



ORIGINAL 2003
FIRST AMENDMENT 2012
SECOND AMENDMENT 2014
THIRD AMENDMENT 2019

AMENDED AND RESTATED

BYLAWS

OF

THE FREEDOM ACADEMY FOUNDATION

A UTAH NONPROFIT CORPORATION



ORIGINAL 2003
FIRST AMENDMENT 2012
SECOND AMENDMENT 2014
THIRD AMENDMENT 2019

AMENDED AND RESTATED BYLAWS

OF

THE FREEDOM ACADEMY FOUNDATION

ARTICLE 0

LIMITATION ON ACTIVITIES

Section 0.1 No substantial part of the activities of this Foundation shall be the carrying on of propaganda, or otherwise attempting to influence legislation (except as otherwise provided by Section 501 (h) of the Internal Revenue Code), and this Foundation shall not participate in, or intervene in (including the publishing or distribution of statements), any political campaign on behalf of, or in opposition to, any candidate for public office. Notwithstanding any other provision of these Bylaws, this Foundation shall not carry on any activities not permitted to be carried on: (A) by a corporation exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code; or (B) by a corporation, contributions to which are deductible under Section 170(c)(2) of the Internal Revenue Code.

ARTICLE I

OFFICES

Section 1.1. Business Offices. The principal office of THE FREEDOM ACADEMY FOUNDATION (the “*Foundation*”) shall be located at 1190 W. 900 N., Provo, Utah 84604. The Foundation may have such other offices, either within or outside Utah, as the Executive Governing Board may designate or as the affairs of the Foundation may require from time to time. may require from time to time.

Section 1.2. Registered Office. The registered office of the Foundation required by Title 16, Chapter 6a Utah Code Annotated 1953, as amended (the “*Act*”) may be, but need not be, the same as the Foundation’s principal business office, in Utah. The initial registered office is the same as the initial principal office referenced above but is subject to change from time to time by the Executive Governing Board, by the officers of the Foundation, or as otherwise provided by the Act., or as otherwise provided by the Act.

ARTICLE II

MEMBERS

Section 2.1. Annual Meetings. No annual meetings of the Members shall be held.

Section 2.2. Special Meetings. Special meetings of the Members may be called by the Executive Governing Board, the CAO, or upon the written request of Members holding not less than ten percent (20%) of the total votes held by all Members, such written request to state the purpose or purposes of the meeting and to be delivered to the Executive Governing Board or the CAO

Section 2.3 Place of Meetings. The Executive Governing Board may designate any place in the State of Utah as the place of meeting for any meeting or for any special meeting called by the Executive Governing Board. A waiver of notice signed by all of the Members may designate any place, either within or without the State of Utah, as the place for holding such meeting. If no designation is made, or if a special meeting is otherwise called, the place of the meeting shall be 1761 W. 820 N., Provo, Utah 84601 (the secondary campus) .

Section 2.4 Notice of Meetings. The Executive Governing Board shall follow state statute regarding meeting noticing.

Section 2.5 Members of Record. Member is defined as the custodial parent(s) or legal guardian(s) of each student currently accepted in the school. Should a student have more than one custodial parent or legal guardian, the parents or legal guardians of such student shall collectively be one Member and shall act unanimously to the votes relating to their joint Membership. For the purpose of determining Members entitled to notice of or to vote at any meeting of the Members, or any adjournment thereof, the Executive Governing Board may designate a record date, which shall not be more than fifty (50) nor less than ten (10) days prior to the meeting, for determining Members entitled to notice of or to vote at any meeting of the Members. If no record date is designated, the date on which notice of the meeting is mailed or emailed shall be deemed to be the record date for determining Members entitled to notice of or to vote at the meeting. The persons appearing in the records of the Foundation on such record date as custodial parents or legal guardians of students currently accepted in the school shall be deemed to be the Members of record entitled to notice of and to vote at the meeting of the Members. The membership provisions of these bylaws may be altered from time to time in accordance with the Act, the Articles of Incorporation of the Foundation, and these bylaws to provide for the classification, qualifications, privileges and appointment of members as may be determined by the Executive Governing Board.

Section 2.6 Quorum. At any meeting of the Members, the presence of Members holding, or holders of proxies entitled to cast, more than twenty-five percent (25%) of the total votes held by all Members shall constitute a quorum for the transaction of business. In the event a quorum is not present at a meeting, the Members present (whether represented in person or by proxy), though less than a quorum, may adjourn the meeting to a later date. Notice thereof shall be delivered to the Members as provided above. At the reconvened meeting, the Members and proxy holders present shall constitute a quorum for the transaction of business.

