act, 2010* section 54 for details regarding record date.
49 See Ontario *Not-for-Profit Corporations Act, 2010* section 55(1)(a).
50 See Ontario *Not-for-Profit Corporations Act, 2010* section 55(1)(b).
51 See Ontario *Not-for-Profit Corporations Act, 2010* section 55(1)(c).
52 See Ontario *Not-for-Profit Corporations Act, 2010* section 55(3).
53 See Ontario *Not-for-Profit Corporations Act, 2010* section 55(1).
54 Ontario *Not-for-Profit Corporations Act, 2010* section 57(5).
55 Ontario *Not-for-Profit Corporations Act, 2010* section 53(5).

and Vice-Chair, the Members present shall by ordinary resolution[56] choose any other Director present who is willing to act as chair of the meeting.

27. **Attendance and Participation**. The below individuals shall be entitled to attend Members' meetings and to the extent indicated below participate thereat as follows:

(a) **Members.** Members shall be entitled to attend all Members' meetings and shall be entitled to participate thereat as follows:

(i) making a proposal, provided that: such proposal is submitted to the Board at least 60 days in advance of the meeting;[57] complies with the requirements of the Ontario *Not-for-Profit Corporations Act, 2010*;[58] and has not been refused by the Board for inclusion with the notice of meeting.[59]

(ii) being heard verbally on any matter with respect to which a proposal could have been made;[60]

(iii) debating; and

(iv) voting.

(b) **Family.** The Family of any Members shall be entitled to attend all Members meetings. Family shall not be entitled to participate at Members meetings by making a proposal or voting but shall be entitled to participate by being heard (verbally and/or in writing) and debating.

(c) **Directors.** Directors shall be entitled to attend all Members' meetings. Directors shall not be entitled to participate at Members meetings by making a proposal, debating or voting but shall be entitled to participate by being heard (verbally and/or in writing) and debating.

(d) **Officers.** Officers shall be entitled to attend all Members' meetings. Officers shall not be entitled to participate at Members meetings by making a proposal, debating or voting but shall be entitled to participate by being heard (verbally and/or in writing) on any matter that concerns an Officer's duties.

(e) **School Employees.** School employees, including the Head of School shall be entitled to attend all Members meetings. School employees shall not be entitled to participate at Members meetings by making a proposal or voting but shall be entitled to participate by being heard (verbally and/or in writing) and debating.

(f) **Auditor/Person Undertaking Review Engagement.** The auditor or person undertaking a review engagements, if one has been appointed, shall be entitled to attend all Members' meetings in person or Electronically. The auditor or

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56 Ontario *Not-for-Profit Corporations Act, 2010* defines "ordinary resolution" in essence to be a resolution passed by a majority vote at a properly constituted members meeting or alternatively a written resolution signed by 100% of the members entitled to vote.

57 See Ontario *Not-for-Profit Corporations Act, 2010* section 56(6)(a).

58 Ontario *Not-for-Profit Corporations Act, 2010* section 56 and Ontario Regulation 395/21 outline a number of requirements for proposals and related supporting statements, including for example, limiting the combined words and characters to 500.

59 See Ontario *Not-for-Profit Corporations Act, 2010* section 56(6) for a list of reasons when a board can refuse to allow a proposal and related information in a notice of meeting.

60 See Ontario *Not-for-Profit Corporations Act, 2010* section 56(1)(b).

person undertaking a review engagement shall not be entitled to participate at Members' meetings by making a proposal, debating or voting, but shall be entitled to participate by being heard (verbally and/or in writing) on any matter that concerns their duties.[61]

(g) **Invited Guests.** Invited guests may attend Members' meetings on invitation of the Chair, the Board or with the consent of the meeting. Invited guests shall not have any participation entitlements, except as may be directed by the chair of the meeting.

For greater clarity, if an individual attends a meeting of Members in more than one capacity, such individual shall be entitled to participate in all capacities as outlined above.

28. **Transaction of Business.** Transaction of business at Members' meetings shall be subject to and in accordance with the following:

(a) **Quorum.** Quorum shall be 10 Members present.[62] No business shall be transacted in the absence of quorum,[63] except to adjourn a meeting to a fixed time and place, when there is no quorum at the opening of a meeting.[64]

(a) **Business.** The business shall include the following:

(i) Annual General Meeting		
(1)	Call to order.	
(2)	Formalities.	Notice check (see By-law section 24 for notice requirements).
		Attendance check.
		Quorum check (see By-law section 28(a) for quorum requirements).
(3)	Approval of invited guests, if approval required (see By-law section 27(g)).	
(4)	Approval of the agenda.	
(5)	Minutes of any previous Members' meetings shall be presented.	
(6)	The financial statements of the Corporation, as approved by the Board shall be presented.[65]	
(7)	Any audit or review engagement report shall be presented.[66]	
(8)	Consideration of any proposals included with the notice of meeting.	
(9)	Consideration of any matters raised by Members in connection with which a proposal could have been made.[67]	

61 See Ontario *Not-for-Profit Corporations Act, 2010* section 55(1)(c) and section 75(1)
62 Note there is no statutory requirement for quorum for Members' meetings. In the absence of any quorum provision in the by-laws, quorum it a majority per Ontario *Not-for-Profit Corporations Act, 2010* section 57(1). Ontario *Not-for-Profit Corporations Act, 2010* section 57(2) does not require quorum to be present throughout a meeting, however this provision imposes such a requirement.
63 Ontario *Not-for-Profit Corporations Act, 2010* section 57(2) does not require quorum to be present throughout a meeting, however this provision imposes such a requirement by stating that there must be quorum for the transaction of any business.
64 See Ontario *Not-for-Profit Corporations Act, 2010* section 57(3).
65 See Ontario *Not-for-Profit Corporations Act, 2010* sections 55(7) and 84(1)(a).
66 See Ontario *Not-for-Profit Corporations Act, 2010* section 55(7)2 and 84(1)(b).
67 See Ontario *Not-for-Profit Corporations Act, 2010* section 56(1).

