

MID-ATLANTIC REGION COMMISSION ON HIGHER EDUCATION

(A Pennsylvania Nonprofit Corporation)

AMENDED AND RESTATED BYLAWS

Effective as of July 1, 2023

**ARTICLE I
DEFINITIONS**

Section 1.01. Definitions. The following terms used in these Bylaws shall have the meanings set forth below.

(a) “Academic representative” of the Commission is an individual who is currently or recently engaged in a significant manner in postsecondary teaching and/or research, or other appropriate professionals with sufficient responsibility to the institution to assure the continuity and coherence of the institution’s educational programs.

(b) “Act” means the Pennsylvania Nonprofit Corporation Law of 1988, as amended, 15 P.S. § 5101 *et seq.*

(c) “Administrative representative” of the Commission is an individual who is currently or recently directly engaged in a significant manner in postsecondary program or institutional administration.

(d) “Annual Report” means the annual audited financial statements of the Corporation, verified by the president and treasurer, and provided to the Commission, as set forth in Section 5554(c) of the Act.

(e) “Code” means the Internal Revenue Code of 1986, as amended.

(f) “Commission” means the board of directors of the Corporation.

(g) “Commissioner” means an individual serving on the Commission as a director of the Corporation.

(h) “Commission representative” means an individual who represents or serves the Commission, including peer evaluators, Commission staff, and Commissioners.

(i) “Corporation” means Mid-Atlantic Region Commission on Higher Education. The Corporation also does business under the fictitious name “Middle States Commission on Higher Education”.

(j) “MSA” means the Middle States Association, the nonprofit corporation (from which the Corporation divided to become an independent nonprofit corporation as described in Section 2.01(b) of these Bylaws),

(k) “MSCHE” when used in these Bylaws refers to the United States Department of Education accrediting agency known as the Middle States Commission on Higher Education, which was initially established as an unincorporated division of the MSA, and effective March 1, 2013, became separately incorporated Corporation through the division of the MSA described in Section 2.01(b) of these Bylaws. When used in these Bylaws, the term MSCHE refers to the business and operations of the Middle States Commission on Higher Education accrediting agency, both prior to and after the corporate division effective March 1, 2013.

(l) “Public representative” is a Commissioner who is not an employee, governing board member, owner, shareholder, or consultant of an institution accredited by the Commission or a candidate for accreditation status by the Commission; who is not a member of any trade association or membership organization related to, affiliated with, or associated with the Commission; and who is not a spouse, parent, child or sibling of any of the above.

ARTICLE II NAME, OFFICE AND PURPOSE

Section 2.01. Name and Office.

(a) The legal name of the corporation is Mid-Atlantic Region Commission on Higher Education. The Corporation does business as and is also known as Middle States Commission on Higher Education.

(b) The Corporation is a resulting corporation of the division of the MSA under a Plan of Division adopted under the Act, effective as of March 1, 2013. Prior to March 1, 2013, the Middle States Commission on Higher Education was an unincorporated division of the MSA with independent and autonomous control over its financial and accreditation activities pursuant to certain delegations of authority in the MSA bylaws. The Corporation is the successor to the MSCHE and continues that mission as a separate and independent corporation.

(c) The Corporation’s Commercial Registered Office Provider is Northwest Registered Agent, LLC, 502 W. 7th St., STE 100, Erie, PA 16502. The Corporation may have such other offices within or without the Commonwealth of Pennsylvania, as the Commission may designate from time to time to conduct necessary business of the Corporation.

Section 2.02. Purposes. The Corporation is organized to promote charitable and educational activities within the meaning of Section 501(c)(3) of the Code and is

incorporated under the Act for any lawful purpose for which a nonprofit corporation may operate under the laws of the Commonwealth of Pennsylvania, and consistent with its tax exempt charitable status under the Code, including, in particular, the following:

(a) To provide educational, quality assurance, and other services to members as a voluntary, non-governmental, membership association currently serving higher education institutions in the United States, including any U.S. Territories, and any international geographic location in which the Commission elects to conduct accrediting activities;

(b) To serve as an accrediting agency recognized by the United States Department of Education to conduct voluntary, non-governmental peer review;

