

# Bylaws of The Commission on Accrediting of The Association of Theological Schools A Pennsylvania Nonprofit Corporation

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## ARTICLE I: INTRODUCTORY

### **Section 1.1 Name**

The name of the corporation is Commission on Accrediting of the Association of Theological Schools (the “Commission”).

### **Section 1.2 Statement of Purposes**

As provided in its Articles of Incorporation, the Commission is organized for the purposes set forth in Section 501(c)(3) of the Internal Revenue Code of 1986 (or the corresponding provision of any future United States Internal Revenue Law) (the “Code”) and in furtherance thereof to (i) contribute to the enhancement and improvement of theological education through the accreditation of schools that are members of the Association of Theological Schools in the United States and Canada (“ATS”) and (ii) collect data from all members of ATS for use in accrediting and to provide the data resources supporting applied research undertaken by ATS.

### **Section 1.3 Offices**

The principal and registered office of the Commission shall be located at 10 Summit Park Drive, Pittsburgh, Pennsylvania 15275, or at such other place as the Board of Commissioners may designate from time to time.

### **Section 1.4 Fiscal Year**

The fiscal year of the Commission shall end on June 30 of each year or on such other date as may be fixed from time to time by resolution of the Board of Commissioners.

### **Section 1.5 Seal**

The corporate seal of the Commission shall be a circle with the name of the Commission and the state of incorporation around the border and the words “Corporate Seal” in the center.

### **Section 1.6 Governing Law**

This Commission is governed by the Pennsylvania Nonprofit Commission Law of 1988, as it may be amended from time to time (“NPCL”).

## ARTICLE II: MEMBERS

### Section 2.1 Eligibility

Membership in the Commission is limited to schools located in the United States and Canada that (i) offer graduate, professional theological degrees, (ii) are demonstrably engaged in educating professional leadership for communities of the Christian and Jewish faiths, (iii) are members of ATS (except as set forth in Section 2.13 below), and (iv) meet the Standards of Accreditation (for accredited schools) or criteria for candidates for accredited status (for candidate schools) (together “Eligible Schools”). A Member that ceases to be accredited by the Commission or to be a candidate for accreditation or that ceases to be an Eligible School, including without limitation by virtue of ceasing to be a member of ATS (except as otherwise provided in Section 2.13 of these Bylaws), is no longer eligible for membership in the Commission, and such Member’s membership in the Commission may be terminated as provided in Section 2.13 of these Bylaws.

### Section 2.2 Election to Membership

The Members of the Commission shall comprise the Eligible Schools that are granted accredited status by the Commission or are conferred candidate for accredited status by the Commission. Membership continues for so long as the school remains an Eligible School, timely pays all dues, and is accredited by the Commission or is a candidate for accreditation, provided that a Member may voluntarily relinquish membership and accreditation by so notifying the Commission in writing and, provided further, that membership may be terminated in accordance with Section 2.13 of these Bylaws.

### Section 2.3 Powers of the Membership; Standards and Procedures

In addition to any powers conferred on members of a nonprofit corporation under the relevant provisions of the NPCL, the Members of the Commission shall (i) adopt the dues structure for Members, (ii) elect the Commissioners, and (iii) adopt, maintain, modify, and revoke the Commission’s Standards of Accreditation and Procedures for Accreditation and Membership (“Standards and Procedures”). Modifications to the Standards and Procedures shall require the approval of two-thirds (2/3) of the Members present at a duly organized meeting of the Members at which a quorum is present.

### Section 2.4 Duties of Membership

Each Member must (i) maintain its accreditation or candidacy for accreditation by the Commission pursuant to the Standards and Procedures, (ii) deliver to the Commission annual dues in an amount determined from time to time by the Members, (iii) continue to be an Eligible School, and (iv) provide institutional data to the Commission annually and when re-

quested by the Commission in connection with its accreditation activities.

### **Section 2.5 Meetings of the Members**

Meetings of the Members may be held at such place within or without the Commonwealth of Pennsylvania as the person calling the meeting shall so indicate in the meeting notice. The Members shall meet biennially in each even-numbered year (the "Biennial Meeting") at such time and place as the Board may determine from time to time by resolution, each Biennial Meeting to be held in conjunction with the Biennial Meeting of the membership of ATS. Special meetings of the Members shall be called by the Secretary at the request of the Board of Commissioners or the written request of ten percent (10%) of the Members of record or at the instruction of the Chair.

If the Board of Commissioners has determined that an emergency exists requiring action by the Members, the Board may call a special meeting of the Members with thirty (30) days advance notice to the Members (an "Emergency Meeting"). Members may participate in an Emergency Meeting via proxy. Members may not participate by proxy in any meeting of the Members that is not an Emergency Meeting.

The senior officer of the Commission present shall preside at each meeting of the Members. If no officers are present, the Members present shall elect a presiding officer for the meeting then being held. The presiding officer shall determine the order of business and shall have the authority to establish equitable rules for the conduct of the meeting. The presiding officer shall announce at the meeting when the polls close for each matter voted upon. If no announcement is made, the polls shall be deemed to have closed upon the final adjournment of the meeting. After the polls close, no ballots or votes and no revocations or changes thereto may be accepted.