(10)	If an audit or review engagement is required[68] or otherwise desired, auditors or person to conduct a review engagement, as applicable, shall be appointed for the ensuing year.[69] Otherwise, consent for exemption for financial review shall be given.[70]
(11)	Election of Directors for the ensuing year.[71]
(12)	Closing

(ii) Special General Meetings		
(1)	Call to order.	
(2)	Formalities.	Notice check (see By-law section 24 for notice requirements).
		Attendance check.
		Quorum check (see By-law section 28(a) for quorum requirements).
(3)	Approval of invited guests, if approval required (see By-law section 27(g)).	
(4)	Approval of agenda.	
(5)	Business outlined in the notice of meeting.	
(6)	Closing	

(b) **Debate and Decorum.** Debate and decorum shall be subject to and in accordance with the following:

(i) No attendee entitled to speak shall do so:

1. Unless recognized by the chair of the meeting.
2. To a question at any one time for longer than 3 minutes.
3. If to do so would interrupt an individual who is speaking, except to raise a question of privilege or point of order.

(ii) Attendees shall obey any proper direction of the chair of the meeting.

(iii) Attendees who disturb the proper conduct of the proceedings or otherwise conduct themselves in a disorderly or unseemly manner may be ordered by the chair of the meeting to leave the meeting and in such event the attendee shall leave as directed by the chair of the meeting.

(c) **Voting.** Voting shall be subject to and in accordance with the following:

(i) Members shall each have 1 vote[72] on each question arising.

(ii) In the event of a tie, the chair of the meeting shall not have a 2nd or casting vote.

(iii) Unless otherwise required, every question shall be decided by ordinary resolution.[73]

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68 Ontario *Not-for-Profit Corporations Act, 2010* section 68 details financial review requirements.

69 See Ontario *Not-for-Profit Corporations Act, 2010* section 55(7)3.

70 See Ontario *Not-for-Profit Corporations Act, 2010* section 76 for when and how consent for exemption from audit or review engagement may be given.

71 See Ontario *Not-for-Profit Corporations Act, 2010* section 55(7).

72 See Ontario *Not-for-Profit Corporations Act, 2010* section 48(6).

73 Ontario *Not-for-Profit Corporations Act, 2010* defines "ordinary resolution" in essence to be a resolution passed by a majority vote at a properly constituted members meeting or alternatively a written resolution signed by 100% of the members entitled to vote. Certain decisions are required by the Ontario *Not-for-Profit Corporations Act, 2010* to be passed by extraordinary resolution (80% vote) such as, for example, a consent to exemption from financial review requirements when permitted and special resolution (2/3rds vote) such as, for example, amending the Articles.

(iv) Unless otherwise specified, every question shall be decided in the first instance by a show of hands. A ballot may be demanded by any Member, either before or after a show of hands.[74] If a ballot be demanded, it shall be taken in such manner as the chair of the meeting shall direct.

(v) Unless a ballot is demanded, a declaration by the chair of the meeting that a resolution has been carried or not carried and an entry to that effect in the minutes of the Corporation shall be admissible in evidence as *prima facie* proof of the fact, without proof of the number or proportion of the votes accorded in favour of or against such resolution.[75]

29. **Proxies (Absentee Voting).** Every Member may, by means of a proxy[76] appoint a person who need not be a Member,[77] as nominee for the Member, to attend and act at the meeting in the manner, to the extent, and with the power conferred by the proxy, subject to and in accordance with the following:

(a) **In Writing and Signed.** A proxy shall be in writing and shall be signed by the Member or the attorney of the Member.[78]

(b) **Validity.** A proxy is valid only for the meeting it is given and any meeting that continues such meeting, in the event of adjournment.[79]

(c) **Form.** Subject to the requirements of the Ontario *Not-for-Profit Corporations Act, 2010*,[80] a proxy may be in the form included with the notice of meeting (see By-law section 23(c)(v)) or such other form as the chair of the meeting may from time to time accept as sufficient.

(d) **Deposit.** Proxies shall be deposited with the Secretary at least 48 hours, excluding Saturdays and holidays, before the time of the relevant Members' meeting.[81]

30. **Minutes.** The Secretary shall keep or cause to be kept minutes of all Members meetings, which shall include the following:[82]

(a) name of the Corporation;
(b) date, time and place of the meeting;
(c) attendance at the meeting;
(d) precise wording of all motions but not the mover and seconder;
(e) whether the motion carried but not the number of votes for and against or which Member voted which way; and
(f) any objections or dissent requested by the maker to be put on record but otherwise not attribute specific comments to specific individuals.

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74 See Ontario *Not-for-Profit Corporations Act, 2010* sections 58(1) and 58(2).
75 See Ontario *Not-for-Profit Corporations Act, 2010* sections 59(4).
76 See Ontario *Not-for-Profit Corporations Act, 2010* section 64(1).
77 See Ontario *Not-for-Profit Corporations Act, 2010* section 64(1.2).
78 See Ontario *Not-for-Profit Corporations Act, 2010* section 64(2).
79 See Ontario *Not-for-Profit Corporations Act, 2010* section 64(5).
80 See Ontario *Not-for-Profit Corporations Act, 2010* section 64(3) and Ontario Regulation 395/21 for proxy form requirements.
81 See Ontario *Not-for-Profit Corporations Act, 2010* section 64(4).
82 See Ontario *Not-for-Profit Corporations Act, 2010* section 92(1)(b).

