



## **BYLAWS**

### **ARTICLE 1- OFFICES**

1.1 Principal Office – The principal office of Mountain Song Community School, (the “School” or “MSCS”) is located at 2904 W. Kiowa St., Colorado Springs, Colorado 80904. The School may have such other offices, either within or outside Colorado, as the Board of Directors may designate or as the affairs of the School may require from time to time.

1.2 Registered Office – The registered office of the School is required by the Colorado Nonprofit Corporation Act to be maintained in Colorado and may be, but need not be, the same as the principal office if in Colorado. And, the address of the registered office may be changed from time to time by the Board of Directors or by the officers of the School.

### **ARTICLE 2 - NO MEMBERS**

The School shall have no members per Article 5 of the Articles of Incorporation.

### **ARTICLE 3 - BOARD OF DIRECTORS**

3.1 General Powers – The business and affairs of the School shall be governed by its Board of Directors, except as otherwise provided in the Colorado Nonprofit Corporation Act, the Articles of Incorporation, or these Bylaws.

3.2 Number and Qualifications – Members of the Board of Directors of the School shall be natural persons at least eighteen (18) years of age or older. The minimum number of board members shall be five (5) and the maximum number shall be eleven (11). By resolution, the Board shall establish the number of board members to serve on the Board at any time.

To be qualified to serve on the School’s Board, each board member must agree to:

- Be familiar with the MSCS Charter School Application and Contract,
- Support the educational philosophy and administrative structure of the School,
- Read *Understanding Waldorf Education* by Jack Petrash and any additional materials that the Board deems appropriate,
- Follow parliamentary procedures, using *Robert’s Rules of Order* as a reference, in Board related meetings,

- Read Colorado Department of Education's *Charter School Governing Board Training Handbook* and complete all required trainings regarding charter school governance,
- Demonstrate (quarterly) proficiency in the School's Waldorf inspired program, best practices in non-profit and charter school governance, and understanding of academic achievement data. (This may include a schedule of training opportunities provided to each member with a requirement of participation in one per quarter. Training opportunities may include webinars, bringing in consultants, Colorado Department of Education and Colorado League of Charter Schools' conferences/meetings, attending teacher development days, Waldorf conferences/lectures, etc.),
- Participate in yearly self-evaluations and board retreat,
- Read and abide by MSCS' Articles of Incorporation, Bylaws and Conflict of Interest and Anti-Nepotism policies, and
- Read and sign the Board Handbook and Agreement.

Parents of current students and members of the community at large may serve on the Board. Prior board experience is helpful but not required. The School Director shall be a non-voting *ex-officio* member of the Board. Upon the formation of the College of Teachers, the Chair(s) of the College of Teachers shall also be non-voting *ex-officio* member(s) for the Board. Subject thereto, no faculty or other staff member may be a candidate or serve on the Board due to the inherent conflict of interest in having an employee of the School on the Board of Directors.

A high value for professionalism and the success of the School is mandatory. Motivation for serving on the Board of Directors shall be to help facilitate the educational success of students. All board members are required to attend a yearly board conference during which the goals of the Board are defined, a Board self-evaluation critiqued and other pertinent topics are discussed.

Board members shall exemplify integrity, honesty, and respect. A dedication and commitment to the mission and vision of the School shall be the highest priority for any board member. Any board member finding him/herself involved in an irresolvable conflict shall put the vision of the School first and foremost. Board members shall demonstrate initiative in remaining informed about the School's activities and progress through regular attendance at Board meetings and other planned meetings and through reading School reports and recommended publications.

A board member is prohibited from using his/her position of authority while acting in a parent or volunteer role at the School. Board members shall foster good relationships with the School Director and staff on a personal level. With humility, each board member will serve the best interests of the School.

3.3 Board Member Competencies – Diversity of expertise and perspective and connection to the community are important factors to consider. The School will seek board members who are working or have worked as professionals in such careers as education, business, human resources, development, fundraising, real estate, military, government, management, personnel, marketing, law, or finance. In addition, the School will benefit greatly from recruiting at least (a) two current parents, (b) one community leader and (c) one individual who is not a parent.

3.4 Appointments – All board members comprising the initial Board shall be recruited and selected by the Founding Group (which consists of Neah Bay Douglas, Stephanie Fernyak, Raj Solanki, Laurie Ristig, Eva Manz-Jackson, Elise Bowan, Linda Johnson and Rita Issagholian) and will consist of Founding Group members who wish to serve on the Board and individuals from the Steering Committee, current parents and community at large who exhibit the Board Member Competencies described above. All subsequent board members shall be appointed by the Board. To be appointed, a candidate must satisfy the qualifications set forth in these Bylaws and receive a super-majority vote of the Board, *i.e.*, receive at least two-thirds affirmative votes of the total number of board members serving on the Board at that time at any regular or special meeting at which a quorum is present.