### **Section 2.6 Notice**

With the exception of Emergency Meetings, which shall be called as described in Section 2.5 above, written notice of the date, time, and place of each meeting of the Members shall be given to all Members of record entitled to vote at the meeting at least ninety (90) days prior to the date of the meeting, and the proposed agenda for the meeting shall be given to all Members no later than forty-five (45) days prior to the meeting. Such notice shall be given by sending a copy thereof by first class or express mail, postage prepaid, or by telegram (with messenger service specified), telex or TWX (with answer back received), or courier service, charges prepaid, or by facsimile to the Member's address (or telex, TWX, or facsimile number) appearing on the books of the Commission. If the notice is sent by mail, telegraph, or courier service, it shall be deemed to have been

given to the person entitled thereto when deposited in the U.S. mail or with a telegraph office or courier service or, in the case of telex or TWX, when dispatched.

### **Section 2.7 Voting**

Each Member of the Commission is entitled to one vote on each matter before the Members. The manner of voting on any matter may be by voice, ballot, mail, or any other reasonable means. Each Member may send as many representatives to any meeting of the Members as it chooses; however, each Member attending any meeting of the membership shall designate to the Commission one individual to cast its ballot. In the event of a dispute regarding the individual who is authorized to exercise a Member's voting rights, the judges of election are authorized to award such voting rights to one of the individuals representing the Member, and the decision of the judges of election shall be final.

### **Section 2.8 Record Date**

The Board of Commissioners may fix a time not more than ninety (90) days prior to the date of any meeting of the Members as a record date for the purpose of determining the Members entitled to notice of or to vote at such meeting. In such case, only Members of record on the date so fixed shall be entitled to notice and/or to vote notwithstanding any increase or other change on the books of the Commission after the record date. If the Board of Commissioners does not fix a record date, then (a) the record date for determining Members entitled to notice of or to vote at the meeting shall be the close of business on the date before notice is given or if notice is waived, the date before the meeting is held, (b) the record date for determining Members entitled to express consent or dissent to corporate action in writing without a meeting, when no prior action of the Board of Commissioners is required, shall be the date on which the first written consent or dissent is expressed, and (c) for any other purpose the record date shall be the close of business on the day on which the Board of Commissioners adopts the resolution relating thereto.

### **Section 2.9 Judges of Election**

In advance of any meeting of Members, the Board of Commissioners may appoint judges of election, who need not be Members, to act at such meeting or any adjournment thereof. If judges of election are not so appointed, the presiding officer may, and on the request of any Member shall, make such appointment at the meeting. The number of judges shall be one or three. No person who is a candidate for office shall act as a judge. If any person appointed as judge fails to appear or fails or refuses to act, the vacancy may be filled by appointment made by the Board of Commissioners in advance of the meeting or at the meeting by the presiding officer. The judges of election shall determine the number of Members of record and voting power of each; the Members present at the meeting; the existence

of a quorum; the authenticity, validity, and effect of proxies, if any; receive votes or ballots; hear and determine all challenges and questions in any way arising in connection with the right to vote; count and tabulate all votes; determine the result; and do such acts as may be proper to conduct the election or vote in an equitable manner. The judges of election shall perform their duties impartially, in good faith, to the best of their ability, and as expeditiously as is practical. If there are three judges of election, the decision, act, or certificate of a majority shall be effective in all respects as the decision, act, or certificate of all. On the request of the presiding officer of the meeting, or of any Member, the judges shall make a report in writing of any challenge or question or matter determined by them, and execute a certificate of any fact found by them. Any report or certificate made by them shall be prima facie evidence of the facts stated therein.

### **Section 2.10 Liability of Members**

No Member shall be liable, solely by reason of being a Member, under an order of court or in any other manner, for a debt, obligation, or liability of the Commission of any kind or for the acts of any Member or representative of the Commission. A Member shall be liable to the Commission only to the extent of any unpaid portion of the capital contributions, membership dues, or assessments that the Commission may have lawfully imposed on the Member or for any other indebtedness owed by the Member to the Commission.

### **Section 2.11 Waiver of Notice**

Whenever any written notice is required to be given, a waiver thereof in writing signed by the Members entitled to notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of notice. Attendance of a Member at a meeting shall constitute a waiver of notice of the meeting unless the Member attends for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting was not lawfully called or convened.

### **Section 2.12 Quorum**

The presence in person (and in the case of an Emergency Meeting only, also by proxy) of voting representatives of at least seventy-five (75) Members shall constitute a quorum. The Members present at a duly organized meeting can continue to do business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum. The vote of a majority of the Members present at a duly organized meeting of the Members at which a quorum is present shall be the act of the Members.

### **Section 2.13 Termination**

- (a) *Termination for Loss of Accreditation.* Any Member's membership in the Commission shall terminate automatically upon the Member's loss of its accreditation in accordance with the proce-

dures set forth in the Standards and Procedures. The termination of Membership shall be effective upon the effective date of the loss of accreditation.