(c) To contribute to the regulatory triad by working with the United States Department of Education and state agencies that serve MSCHE applicant, accredited, or candidate institutions;

(d) To support the accreditation activities of MSCHE applicant, accredited, or candidate institutions by working with other appropriate government authorities, including international agencies;

(e) To act and make decisions concerning the applicant, accreditation or candidate for accreditation status, or the scope of accreditation of member institutions, and take other administrative actions, in accordance with policy;

(f) To assure students and the public of the educational quality of higher education and to ensure institutional accountability, self-appraisal, improvement, and innovation through peer review and the rigorous application of standards within the context of institutional mission;

(g) To serve as a title IV gatekeeper (Higher Education Act of 1965, as amended and reauthorized) and to ensure institutions demonstrate and maintain a record of compliance with all applicable federal requirements;

(h) To ensure institutions demonstrate and maintain a record of compliance with all applicable state requirements; and

(i) To support other activities as may be necessary and consistent with the general purposes of the Corporation.

ARTICLE III GOVERNANCE

Section 3.01. Non-Membership Corporation. As stated in its Articles of Incorporation, the Corporation is a Pennsylvania non-stock, non- member nonprofit

corporation. Except as otherwise provided in these Bylaws, the Commission shall have full power to conduct, manage and direct the Corporation's business and affairs, and all powers are hereby granted to and vested in the Commission in accordance with Article V of these Bylaws. The institutional members of the Corporation are not corporate members authorized to take corporate actions for the Corporation.

ARTICLE IV INSTITUTIONAL MEMBERS

Section 4.01. Qualifications All institutions that are accredited by MSCHE and all institutions that have been granted Candidate for Accreditation Status by MSCHE, that are in good standing with respect to payment of dues and fees, shall be institutional members of MSCHE. Accreditation and candidacy shall be established according to the Corporation's standards for accreditation, requirements of affiliation, policies and procedures, and applicable federal regulatory requirements.

Section 4.02. Maintenance of Membership. Institutional membership is maintained by meeting standards for accreditation, requirements of affiliation, policies and procedures, and applicable federal regulatory requirements in accordance with Commission policy and procedures, and paying the annual dues and any other fees.

Section 4.03. Termination of Membership. The Commission may terminate institutional membership by action of the Commission in accordance with Commission policies and procedures. The Commission's policies and procedures will provide the circumstances under which an institution's membership may be continued following final adverse action through an appeal or other required process. The Commission may terminate an institutional membership upon such institution's voluntary request to surrender its accreditation status and terminate membership. Institutional members voluntarily requesting to surrender accreditation status and terminate membership are expected to obtain the appropriate and necessary approvals from the Commission to do so and meet certain other conditions, including the payment of any outstanding dues and fees.

Section 4.04. Membership Responsibilities and Privileges.

(a) Institutional members shall pay membership dues on an annual basis for Candidate and Accredited institutions and any fees for accreditation-related activities established by the Commission;

(b) Institutional members shall appoint an Accreditation Liaison Officer to serve as the primary point of contact with the Commission staff and to serve as a resource to the institution on accreditation issues;

(c) Institutional members shall contribute to MSCHE accreditation activities and peer review;

(d) In accordance with federal regulations, institutional members shall exhaust all appeal opportunities and submit any dispute involving final adverse actions of MSCHE (including without limitation a final denial or withdrawal of candidate for accreditation status or accreditation) to arbitration in accordance with the Commission's arbitration procedures before initiating any other legal action;

(e) Institutional members shall maintain and demonstrate compliance with applicable state and federal requirements, including institutional program responsibilities under title IV of Higher Education Act of 1965, as amended and reauthorized;

(f) Institutional members may submit nominations for the positions of Commissioners to the Committee on Membership. The nomination process shall be established by the Commission or Executive Committee and made available to the Membership;

(g) Institutional members are entitled to comment on policies that affect the substance of MSCHE accreditation standards and requirements of affiliation and other major substantive policy statements, except those policies that are mandated under federal law or regulation;

(h) Institutional members may be invited to comment on procedures, guidelines, statements of good practices, or other non-policy items;

(i) Institutional members are invited to participate in the Corporation's conferences, accreditation workshops, and other educational opportunities, and

(j) Institutional members may use the Corporation's logo, subject to the Corporation's usage and style policy, procedures, and guidelines.