BOARD

31. **Board is Accountable for Governance.** The Board shall manage or supervise the management of the activities and affairs of the Corporation subject to any applicable law, the Articles and this By-law.[83]

32. **Qualifications.** Each Director shall:
    (a) be an individual (in contrast to artificial person e.g. corporation);[84]
    (b) be at least 18 years of age;[85]
    (c) not be an individual who has been found under the Ontario *Substitute Decisions Act, 1992* or under the Ontario *Mental Health Act* to be incapable of managing property;[86]
    (d) not be an individual who has been found to be incapable by any court in Canada or elsewhere;[87]
    (e) not have the status of bankrupt;[88]
    (f) consent to being a Director at the time of or within 10 days of election;[89]
    (g) not be an "ineligible individual" within the meaning of the Canada *Income Tax Act*;[90]
    (h) not have a criminal record for which a pardon has not been granted;
    (i) not be an employee,[91] spouse, former spouse or common-law spouse of an

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83 See Ontario *Not-for-Profit Corporations Act, 2010* section 21. The tasks that a board must undertake to fulfill its governance responsibility have evolved over time and while there are generally recognized themes, they are variously described and not entirely aligned. One conception is that, in addition to establishing a governance framework (structures, functions and processes) for decision making, a board should undertake the following: adopt a strategic plan including vision and mission; ensure a risk management framework is developed and maintained; develop and implement a code of conduct; recruit, select and appoint an administrative head (Head of School in this case); ensure a stakeholder engagement framework is developed and maintained; ensure an accountability framework is developed and maintained including performance management of the board, the administrative head (Head of School in this case) and organization; and ensure a transparency framework is developed and maintained that contributes to accountability.

84 See Ontario *Not-for-Profit Corporations Act, 2010* section 23(1)1.

85 See Ontario *Not-for-Profit Corporations Act, 2010* section 23(1)2.

86 See Ontario *Not-for-Profit Corporations Act, 2010* section 23(1)3.

87 See Ontario *Not-for-Profit Corporations Act, 2010* section 23(1)4.

88 See Ontario *Not-for-Profit Corporations Act, 2010* section 23(1)5.

89 See Ontario *Not-for-Profit Corporations Act, 2010* section 24(8) but also see sections 24(9) and 24(10).

90 See Canada *Income Tax Act* section 149.1(1) for full details regarding the meaning of "ineligible individual." In general terms, an individual is ineligible if he or she:
- has been convicted of an offence
  - related to financial dishonesty
  - relevant to the operation of the organization
- was connected to an organization whose registration was revoked for a serious breach of the requirements for registration. The connection was as:
  - a director, trustee, officer, or like official
  - an individual in a position of management or control
  - a promoter of a tax shelter, and participating in that tax shelter caused the revocation of an organization's registration

For a further discussion on the topic of "ineligible individuals" see: Ineligible Individuals ... And The Problem Gets Worse.

91 Note Ontario *Not-for-Profit Corporations Act, 2010* section 23(3) provides that no more than 1/3 of the directors of a public benefit corporation can be employees. If the Corporation is also a charity additional law applies. In the absence of a court order, it used to be that directors of charities could not personally benefit from the charity. This extended to being paid as an employee or in any other capacity or having an interest in

employee of the Corporation or a child of a serving Director;

(j) not be under contract with the Corporation; [92] and

(k) not have served beyond the applicable term limit set out in By-law section 38.

33. **Board Composition.** The Board shall be comprised of 10 Directors, provided that if the Articles provide for a minimum[93] and maximum number of Directors, the number of Directors on the Board shall be determined from time to time by special resolution[94] or alternatively if the Board has been empowered by special resolution to determine the number, by such number as the Board determines from time to time,[95] providing that any decrease in the number shall not shorten the term of any incumbent Director.[96] Otherwise, the number of Directors shall be as stated in the Articles.[97]

34. **Competencies Matrix and Board Recommended Slate.** The Board shall develop a competencies matrix[98] and shall make recommendations to the Membership with respect to the election of Directors based on the same.

35. **Nominations by Members.** Members may make nominations for the election of Directors at the upcoming annual general meeting by submitting to the Board, at least 10 days prior to the annual general meeting, such forms, along with such supporting documentation as may from time to time be required by the Board. For greater clarity, no other nominations shall be accepted, except as stated in this By-law.

36. **Election.** Subject to By-law section 44, Directors shall be elected at the annual general meeting by the Members, subject to and in accordance with the following:

(a) Directors to be elected shall be from among qualified candidates recommended by the Board in accordance with By-law section 34 and/or nominated by the Members in accordance with By-law section 35.[99]

(b) In conjunction with each candidate, Members shall be given the opportunity to vote for the candidate or withhold their vote. Candidates with the largest number of votes shall be elected.

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a contract. Effective April 1, 2018, regulations were passed under the Ontario *Charities Accounting Act* relaxing these rules but only to a limited extent. For details see, Ontario Ministry of the Attorney General publication, Payments to Directors & Connected Persons.

92 Note Ontario *Not-for-Profit Corporations Act, 2010* section 23(3) provides that no more than 1/3 of the directors of a public benefit corporation can be employees. If the Corporation is also a charity additional law applies. In the absence of a court order, it used to be that directors of charities could not personally benefit from the charity. This extended to being paid as an employee or in any other capacity or having an interest in a contract. Effective April 1, 2018, regulations were passed under the Ontario *Charities Accounting Act* relaxing these rules but only to a limited extent. For details see, Ontario Ministry of the Attorney General publication, Payments to Directors & Connected Persons.

93 Ontario *Not-for-Profit Corporations Act, 2010* section 22(1) requires at least 3 directors.

94 See Ontario *Not-for-Profit Corporations Act, 2010* section 21. Ontario *Not-for-Profit Corporations Act, 2010* defines “special resolution” in essence to be a resolution passed by a 2/3rds vote at a properly constituted members meeting or alternatively a written resolution signed by 100% of the members entitled to vote.

95 See Ontario *Not-for-Profit Corporations Act, 2010* section 22(2).

96 See Ontario *Not-for-Profit Corporations Act, 2010* section 21.

97 See Ontario *Not-for-Profit Corporations Act, 2010* section 22(2).

98 To develop a board’s competency set, best practices suggest using a 3 step process: determine the implications of the organization’s strategic objectives on the board’s required competencies; review and inventory current board competencies; and compare current board competencies (background, skills and experience of each director); and compare current board competencies to the competencies required pursuant to the strategic plan. The end product is a clearly defined competencies matrix.

99 See Ontario *Not-for-Profit Corporations Act, 2010* section 24(1).

(c) In the event of a tie vote, the elected candidate shall be decided by draw.