3.5 Terms and Term Limits – To maintain a level of continuity, institutional memory and expertise and to avoid service fatigue, each member of the initial Board will be appointed to serve a preliminary term of one, two or three years on the board. Thereafter, there will be Board appointments each year for a three year term of service; and the Board will gain at least the number of members whose term of service concluded. Following the preliminary term, board members shall serve three year terms. Board members may serve a maximum of two consecutive terms. A former board member may not be re-appointed to the Board until at least one year off the Board at which time he/she may again be appointed like any other person. Generally, terms of office begin on July 1 and end on June 30. Each board member shall hold office until the conclusion of his/her term and until his/her successor is appointed and takes office, or until his/her death, resignation or removal.

3.6 Regular Meetings – The Board of Directors shall meet at least ten (10) times per year absent extraordinary circumstances. Usually, the Board meets every month except December and June. All meetings shall be open to the public. The Board of Directors shall provide by resolution the time and place for holding regular meetings.

3.7 Special Meetings – Special meetings of the Board of Directors may be called by the School Director, the President of the Board of Directors or a majority of the board members. Special meetings shall be held at such time and place as may be designated by the authority calling such meeting provided that no meeting shall be called outside of the State of Colorado unless a majority of the Board has so authorized.

3.8 Notice and Agendas – Notice stating the place, day and time of every meeting and the agenda for the meeting shall be given to each member of the Board of Directors and shall be posted in the designated location of the School for the benefit of the public as soon as practicable but not later than twenty-four (24) hours before the meeting. The Board of Directors shall comply with these and every other requirement of the Colorado Open Meetings Law, any amendments and successors thereto.

3.9 Quorum and Voting – A quorum at all meetings of the Board of Directors shall consist of a majority of the board members holding office and entitled to vote. Present persons by telephone shall be deemed to be present “in person” for all purposes in these Bylaws provided such persons can simultaneously hear and speak to all other persons present. Less than a quorum may adjourn from time to time without further notice until a quorum is secured. Each board member, except for the School Director and College of Teachers Chairs who shall serve on the Board in a non-voting *ex-officio* capacity, shall have one vote. Unless otherwise specified in these Bylaws or in the Articles of Incorporation, the act of a majority of the board members present at a meeting at which a quorum is present shall be the act of the Board of Directors.

3.10 Attendance Expectations – Board members are expected to attend all meetings of the Board of Directors unless excused. Missing more than two consecutive Board meetings without prior approval from the President or at least two other board members shall be grounds for removal from the Board. Unexcused absences from one-third of the Board meetings in any one year shall also be grounds for removal of a board member.

3.11 No Proxies – Board members may not vote by proxy.

3.12 Waiver – A board member who is present at a meeting of the Board of Directors is deemed to have assented to all action taken unless: (a) at the beginning of the meeting or promptly upon arrival, the board member objects to holding the meeting or transacting business at the meeting and does not thereafter vote for or assent to any action taken; (b) the board member contemporaneously requests that the board member’s dissent or abstention as to any specific action taken be entered in the minutes; or (c) the board member causes written notice of the board member’s dissent or abstention as to any specific action to be received by the President or other presiding board member of the meeting before adjournment or by the School promptly after adjournment. The right of dissent or abstention is not available to a board member who votes in favor of the action taken.

3.13 Vacancies – It shall be the duty of the Board of Directors to appoint members to fill any vacancies that may occur on the Board of Directors. A board member appointed to fill a vacancy shall be appointed for the unexpired term of such person’s predecessor in office and until such person’s successor is duly appointed and shall have qualified. For purposes of term limits, if a person is appointed by the Board to fill a vacancy and that person serves less than half of one term, then that service shall not be counted a “term” and the person may still serve two consecutive three year terms prior to being required to step down due to term limits. Any position on the Board of Directors to be filled by reason of an increase in the number of board members shall be appointed by the Board in the normal course as prescribed herein.

When the Board is fewer than five (5) members, the Board of Directors shall make every reasonable effort to fill any vacancy as quickly as possible but under no circumstances shall any board member position be vacant for more than sixty (60) days upon acceptance of a resignation pursuant to Section 3.15 of these Bylaws. During the period in which the Board is filling a vacancy, the Board may continue to function normally notwithstanding the fact that it may have fewer than five (5) board members.