ARTICLE V THE COMMISSION

Section 5.01. General Powers and Responsibilities of the Commission. Except as provided otherwise in these Bylaws, the business and affairs of the Corporation shall be managed under the direction of the Commission. The Commission, and its Executive Committee as authorized by the Commission and these Bylaws, shall serve as the decision-making bodies of the accrediting agency. In addition to its other responsibilities, the Commission may approve policies, procedures and guidelines for the fulfillment of the purposes of the Corporation stated in Article II.

Section 5.02. Nomination and Election, Number, Representation, and Term of Office.

(a) *Nomination and Election.* The Commissioners shall be nominated and elected by the Commission, in accordance with its nomination and election processes as set forth in these Bylaws.

(b) *Number.* The Commission shall consist of at least twenty-seven (27) voting members, elected as set forth in these Bylaws. In addition to the elected voting members, the President of the Corporation shall be an *ex officio*, non-voting member of the Commission.

(c) *Qualifications; Representation.* The Commission shall nominate Commissioners in accordance with applicable federal and state laws and regulations, including requirements of the United States Department of Education for the election of Public Representatives. In addition to Public Representatives, the nominees shall include active administrative or academic representatives of member institutions or an employee of a higher education organization that represents the interests of member institutions. Individuals shall be considered for nomination consistent with the Corporation's desire for its governing body to be representative of the diversity of size, ownership and academic nature of the institutional members and to reflect broad geographical and demographic representation by the Commissioners.

(d) *Term of Office.* Effective July 1, 2022, each newly elected member of the Commission shall be elected by the Commission to serve a term of five (5) years, commencing on the January 1 immediately following such Commissioner's election to the Commission, and may hold such office until the expiration of the term for which such Commissioner was elected or until such Commissioner's earlier death, resignation or removal. All members of the Commission as of July 1, 2022, have been appointed to transitional terms of varying durations.

No Commissioner may be elected to serve the Corporation for more than two consecutive full terms. A Commissioner may be reelected for service after an absence from the office of Commissioner of at least one year.

Section 5.03. Vacancies.

(a) Any Commissioner may resign at any time effective upon giving written notice to the Chair and President, designating the effective date of resignation. If the resignation is effective at a future time, a successor may be designated before such time to take office when the resignation becomes effective. Resignation as a Commissioner shall also constitute resignation as a member of all committees of the Commission, unless the Commission invites the Commissioner to continue service on an advisory committee, ad hoc committee or task force.

(b) All vacancies in the Commission, that arise from circumstances other than the expiration of a Commissioner's term, shall be filled by the Executive Committee. A Commissioner appointed by the Executive Committee to fill a vacancy shall commence service immediately, shall serve the remainder of the term of the Commissioner being replaced, and shall be eligible for an additional term or terms through the nomination and election processes.

(c) Any Commissioner may be removed from office by an affirmative vote of a majority of the Commissioners present and eligible to vote at a Commission meeting, or the Executive Committee acting *ad interim*, without assignment of cause, except a Commissioner who is then serving as an officer of the Corporation, who may be removed only for cause in accordance with Section 7.09 of these Bylaws. The Commissioner whose removal is being considered may not participate in the vote concerning his or her removal. Removal as a Commissioner shall also constitute removal as a member of all committees of the Commission.

Section 5.04. Meetings.

(a) There shall be at least three (3) regular meetings of the Commission each calendar year.

(b) Special meetings may be called by the Chair, the Executive Committee or at the written request of any ten (10) Commissioners.

(c) The Executive Committee, in collaboration with the President of the Corporation, shall determine the dates, times and places of all regular and special meetings.

(d) Notice shall be sent by e-mail, first class mail, overnight delivery by a nationally recognized delivery service, fax, telephone or by other reasonable means to each member of the Commission not less than forty-eight (48) hours before any regular or special meeting. In the event that circumstances necessitate the calling of a meeting of the Commission or the Executive Committee with less than forty-eight hours' notice, the notice requirement in this Section may be waived in accordance with Section 5.09.