- (b) **Administrative Termination.** Any Member's membership may be terminated by the Board of Commissioners (i) for failure to pay dues, (ii) for failure to remain a Member of ATS, or (iii) for other failure to remain an Eligible School (each an "Administrative Termination"). The Administrative Termination of Membership shall result in the simultaneous termination of the affected Member's accreditation, provided, however, that when a Member ceases to be a Member of ATS solely as a result of a Termination for Cause as defined in Section 2.13 of the ATS Bylaws, the loss of ATS membership shall not result in the loss of accreditation.
- (c) **Hearings Related to Administrative Termination.** Administrative termination of membership is not an appealable action. However, in the case of a termination of membership pursuant to clause (iii) of Section 2.13(b) above for failure to remain an Eligible School, the affected Member shall be afforded a hearing before the Board of Commissioners. The Member shall be given at least thirty (30) days' advance written notice of the meeting at which such matter is to be considered, which notice shall specify the reason the Member is no longer an Eligible School. The affected Member shall be permitted to make a written response and to attend the meeting at which the Commission determines whether to terminate the membership and to make a brief oral response. The decision of the Board of Commissioners shall be final. The foregoing procedure for hearing shall not apply to termination for failure to pay dues or remain an ATS Member, set forth in Section 2.13(b), clauses (i) and (ii) above, respectively.
- (d) **Withdrawal.** The membership year shall be the Commission's fiscal year or such other time as the Board of Commissioners may specify from time to time. If at any time a Member is two years in arrears in payment of its annual dues, it shall be deemed to have voluntarily withdrawn as a Member of the Commission and its accreditation and membership shall be terminated effective as of such time.

### **Section 2.14 Appeal of Accreditation Decisions**

Members may appeal decisions of the Commission that affect the Member's accredited status according to the Procedures for Accreditation, as adopted and amended from time to time by the Members.

### **Section 2.15 Transfer of Membership**

Membership in this Commission is nontransferable and nonassignable.

## ARTICLE III: THE BOARD OF COMMISSIONERS

### Section 3.1 Authority

Subject to the rights of the Members and any limitations set forth elsewhere in these Bylaws or the Articles of Incorporation of the Commission, the affairs of the Commission shall be under the general direction of the Board of Commissioners, which shall administer, manage, preserve, and protect the property of the Commission.

The authority of the Board of Commissioners shall include, without limitation: responsibility for all decisions related to the accredited status of Members; adoption and oversight of the Commission's budget; proposal to the Members of amendments to these Bylaws and the Articles of Incorporation of the Commission, subject to the approval of ATS as provided in Sections 9.1 and 11.1; oversight of the Commission's assets; approval of the auditors employed by the Commission; establishment of fees to be assessed in the conduct of accreditation activities; recommendation of changes to the dues structure; review and evaluation of the Standards and Procedures and recommendation of appropriate changes for consideration for adoption by the Members; appointment of task forces and accreditation committees as it deems necessary for fulfilling its responsibilities; designating one Commissioner to serve as the Commission Representative to ATS; evaluation of the personnel, administrative, and other services secured by contract; and establishment of the employment policies of the Commission.

### Section 3.2 Number and Term

There shall be a minimum of twelve (12) and a maximum of sixteen (16) Commissioners. No fewer than three (3) and no more than four (4) of the Commissioners shall be Public Commissioners. The remaining Commissioners shall be Institutional Commissioners. Institutional Commissioners are individuals who, at the time of their election as Commissioners, are employed by a Member of the Commission. Public Commissioners are individuals who, at the time of their election or reelection, are not (a) enrolled as a student in, or employed by, or a member of the governing board of, or a consultant to an institution that is either accredited or a candidate for accreditation by the Commission or (b) a member of the governing board of, or employed by, ATS or (c) a spouse, parent, child, or sibling of any individual identified in (a) or (b).

With the exception of the initial Commissioners, whose terms shall be specified in the resolution appointing them, each Commissioner shall serve for the following terms:

- (a) Public Commissioners shall serve two-year terms and until such Commissioner's successor has been duly elected and qualified or until the Commissioner's earlier death, resignation, or removal; and
- (b) Institutional Commissioners shall serve six-year, nonrenewable terms and until such Commissioner's successor has been duly elected and qualified or until the Commissioner's earlier death, resignation, or removal.

An Institutional Commissioner is not eligible to serve as a Commissioner for a period of one year after completing one full six-year term. A Public Commissioner is not eligible to serve as a Commissioner for a period of one year after completing two consecutive, full two-year terms.

### **Section 3.3      Nomination and Election**

At least thirty (30) days prior to the Biennial Meeting (or special meeting held to elect Commissioners), the Nominating Committee shall nominate one or more persons for each Commissioner position the term of which is due to expire in such year. At the Biennial Meeting or any special meeting called for such purpose, the Members shall elect the Commissioners from among the persons nominated (a) by the Nominating Committee or (b) if any Member submits a petition signed by at least five (5) Members and the written consent(s) of the person(s) nominated, from the floor. Unless otherwise specified at the time of the election, new Commissioners shall take office at the conclusion of the meeting at which they are elected.