Section 2.7 Proxies. At any meeting of the Members, each Member entitled to vote shall

be entitled to vote in person or by proxy; provided, however, that the right to vote by proxy shall exist only where the instrument authorizing such proxy to act shall have been executed by the Member himself or by his attorney thereunto duly authorized in writing. If a Membership is jointly held, the instrument authorizing a proxy to act must have been executed by all holders of such Membership or their attorneys thereunto duly authorized in writing. Such instrument authorizing a proxy to act shall be delivered at the beginning of the meeting to such officer or person who may be acting as secretary of the meeting. The secretary of the meeting shall enter a record of all such proxies in the minutes of the meeting.

Section 2.8 Votes. With respect to each mailer (electronic or otherwise) submitted to a vote of the members, each Member entitled to vote at the meeting shall have the right to cast, in person or by proxy, one vote. The affirmative vote of a majority of the votes entitled to be cast by the Members present or represented by proxy at a meeting at which a quorum was initially present shall be necessary for the adoption of any matter voted on by the Members, unless a greater proportion is required by the Articles of Incorporation, these Bylaws, the Declaration, or Utah law. If a membership is jointly held, all or any holders thereof may attend each meeting of the Members, but such holders must act unanimously to cast the votes relating to their joint Membership.

Section 2.9 Waiver of Irregularities. All inaccuracies and irregularities in calls or notices of meetings and in the manner of voting form of proxies, and method of ascertaining Members present shall be deemed waived if no objection thereto is made at the meeting.

Section 2.10 Informal Actions. Any action that is required or permitted to be taken at a meeting of the Members may be taken without a meeting, if a consent in writing, setting forth the action so taken, shall be signed by all of the Members entitled to vote with respect to the subject matter thereof.

Section 2.11 Executive Governing Board Member positions. Executive Governing Board positions are filled by appointment. Qualified candidates will submit resumes of qualifications to serve on the Executive Governing Board.

(a) The Executive Governing Board elects Executive Governing Board members to the CAO and CFO roles (as those terms are defined below) at the first governing Executive Governing Board meeting following the resignation of the CAO or CFO or after five (5) years of position service. The CAO and CFO will continue in their position until the end of their term.

(b) At the first Executive Governing Board meeting following a resignation of a CAO or CFO prior to the end of their term, the Executive Governing Board elects the CAO or CFO from among its body. The CAO and the CFO role assignments are determined through a secret ballot process at the Executive Governing Board. The Executive Governing Board votes on the CAO role first, and then the CFO role. To begin, Executive Governing Board members nominate individuals on the Executive Governing Board for one of the roles. Following nominations, voting proceeds by secret ballot and results are tallied by the Executive Director. When more than two nominees are slated for a position, voting proceeds in a minimum of two rounds. After the first round, the two members receiving the most votes

are advanced for consideration to the second round. The final round votes are cast between two candidates. In the event that nominations for only one candidate are received, members may still vote for the candidate of their choice, even if that candidate is not on the nomination slate in the first round. A simple majority is sufficient to elect.

ARTICLE II

EXECUTIVE GOVERNING BOARD MEMBERS

Section 3.1 Number, Election, Tenure and Qualifications.

The Executive Governing Board shall be comprised of five (5) voting Executive Governing Board members. These appointees are appointed by the Executive Governing Board members to serve a five (5) year term of office. An Executive Governing Board member's term of office shall begin at the day of their appointment.

In the event an Executive Governing Board member does not or cannot complete their term of service, or is removed, the Executive Governing Board shall appoint someone to serve in the seat vacated.

The Foundation's Executive Director also sits on the Executive Governing Board as a non-voting (ex-officio) member. Paid employees of the Foundation may not serve as voting Executive Governing Board Members.

Section 3.2. Vacancies. Any Executive Governing Board Member may resign at any time by giving written notice to at least two other Executive Governing Board Members. Such resignation shall take effect at the time specified therein, and unless otherwise specified, of the acceptance of such resignation shall not be necessary to make it effective. Any vacancy occurring in the Executive Governing Board shall be filled in the same manner as set forth for the appointment of such Executive Governing Board Member in Section 2.11(a). An Executive Governing Board Member appointed to fill a vacancy shall serve for a minimum of five (5) years. He or she replaces and must meet the qualifications applicable to the position on the Governing Executive Governing Board to be filled. If any question arises concerning the application of Section 2.11(a) to the election or appointment of Executive Governing Board Members, such question shall be resolved in deference to the continued qualification of the Foundation under IRC §§501(c)(3) and 509(a)(3).