(e) At every meeting of the Commission, the Chair or, in the case of the Chair's absence, the Vice-Chair or, in the case of the Vice-Chair's absence, a Commissioner designated by the Commissioners, shall preside as chairperson.

Section 5.05. Annual Meeting.

(a) The first regular meeting of the calendar year shall be the annual meeting of the Corporation.

(b) The Corporation's Annual Report shall be provided to the Commission by the President and Treasurer at the annual meeting and filed with the minutes of the meeting.

Section 5.06. Quorum and Manner of Acting. At all meetings of the Commission and its standing committees, the presence of the majority (51 percent) of the voting members shall be necessary to constitute a quorum and to transact business. Any act of a majority present at a meeting at which there is a quorum shall be the act of the Commission, except as may be otherwise required by law, the Articles of Incorporation, or these Bylaws. If a quorum shall not be present at any meeting of the Commission, the Commissioners present may adjourn the meeting from time to time until a quorum is present. Voting by proxy shall not be permitted.

Section 5.07. Electronic Meetings Permitted. Members of the Commission, or any Committee designated by the Commission, may participate in a meeting thereof by means of conference telephone call or similar virtual communications equipment by means of which all persons participating in the meeting can hear each other, and participation in the meeting pursuant to this Section 5.07 shall constitute the presence of a person at such meeting.

Section 5.08. Action by Written Consent. Any action required or permitted to be taken at any meeting of the Commission or of any Committee thereof may be approved without a meeting of the Commission or Committee, as the case may be, if all of the Commissioners or Committee members in office consent to the action in a signed writing, before, on or after the effective date of the action. The written consents must be filed with the minutes of proceedings of the Commission or any Committee.

Section 5.09. Waiver of Notice. Whenever notice of a meeting is required by law or these Bylaws, a waiver of notice signed by a Commissioner, whether before or after the meeting, or attendance at the meeting without protesting the lack of notice, shall constitute a waiver of the notice regulation.

ARTICLE VI COMMITTEES

Section 6.01. Standing Commission Committees.

(a) The Commission shall have the following standing Commission Committees:

- (i) Executive Committee
- (ii) Finance Committee
- (iii) Committee on Follow-Up Activities

(iv) Committee on Membership

(b) A standing Commission Committee shall be comprised solely of Commissioners. Except as otherwise provided herein or by action of the Commission, the Chair, after consultation with the Executive Committee, shall appoint the committee chairperson and members of each committee other than the Executive Committee.

(c) The Executive Committee may establish additional standing Commission Committees as necessary for the governance of the Corporation and shall define the roles and responsibilities of each newly formed committee in its action or a charter.

Section 6.02. Executive Committee.

(a) The Executive Committee shall consist of at least seven (7) Commissioners elected by the Commission annually, including the Chair, Immediate Past Chair, the Vice-Chair(s), Treasurer, and Secretary. In addition, the President shall serve as an *ex officio*, non-voting member of the Executive Committee. As a decision-making body, it shall include administrative, academic and public representation. The Chair of the Commission shall be the chairperson of the Executive Committee.

(b) The Executive Committee shall have authority to act on behalf of the Commission as necessary to continue the operation of the Corporation and to take such actions on accreditation and institutional membership as may be necessary.

(c) The Executive Committee shall have the authority and responsibility to hire, evaluate, approve compensation, and, if necessary, terminate the employment of the President.

(d) The Executive Committee shall have the authority and responsibility to establish compensation policy for the President to implement at the Corporation.

(e) The Executive Committee shall act on budget and other administrative and operational matters, including approvals for new staff positions.

(f) The Executive Committee shall have the authority and responsibility to approve policy, including but not limited to policies relating to the authority and actions of the Corporation, the Commission, and Commission representatives.

(g) The Executive Committee may establish additional standing, advisory and ad hoc committees of the Corporation, discharge committees, and approve charters describing each committee's roles and responsibilities.

(h) The Executive Committee shall fill interim Commissioner vacancies on the Commission.

(i) The Executive Committee shall oversee and participate in the Corporation's planning process.