### **Section 3.4      Vacancies**

Vacancies occurring on the Board of Commissioners by death, resignation, refusal to serve, increase in the number of Commissioners, or otherwise between Biennial Meetings shall be filled by majority vote of the Board of Commissioners, and each Commissioner so appointed shall serve until the next Biennial Meeting and until the Commissioner's successor is elected and qualified or until such Commissioner's earlier death, resignation, or removal.

### **Section 3.5      Compensation**

No compensation shall be paid to any Commissioner for services as a Commissioner, but, at the discretion of the Board of Commissioners, a Commissioner may be reimbursed for travel and actual expenses necessarily incurred in attending meetings and performing other duties on behalf of the Commission. A Commissioner may not be a salaried officer of the Commission.

### **Section 3.6      Meetings**

The Board of Commissioners shall meet at least twice each year at a date and time established by the Commission. The annual meeting of the Board

of Commissioners shall be the first meeting following the Biennial Meeting of Members in odd-numbered years and the first meeting of the year in even-numbered years. Special meetings shall be called by the Secretary upon the order of the Chair or at the written request of a number of Commissioners constituting a quorum of the Board of Commissioners then in office and entitled to vote. All meetings of the Board of Commissioners shall be held at the registered office of the Commission unless otherwise designated in the notice.

### **Section 3.7 Quorum**

At all meetings of the Board of Commissioners, the presence of a majority of the Commissioners in office and entitled to vote shall constitute a quorum. In addition to those Commissioners who are actually present at a meeting, Commissioners shall be deemed as present at such meeting if a telephone or similar communication equipment by means of which all persons participating in the meeting can hear each other at the same time is used. The Commissioners present at a duly organized meeting shall continue to constitute a quorum notwithstanding the withdrawal of enough Commissioners to leave less than a majority. The act of a majority of the Commissioners entitled to vote at a meeting at which a quorum is present shall be the act of the Board of Commissioners. A majority of the Commissioners present and entitled to vote, whether or not a quorum exists, may adjourn any meeting of the Board of Commissioners to another time and place. Notice of any such adjourned meeting shall be given to the Commissioners who are not present at the time of adjournment.

### **Section 3.8 Voting**

Each Commissioner entitled to vote shall be entitled to one vote on each matter submitted to a vote of the Board of Commissioners.

### **Section 3.9 Notices**

Written notice of the date, time, and place of each meeting of the Board of Commissioners shall be given to all Commissioners at least thirty (30) days in advance of the date thereof. Such notice shall set forth the date, time, and place of the meeting. Whenever written notice is required to be given to a Commissioner under this Section 3.9, it may be given to the Commissioner personally or by sending a copy thereof by either of the following methods:

- (a) By first class or express mail, postage prepaid, or by telegram (with messenger service specified), telex, TWX (with answerback received), or courier service, charges prepaid, or by facsimile transmission to the Commissioner's address (or telex, TWX, or facsimile number) appearing on the books of the Commission. If the notice is sent by mail, telegraph, or courier service, it shall be deemed to have been given to the Commissioner entitled thereto

when deposited in the U.S. mail or with a telegraph office or courier service for delivery to that Commissioner, or in the case of telex or TWX, when dispatched. Notice pursuant to this paragraph shall be deemed to have been given to the Commissioner entitled thereto when deposited in the U.S. mail or with a courier service for delivery to that Commissioner.

- (b) By facsimile transmission, email, or other electronic communication to the Commissioner's facsimile number or address for email or other electronic communications supplied by the Commissioner to the Commission for the purpose of notice. Notice pursuant to this paragraph shall be deemed to have been given to the Commissioner entitled thereto when sent.

### **Section 3.10 Waiver of Notice**

Whenever any written notice whatsoever is required to be given to a Commissioner under the provisions of applicable law, the Articles of Incorporation of this Commission, or these Bylaws, a waiver of such notice in writing signed by the Commissioner entitled to notice, whether before or after the time stated in such waiver, shall be deemed equivalent to the giving of such notice. In the case of a special meeting, such waiver of notice shall specify the general nature of the business to be transacted. Attendance of a Commissioner at a meeting shall constitute a waiver of notice of the meeting unless the Commissioner attends for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting was not lawfully called or convened.

### **Section 3.11 Standard of Care and Fiduciary Duty**

Each Commissioner shall stand in a fiduciary relation to this Commission and shall perform his or her duties as a Commissioner, including his or her 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 interest of this Commission, 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, each Commissioner shall be entitled to rely in good faith on information, opinions, reports, or statements, including financial statements and other financial data, in each case prepared or presented by any of the following:

- (a) one or more officers or employees of this Commission whom the Commissioner reasonably believes to be reliable and competent in the matters presented;
- (b) counsel, public accountants, or other persons as to matters that the Commissioner reasonably believes to be within the professional or expert competence of such persons; and

- (c) a committee of this Commission upon which the Commissioner does not serve, as to matters within its designated authority, which committee the Commissioner reasonably believes to merit confidence.

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.