3.14 Committees – Committees of the Board may be appointed by one or more resolutions adopted by the vote of a majority of the board members present in person at a meeting at which a quorum is present. Generally, committees shall be composed of at least one board member and any other persons and shall have such powers as the Board delegates. The School Director or his/her designee shall be an *ex-officio* member of all committees. At a minimum, the Board shall establish the following committees and will set the rules for each committee:

- a) Executive Committee,
- b) Finance Committee,
- c) School Accountability Committee and
- d) Charter Renewal and Statutory Oversight Committee

3.15 Resignation – A board member may resign at any time by giving written notice of resignation to the President of the Board of Directors. The resignation is effective when the notice is received unless the notice specifies a later effective date.

3.16 Removal – Any member of the Board of Directors of the School may be removed by the affirmative vote of two-thirds of the remaining board members. All board members must be provided at least seven (7) days notice that there will be a vote to remove one of the board members and the board member subject to the vote must be named in the notice. The notice shall specify the time, date and location of the meeting at which the vote will occur. The agenda produced for that meeting must also state that there will be a vote to remove a board member and the board member subject to that vote must be named in the agenda.

3.17 No Compensation and Expense Reimbursement – Board members shall not receive compensation for serving in such office although the School may reimburse any member of the Board of Directors for reasonable expenses incurred in connection with service on the Board as determined by the Board either by general policy or on specific matters from time to time.

3.18 Standard of Conduct for Board Members and Officers – Each board member and officer shall perform his/her duties including, without limitation, his/her duties as a member of any committee of the Board in good faith, in a manner the board member or officer reasonably believes to be in the best interests of the School, and with the care that an ordinarily prudent person in a like position would exercise under similar circumstances. In the performance of his/her duties, a board member or officer shall be entitled to rely on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by the persons designated below. However, a board member or officer shall not be considered to be acting in good faith if the board member or officer has knowledge concerning the matter in question that would cause such reliance to be unwarranted. A board member or officer shall not be liable to the School for any action the board member or officer takes or omits to take as a board member or officer if, in connection with such action or omission, the board member or officer performs their duties in compliance with this section. A board member or officer, regardless of title, shall not be deemed to be a trustee with respect to the School or any property held or administered by the School including, without limitation, property that may be subject to restrictions imposed by the donor or transferor of such property.

The designated persons on whom a board member or officer is entitled to rely are: (a) one or more officers or employees of the School whom the board member or officer reasonably believes to be reliable and competent in the matters presented; (b) legal counsel, a public accountant or other person as to matters which the board member or officer reasonably believes to be within such person's professional or expert competence; or (c) a committee of the Board of Directors on which the board member or officer does not serve if the board member or officer reasonably believes the committee merits confidence.

#### **ARTICLE 4 - OFFICERS OF THE BOARD OF DIRECTORS**

4.1 Number and Qualifications – The Officers of the Board of Directors shall consist of the President, Vice-President, Secretary, and Treasurer. Any voting member of the Board shall be eligible to serve as an officer. A board member may hold two, but no more than two, officer positions at one time.

4.2 Selection and Term of Office – The Board shall elect, by a simple majority of eligible voting members, its officers at the first regular public meeting of the fiscal year or from time to time as necessary. The first regular public meeting will usually occur in July. Officers of the Board shall serve for a term of one year and until their successors are elected or until their resignation, removal, or death. Board members may serve three one-year terms in a particular office after which time a board member may not serve in that office for at least one year.

4.3 Vacancies – An Officer elected to fill a vacancy shall serve for the unexpired term of his or her predecessor in office.

4.4 President – The President shall preside at all meetings of the Board of Directors. The President may execute contracts when authorized by the Board. In general, the President shall perform all duties and may exercise all rights as are incident to the office of President of the Board of Directors and such other duties as may be prescribed by the Board or these Bylaws. The President shall be responsible for drafting the agenda after consultation with the Executive Committee and for sending out the Board packet, or ensuring that it is properly sent, prior to each meeting. The President should endeavor to send the Board packet at least seven (7) days prior to any Board meeting so that the board members have enough time to carefully review it prior to the meeting.

4.5 Vice-President – The Vice-President shall have all the powers and perform all the duties of the President in the absence of the President. The Vice-President shall perform such other duties as from time-to-time may be assigned to him/her by the President or by the Board of Directors.

4.6 Secretary – The Secretary shall be responsible for ensuring that (a) the minutes of the proceedings of the Board of Directors and all committees of the Board are properly kept; (b) all notices are duly given, and agendas properly posted, in accordance with the provisions of these Bylaws or as required by law; (c) the corporate records and the seal of the School, if any, are properly maintained; and (d) all duties incident to the office of Secretary and such other duties as from time to time may be assigned to the Secretary by the Board of Directors are duly performed. Assistant secretaries, if any, shall have the same duties and powers subject to supervision by the Secretary.