(j) The Executive Committee shall meet at least six (6) times annually, either in person or electronically. It may act by a majority of those attending the meeting provided that a quorum exists.

(k) The Executive Committee shall perform such other duties and responsibilities as the Commission may delegate to it.

Section 6.03. Finance Committee.

(a) The Finance Committee shall consist of at least five (5) Commissioners appointed by the Executive Committee, including the Treasurer of the Corporation and the Vice-Chair of the Executive Committee as an *ex officio*, non-voting member of the Committee.

(b) The Finance Committee has the responsibility to:

(i) advise the Treasurer with respect to financial, budgetary and related matters;

(ii) recommend finance related policies, for approval of the Commission or Executive Committee;

(iii) recommend the hire and discharge of qualified investment managers to the Executive Committee consistent with the Corporation's Investment Policy and Procedures, and Investment Policy Statement (IPS);

(iv) recommend, engage and meet with the Corporation's certified public auditors, approve the audit plan, and receive and review the audit report of the financial statements with the auditors; and

(v) report on its activities to the Executive Committee or the Commission at its regularly scheduled meetings.

(c) The Finance Committee shall meet quarterly, either in person or electronically.

(d) The Finance Committee shall perform such other duties and responsibilities as the Commission may delegate to it.

Section 6.04. Committee on Membership.

(a) The Committee on Membership shall be comprised of at least five (5) Commissioners, appointed annually by the Executive Committee.

(b) The Committee on Membership has the responsibility to solicit the nominations of candidates for Commissioner positions, develop a slate of Commissioner nominees for the Commission's endorsement and develop a slate of Corporate Officers for the Commission's approval.

(c) The Committee shall perform such other duties and responsibilities as the Commission may delegate to it.

Section 6.05. Committee on Follow-Up Activities.

(a) The Committee on Follow-Up Activities shall be comprised of at least five (5) Commissioners, appointed annually by the Executive Committee.

(b) The Committee on Follow-Up Activities has the responsibility of recommending actions to the Commission for institutions being monitored and for member institutions.

(c) The Committee shall perform such other duties and responsibilities as the Commission may delegate to it.

Section 6.06. Other Committees.

(a) The Corporation shall have the following advisory committees, comprised of Commissioners, representatives of institutional members, and, in exceptional circumstances, individuals who are not members of the Commission but hold specific higher education expertise:

(i) Committee on Evaluation Reports

(ii) Committee on Substantive Change

(iii) Committee on Applicant and Candidate Institutions

(b) Advisory committee membership will be established by the Executive Committee, and advisory committees shall make recommendations to the Commission or Executive Committee. The Committee on Evaluation Reports, and Committee on Substantive Change have the responsibility of recommending actions to the Commission for institutional members. The Committee on Applicant and Candidate Institutions has the responsibility of reviewing applicant materials and determining the institutions' ability to proceed in its application as well as determining whether institutions should be recommended to the Commission for candidacy.

The Commission or the Executive Committee may establish additional advisory and ad hoc committees and task forces and their membership. Each committee shall perform the

duties and responsibilities as the Commission or Executive Committee may delegate to it in its action or a committee charter.

(c) Such committees shall make recommendations, by consensus where possible, to the Commission or Executive Committee.

(d) Each committee shall keep appropriate documentation of its proceedings and report such proceedings periodically to the Commission.

Section 6.07. Compensation. Corporate officers, Commissioners and committee members shall serve without compensation.

Section 6.08. Reimbursement. Corporate officers, Commissioners and committee members shall be reimbursed for reasonable and necessary expenses, as provided in relevant Corporation policies and procedures.

ARTICLE VII CORPORATE OFFICERS AND SENIOR STAFF

Section 7.01. Number and Designations of Corporate Officers. The officers of the Corporation shall consist of the Chair, Immediate Past Chair, Vice-Chair, President, Treasurer, Secretary and such other officers as the Commission may designate. The Commission shall elect the Commissioner to serve as the Chair, Vice-Chair, Treasurer, and Secretary annually. The President shall serve ex-officio.