37. **Term.** Subject to early removal and the due election of a successor, each Director shall be elected for 1 to 3 years, staggered so that the terms of no more than 1/3rd of the Directors' come to an end at each annual general meeting.

38. **Limit of Terms.** No Director shall serve as such for more than 8 continuous years without taking at least 1 year off.

39. **Role of Individual Directors.** As an artificial person, the Corporation must act through human agents. Individual Directors come together to form the Board. The Board in turn, as a collective body, is statutorily required to manage and/or oversee the management of the activities and affairs of the Corporation.[100] The role of individual Directors is to contribute to the collective decision-making process of the Board as a whole. To safeguard this responsibility and optimize individual Director contributions, there are a number of duties that Directors must adhere to as outlined in By-law section 40. Apart from their role to contribute to the collective decision-making process of the Boad as a whole, Directors shall have no other role, unless in another capacity[101] or unless otherwise specifically assigned to the Director by the Board.[102]

40. **Duties of Directors.** Duties of Directors shall include the following:[103]

(a) **Duty of Diligence.**

(i) **Knowledgeable.** Each Director shall ensure that she or he is knowledgeable about the Corporation, including its operations and the environment within which it operates.

(ii) **Prepared.** Each Director shall prepare for meetings in advance by reviewing the agenda, any supporting materials and taking such other steps as may be appropriate to ensure that she or he will be able to participate effectively in the collective decision making of the Board.

(iii) **Engaged.** Each Director shall:

(i) **Attend.** Attend meetings and when unable to attend, review the minutes of missed meetings and take such other follow-up steps as may be appropriate.

(ii) **Debate.** Actively participate in meeting debate unless required to abstain due to conflict of interest or inability to exercise independent judgment.

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100 See Ontario *Not-for-Profit Corporations Act, 2010* section 21 and By-law section #.
101 Such as an officer's capacity, e.g. Chair.
102 This means, unless a Director has otherwise been tasked by the Board, the Director shall not: instruct staff; review staff performance; approach donors; speak on behalf of the Corporation; and/or take any other initiative in connection the Corporation
103 Duties of directors arise from common law, with certain duties also having been codified in statutory law.

(iii) **Vote.** Vote on motions unless required to abstain due to conflict of interest or inability to exercise independent judgment. [104]

(b) **Duty of Loyalty (Fiduciary Duty).** Each Director shall act honestly, in good faith, with a view to the best interests of the Corporation[105] and to that end but without limiting the generality of the foregoing:[106]

(i) **No Improper Use of Information.** Each Director shall only use information acquired as a Director for the purposes of fulfilling her or his duties as a Director. Without limiting the generality of the foregoing, a Director shall not:

(1) Take personal advantage of an opportunity available to the Corporation unless the Corporation has clearly and irrevocably decided against pursuing the opportunity and the opportunity is also available to the public.

(2) Solicit any business from among the Corporation's Board, staff, donors or other contacts.

(ii) **Confidentiality.** Each Director shall keep confidential the confidential information of the Corporation.

(iii) **No Abuse of Position.** Each Director shall not make any improper use of her or his position as a Director.

(iv) **No Employment.** Each Director shall not in their capacity as a director or in any other capacity accept employment with the Corporation.[107]

(v) **No Interest in Contracts.** Each Director shall not contract with the Corporation for goods, services or facilities.[108]

For greater clarity the above prohibitions cannot be overcome with disclosure of conflict of interest or any other actions by the subject Director. They are absolute prohibitions.

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104 Because a key responsibility of a chair of a Board meeting is to facilitate the work of the board by optimizing the collective process, if the chair refrains from voting, he or she may appear more neutral, making him or her better able to optimize the process. However, when there is a tie vote, to be duly diligent, it becomes incumbent on the chair of the meeting, in their capacity as a Director, to exercise their vote in order to fulfil their duty as a Director. Note, it is important to distinguish between the Chair and the individual who chairs the meeting – often it is the Chair, as that is part of the Chair's job description, but there may be isolated times when the Chair does not chair the meeting.

105 See Ontario *Not-for-Profit Corporations Act, 2010* section 43(1)(a).

106 Whenever a Director serves or appears to serve an interest, other than the best interests of the Corporation there are a number of possible adverse consequences to both the subject Director and to the Corporation. These include inhibiting free discussion; decisions or actions that are not in the best interests of the Corporation; and putting the reputations of each at risk.

107 Generally, in the absence of a court order, Directors cannot be employed by the Corporation. For details see, Ontario Ministry of the Attorney General publication, Payments to Directors & Connected Persons and regulations passed under the Ontario *Charities Accounting Act* .

108 It used to be that, in the absence of a court order Directors could not contract with the Corporation. In 2018 the rules were relaxed a small amount and now it is possible to some extent, subject to certain conditions. For details see, Ontario Ministry of the Attorney General publication, Payments to Directors & Connected Persons and regulations passed under the Ontario *Charities Accounting Act* . Notwithstanding this relaxation By-law section 41 maintains the absolute prohibition.

(c) **Avoid and Disclose.** Each Director shall avoid any other real, perceived or potential conflicts of interest and preserve her or his ability to exercise independent judgment.[109] In the event that a specific situation arises, which may affect a Director's ability to only be guided by the best interests of the Corporation when participating in the collective decision making of the Board, the Director shall: declare a conflict of interest or inability to exercise independent judgment, as the case may be and avoid influencing relevant decision making in any way. For greater clarity, a conflict of interest or inability to exercise independent judgment exists if a decision involves either the Director personally or a person connected to the Director. "Connected persons" in this regard generally include parents, grand parents, siblings, spouse, children, a corporation in connection with which the Director has an interest, or other individual or person with a formal relationship to the Director.

(d) **Duty of Obedience.** Each Director shall:

(i) Comply with all applicable law.[110]
(ii) Comply with the Articles. [111]
(iii) Comply with the By-laws. [112]
(iv) Support implementation of the Board's decisions and refrain from doing anything which would serve to undermine such implementation.