### **Section 3.12 Factors that May Be Considered by Commissioners**

In discharging the duties of their respective positions, the Board of Commissioners, committees of the Board of Commissioners, and individual Commissioners may, in considering the best interest of this Commission, consider to the extent they deem appropriate the following:

- (a) the effects of any action upon any or all groups affected by such action, including members, employees, suppliers, customers, and creditors of the Commission and upon communities in which offices or other establishments of the Commission are located;
- (b) the short-term and long-term interests of the Commission, including the benefits that may accrue to the Commission from its long-term plans and the possibility that these interests may be best served by the continued independence of the Commission;
- (c) the resources, intent, and conduct (past, stated, and potential) of any person seeking to acquire control of the Commission; and
- (d) all other pertinent factors.

The Board of Commissioners, committees, and Commissioners are not required, in considering the best interest of the Commission or the effects of any action, to regard any corporate interest or the interests of any particular group affected by such action as a dominant or controlling interest or factor. The consideration of interests and factors in the manner described in this section shall not constitute a violation of Section 3.11 hereof.

### **Section 3.13 Rules and Regulations**

The Board of Commissioners may adopt rules and regulations not inconsistent with these Bylaws or the Standards of Accreditation and Procedures for Accreditation and Membership adopted from time to time by the Members for the administration and conduct of the affairs of the Commission and may alter, amend, or repeal any such rules or regulations adopted by it. Such rules and regulations may be amended by majority vote of the Board of Commissioners present and entitled to vote at a meeting of the Commission where a quorum is present.

### Section 3.14 Removal of Commissioners

- (a) *By the Board of Commissioners.* The Board of Commissioners, by a majority vote of all of the Commissioners, may declare vacant the office of any Commissioner who is declared of unsound mind by an order of the court or is convicted of a felony or other cause. "Other cause" shall mean any action or inaction that, in the sole discretion of the Board of Commissioners, materially and adversely affects or may affect the Commission.
- (b) *Institutional Commissioners; Loss of Affiliation with Member.* No Commissioner shall be removed from his or her position as an Institutional Commissioner solely because he or she ceases to be employed by the Member that employed the Commissioner at the time of his or her election as a Commissioner, and it is presumed that such a Commissioner shall continue to serve on the Board of Commissioners for the remainder of his or her term. However, if any conflict of interest (as that term is defined in Section 3.16, below) arises due to any new position held by the Commissioner, such conflict of interest may be considered to constitute "other cause" supporting the removal of the Commissioner by the Board of Commissioners as provided in subsection (a) of this Section 3.14.

### Section 3.15 Consents

Any action that may be taken at a meeting of the Board of Commissioners may be taken without a meeting, if a consent or consents in writing setting forth the action so taken shall be signed by all of the Commissioners in office and entitled to vote and shall be filed with the Secretary of the Commission.

### Section 3.16 Conflict of Interest: Corporate

An actual or potential conflict of interest exists when any of the following exists:

- (a) An officer or Commissioner has an ownership or investment interest in or compensation relationship with an organization with which the Commission does or proposes to do business or an organization that competes with the Commission; or
- (b) An officer or Commissioner receives remuneration for performing services for the Commission and the Commission is determining his or her remuneration; or
- (c) An officer or Commissioner serves as an officer or director or key employee of an organization that competes with or does business with the Commission.

A conflict also exists when a similar circumstance exists with respect to a family member of a Commissioner or company thirty-five percent (35%) owned by a Commissioner and his or her family members. Annually, each Commissioner and officer shall complete a disclosure statement reflecting his or her interests.

Commissioners shall act in a manner intended to further the best interest of the Commission. If at any time a Commissioner (i) has or may have a conflict of interest or (ii) is unable to act in the best interest of the Commission on any issue because of a personal situation, employment, conflicting interest, or other reason, the Commissioner shall recuse himself or herself from voting on the subject and shall leave the room while the matter is discussed. Recusing himself or herself shall not prevent a Commissioner from participating in other activities or discussions where no conflict of interest exists.

The Board of Commissioners may approve a transaction that is the subject of a conflict of interest only if it has determined (i) that the transaction or arrangement is in the Commission's best interest and for its own benefit, (ii) that it is fair and reasonable to the Commission, and (iii) that after exercising due diligence, the Commission would not obtain a more advantageous transaction with reasonable efforts under the circumstances. Where appropriate the Board shall obtain comparable information to assist it in reaching such conclusions. In such cases, the transaction or arrangement must be authorized by the affirmative vote of a majority of the Commissioners that do not have a conflict in relation to the relevant transaction or arrangement.

The minutes of all meetings shall reflect (i) the names of the persons who disclosed any conflicts; (ii) the determination as to whether an actual or potential conflict of interest existed; (iii) the names of the persons who were present for discussions and votes relating to the transaction or arrangement; (iv) the content of the discussions, including any alternatives to the proposed transaction or arrangement and the basis for the determination of the Commission, including any comparability data; (v) the voting record, including any abstention from voting; and (vi) any action to be taken.