Section 7.02. Qualification and Appointment. In order to be eligible to serve as an officer, a Commissioner must be completing at least the first full year of service on the Commission. Commissioners who have previously served on the Commission are exempt from this clause. Vacancies are filled by the Executive Committee as soon thereafter as convenient. New offices may be created and filled at any meeting of the Commission.

Section 7.03. Chair. The Chair shall preside at meetings of the Commission. The Chair shall perform all duties attendant to that office, subject to the control of the Commission, and shall perform such other duties as on occasion shall be assigned by the Commission, such as carrying out MSCHE policies and actions, attending committee meetings if requested, and chairing the Executive Committee.

Section 7.04. Immediate Past Chair. The Immediate Past Chair shall assume this position at the expiration of his or her term as Chair. The Immediate Past Chair shall serve as an ex-officio, non-voting officer for a period of one year, is a member of the Executive Committee and performs other duties as requested and assigned by the Chair, subject to the control of the Commission. The Immediate Past Chair is responsible for providing advice and counsel to the Chair of the Commission in order to ensure continuity on the

Commission. If the Immediate Past Chair is unable to fulfill this role, then the Immediate Past Chair position will remain unfilled for the remainder of the one-year period.

Section 7.05. Vice-Chair. The Vice-Chair may exercise all authority of the Chair in the absence or unavailability of the Chair, or by delegation by the Chair. The Vice-Chair shall serve on the Executive Committee, and as an ex-officio, non-voting member of the Finance Committee, as well as perform other duties as requested and assigned by the Chair, subject to the control of the Commission.

Section 7.06. Treasurer. The Treasurer shall be responsible for the overall financial affairs of the Corporation, in accordance with policies and procedures established by the Commission or the Executive Committee. The Treasurer shall present the Corporation with appropriate financial reports, budget proposals, and audits in a timely manner for vote to facilitate exercising fiduciary responsibilities. The Treasurer shall be the Chair of the Finance Committee.

Section 7.07. Secretary. The Secretary shall be responsible for assuring that minutes of all meetings of the Commission and the Executive Committee are maintained with the Corporate Records of the Corporation in accordance with Section 11.03 and all applicable laws. The Secretary or designed staff person shall maintain custody of the seal of the Corporation and affix the same as and when authorized by the Commission and these Bylaws. The Secretary shall perform all duties incident to the office of Secretary and such other duties as may from time to time be assigned by the Commission or Executive Committee.

Section 7.08. President. The President shall be the chief executive officer of the Corporation and shall have day-to-day managerial responsibility over the activities and operations of the Corporation, subject to the oversight of the Commission. The President shall be responsible for the appointment of staff, the hiring and termination of any and all staff, including, without limitation, promotion, compensation and benefits, termination and job descriptions. The President shall execute and acknowledge, in the name of the Corporation, contracts or other instruments on behalf of the Commission, except if the execution thereof has been expressly delegated by the Commission or these Bylaws to some other officer or agent of the Corporation; and perform such other duties incident to the office of President.

Section 7.09. Subordinate Officers and Agents. The President may from time to time appoint such other staff members to serve as officers as the business of the Corporation may require, including one or more Assistant Secretaries, and one or more Assistant Treasurers.

Section 7.10. Resignation and Removal.

(a) Any officer may resign at any time upon written notice to the Chair of the Corporation and/or the President.

(b) The Commission may remove any officer with cause at any time. For purposes of this Section 7.09, “cause” shall mean: (a) the willful and continued failure or refusal by such officer to perform his or her duties and responsibilities; (b) the willful misconduct by such officer which is demonstrably and materially injurious to the Corporation, monetarily or otherwise, or which results or is intended to result in personal gain or enrichment at the expense of the Corporation; (c) such officer’s conviction of or plea of no contest to a felony or crime involving moral turpitude; or (d) such other circumstances specified in any agreement between such officer and the Corporation.

Section 7.11. Vacancy.

(a) A vacancy occurring in the office of Chair by death, resignation, removal or otherwise, shall be filled by the current Vice-Chair.

(b) A vacancy occurring in any other office by death, resignation, removal or otherwise, may be filled by the Executive Committee for the unexpired portion of the term, if any.