Section 3.3. Standards of Conduct An Executive Governing Board Member shall discharge his or her duties as Executive Governing Board Member:

- (a) In good faith;
- (b) With the care an ordinarily prudent individual in a like position would exercise under similar circumstances; and

(c) In a manner the Executive Governing Board Member reasonably believes to be in the best interest of the Foundation.

Section 3.4. Regular Meetings. Regular meetings of the Executive Governing Board shall be held at least four (4) times a year at such time and place as may be determined by the Executive Governing Board, for the purpose of transaction of such business as may come before the meeting. The Executive Governing Board may provide by resolution the time and place, either within or outside the State of Utah, for the holding of regular meetings.

Section 3.5. Special Meetings. Special meetings of the Executive Governing Board may be called by or at the request of any two Executive Governing Board Members. The individual or individuals authorized to call special meetings of the Executive Governing Board may fix any place as the place, either within or outside Utah, for holding any special meeting of the Executive Governing Board called by them. called by them.

Section 3.6. Notice. Notice of each meeting of the Executive Governing Board. The Executive Governing Board shall follow state statute regarding meeting noticing. If special notice was required for a particular purpose, the Executive Governing Board Member must object to the purpose for which the special notice was required, and after objecting, refrain from voting for or assenting to the action taken at the meeting with respect to the purpose, or the Executive Governing Board Member's attendance will constitute a waiver of notice's attendance will constitute a waiver of notice.

Section 3.7. Quorum, Voting, Procedure, and Super Majority Decisions. Three (3) of the five (5) Executive Governing Board Members shall constitute a quorum for the transaction of business at any meeting of the Executive Governing Board except in cases where a super-majority decision is required. The vote of a majority of the Executive Governing Board Members present in person at a meeting at which a quorum is present shall be the act of the Executive Governing Board. If less than a quorum is present at a meeting, business may be discussed by the Executive Governing Board Members present provided that no decision may be made by the Executive Governing Board. In addition, if less than a quorum is present at a meeting, a majority of the Executive Governing Board Members present may adjourn the meeting from time to time without further notice other than an announcement at the meeting, until a quorum shall be present. No Executive Governing Board Member may vote or act by proxy at any meeting of Executive Governing Board Members. The CAO or his or her designate chairs Executive Governing Board meetings. Before a vote can be taken at the Executive Governing Board, a motion for the same must be made by an Executive Governing Board member and that motion must be seconded. Several specific types of decisions require four (4) of five (5) votes before the Executive Governing Board may act. Such decisions pertain to major strategic turning points for the school. They include: (1) Major real estate or development transactions, leasehold improvements, or capital expenditures totaling \$50,001 or more; (2) dismissal of the Executive Director; (3) a movement to change the Freedom Academy By-Laws or Freedom Academy Charter (the changes for which must also be voted on by the parent body with a majority to be successful); (4) Direct removal of an Executive Governing Board Member. The appointment of a new Executive Governing Board member can be approved by a simple majority vote.

Section 3.08. Presumption of Assent. An Executive Governing Board Member of the Foundation who is present at a meeting of the Executive Governing Board at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless the Executive Governing Board Member, at the beginning of the meeting, objects to holding the meeting or transacting business at the meeting, and after objecting, does not vote for or assent to any action taken at the meeting. The Executive Governing Board Member must also, at the same time, request that his or her dissent shall be entered in the minutes of the meeting or file his or her written dissent to such action with the presiding officer of the meeting before the adjournment thereof or with the Foundation promptly after adjournment of the meeting. The Executive Governing Board Member shall forward such dissent by registered mail to the CFO of the Foundation immediately after the adjournment to the meeting. No Executive Governing Board Member may dissent regarding an action for which the Executive Governing Board Member voted in favor.

Section 3.09. Compensation. Executive Governing Board Members shall not receive compensation for their services as such, although the reasonable stipends and expenses for Executive Governing Board Members for attendance at Executive Governing Board meetings may be paid or reimbursed by the Foundation. Executive Governing Board Members shall not be disqualified to receive reasonable compensation for services rendered to or for the benefit of the Foundation in any other capacity.