4.7 Treasurer – The Treasurer shall oversee the financial transactions and financial reports prepared for the Board and shall see that proper financial procedures are followed as established by the Board.

4.8 Executive Committee – The Executive Committee shall consist of, at minimum, the School Director, the President and Vice-President of the Board. They shall meet at least once prior to each regular Board meeting to discuss School business and prepare for the upcoming Board meeting.

4.9 Finance Committee – The Finance Committee shall consist of, at minimum, the School Director, Business Manager and Treasurer of the Board. They shall meet at least once prior to each regular Board meeting to discuss School finances and prepare the financial report for the upcoming Board meeting.

4.10 Authority and Duties of Officers of the Board – The officers of the Board of Directors shall have the authority to and shall exercise the powers and perform the duties specified herein and as may be additionally specified by the Board of Directors and may be required by law. Nothing herein shall prohibit the delegation by an officer of any duty of that officer described; but no such delegation shall operate to relieve the delegating officer from any responsibility imposed by law or these Bylaws.

4.11 Resignations and Removal – Any officer may resign from an officer position at any time by giving written notice to the President or Secretary of the Board of Directors. Such resignation shall take effect when notice is received unless the notice specifies a later effective date. The acceptance of such resignation shall not be necessary to make it effective unless otherwise stated therein. Any officer may be removed from an officer position at any time, with or without cause, by an affirmative vote of a two-thirds majority of the remaining members of the Board whenever, in their judgment, the best interests of the School are served by the removal.

## **ARTICLE 5 - EXECUTIVE LEADERSHIP OF THE SCHOOL**

5.1 Selection and Overview – The Board of Directors shall select the School Director who shall be the chief executive and administrator of the School and who shall have such duties as are prescribed herein or in any job description or as determined by the Board of Directors. The School Director shall select the Business Manager, any assistant administrators and all other employees of the School. The Board of Directors shall evaluate the performance of the School Director from time to time but not less frequently than once per year.

5.2 School Director Responsibilities – The School Director shall, subject to the direction and supervision of the Board of Directors, (a) be the chief executive officer of the School and have general and active control of its affairs and business and general supervision of its agents, employees, and volunteers; (b) see that all orders and resolutions of the Board of Directors are carried into effect; (c) perform all other duties incident to the office of School Director and as from time to time may be assigned to the School Director by the Board of Directors; and (d) be primarily responsible for the School's educational program, including leading the community of learners which is the School. The School Director shall serve as an

advisory, non-voting member of the Board of Directors. In addition, the School Director is charged with faithfully representing the issues and needs of the faculty and staff to the Board.

5.3 Compensation – The Board of Directors shall set the amount and type of compensation for the School Director. The Board may also set the compensation for all other employees as it sees fit, either by setting compensation ranges or schedules or by prescribing compensation directly or it may delegate setting compensation entirely to the School Director.

5.4 Removal – The School Director may be removed by the Board of Directors whenever, in its judgment, the best interest of the School will be best served thereby. But, such removal shall be without prejudice to the contract rights, if any, of the person so removed.

## **ARTICLE 6 – INDEMNIFICATION**

6.1 Definitions – For purposes of this Article 6, the following terms shall have the meanings set forth below:

(a) “School” means Mountain Song Community School, a Colorado nonprofit corporation.

(b) The terms “Board member” or “Officer” shall mean those positions described herein as a member of the Board of Directors and Officer serving on the Board of Directors.

(c) “Expenses” means the actual and reasonable expenses, including attorneys’ fees, incurred by a party in connection with a proceeding.

(d) “Liability” means the obligation to pay a judgment, settlement, penalty, fine (including an excise tax assessed with respect to a private corporation or an employee benefit plan) or expense incurred with respect to a proceeding.

(e) “Official capacity” (1) when used with respect to a board member, means a member of the School’s Board of Directors; (2) when used with respect to an individual other than a board member, means the office/position held at the School by that individual or the employment relationship undertaken by the employee on behalf of the School in the performance of his/her duties as such officer or employee. “Official capacity” does not include service for any other foreign or domestic corporation or for any partnership, joint venture, trust, other enterprise or employee benefit plan when acting directly on behalf of such other corporation, partnership, joint venture, trust, enterprise or plan as a board member, officer, employee, fiduciary or agent thereof.