### **Section 3.17 Conflict of Interest: Accrediting Actions**

The Board of Commissioners shall adopt and implement policies prohibiting conflicts of interest in decisions regarding the accredited status of schools that are or seek to become Members of the Commission.

**ARTICLE IV: OFFICERS****Section 4.1 Enumeration**

The officers of the Commission shall consist of a Chair, Vice Chair, Secretary, Treasurer, and such other officers and assistant officers as the Members may, from time to time, designate.

**Section 4.2 Term of Office**

Each officer shall serve for a term of two (2) years and until the officer's successor is duly elected and takes office.

**Section 4.3 Election**

The Board of Commissioners shall elect the Chair and Vice Chair from among the Commissioners. The Board of Commissioners shall elect the Secretary from among the professional staff members who support the work of the Commission.

**Section 4.4 Vacancies**

The Chair may fill vacancies in any office at which a quorum is present for the period ending upon the date of the next meeting of the Board of Commissioners, when the Commissioners shall fill such vacancy for the period ending at the next Biennial Meeting.

**Section 4.5 Chair**

The Chair is responsible for determining the agenda for meetings of the Board of Commissioners, convening the Board of Commissioners and chairing its sessions, and participating in the work of the Commission.

**Section 4.6 Vice Chair**

The Vice Chair of the Commission convenes and chairs the meetings of the Board of Commissioners at the request of the Chair and serves as the Treasurer of the Commission.

**Section 4.7 Secretary**

The Secretary shall make or cause to be made minutes of all meetings of the Board of Commissioners and the Members. The Secretary shall be responsible for the timely mailing or delivery of all notices of meetings of the Board of Commissioners and the Members, shall affix the corporate seal at the direction of the Chair, and, generally, will perform all duties incident to the office of secretary of a corporation and such other duties as may be required by law, by the Articles of Incorporation or by these Bylaws, or that may be assigned from time to time by the Board of Commissioners.

**Section 4.8 Treasurer**

The Treasurer shall supervise the financial activities of the Commission. Specifically, the Treasurer shall see that (a) full and accurate accounts of receipts and disbursements are kept, (b) a system is in place such that all monies and other valuable effects are deposited in the name and to the credit of the Association in such depositories as shall be designated by the Board of Commissioners, (c) the Commissioners, at the regular meetings of the Board of Commissioners or whenever they may require it, receive an account of the financial condition of the Commission, and (d) an annual audit of the Commission's books and records is performed by an auditor selected by the Board of Commissioners. In performing these functions, the Treasurer may rely on employees of the Commission or any affiliated Commission who possess special financial training and skills and whose employment responsibilities include management of the Commission's financial affairs. In the absence or disability of the Treasurer, the Assistant Treasurer, if any, shall perform all the duties of the Treasurer and when so acting shall have all of the powers of and be subject to all of the restrictions upon the Treasurer.

**Section 4.9 Other Officers; Commission Representative to ATS**

Each other officer shall have such responsibilities and perform such duties as may be prescribed by the Members or the Board of Commissioners from time to time. Each assistant officer shall carry out the responsibilities and duties of the officer that the assistant officer assists in the event such officer is unable to perform such responsibilities or duties, except that no assistant officer shall become a Commissioner solely by virtue of being an assistant officer. The Board of Commissioners shall designate one Commissioner as the Commissioner Representative to ATS, who shall serve as an ex officio Director of ATS.

**Section 4.10 Bonds**

The Board of Commissioners may, in its discretion, require the Treasurer and any other officer to give bond in such amount and with such surety or sureties as may be satisfactory to the Board of Commissioners for the faithful discharge of the duties of the office and for the restoration to the Commission, in case of the officer's death, resignation, retirement, or removal from office, of all books, papers, vouchers, money, and other property of whatever kind belonging to the Commission in the officer's possession or under the officer's control.

**Section 4.11 Removal of Officers**

Any officer elected or appointed to office may be removed by the persons authorized under these Bylaws or the Commission's Articles of Incorporation to elect or appoint such officers whenever in their judgment the best interest of the Commission will be served.

**Section 4.12 Administration**

The Commission will normally contract with the Association for all of its personnel, facilities, administrative, and other organizational needs.

**ARTICLE V: COMMITTEES****Section 5.1 Committees**

The Commission shall have the following standing committees: Officers Committee, Nominating Committee, Finance Committee, Audit Committee, and Appeals Panel. There shall be such other standing and ad hoc committees as the Board of Commissioners may deem advisable in the administration and conduct of the affairs of the Commission. Such committees shall meet as necessary to accomplish their goals. The Board of Commissioners is authorized in its discretion to approve reimbursement for travel and other actual expenses necessarily incurred by members of committees in attending committee meetings and in performing other official duties as such.

Except as otherwise provided in these Bylaws or in the resolution creating the applicable committee, the Board of Commissioners or the Members at the Biennial Meeting or any special meeting called for that purpose shall elect committee members. In the case of committee members elected by the Members, the committee members shall be nominated by the Nominating Committee or, if any Member submits a petition signed by at least five (5) Members and the written consent(s) of the person(s) nominated, from the floor. The Chair shall appoint all committee chairpersons, except as otherwise provided in these Bylaws or in the resolution creating the applicable committee.