Section 3.10. Executive and Other Committees. The CAO may designate from among Executive Governing Board Members an executive committee and one or more other committees. Executive Governing Board committees are chaired or co-chaired by one or more Executive Governing Board members and may include parents, teachers, or other members of the community. Committees are responsible to the Executive Governing Board for the discharge of their duties and responsibilities. Committees are not separate decision-making bodies but are instead charged to develop recommendations, proposals, plans, or perspectives that may be used by the Executive Governing Board in the discharge of Executive Governing Board duties. Executive Governing Board committees may be convened around any topic or objective. Typical committees include education, finance, hiring, strategic planning, communications, fundraising, facilities, or others as needed. The delegation of authority to any committee shall not operate to relieve the Executive Governing Board or any member of the Executive Governing Board from any responsibility imposed by law. Rules governing procedures for meetings of any committee of the Executive Governing Board shall be as established by the Executive Governing Board, or in the absence thereof, by the committee itself, or in the absence thereof, by the committee itself.

Section 3.10.1. School Level Board Representatives. The Executive Governing Board Members may establish and appoint a two (2) member, non-voting, non-binding advisory board to represent each campus individually. These board members will be appointed out of the membership of each school.

Section 3.11. Executive Governing Board Meetings to Be Public. All meetings of the Executive Governing Board, whether Regular or Special, shall comply with the Utah Open and Public Meetings Act (Utah Code Ann. 52-4-1 *et. seq.*) except that, upon a vote of a majority of the Executive Governing Board Members present, an executive session may be held to discuss any one or more of the approved allowances in the Utah Code for executive sessions. The motion requesting the executive session shall state the nature of the matter to be discussed. Only those

persons invited by the Executive Governing Board may be present during the executive session. The Executive Governing Board shall not make final policy decisions, nor shall any resolution, rule, regulation, or formal action or any action approving a contract or calling for the payment of money be adopted or approved at any session which is closed to the general public. Matters discussed during executive sessions shall remain confidential among those attending. Agenda items for Executive Governing Board meetings may be provided by anyone from the school community but must be submitted to the CAO by email or otherwise a minimum of three (3) days before a public meeting. The CAO may choose to prioritize or reject agenda items at his or her discretion. The agenda is posted a minimum of twenty-four (24) hours prior to the public Executive Governing Board meeting. A period for public comment is designated at each meeting with the length of the comment period to be determined by the CAO. The public does not participate in Executive Governing Board meetings outside of the public comment period except by invitation of the CAO or his or her designate during the course of the meeting.

Section 3.12. Removal of an Executive Governing Board Member. The impetus for removal of an Executive Governing Board member may come from either members of the Executive Governing Board or from a member of the parent body.

(a) Impetus coming from another Executive Governing Board member. When the impetus for removing an Executive Governing Board member comes from a member of the Executive Governing Board, the following steps must be followed:

- (1) A letter of grievance is delivered to the CAO;
- (2) The CAO, at his or her sole discretion may call a meeting between the CAO, the aggrieved party, and the accused Executive Governing Board member to address the issue(s) raised. (In the case in which the CAO is the target of the removal campaign, the procedures in paragraph 3.14(c) must be followed). Possible outcomes of the meeting are
 - a. proceed directly to step 3;
 - b. provide the accused Executive Governing Board member a warning, which must be committed to writing, and a timeline for improving or rectifying the behavior giving rise to the charge;
 - c. targeted Executive Governing Board member resigns;
 - d. the incident is dropped.

In the case of outcome (b), the effort to remove the Executive Governing Board member halts until it is taken up again at the deadline set forth in (b). In the case of outcome (c), a new Executive Governing Board Member shall be appointed. In the case of outcome (d), or in the case in which the CAO refuses to call a meeting between the aggrieved and the accused, the matter is dropped. The aggrieved party may then elect to follow the procedures of paragraph 2.9.3 at his or her discretion.

- (3) The matter is brought to a public meeting of the Executive Governing Board.