(f) “Party” means any person who was, is or is threatened to be made a named defendant or respondent in a proceeding by reason of the fact that such person is or was a board member, officer or employee of the School and any person who, while a board member, officer or employee of the School, is or was serving at the request of the School as a board member, officer, employee, fiduciary or agent of any other foreign or domestic corporation or of any partnership, joint venture, trust, other enterprise or employee benefit plan. A party shall be considered to be serving an employee benefit



plan at the School's request if such party's duties to the School also impose duties on or otherwise involve services by such party to the plan or to participants in or beneficiaries of the plan.

(g) "Proceeding" means any threatened, pending or completed action, suit or proceeding or any appeal therein whether civil, criminal, administrative, arbitrative or investigative (including an action by the School) and whether formal or informal.

## 6.2 Right to Indemnification

6.2.1 Standards of Conduct – Except as provided in Section 6.2.4 below, the School shall indemnify any party to a proceeding against liability incurred in or as a result of the proceeding if: (a) such party conducted himself or herself in good faith; (b) such party reasonably believed (i) in the case of a board member acting in his/her official capacity, that his/her conduct was in the School's best interest, or (ii) in all other cases, that such party's conduct was at least not opposed to the School's best interest; and (c) in the case of any criminal proceeding, such party had no reasonable cause to believe his/her conduct was unlawful. For purposes of determining the applicable standard of conduct under this Section 6.2, any party acting in his/her official capacity who is also a board member of the School shall be held to the standard of conduct set forth in Section 6.2.1(b)(i) even if such party is sued solely in a capacity other than as such board member.

6.2.2 Employee Benefit Plans – A party's conduct with respect to an employee benefit plan for a purpose such party reasonably believed to be in the interest of the participants in or beneficiaries of the plan is conduct that satisfies the requirements of Section 6.2.1(b)(ii). A party's conduct with respect to an employee benefit plan for a purpose that such party did not reasonably believe to be in the interest of the participants in or beneficiaries of the plan shall be deemed not to satisfy the requirements of Section 6.2.1(a).

6.2.3 Settlement – The termination of any proceeding by judgment, order, settlement or conviction, or upon a plea of *nolo contendere* or its equivalent, is not of itself determinative that the party did not meet the applicable standard of conduct set forth in Section 6.2.1.

6.2.4 Indemnification Prohibited – Except as hereinafter set forth in this Section 6.2.4, the School may not indemnify a party under this Section 6.2 either (a) in connection with a proceeding by the School in which the party is or has been adjudged liable for gross negligence or willful misconduct in the performance of the party's duty to the School; or (b) in connection with any proceeding charging improper personal benefit to the party, whether or not involving action in the party's official capacity, in which the party was adjudged liable on the basis that personal benefit was improperly received by the party (even if the School was not thereby damaged). Notwithstanding the foregoing, the School shall indemnify any such party if and to the extent required by the court conducting the proceeding, or any other court of competent jurisdiction to which

the party has applied, if it is determined by such court, upon application by the party, that despite the adjudication of liability in the circumstances in clauses (a) and (b) of this Section 6.2.4 or whether or not the party met the applicable standard of conduct set forth in Section 6.2.1, and in view of all relevant circumstances, the party is fairly and reasonably entitled to indemnification for such expenses as the court deems proper in accordance with the Colorado Nonprofit Corporation Code.

6.2.5 Claims by School – Indemnification permitted under this Section 6.2 in connection with a proceeding by the School shall be limited to expenses incurred in connection with the proceeding.

6.2.6 Combined Proceedings – If any claim made by the School against a party is joined with any other claim against such party in a single proceeding, the claim by the School (and all expenses related thereto) shall nevertheless be deemed the subject of a separate and distinct proceeding for purposes of this Article 6.

6.3 Prior Authorization Required – Any indemnification under Section 6.2 (unless ordered by a court) shall be made by the School only if authorized in the specific case after a determination has been made that the party is eligible for indemnification in the circumstances because the party has met the applicable standard of conduct set forth in Section 6.2.1 and after an evaluation has been made as to the reasonableness of the expenses. Any such determination, evaluation and authorization shall be made by the Board of Directors by a majority vote of a quorum of such Board. Such quorum shall consist of board members not parties to the subject proceeding or by such other person or body as permitted by law.

6.4 Success on Merits or Otherwise – Notwithstanding any other provision of this Article 6, the School shall indemnify a party to the extent such party has been successful, on the merits or otherwise, including, without limitation, dismissal without prejudice or settlement without admission of liability, in defense of any proceeding to which the party was a party against expenses incurred by such party in connection therewith.