Upon expiration of their initial terms, committee chairpersons and members may be re-elected to a committee for one additional term only. With the exception of the Officers Committee, persons who are not Commissioners are eligible to serve as committee members. Any person authorized to appoint the chairperson and/or members of any committee by these Bylaws or the resolution creating the applicable committee may appoint himself or herself as chairperson and/or committee member. The chairperson of each committee shall determine the date and place of all committee meetings. Each committee may adopt its own rules of procedure not inconsistent with these Bylaws.

**Section 5.2 Limitation on Power of Committees**

No such committee shall have any power or authority as to the following:

- (a) the submission to the Members of any action requiring approval of the Members;
- (b) the creation or filling of vacancies in the Board of Commissioners;
- (c) the adoption, amendment, or repeal of the Bylaws;
- (d) the amendment or repeal of any resolution of the Board of Commissioners that by its terms is amendable or repealable only by the Board of Commissioners; or
- (e) action on matters committed by the Bylaws or a resolution of the Board of Commissioners exclusively to another committee.

### **Section 5.3 Officers Committee**

The Officers Committee shall consist of the Chair, Vice Chair, and a third Commissioner elected by the Board of Commissioners. The Chair shall serve as the chairperson of the Officers Committee. The Officers Committee may act for the Board of Commissioners between meetings, provided that it may not make decisions affecting accreditation status. The Officers Committee shall meet at such times as the Chair may call or on petition of two (2) Officers Committee members. At least twenty-four (24) hours' oral or written notice shall be given for such meetings. A quorum for conducting business at a meeting of the Officers Committee shall be no fewer than two (2) members. The Chair shall present a full report of all Officers Committee decisions to the Board of Commissioners at the next regularly scheduled meeting of the Board of Commissioners.

### **Section 5.4 Nominating Committee**

The Nominating Committee shall consist of five (5) persons appointed by the Chair of the Board of Commissioners, including two (2) Commissioners and three (3) representatives of Members that are not represented on the Board of Commissioners. The Nominating Committee shall nominate Commissioners as provided in Section 3.3 hereof.

### **Section 5.5 RESERVED**

### **Section 5.6 Finance Committee**

The Finance Committee shall consist of the President and the Treasurer of the Association, the Vice Chair of the Commission, and such additional persons with expertise in financial matters as may be appointed by the Board of Directors of ATS. The Finance Committee shall oversee and provide advice to the Commission on financial matters. The Finance Committee shall regularly review and recommend to the Board of Commissioners policies to protect and enhance the assets of the Commission.

### **Section 5.7 Audit Committee**

The Audit Committee shall consist of three to five persons elected by the Members. Audit Committee members shall be persons knowledgeable

about financial matters, a majority of whom shall be independent. The Audit Committee shall make recommendations to the Board of Commissioners regarding the selection of the Commission's auditors, shall oversee the auditor's activities, shall set rules and processes for addressing complaints concerning accounting and internal control problems, and shall assume such other responsibilities as may be appropriate for an Audit Committee.

### **Section 5.8 Appeals Panel**

The Appeals Panel shall be composed of five persons who are former Commissioners or former Directors of ATS. Appeals Panel members shall be elected by the Members and shall serve two-year terms. A person who has served for two consecutive two-year terms is not eligible for re-election until he or she has not served for two years. The Appeals Panel shall process appeals of Member schools regarding accrediting decisions in accordance with the Standards and Procedures.

## **ARTICLE VI: LIMITATION OF PERSONAL LIABILITY OF COMMISSIONERS**

### **Section 6.1 Limitation of Commissioners' Personal Liability**

A Commissioner shall not be personally liable for monetary damages for any action taken unless the Commissioner has breached or failed to perform the duties of his or her office under Chapter 57, Subchapter B of the NPCL, as in effect at the time of the alleged action by such Commissioner, and the breach or failure to perform constitutes self-dealing, willful misconduct, or recklessness. Such limitation on liability does not apply to the responsibility or liability of a Commissioner pursuant to any criminal statute or for payment of taxes pursuant to any Federal, state, or local law.

### **Section 6.2 Preservation of Rights**

Any repeal or modification of this Article by the Commission shall not adversely affect any right or protection existing at the time of such repeal or modification to which any Commissioner or former Commissioner may be entitled under this Article. The rights conferred by this Article shall continue as to any person who has ceased to be a Commissioner of the Commission and shall inure to the benefit of the heirs, executors, and administrators of such person.