(b) Motion in Executive Governing Board meeting to remove an Executive Governing Board member or hold recall election. Following Step 3 of paragraph 3.14 the

matter of the grievance must be placed on the Executive Governing Board agenda for a public hearing. During the meeting, the accusing party lays out the grievance. A period of Executive Governing Board and public comment follows. Following the discussion, a motion may be made to move to a vote on whether to remove the Executive Governing Board member. If the motion is seconded, the vote is held, but a vote may not be held unless at least four (4) voting members of the Executive Governing Board are present. Four (4) out of five (5) Executive Governing Board votes removes the member from the Executive Governing Board directly. The Executive Governing Board member's term of service automatically ends at the end of the four (4) out of five (5) vote. Fewer than three (3) votes fails to carry the motion. If the Executive Governing Board member is removed, a new Executive Governing Board Member will be appointed at the next Executive Governing Board meeting.

(c) Impetus coming from a parent or teacher. When the impetus for removing an Executive Governing Board member comes from a parent or an Executive Governing Board member who is unable to generate support for his or her cause at the Executive Governing Board, or when the CAO is the target of the removal campaign, the following steps must be followed: (1) The parent/teacher creates a petition to remove the targeted Executive Governing Board member. The petition is considered successful when twenty-five (25) percent of the Membership currently enrolled at each campus, have signed. (2) The successful petition is brought to a public meeting of the Executive Governing Board. If the petition contains the requisite number of signatures (to be verified by the Executive Governing Board), that Executive Board Member will be immediately removed.

ARTICLE IV

OFFICERS AND AGENTS

Section 4.1. Number and Qualifications. The officers of the Foundation shall be a Chief Administrative Officer ("CAO") and a Chief Financial Officer ("CFO"). The CAO and CFO must be Members of the Foundation for a minimum of three (3) consecutive years. The CAO may assign other roles on the Executive Governing Board in cooperation with Executive Governing Board Members. The Executive Governing Board may also appoint such other officers, assistant officers and agents, as it may consider necessary. One individual may hold more than one office at a time.

Section 4.2. Power/Duties. Executive Governing Board may delegate to any officer of the Foundation or any committee of the Executive Governing Board the power to appoint, remove and prescribe the duties of other officers, assistant officers, and agents the power to appoint, remove and prescribe the duties of other officers, assistant officers, and agents.

Section 4.3. Resignation. Executive Governing Board. An officer's resignation shall take effect at the time specified in the notice, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective. An officer's resignation shall take effect at the time specified in the notice, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 4.4. Election and Term of Office. The CAO and CFO of the Foundation shall be elected by the Executive Governing Board. Each officer shall hold office until the officer's successor shall have been duly elected and shall have qualified, or until the officer's death, resignation or removal. If the election of such officers shall not be held at such meeting, such election shall be held as soon as convenient thereafter.

Section 4.5. Removal. Only in accordance with these Bylaws and the Foundation's Charter.

Section 4.6. Vacancies. A vacancy in any office because of death, resignation, removal, disqualification, or otherwise shall be filled by the Executive Governing Board.

Section 4.7. Compensation. No compensation is given.

Section 4.8. Authority and Duties of Officers. The officers of the Foundation shall have the authority and shall exercise the powers and perform the duties specified below and as may be additionally specified by the CAO, the Executive Governing Board or these bylaws, except that in any event each officer shall exercise such powers and perform such duties as may be required by law.

(a) *CAO.* The CAO oversees Executive Governing Board activities; acts as decision maker of final resort for non-voting issues; directly supervises the Executive Director, with input from other Executive Governing Board members; organizes, facilitates, and presides at Executive Governing Board meetings; acts as primary representative of the school to state and regulatory bodies; performs all other duties of administration outlined herein. The CAO is authorized to co-sign expenditure checks.

(b) *CFO.* The CFO oversees budgeting process and planning; prepares financial reports; administers financial controls; co-signs expenditure checks with others authorized; secures funding and other sources of revenue; files state financial reports; oversees grant-writing together with Executive Director; frequently reports on financial status of the Academy to the Executive Governing Board.

Section 4.9. Multiple Offices. Foundation.

Section 4.10. Surety Bonds. The Executive Governing Board may require any officer or agent of the Foundation to execute to the Foundation a bond in such sums and with such sureties as shall be satisfactory to the Executive Governing Board, conditioned upon the faithful performance of such individual's duties and for the restoration to the Foundation of all books, papers, vouchers, money and other property of whatever kind in such individual's possession or under such individual's control belonging to the Foundation..

ARTICLE V

EXECUTION OF INSTRUMENTS

Section 5.1. Checks, Drafts, ACH, etc. All checks, drafts and orders for payment of money, and notes or other evidences of indebtedness issued in the name of the Foundation shall be signed by such officer or officers, or agent or agents of the Foundation and in such manner as shall from time to time be determined by resolution of the Executive Governing Board..