41. **No Remuneration.** Directors shall not receive remuneration in any capacity or any direct or indirect profit from the Corporation, provided that Directors may be reimbursed for reasonable expenses incurred by them in the performance of their duties as long as they have complied with any applicable expense reimbursement policies.[113]

42. **Vacation of Office.** A Director ceases to hold office, if any one or more of the following apply:

(a) **Removal by Membership.** A resolution to remove the Director is passed by the Members at a general meeting of Members for which notice specifying the

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109 Directors must always make decisions with a view to the best interests of the Corporation. It is a breach of duty if a director has any other factors, other then the best interests of the Corporation in mind, when participating in the collective decision making of the Board. To capture some of these problematic contexts, but without limiting the larger duty to act in the best interests of the Corporation, Directors' duties also include the duties to avoid conflict interest and to preserve independent judgment. These are similar and intertwined. Conflict of interest generally refers to situations when the director may personally benefit financially. For example, if a director participates in a decision of the Corporation to award a contract to the Director's business. Independent judgment generally refers to situations when someone else with whom the director is connected might benefit.

110 See Ontario *Not-for-Profit Corporations Act, 2010* section 43(2)(a).

111 See Ontario *Not-for-Profit Corporations Act, 2010* section 43(2)(b).

112 See Ontario *Not-for-Profit Corporations Act, 2010* section 43(2)(b).

113 In the absence of a court order, it used to be that directors of charities could not personally benefit from the charity. This extended to being paid as an employee or in any other capacity or having an interest in a contract. Effective April 1, 2018, regulations were passed under the Ontario *Charities Accounting Act* relaxing these rules but only to a limited extent. For details see, Ontario Ministry of the Attorney General publication, Payments to Directors & Connected Persons. Notwithstanding any relaxation of the rules, this provision maintains a strict no-remuneration policy.

intention to pass such resolution has been given and any statement of the subject Director giving reasons opposing removal has been circulated to the Members.[114]

(b) **Resignation.** The Director resigns.[115] Resignation shall be effective when received by the Corporation or when specified in the resignation, whichever is later.[116]

(c) **Chronically Absent.** The Director fails to attend 3 consecutive Board meetings and he or she also fails, within 15 days to respond positively to a letter from the Corporation requesting that the Director confirm that he or she wishes to continue as a Director. In such case the vacancy will be deemed to become effective at the end of the said 15 day period. For greater clarity, the Board shall have the discretion of whether or not to send the letter referred to above.

(d) **Death.** Upon the death of the Director.[117]

(e) **No Longer Qualified.** Upon a Director ceasing to be qualified pursuant to By-law section 32.[118]

43. **Circulation of Reasons for Resignation.** If a Director who resigns, provides a statement giving reasons for resignation, then such statement shall be immediately circulated to the Members.[119]

44. **Filling Vacancies.** Directors' vacancies shall be filled as follows:

(a) **If Removed by Members.** In the event a vacancy is created by the removal of a Director in accordance By-law section 42(a), then the Members present may (but are not required) to elect any qualified individual in her or his stead for the remainder of her or his term.[120]

(b) **Otherwise.** Vacancies may otherwise be filled as follows:

(i) **If Quorum Remains.** So long as a quorum of Directors remain in office,[121] and so long as the number of Directors appointed by the Board does not exceed 1/3 of the number of Directors elected at the previous annual general meeting,[122] any vacancy may be filled for the remainder of the term by the Board, if the Board shall see fit to do so. If the Board does not see fit to do so, such vacancies shall be filled at the next annual general meeting at which the Directors for the ensuing year are elected.

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114 See Ontario *Not-for-Profit Corporations Act, 2010* sections 26(1) and 27(1)(b).
115 See Ontario *Not-for-Profit Corporations Act, 2010* section 25(1).
116 See Ontario *Not-for-Profit Corporations Act, 2010* section 25(2).
117 See Ontario *Not-for-Profit Corporations Act, 2010* section 25(1).
118 See Ontario *Not-for-Profit Corporations Act, 2010* section 25(1).
119 See Ontario *Not-for-Profit Corporations Act, 2010* section 27(2).
120 See Ontario *Not-for-Profit Corporations Act, 2010* section 26(3).
121 See Ontario *Not-for-Profit Corporations Act, 2010* section 28(1).
122 See Ontario *Not-for-Profit Corporations Act, 2010* section 24(7).

(ii) **If No Quorum or Minimum Remains.** If a quorum or the minimum number of Directors required by the Articles does not remain, the remaining Directors shall forthwith call a meeting of the Members to fill the vacancy.[123]

BOARD MEETINGS

45. **Number of Board Meetings.** The Board shall meet as necessary to fulfil the Board's duties but in any event not less than 8 time per financial year.

46. **Calling of Meetings.** Subject to the Ontario *Not-for-Profit Corporations Act, 2010,*[124] Board meetings may be called by the Chair, the Vice-Chair or any 2 Directors at any time.

47. **Notice.** Notice of Board meetings shall be subject to and in accordance with the following:

(a) **Responsibility.** The Secretary shall give or cause to be given the required notice.

(b) **Amount of Notice.** Subject to the Ontario *Not-for-Profit Corporations Act, 2010,*[125] and subject to By-law sections 42(e) and (f), at least 2 days' notice shall be given,[126] with the further exception that no notice need be given for a meeting that continues an adjourned Board meeting if the time and place is announced at the meeting being adjourned.[127]

(b) **Content.** Notice shall include the date, time and place of the meeting. It shall also specify the purpose and/or business to be transacted at the meeting, provided that notice shall not be invalidated if it fails to do so, unless such failure is in relation to purposes and/or business required by the Ontario *Not-for-Profit Corporations Act, 2010* to be specified.[128]

(c) **To Whom Given and Manner.** Notices shall be given:
(i) to each Director in the manner specified in By-law section 18; and
(ii) unless the Board determines otherwise, to:
(1) the Officers in the manner specified in By-law section 18;
(2) the Head of School in the manner specified in By-law section 18; and
(3) the Members by post on the Corporation's website.
For greater clarity, if a person is entitled to notice in more than one capacity, notice need only be provided once.