6.5 Advancement of Expenses – The School shall pay for or reimburse the expenses, or a portion thereof, incurred by a party in advance of the final disposition of the proceeding if: (a) the party furnishes the School a written affirmation of such party's good-faith belief that he or she has met the standard of conduct described in Section 6.2.1(a); (b) the party furnishes the School a written undertaking, executed personally or on behalf of such party, to repay the advance if it is ultimately determined that the party did not meet such standard of conduct; and (c) authorization of payment and a determination that the facts then known to those making the determination would not preclude indemnification under this Article 6 have been made in the manner provided in Section 6.3. The undertaking required by clause (b) must be an unlimited general obligation of the party but need not be secured and may be accepted without reference to financial ability to make repayment.

6.6 Payment Procedure – The School shall promptly act upon any request for indemnification, which request must be in writing and accompanied by the order of court or other reasonably satisfactory evidence documenting disposition of the proceeding in the case of

indemnification under Section 6.4 and by the written affirmation and undertaking to repay as required by Section 6.5 in the case of indemnification under such section. The right to indemnification and advances granted by this Article 6 shall be enforceable in any court of competent jurisdiction if the School denies the claim, in whole or in part, or if no disposition of such claim is made within ninety (90) days after written request for indemnification is made. A party's expenses incurred in connection with successfully establishing such party's right to indemnification, in whole or in part, in any such proceeding shall also be paid by the School.

6.7 Insurance – By action of the Board of Directors, notwithstanding any interest of the board members, the School may purchase and maintain insurance in such amounts as the Board of Directors deems appropriate to protect itself and any person who is or was a board member, officer, employee, fiduciary or agent of the School, or who, while a board member, officer, employee, fiduciary or agent of the School, is or was serving at the request of the School as a board member, officer, employee, fiduciary or agent of any other foreign or domestic corporation or of any partnership, joint venture, trust, other enterprise or employee benefit plan against any liability asserted against or incurred by such person in any such capacity or arising out of such person's status as such, whether or not the School would have the power to indemnify such person against such liability under applicable provisions of law or this Article 6. Any such insurance may be procured from any insurance company designated by the Board of Directors, whether such insurance company is formed under the laws of Colorado or any other jurisdiction, including any insurance company in which the School has an equity or any other interest, through stock ownership or otherwise. The School may create a trust fund, grant a security interest or use other means (including, without limitation, a letter of credit) to ensure the payment of such sums as may become necessary to effect indemnification as provided herein.

6.8 Right to Impose Conditions to Indemnification – The School shall have the right to impose, as conditions to any indemnification provided or permitted in this Article 6, such reasonable requirements and conditions as may appear appropriate to the Board of Directors in each specific case and circumstances including, but not limited to, any one or more of the following: (a) that any counsel representing the party to be indemnified in connection with the defense or settlement of any proceeding shall be counsel mutually agreeable to the party and to the School; (b) that the School 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 party to be indemnified; and (c) that the School shall be subrogated, to the extent of any payments made by way of indemnification, to all of the indemnified party's right of recovery, and that the party to be indemnified shall execute all writings and do everything necessary to assure such rights of subrogation to the School.

6.9 Other Rights and Remedies – Except as limited by law, the indemnification provided by this Article 6 shall be in addition to any other rights which a party may have or hereafter acquire under any law, provision of the Articles of Incorporation, any other or further provision of these Bylaws, vote of the Board of Directors, agreement, or otherwise.

6.10 Applicability and Effect – The indemnification provided in this Article 6 shall be applicable to acts or omissions that occurred prior to the adoption of this Article 6, shall continue as to any party entitled to indemnification under this Article 6 who has ceased to be a board member, officer or employee of the School or, at the request of the School, was serving as and has since ceased to be a board member, officer, employee, fiduciary or agent of any other

domestic or foreign corporation, or of any partnership, joint venture, trust, other enterprise or employee benefit plan, and shall inure to the benefit of the estate and personal representatives of each such person. The repeal or amendment of this Article 6 or of any section or provision hereof that would have the effect of limiting, qualifying or restricting any of the powers or rights of indemnification provided or permitted in this Article 6 shall not, solely by reason of such repeal or amendment, eliminate, restrict or otherwise affect the right or power of the School to indemnify any person, or affect any right of indemnification of such person, with respect to any acts or omissions that occurred prior to such repeal or amendment. All rights to indemnification under this Article 6 shall be deemed to be provided by a contract between the School and each party covered hereby.

6.11 Indemnification of Agents – The School shall have the right, but shall not be obligated, to indemnify any agent of the School not otherwise covered by this Article 6 to the fullest extent permissible by the laws of Colorado. Unless otherwise provided in any separate indemnification arrangement, any such indemnification shall be made only as authorized in the specific case in the manner provided in Section 6.3.