Section 5.2 Deposits. All funds of the Foundation not otherwise employed shall be deposited from time to time to the credit of the Foundation in such banks, trust companies or other depositories as the Executive Governing Board may select.

Section 5.3. Contracts The Executive Governing Board may authorize any officer or officers, or agent or agents, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Foundation, and such authority may be general or confined to specific instances, and such authority may be general or confined to specific instances.

Section 5.4. Conflicts of Interest. Executive Governing Board Members and officers of the Foundation shall have no undisclosed economic interest in the process of securing contracts. No bid or contract, other than an employment contract as an officer of the Foundation, may be awarded to (i) an Executive Governing Board Member or officer of this Foundation, (ii) any entity which such individual owns, directly or indirectly or through relatives, more than thirty-five percent (35%) of the voting interest thereof, (iii) any entity of which such individual is an Executive Governing Board Member or officer, or has a financial interest, or (iv) a relative of such individual, meaning his or her spouse, ancestor, brother, sister, children, grandchildren or the spouses of brothers, sisters, children or grandchildren, unless such relationship has been disclosed to the Executive Governing Board and the Executive Governing Board or committee thereof in good faith authorizes the award by the affirmative vote of a majority of the disinterested Executive Governing Board Members, even though the disinterested Executive Governing Board Members are less than a quorum.

ARTICLE VI

POWER OF THE EXECUTIVE GOVERNING BOARD TO BORROW MONEY

The Executive Governing Board shall have full power and authority to borrow money whenever in the discretion of the Executive Governing Board the exercise of such power is required in the general interests of this Foundation, and in such case the Executive Governing Board may authorize the proper officers of this Foundation to make, execute and deliver in the name of and in behalf of this Foundation such notes, bonds and other evidences of indebtedness as the Executive Governing Board shall deem proper, and the Executive Governing Board shall have full power to mortgage the property of this Foundation, or any part thereof, as security for such indebtedness, and no further action shall be requisite to the validity of any such note, bond, evidence of indebtedness or mortgage.

ARTICLE VII

INDEMNIFICATION

Section 7.1. Indemnification.

(a) To the extent allowed by the Articles of Incorporation and law, the Foundation shall indemnify against reasonable expenses incurred in the proceeding, any Executive Governing Board Member or officer who was successful on the merits in any proceeding or matter in the proceeding, to which the Executive Governing Board Member was a party by reason of having served as an Executive Governing Board Member or officer of the Foundation.

(b) The Foundation may indemnify an individual made a party to a proceeding because the individual is or was an Executive Governing Board Member, officer, employee, fiduciary or agent of the Foundation or of any other corporation at the request of the Foundation, or by reason of any action alleged to have been taken, omitted or neglected as such Executive Governing Board Member, officer, employee, fiduciary or agent against reasonable expenses incurred in connection with the proceeding, if:

1. the individual's conduct was in good faith;
2. the individual reasonably believed that the individual's conduct was in the corporation's best interests; and
3. in the case of any criminal proceeding, the individual had no reasonable cause to believe the individual's conduct was unlawful.

(c) The Foundation shall not indemnify an Executive Governing Board Member, or officer, employee, fiduciary, or agent in connection with a proceeding in which such individual was adjudged liable to the Foundation, or in connection with any other proceeding charging that the individual derived an improper personal benefit, whether or not involving action in the individual's official capacity, in which proceeding the individual was adjudged liable on the basis that the individual derived an improper personal benefit.

Section 7.2. Advances of Costs and Expenses. Foundation may pay for reasonable expenses incurred by an Executive Governing Board Member, officer, employee or agent (in defending a civil or criminal action, suit or proceeding) who is a party to a proceeding in advance of final disposition of the proceeding if:

- (i) the individual furnishes the Foundation a written affirmation of the individual's good faith belief that the individual has met the applicable standard of conduct described above.
- (ii) the individual furnishes the Foundation a written undertaking, executed personally or on the individual's behalf, to repay the advance, if it is ultimately determined that the individual did not meet the standard of conduct; and

(iii) a determination is made that the facts then known to those making the determination would not preclude indemnification.