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123 See Ontario *Not-for-Profit Corporations Act, 2010* section 28(2).
124 See Ontario *Not-for-Profit Corporations Act, 2010* section 32(2) permitting any incorporator (who are deemed to be directors, to call the first board meeting following incorporation.
125 See Ontario *Not-for-Profit Corporations Act, 2010* section 32(2) requiring not less than 5 days' notice for the first Board meeting following incorporation.
126 See Ontario *Not-for-Profit Corporations Act, 2010* section 34(1).
127 See Ontario *Not-for-Profit Corporations Act, 2010* section34(4).
128 See Ontario *Not-for-Profit Corporations Act, 2010* section34(3) and section 36(2) which lists the purposes/business that must be specified in a notice of meeting.

(e) **Regular Meetings.** The Board may appoint a day or days in any month or months for regular Board meetings at an hour to be named. A copy of any such resolution of the Board shall be sent to each Director, Officer and Head of School and shall be posted on the Corporation's website but otherwise no other notice of regular meetings shall be required.

(f) **Board Meeting Following Annual General Meeting.** A meeting of the Board may be held, without notice, immediately following the annual general meeting of the Corporation.-[129]

(g) **Waiver.** No formal notice of a meeting of the Board is necessary if all the Directors are present or if those absent have signified their consent to the meeting being held without notice and in their absence. Further, any Director may at any time waive notice of a Board meeting.

(h) **Evidence of Notice.** The statutory declaration of the Secretary that notice has been given pursuant to this By-law shall be sufficient and conclusive evidence of the giving of such notice.

(i) **Errors or Omission.** No error or omission in giving notice for a meeting of the Board shall invalidate such meeting or invalidate or make void any proceedings taken or had at a Board meeting.

48. **Place of Meetings.** Board meetings shall be held at the registered office of the Corporation or at such other place as the Board may from time to time determine.[130]

49. **Means of Meetings.** If all the Directors consent, a meeting of Directors or of a committee of Directors may be held in whole or in part Electronically and in such event any Director participating in the meeting Electronically shall be deemed to be present at the meeting.[131]

50. **Attendance and Participation.** The below listed individuals shall be entitled to attend Board meetings and to the extent indicated below, participate thereat as follows:

(a) **Directors.** Directors shall be entitled to attend all Board meetings and shall be entitled to participate thereat by being heard (verbally and/or in writing),[132] debating and voting in accordance with this By-law, except in the event of a conflict of interest or inability to exercise independent judgment, in which case the subject Director shall not participate or otherwise attempt to influence decision making and shall follow such Board policies from time to time in place. For greater clarity, Directors cannot appoint proxies or other persons to act for them at Board meetings.[133]

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129 It is often customary to open a board meeting immediately after closing the annual general meeting at which the new board is elected, so that the new board can then appoint officers.
130 See Ontario *Not-for-Profit Corporations Act, 2010* section 34(1).
131 See Ontario *Not-for-Profit Corporations Act, 2010* section 34(6).
132 See Ontario *Not-for-Profit Corporations Act, 2010* section 33.
133 See Ontario *Not-for-Profit Corporations Act, 2010* section23(5).

(b) **Officers.** Unless the Board determines otherwise (see By-law section 51 for possible reasons),, Officers shall be entitled to attend all Board meetings and shall be entitled to participate thereat by being heard (verbally and/or in writing) but, for greater clarity, shall not be entitled to participate by debating or voting.

(c) **Head of School.** Unless the Board determines otherwise (see By-law section 51 for possible reasons), the Head of School of the Corporation shall be entitled to attend all Board meetings and shall be entitled to participate thereat by being heard (verbally and/or in writing) but, for greater clarity, shall not be entitled to participate by debating or voting.

(d) **Members.** Unless the Board determines otherwise (see By-law section 51 for possible reasons), Members shall be entitled to attend all Board meetings but shall not be entitled to participate thereat by being heard (verbally and/or in writing), by debating or voting.

(e) **Invited Guests.** Invited guests shall be entitled to attend Board meetings, on invitation of the Chair, the Board or with the consent of the meeting. Invited guests shall not be entitled to participate in Board meetings by voting or debating but shall be entitled to participate by being heard (verbally and/or in writing), if recognized by the chair of the meeting.

For greater clarity, if an individual attends a meeting of the Board in more than one capacity, such individual shall be entitled to participate in all capacities as outlined above.

51. **Circumstances Justifying Private Decision Making.** Circumstances in connection with which the Board may decide to exclude Officers, the Head of School and/or Members, include the following:

(a) Human resources matters relating to an individual employee or group of employees.

(b) Matters affecting the property of the Corporation.

(c) Matters involving litigation or legal advice that is subject to solicitor-client privilege.

(d) Matters that the Corporation is legally or contractually obligated to keep private.

(e) Any other matter which in the opinion of the Board would be in the best interests of the Corporation to keep out of the public domain.

52. **Chair.** The Chair shall chair Board meetings or if absent, unable or unwilling, the Vice-Chair and in the absence, inability or unwillingness of both the Chair and Vice-Chair, the Directors present shall by majority resolution choose another Director to act as chair of the meeting.

53. **Transaction of Business.**

(a) **Quorum.** A majority of the Directors shall form a quorum for the transaction of business by the Board.[134]

(b) **Debate and Decorum.**
  (i) No attendee shall speak:
    (1) Unless recognized by the chair of the meeting.
    (2) To a question at any one time for longer than 3 minutes.
    (3) If to do so would interrupt an attendee who is speaking except to raise a question of privilege or point of order.
  (ii) Attendees shall conduct themselves with decorum and obey any proper direction of the chair of the meeting.