**ARTICLE VIII
CONFLICTS OF INTEREST**

Section 8.01. Conflict of Interest Policies.

(a) The Corporation shall avoid any conflict or appearance of conflict between personal interests and the interests of the Corporation. The Corporation shall maintain a written Conflicts of Interest Policy for Commissioners including guidelines on avoiding conflicts of interest in making decisions.

(b) All candidates for membership on the Commission shall be advised of the Conflict of Interest Policy prior to assuming their responsibilities as Commissioners. Upon nomination, and each year of service thereafter, each Commissioner shall disclose conflicts of interest using the appropriate procedures.

(c) The Secretary shall report all disclosed conflicts at the beginning of the next meeting of the Commissioners.

**ARTICLE IX
STANDARD OF CARE**

Section 9.01. Standard of Care; Justifiable Reliance of Commissioners.

(a) A Commissioner shall stand in a fiduciary relation to the Corporation and shall perform his or her duties as a Commissioner, including duties as a member of any committee of the Commission upon which the Commissioner may serve, in good faith, in a manner the Commissioner reasonably believes to be in the best interests

of the Corporation and with such care, including reasonable inquiry, skill and diligence, as a person of ordinary prudence would use under similar circumstances. In performing his or her duties, a Commissioner shall be entitled to rely in good faith on information, opinions, reports or statements, including, without limitation, financial statements and other financial data, in each case prepared or presented by any of the following:

(i) One or more officers, staff members and consultants of the Corporation whom the Commissioner reasonably believes to be reliable and competent in the matters presented;

(ii) Counsel, public accountants or other persons as to matters which the Commissioner reasonably believes to be within the professional or expert competence of such person; or

(iii) A committee of the Corporation upon which the Commissioner does not serve, duly designated in accordance with law, as to matters within its designated authority, which committee the Commissioner reasonably believes to merit confidence.

(b) A Commissioner shall not be considered to be acting in good faith if the Commissioner has knowledge concerning the matter in question that would cause his or her reliance to be unwarranted.

(c) Absent breach of fiduciary duty, lack of good faith, or self-dealing, actions taken by the Commission, committees of the Commission, or by individual Commissioner, or any failure to take any action, shall be presumed to be in the best interests of the Corporation.

Section 9.02. Limitation of Liability of Commissioners. A Commissioner shall not be personally liable, as such, for monetary damages for any action taken or any failure to take any action as a Commissioner unless:

(a) The Commissioner has breached or failed to perform the duties of his or her office under Subchapter B of Chapter 57 of the Act; and

(b) The breach or failure to perform constitutes self-dealing, willful misconduct, or recklessness.

This Section shall not apply to (1) the responsibility or liability of a Commissioner pursuant to any criminal statute, or (2) the liability of a Commissioner for the payment of taxes pursuant to federal, state, or local law. Any repeal or amendment of this Section shall be prospective only and shall not increase, but may decrease, a Commissioner's liability with respect to actions or failures to act occurring prior to such change.

Section 9.03. Insurance. The Corporation shall purchase and/or maintain insurance on behalf of any person who is or was a Commissioner or Corporation officer or is or was serving at the request of the Corporation as a director or officer of another domestic or foreign corporation for profit or not-for-profit, partnership, joint venture, trust, or other enterprise against any liability asserted against him or her and incurred by him or her in any such capacity, or arising out of his or her status as such, whether or not the Corporation would have the power to indemnify him or her against that liability under the Act. The Corporation's payment of premiums with respect to such insurance coverage shall be provided primarily for the benefit of the Corporation. To the extent that such insurance coverage provides a benefit to the insured person, the Corporation's payment of premiums with respect to such insurance shall be provided in exchange for the services rendered by the insured person and in a manner so as not to constitute an excess benefit transaction under section 4958 of the Internal Revenue Code of 1986, as amended.