Section 7.3. Insurance. By action of the Executive Governing Board, notwithstanding any interest of the Executive Governing Board Members in such action, the Foundation may, subject to Section 7.5, purchase and maintain insurance, in such amounts as the Executive Governing Board may deem appropriate, on behalf of any individual indemnified hereunder against any liability asserted against such individual and incurred by such individual in such individual's capacity of or arising out of such individual's status as an agent of the Foundation, whether or not the Foundation would have the power to indemnify such individual against such liability under applicable provisions of law. The Foundation may also purchase and maintain insurance, in such amounts as the Executive Governing Board may deem appropriate, to insure the Foundation against any liability, including without limitation, any liability for the indemnifications provided in this Article.

Section 7.4. Right to Impose Conditions to Indemnification. The Foundation shall have the right to impose, as conditions to any indemnification provided or permitted in this Article, such reasonable requirements and conditions as the Executive Governing Board may deem appropriate in each specific case, including but not limited to any one or more of the following: (a) that any counsel representing the individual to be indemnified in connection with the defense or settlement of any action shall be counsel that is mutually agreeable to the individual to be indemnified and to the Foundation; (b) that the Foundation shall have the right, at its option, to assume and control the defense or settlement of any claim or proceeding made, initiated or threatened against the individual to be indemnified; and (c) that the Foundation shall be subrogated, to the extent of any payments made by way of indemnification, to all of the indemnified individual's right of recovery, and that the individual to be indemnified shall execute all writings and do everything necessary to assure such rights of subrogation to the Foundation..

Section 7.5. Limitation on Indemnification. Notwithstanding any other provision of these bylaws, the Foundation shall neither indemnify any individual nor purchase any insurance in any manner or to any extent that would jeopardize or be inconsistent with qualification of the Foundation as an organization described in Section 501(c)(3) of the Internal Revenue Code or would result in liability under Section 4941 of the Internal Revenue Code. as an organization described in Section 501(c)(3) of the Internal Revenue Code or would result in liability under Section 4941 of the Internal Revenue Code.

ARTICLE VIII

LIMITATION ON LIABILITY

No Executive Governing Board Member or officer of this Foundation shall be personally liable to the Foundation for civil claims arising from acts or omissions made in the performance of such individual's duties as an Executive Governing Board Member or officer, unless the acts or omissions are the result of such individual's intentional misconduct.

ARTICLE IX

LIMITATIONS

Section 9.1. Prohibition Against Sharing in Corporate Earnings. No Executive Governing Board Member, officer or employee of or individual or entity connected with the Foundation, or any other private individual shall receive at any time any of the net earnings or pecuniary profit from the operations of the Foundation, provided that this shall not prevent the payment to any such individual or entity of such reasonable compensation for services rendered to or for the Foundation in effecting any of its purposes as shall be fixed by the Executive Governing Board; and no such individual or individuals shall be entitled to share in the distribution of any of the corporate assets upon the dissolution of the Foundation. All Executive Governing Board Members of the Foundation shall be deemed to have expressly consented and agreed that upon such dissolution or winding up of the affairs of the Foundation, whether voluntary or involuntary, the assets of the Foundation, after all debts have been satisfied, then remaining in the hands of the Executive Governing Board shall be distributed, transferred, conveyed, delivered, and paid over, in such amounts as the Executive Governing Board may determine or as may be determined by a court of competent jurisdiction upon application of the Executive Governing Board, exclusively to charitable, religious, scientific, literary, or educational organizations which would then qualify under the provisions of Section 501(c)(3) of the Internal Revenue Code of 1986 and the regulations promulgated thereunder as they now exist or as they may hereafter be amended., exclusively to charitable, religious, scientific, literary, or educational organizations which would then qualify under the provisions of Section 501(c)(3) of the Internal Revenue Code of 1986 and the regulations promulgated thereunder as they now exist or as they may hereafter be amended.

Section 9.2. Investments. The Foundation shall have the right to retain all or any part of any securities or property acquired by it in whatever manner, and to invest and reinvest any funds held by it, according to the judgment of the Executive Governing Board, without being restricted to the class of investments which a nonprofit corporation is or may hereafter be permitted by law to make, or any similar restriction, provided, however, that no action shall be taken by or on behalf of the Foundation if such action is a prohibited transaction or would result in the denial of the tax exemption under Sections 502 or 503 or any other Section of the Internal Revenue Code of 1986 and the Regulations promulgated thereunder as they now exist or as they may hereafter be amended. if such action is a prohibited transaction or would result in the denial of the tax exemption under Sections 502 or 503 or any other Section of the Internal Revenue Code of 1986 and the Regulations promulgated thereunder as they now exist or as they may hereafter be amended.