(d) **Voting.** Voting shall be subject to and in accordance with the following:
  (i) Directors shall each have 1 vote on each question arising. For greater clarity the chair of the meeting, if a Director, shall be entitled to 1 vote but shall not have a 2nd or casting vote in the event of a tie.
  (ii) Questions arising at Board meetings shall be decided by a majority vote.
  (iii) Unless otherwise specified, every question shall be decided in the first instance by a show of hands. A ballot may be demanded by any Director, either before or after a show of hands. If a ballot be demanded, it shall be taken in such manner as the chair of the meeting shall direct.
  (vi) Unless a ballot be demanded, a declaration by the chair of the meeting that a resolution has been carried or not carried and an entry to that effect in the minutes of the Corporation shall be admissible in evidence as *prima facie* proof of the fact without proof of the number or proportion of the votes accorded in favour of or against such resolution.[135]

54. **Minutes.** The Secretary shall keep or cause to be kept minutes of all Board meetings.
  (a) name of the Corporation;
  (b) date, time and place of the meeting;
  (c) attendance at the meeting;
  (d) declarations of conflict of interest or inability to exercise independent judgment;
  (e) succinctly, accurately and clearly the material aspects of the Board's deliberations relative to the subject matter in sufficient detail to establish the Board has met all applicable duties;
  (f) precise wording of all motions but not the mover and seconder;
  (g) whether the motion carried but not the number of votes for and against or which Member voted which way; and
  (h) any objections or dissent requested by the maker to be put on record but otherwise not attribute specific comments to specific individuals.

COMMITTEES

55. **Managing Commitee.** The Board may from time to time appoint from among its number one or more managing committees[136] and delegate to any such committees any

134 See Ontario *Not-for-Profit Corporations Act, 2010* section 34(2). Note, quorum is calculated on the number of directors a corporation should have – not on the number it actually has.
135 See Ontario *Not-for-Profit Corporations Act, 2010* sections 38.
136 See Ontario *Not-for-Profit Corporations Act, 2010* section 36(1).

powers of the Board, except such powers that cannot be delegated as per the Ontario *Not-for-Profit Corporations Act, 2010.*[137]

56. **Other Committees.** In addition to any managing committee, the Board may from time to time establish such other committees as it determines necessary for the execution of the Board's responsibilities.

57. **Terms of Reference.** The Board shall establish and amend from time to time as appropriate terms of reference for all committees established by the Board with such terms of reference from time to time to be attached to this By-law.

58. **Committee Membership.** Membership on any managing committees shall be restricted to Directors. Membership on any other committees established by the Board may, but need not, be restricted to Directors.

59. **Dissolution.** The Board may dissolve any committee at any time.

OFFICERS

60. **Appointment of Officers.** The Board shall appoint Officers[138] as follows:

    (a) **Chair.** A Chair from among the Directors.-[139]

    (b) **Vice-Chair.** A Vice-Chair from among the Directors.[140]

    (c) **Treasurer.** A Treasurer from among the Directors.[141]

    (d) **Secretary.** A Secretary from among the Directors.

    (e) **Other Officers.** Such other officers as the Board may from time to time determine.

    An individual may hold more than 1 office, except for the offices of Chair and Vice-Chair.[142]

137 See Ontario *Not-for-Profit Corporations Act, 2010* section 36(2) providing that the following powers cannot be delegated: submit to the members any question or matter requiring the approval of the members; fill a vacancy among the directors or in the position of auditor or of a person appointed to conduct a review engagement of the corporation; appoint additional directors; issue debt obligations except as authorized by the directors; approve the Corporation's annual financial statements; adopt or repeal by-laws; and/or establish contributions to be made or dues to be paid by the members.

138 Officers are appointed to facilitate the work of the Board in accordance with the terms of their appointments. Officers and directors are distinct from one another, although often officers are also directors.

139 See Ontario *Not-for-Profit Corporations Act, 2010* section 42(2).

140 Ontario *Not-for-Profit Corporations Act, 2010* does not require the appointment of a vice-chair but such an appointment is common. This provision makes it a requirement.

141 Ontario *Not-for-Profit Corporations Act, 2010* does not require the appointment of a treasurer but such an appointment is common. This provision makes it a requirement.

142 See Ontario *Not-for-Profit Corporations Act, 2010* section 42(c).

61. **Job Descriptions.** The Board shall establish and amend from time to time as appropriate job descriptions for all offices appointed, with such job descriptions from time to time to be attached to this By-law.

62. **Removal.** Officers shall be subject to removal by resolution of the Board at any time for any reason or not reason whatsoever.

63. **Remuneration.** Officers who are also Directors shall not receive remuneration or profit from their positions as such.[143]

PROTECTION AND INDEMNITY

64. **No Liability.** No Director, Officer or committee member of the Corporation is liable for the acts, neglects or defaults of any other Director, Officer, committee member or employee of the Corporation or for joining in any receipt or for any loss, damage or expense happening to the Corporation through the insufficiency or deficiency of title to any property acquired by resolution of the Board or for or on behalf of the Corporation or for the insufficiency or deficiency of any security in or upon which any of the money of or belonging to the Corporation shall be placed out or invested or for any loss or damage arising from the bankruptcy, insolvency or tortious act of any person, firm or Corporation with whom or which any moneys, securities or effects shall be lodged or deposited or for any other loss, damage or misfortune whatever which may happen in the execution of the duties of his or her respective office or trust provided that they have:
    (a) complied with the Ontario *Not-for-Profit Corporations Act, 2010* and the Articles and By-laws; and
    (b) exercised their powers and discharged their duties in accordance with the Ontario *Not-for-Profit Corporations Act, 2010.*

65. **Indemnification.** Every Director, Officer, former Director or Officer or individual who acts or has acted at the Corporation's request as a director or officer, or in a similar capacity, or another entity, shall be indemnified by the Corporation against all costs, charges and expenses, including an amount paid to settle an action or satisfy a judgement reasonably incurred by the individual in respect of any civil, criminal, administrative, investigative or other action or proceeding in which the individua is involved because of that association with the Corporation or other entity, provided that:
    (a) The individual acted honestly and in good faith[144] with a view to the best interests of the Corporation or other entity, as the case may be.[145]
    (b) If the matter is a criminal or administrative proceeding that is enforced by a monetary penalty, the individual had reasonable grounds for believing that his or her conduct was lawful.[146]

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143 In the absence of a court order, it used to be that directors of charities could not personally benefit from the charity. This extended to being paid as an employee or in any other capacity or having an interest in a contract. Effective April 1, 2018, regulations were passed under the Ontario *Charities Accounting Act* relaxing these rules but only to a limited extent. For details see, Ontario Ministry of the Attorney General publication, Payments to Directors & Connected Persons.