6.12 Savings Clause and Limitation – If this Article 6 or any section or provision hereof shall be invalidated by any court on any ground, then the School shall nevertheless indemnify each party otherwise entitled to indemnification hereunder to the fullest extent permitted by law or any applicable provision of this Article 6 that shall not have been invalidated. Notwithstanding any other provision of these Bylaws, the School shall neither indemnify any person nor purchase any insurance in any manner or to any extent that would jeopardize or be inconsistent with the qualification of the School as an organization described in Section 501(c)(3) of the Internal Revenue Code or that would result in the imposition of any liability under Section 4941 of the Internal Revenue Code.

6.13 Surety Bonds – The Board of Directors shall not be required to but may, as appropriate, require any officer or agent of the School to execute to the School a bond in such sums and with such sureties as shall be satisfactory to the Board, conditioned upon the faithful performance of such person's duties and for the restoration to the School of all books, papers, vouchers, money and other property of whatever kind in such person's possession or under such person's control belonging to the School.

## **ARTICLE 7 - PURPOSE AND RESTRICTIONS**

7.1 General – The purposes of the School are those set forth in the Articles of Incorporation subject to restrictions set forth in such Articles of Incorporation, restrictions on amendment as set forth in the Articles of Incorporation, and restrictions on amendment set forth in these Bylaws pursuant to the authority set forth in the Articles of Incorporation.

7.2 Contributions, Special Funds – The School may accept contributions, grants, bequests or devises designated to and consistent with its purposes. The designation of funds shall not, however, restrict the School's ownership, dominion and control of the designated funds in any manner which is inconsistent with the School's duties and powers as an organization described in Section 501(c)(3) of the Code.

7.3 Primary Purpose – The School’s first and primary purpose is to organize and operate a public charter school to educate students from Kindergarten thru 8<sup>th</sup> grade and a fee based preschool using Waldorf methods as described in the Charter Application. This Section 7.3 of the Bylaws shall not be amended without the unanimous vote of the Board of Directors.

## **ARTICLE 8 - OPEN MEETINGS LAW, PUBLIC RECORDS ACT, FAMILY EDUCATIONAL PRIVACY RIGHTS, AND NONDISCRIMINATION POLICY**

8.1 Open Meetings Law – The Board of Directors acknowledges and agrees that the Board and MSCS are subject to the provisions of the Colorado Open Meetings Law, Colorado Revised Statutes, § 24-6-401 et seq. and that the Board will make every effort to fully comply with the provisions of such law in connection with all of its activities.

8.2 Executive Sessions – In accordance with the Colorado Open Meetings Law, all annual, regular and special meetings of the Board of Directors shall be open to the public except that, upon a two-thirds vote of the board members present, an executive session may be held to discuss any one or more of the following: legal matters, acquisitions or sales of property, contract proposals or negotiations, confidential personnel matters, student disciplinary matters, and any other matters permitted by law. The motion requesting the executive session shall state the nature of the matter to be discussed. Only those persons invited by the Board of Directors may be present during the executive session. The Board of Directors 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. The Secretary of the Board of Directors shall maintain minutes of all executive sessions pursuant to the Colorado law.

8.3 Public Records Law – The Board of Directors acknowledges and agrees that it is subject to the provisions of the Colorado Public Records Act, Colorado Revised Statutes, § 24-72-201 et seq. and that it will make every effort to fully comply with the provisions of such law in connection with all of its activities.

8.4 Family Educational Privacy Rights – The Board of Directors acknowledges and agrees that it is subject to the provisions of the Family Educational Privacy Rights, Buckley Amendment, 20 United States Code, § 1232 (g) and that it will make every effort to fully comply with the provisions of such law in connection with all of its activities.

8.5 Nondiscrimination Policy – The Board of Directors is committed to a policy of nondiscrimination. The Board of Directors shall comply with all applicable federal, state, and local laws, rules and regulations prohibiting discrimination including on the basis of age, race, sex, ethnicity, national origin, religion, or disability.

## **ARTICLE 9 - MISCELLANEOUS**

9.1 Account Books, Minutes, Etc. – The School shall keep correct and complete books and records of all accounts and shall keep minutes of the proceedings of its Board of

Directors and committees. All books and records of the School may be inspected by any board member or by that board member's authorized agent or attorney for any proper purpose at any reasonable time.