Section 9.3. Exempt Activities. Notwithstanding any other provision of these bylaws, no Executive Governing Board Member, officer, employee, or representative of this Foundation shall take any action or carry on any activity by or on behalf of the Foundation not permitted to be taken or carried on by a supporting organization exempt under Section 509(a)(3) of the Internal Revenue Code of 1986 and the Regulations promulgated thereunder as they now exist or as they may hereafter be amended, or by an organization contributions to which are deductible under Section 170(c)(2) of such Code and the Regulations promulgated thereunder as they now exist or as they may hereafter be amended. not permitted to be taken or carried on by a supporting organization exempt under Section 509(a)(3) of the Internal Revenue Code of 1986 and the Regulations promulgated thereunder as they now exist or as they may hereafter be amended, or by an

organization contributions to which are deductible under Section 170(c)(2) of such Code and the Regulations promulgated thereunder as they now exist or as they may hereafter be amended.

ARTICLE X

MISCELLANEOUS

Section 10.1. Account Books, Minutes, Etc. The Foundation shall keep correct and complete books and records of account and shall also keep minutes of the proceedings of its Executive Governing Board and committees. All books and records of the Foundation may be inspected by any Member, such Member's authorized agent or attorney, for any proper purpose at any reasonable time's authorized agent or attorney, for any proper purpose at any reasonable time.

Section 10.2. Fiscal Year. The fiscal year of the Foundation shall be July 1, to June 30.

Section 10.3. Conveyances and Encumbrances. Property of the Foundation may be assigned, conveyed or encumbered by such officers of the Foundation as may be authorized to do so by the Executive Governing Board, and such authorized individuals shall have power to execute and deliver any and all instruments of assignment, conveyance and encumbrance; however, the sale, exchange, lease or other disposition of all or substantially all of the property and assets of the Foundation shall be authorized only in the manner prescribed by applicable statute. shall be authorized only in the manner prescribed by applicable statute.

Section 10.4. Designated Contributions. The Foundation may accept any designated contribution, grant, bequest or devise consistent with its general charitable and tax-exempt purposes, as set forth in the Articles of Incorporation. As so limited, donor designated- contributions will be accepted for special funds, purposes or uses, and such designations generally will be honored. However, the Foundation shall reserve all right, title and interest in and to and control of such contributions, as well as full discretion as to the ultimate expenditure or distribution thereof in connection with any special fund, purpose or use. Further, the Foundation shall acquire and retain sufficient control over all donated funds (including designated contributions) to assure that such funds will be used to carry out the Foundation's tax-exempt purposes.

Section 10.5. Loans to Executive Governing Board Members and Officers Prohibited. No loans shall be made by the Foundation to any of its Executive Governing Board Members or officers.

Section 10.6. References to Internal Revenue Code. All references in these bylaws to provisions of the Internal Revenue Code are to the provisions of the Internal Revenue Code of 1986, as amended, and shall include the corresponding provisions of any subsequent federal tax laws. All references in these bylaws to provisions of the Internal Revenue Code are to the provisions of the Internal Revenue Code of 1986, as amended, and shall include the corresponding provisions of any subsequent federal tax laws.

Section 10.7. Amendment. The power to alter, amend, restate or repeal these bylaws and adopt new bylaws or to alter, amend or restate the Foundation's Articles of Incorporation shall be vested in the Executive Governing Board. Any amendment must be approved by an affirmative vote of four (4) of the five (5) Executive Governing Board Members at any regular or special meeting of the Executive Governing Board.

Section 10.8. Severability. The invalidity of any provision of these bylaws shall not affect the other provisions hereof, and in such event these bylaws shall be construed in all respects as if such invalid provision were omitted.

[the remainder of this page is intentionally left blank; this is the final page of the Bylaws]

THE FREEDOM ACADEMY FOUNDATION

BYLAWS CERTIFICATE

The undersigned certifies that he is the Chief Administrative Officer of THE FREEDOM ACADEMY FOUNDATION, a Utah nonprofit corporation, and that, as such, he is authorized to execute this certificate on behalf of said corporation, and further certifies that attached hereto is a complete and correct copy of the presently effective bylaws of said corporation.

Dated effective as of the _____ day of _____, 2018.

_____, CAO