144 Ontario *Charities Accounting Act* Regulation 4/01 section 2 prohibits indemnification for liability that relates to a failure to act honestly or in good faith in the performance of duties.

145 See Ontario *Not-for-Profit Corporations Act, 2010* section 46(3)(a).

146 See Ontario *Not-for-Profit Corporations Act, 2010* section 46(3)(b).

BY-LAW AMENDMENTS

66. **By-laws.** Any amendments to this By-law (not including the Attachments) shall be undertaken in accordance with the Ontario *Not-for-Profit Corporations Act, 2010*, provided that no amendment shall be effective until confirmed by the Members.[147] For greater clarity, the Board alone, may amend from time to time as appropriate, any of the Attachments to this By-law.

REPEAL OF PRIOR BY-LAWS

67. **Repeal.** Subject to By-law section 68, all prior by-laws of the Corporation are repealed.

68. **Proviso.** The repeal of prior by-laws shall not impair, in any way, the validity of any act.

Passed by the Board: December 24, 2021

John-Mark Jurak – Chair	**Michael Kennedy – Secretary**

Unanimously approved, ratified, sanctioned and confirmed by the Members of the Corporation: March 30, 2022.

John-Mark Jurak – Chair	**Michael Kennedy – Secretary**

147 See Ontario *Not-for-Profit Corporations Act, 2010* section 17.

ATTACHMENT 1: CHAIR JOB DESCRIPTION

The duties and responsibilities of the Chair shall, in addition to those as set out in the By-laws and other Board policies, be as noted below. The Chair shall:

1. **Facilitation.** The role of the Chair is principally one of facilitation. The Chair facilitates the Board's work. More specifically:
   - **Before meetings the Chair is responsible for:**
     - ➢ Planning the agenda with any input offered by different persons as appropriate, including: Directors and Members.
     - ➢ Ensuring that meeting agendas and supporting materials necessary to make needed decisions, are made available to Directors with enough time in advance to give them an opportunity to review and consider the materials before the meeting.
   - **During meetings the Chair is responsible for chairing the meeting and in connection therewith:**
     - ➢ **Balancing** those entitled to speak (making sure everyone has an opportunity to contribute to the discussion), **issues** (making sure issues are explored fully) and **time** (making sure time is managed appropriately and the meeting proceeds within the scheduled time frames).
     - ➢ Establishing and maintaining **decorum** – civility and mutual respect.
     - ➢ Ensuring **clarity** through appropriate commentary and questions.
   - **After and in between meetings the Chair is responsible for:**
     - ➢ Establishing and continually updating an annual agenda.
     - ➢ Encouraging Directors to bring forward agenda items and liaise with them about where on the annual agenda those items might best be addressed.
     - ➢ Continually reviewing and considering how meetings can be improved.
     - ➢ Liaising with the Vice-Chair to ensure that the Vice-Chair is prepared in the event she or he is required to act for the Chair.

2. **Procedural Compliance Monitoring.** The Chair is responsible to monitor or cause the monitoring of the conduct of the Board as a whole to ensure that it is consistent with the By-laws and applicable Board policies and to bring to the Board's attention any non-compliance. Further the Chair is responsible to monitor or cause the monitoring of individual Director compliance with the By-laws and any other applicable procedural requirements and is responsible for addressing non-compliance (e.g., repeated absences) by following up with individual Directors to ascertain reasons for the same with a view to providing supports/remediation, failing which bringing the matter to the Board's attention.

3. **Liaison of the Board.** The Chair is the agent of the Board. For greater clarity the Chair acts on behalf of the Board and has no individual authority to make decisions or supervise or direct employees or other representatives of the Corporation.

4. **Representation.** The Chair together and in cooperation with the Head of School, has the role of communicating the Corporation's position to the community and outside parties, in the absence of any contrary direction or the Board having delegated that role to others.

ATTACHMENT 2: VICE-CHAIR JOB DESCRIPTION

The duties and responsibilities of the Vice-Chair shall in addition to those as set out in the By-laws and other Board policies, be as noted below. For greater clarity, the Vice- Chair shall have no independent power or authority. The Vice-Chair shall:

1. Work collaboratively with the Chair to support the Board in fulfilling its responsibilities.

2. Liaise with the Chair to ensure that the Vice-Chair is prepared in the event she or he is required to act for the Chair.

3. Act for the Chair if the Chair is unable or unwilling to act as such.

ATTACHMENT 3: SECRETARY JOB DESCRIPTION

The duties and responsibilities of the Secretary shall in addition to those as set out in the By-laws and other Board policies, be as noted below. For greater clarity, the Secretary shall have no independent power or authority. The Secretary shall:

1. Work collaboratively with the Chair to support the Board in fulfilling its responsibilities.

2. Be the ex officio clerk of the Board.

3. Ensure appropriate documenting of the business of the Board sufficient to meet its legal, contractual and other requirements.

4. Ensure that the corporate records of the Corporation are maintained as required by law, contract or other authority and made available to authorized persons when required.

ATTACHMENT 4: TREASURER JOB DESCRIPTION

The duties and responsibilities of the Treasurer shall in addition to those as set out in the By-laws and other Board policies, be as noted below. For greater clarity, the Treasurer shall have no independent power or authority. The Treasurer shall:

1. Work collaboratively with the Chair and others to support the Board in fulfilling its responsibilities.

2. Lead any finance committee and be responsible to assist with the preparation of the annual operating budget, review any and all capital budget proposals and present options to the Boad for review.

3. Advise and assist the Board with understanding the Corporation's finances.

4. Suggest appropriate Board financial policies and procedures for monitoring the Corporation's finances.

5. Ensure monthly preparation and presentation to the Board of financial statements that compare results as to budget and the prior year and that explain any unexpected variances.

6. Work collaboratively to ensure completion of annual financial statements and any audit or review engagement reports.

7. Act for the Secretary if the Secretary is unable or unwilling to act as such.