9.2 Public Accountability – The School shall provide for all financial reports necessary or desirable for a charitable organization exempt from tax under Section 501(c)(3) of the Code. The School may provide for an annual independent audit or review of its financial affairs. The School shall publish and make available to the general public all tax applications and returns as appropriate for a charitable organization exempt from tax under Section 501(c)(3) of the Code. The School shall publish its financial documents as required by law.

9.3 Fiscal Year – The fiscal year of the School shall begin July 1 and end June 30. The Board of Directors may change the fiscal year from time to time as necessary.

9.4 Conveyances and Encumbrances – Property of the School may be assigned, conveyed or encumbered by such employees of the School as may be authorized to do so by the Board of Directors, and such authorized persons 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 School shall be authorized only at a properly called and noticed meeting of the Board of Directors at which all currently serving board members are present and only after an affirmative vote of 75% of the board members.

#### 9.5 Conflicts of Interest

9.5.1 From time to time, potential conflicts of interest or the appearance of such conflicts will inevitably arise. It is the policy of the School to deal with such conflicts in as open and appropriate way as possible.

9.5.2 Annually, each member of the Board of Directors shall review the School's conflict of interest policy and sign an acknowledgement that he or she has done so.

9.5.3 If any person who is a board member, officer, executive, or administrator of the School is aware that the School is about to make a grant to or otherwise enter into any transaction directly or indirectly with such person, any member of that person's family, or any entity in which that person has any legal, equitable or fiduciary interest or position, including, without limitation, as a board member, officer, shareholder, partner, beneficiary or trustee, such person shall: (a) promptly inform those charged with approving the transaction on behalf of the School of such person's interest or position; (b) disclose any material facts within such person's knowledge that bear on the advisability of such transaction from the standpoint of the School; (c) thereafter recuse him/herself from further deliberations; and (d) not be entitled to vote on the decision to enter into such transaction. If such person's recusal destroys quorum, then the Board may not act upon that topic at that time.

9.5.4 If a majority of the remaining members of the Board believe a board member has a conflict of interest, then the Board (after a proper vote in which the potentially-conflicted board member may participate in the discussion but not the vote) may require the potentially-conflicted board member to be recused from any decision on the topic at issue.

9.5.5 In the event the School awards any grant or otherwise enters into any transaction that involves any actual or potential conflict of interest, the fact of the conflict and of compliance by all parties with the requirements of Section 9.5.2 shall be recorded in the minutes of the proceedings approving such grant or other transaction.

9.5.6 The board members, officers, employees, and agents of the School shall also faithfully observe and comply with any other policies or procedures adopted by the School from time to time to assure that conflicts of interests and any other matters bearing on the proper and ethical conduct of corporate affairs are appropriately and effectively monitored, disclosed and dealt with in furtherance of the best interest of the School.

9.6 Fees and Gifts Prohibited – Board and committee members may not accept a fee or other personal benefit that is connected directly or indirectly with the performance of his/her duties of office. In no instance may a Board or committee member receive a personal gift or in kind which exceeds \$25 in value.

9.7 Loans to Board Members and Officers Prohibited – No loans shall be made by the School to its board members, officers, or employees (regardless of whether the employee is an administrator or a member of the faculty or staff of the School). Any board member, officer, or employee who assents to or participates in the making of any such loan shall be liable to the School for the amount of such loan until it is repaid.

9.8 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 to the corresponding provisions of any subsequent federal tax laws.

9.9 Amendments – The power to alter, amend or repeal these Bylaws and adopt new Bylaws shall be vested in the Board of Directors provided, however, that no alteration, amendment or repeal shall become effective in contravention of the Colorado Nonprofit Corporation Law or without any review or filing which may from time to time be required thereunder. These bylaws may be altered, amended or repealed and new bylaws may be adopted by the affirmative vote of a majority of the Board of Directors at any regular or special meeting of the Board of Directors provided a notice setting forth the terms of the proposal has been given in accordance with the notice requirements for special meetings. Amendments with respect to the purposes of the School shall be subject to the restrictions set forth in Section 7.3 of these Bylaws.

9.10 Principles of Construction – Words in any gender shall be deemed to include the other gender; the singular shall be deemed to include the plural and vice versa; the words “pay” and “distribute” shall also mean assign, convey and deliver; and the table of contents, headings

and underlined paragraph titles are for guidance only and shall have no significance in the interpretation of these bylaws.

9.11 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.

### **CERTIFICATE**

The undersigned President of the Board of Directors of Mountain Song Community School hereby certifies that the foregoing is a true and correct copy of the Bylaws of the School, duly adopted on August 21, 2014 by the Board of Directors and in full force and effect.

Dated: September 15, 2014

---

Rita H. Issagholian  
President of the Board of Directors