Section 9.04. Indemnification. The Corporation shall indemnify, to the full extent that it shall have power under applicable law to do so and in a manner permitted by such law, any person made or threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative (hereinafter, a "Proceeding"), by reason of the fact that such person is or was a representative of MSCHE, including a current or former Commission representative or agent of MSCHE, (hereinafter a "Representative") or is or was serving at the request of MSCHE's Commission, chair or chief executive officer as a representative of another domestic or foreign corporation for profit or not-for-profit, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by the Representative in connection with the action or proceeding if the Representative acted in good faith and in a manner the Representative reasonably believed to be in, or not opposed to, the best interests of the MSCHE and, with respect to any criminal proceeding, had no reasonable cause to believe his conduct was unlawful. The Corporation shall be required to indemnify a person in connection with a Proceeding (or part thereof) initiated by such person only if the Proceeding (or part thereof) was authorized by the Corporation.

Section 9.05. Advancement of Litigation Expenses.

(a) With respect to any person made or threatened to be made a part of any Proceeding, by reason of the fact that such person is or was a Representative (as defined in Section 9.04), the Corporation shall, in its discretion and upon such terms and conditions as the Corporation deems appropriate, pay the reasonable expenses (including attorneys' fees) incurred by such person in defending any such Proceeding in advance of its final disposition (hereinafter an "advancement of expenses").

(b) Any advancement of expenses under this Section shall be made only upon receipt of an undertaking by such person to repay all amounts advanced if it shall ultimately be determined by final judicial decision from which there is no further right to

appeal that such person is not entitled to be indemnified for such expenses under this Article IX or otherwise.

Section 9.06. Contract Right and Enforcement. The right of a Representative under this Article to indemnification and advancement of expenses shall be a contract right. If a Representative is successful in whole or in part in any suit seeking to enforce or determine such individual's right to indemnification pursuant to Section 9.03 hereof, such person shall also be entitled to be paid by the Corporation, the reasonable expenses (including attorneys' fees) of prosecuting or defending such suit.

Section 9.07. Non-exclusivity. The indemnification and advancement of expenses provided in this Article IX shall not be deemed exclusive of any other rights to which any person indemnified may be entitled under any bylaw, agreement, vote of the Executive Committee or disinterested Commissioners, or otherwise, both as to action in such person's official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a Representative, and shall inure to the benefit of the heirs, executors, and administrators of such person.

ARTICLE X AMENDMENTS

Section 10.01. Scope of Amendments. Anything in these Bylaws to the contrary notwithstanding, no amendment to the Bylaws or the Articles of Incorporation shall permit the Corporation to conduct its affairs in a manner inconsistent with Section 501(c)(3) of the Code or other applicable laws.

Section 10.02. Amendments.

(a) *Bylaws*. The Commission, by the affirmative vote of at least a majority of the voting members of the Commission entitled to vote at any duly constituted regular meeting or special meeting, may alter, amend, or repeal any bylaw, provided that written notice of the proposal of such amendment, alteration, or repeal has been given to all members of the Commission at least ten (10) calendar days prior to such meeting.

(b) *Articles of Incorporation*. The voting members of the Commission, by an affirmative vote of at least a majority (51 percent) of the voting members entitled to vote at any duly constituted regular or special meeting of the Commission, may amend the Articles of Incorporation of the Corporation, provided that written notice of the proposal of such amendment, together with a copy of the proposed amendment or a summary thereof, has been given to all Commissioners at least ten (10) calendar days prior to such meeting. Upon approval of such proposed amendment, Articles of Amendment shall be executed, acknowledged, and filed with the Secretary of State of the Commonwealth of Pennsylvania.

ARTICLE XI MISCELLANEOUS

Section 11.01. Fiscal Year. The fiscal year of the Corporation shall begin the first day of July of each year and end on the thirtieth day of June next succeeding.

Section 11.02. Negotiable Instruments. The Commission shall designate one or more officers or other staff persons who are authorized to sign all checks or demands for money and notes of the Corporation.

Section 11.03. Corporate Records. The Corporation shall keep (a) minutes of the proceedings of the Commission, and (b) appropriate, complete, and accurate books or records of account, in record form, and accessible at its registered office or the principal place of business or any actual business office of the Corporation. Record form is defined in the Act as inscribed on a tangible medium or stored in an electronic or other medium and retrievable in perceivable form. The Corporation's corporate and institutional records shall be maintained for at least the duration required by all applicable laws and regulations and in accordance with the Corporation's records retention policy and procedures.