## **ARTICLE VII: INDEMNIFICATION**

### **Section 7.1 Mandatory Indemnification of Commissioners and Officers**

The Commission shall indemnify, to the fullest extent now or hereafter permitted by law (including but not limited to the indemnification pro-

vided by Chapter 57, Subchapter D of the NPCL), each Commissioner and/or officer (including each former Commissioner or officer) of the Commission who was or is or is threatened to be made a party to or a witness in any threatened, pending, or completed action or proceeding, whether civil, criminal, administrative, or investigative, by reason of the fact that the Commissioner or officer is or was an authorized representative of the Commission or is or was serving at the request of the Commission as a representative of another domestic or foreign Commission for profit or not-for-profit, partnership, joint venture, trust, or other enterprise, against all expenses (including attorneys' fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by the Commissioner or officer in connection with such action, suit, or proceeding if such Commissioner or officer acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interest of the Commission and, with respect to any criminal proceeding, had no reasonable cause to believe his or her conduct was unlawful. The termination of any action or proceeding by judgment, order, settlement, or conviction or upon a plea of nolo contendere or its equivalent shall not of itself create a presumption that the person did not act in good faith and in a manner that he or she reasonably believed to be in, or not opposed to, the best interest of the Commission and, with respect to any criminal proceeding, had reasonable cause to believe that his or her conduct was unlawful.

### **Section 7.2      Mandatory Advancement of Expenses to Commissioners and Officers**

The Commission shall pay expenses (including attorneys' fees) incurred by a Commissioner or officer of the Commission referred to in Section 7.1 hereof in defending or appearing as a witness in any civil or criminal action, suit, or proceeding described in Section 7.1 hereof in advance of the final disposition of such action, suit, or proceeding, only upon receipt of an undertaking by or on behalf of such Commissioner or officer to repay all amounts advanced if it shall ultimately be determined that the Commissioner or officer is not entitled to be indemnified by the Commission as provided in Section 7.4 hereof.

### **Section 7.3      Permissive Indemnification and Advancement of Expenses**

The Commission may, as determined by the Board from time to time, indemnify, in full or in part, to the fullest extent now or hereafter permitted by law, any person who was or is or is threatened to be made a party to or a witness in, or is otherwise involved in, any threatened, pending, or completed action or proceeding, whether civil, criminal, administrative, or investigative, by reason of the fact that such person is or was an authorized representative of the Commission or is or was serving at the request of the Commission as a representative of another domestic or foreign corporation for profit or not-for-profit, partnership, joint venture, trust, or

other enterprise, both as to action in his or her official capacity and as to action in another capacity while holding such office or position, against all expenses (including attorneys' fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by such person in conjunction with such action, suit, or proceeding if such person acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interest of the Commission and, with respect to any criminal proceeding, had no reasonable cause to believe his or her conduct was unlawful. The Commission may, as determined by the Board from time to time, pay expenses incurred by any such person by reason of such person's participation in an action, suit, or proceeding referred to in this Section 7.3 in advance of the final disposition of such action, suit, or proceeding upon receipt of an undertaking by or on behalf of such person to repay such amount if it shall ultimately be determined that such person is not entitled to be indemnified by the Commission as provided in Section 7.4 hereof.

#### **Section 7.4 Scope of Indemnification**

Indemnification under this Article shall not be made by the Commission in any case where a court determines that the alleged act or failure to act giving rise to the claim for indemnification is expressly prohibited by Chapter 57, Subchapter D of the NPCL or any successor statute as in effect at the time of such alleged action or failure to take action.

#### **Section 7.5 Miscellaneous**

Each Commissioner and officer of the Commission shall be deemed to act in such capacity in reliance upon such rights of indemnification and advancement of expenses as are provided in this Article. The rights of indemnification and advancement of expenses provided by this Article shall not be deemed exclusive of any other rights to which any person seeking indemnification or advancement of expenses may be entitled under any agreement, vote of members, disinterested Commissioners, statute, or otherwise, both as to action in such person's official capacity and as to action in another capacity while holding such office or position, and shall continue as to a person who has ceased to be an authorized representative of the Commission and shall inure to the benefit of the heirs, executors, and administrators of such person. Any repeal or modification of this Article by the members or the Board of Commissioners of the Commission shall not adversely affect any right or protection existing at the time of such appeal or modification to which any person may be entitled under this Article.

#### **Section 7.6 Definition of Authorized Representative**

For the purposes of this Article, the term, "authorized representative" shall mean a director, officer, or employee of the Commission or of any corporation controlled by the Commission, or a trustee, custodian, ad-

administrator, committeeman, or fiduciary of any employee benefit plan established and maintained by the Commission or by any corporation controlled by the Commission, or person serving another corporation, partnership, joint venture, trust, or other enterprise in any of the foregoing capacities at the request of the Commission. The term “authorized representative” shall not include money managers or investment advisors (or any employees thereof) hired by the Commission and shall not include agents of the Commission unless indemnification thereof is expressly approved by the Board of Commissioners.

### **Section 7.7 Procedure for Effecting Indemnification**

Unless ordered by a court, any indemnification under this Article VII or the NPCL shall be made only following a determination that the indemnification is proper in the circumstances because the person seeking indemnification has met the applicable standard of conduct. Such determination shall be made:

- (a) by the Board of Commissioners by a majority vote of a quorum consisting of Commissioners who were not party to the action or proceeding;
- (b) if such a quorum is not obtainable or if obtainable and a majority vote of a quorum of disinterested Commissioners so directs, by independent legal counsel in a written opinion; or
- (c) by the Members.

## **ARTICLE VIII: RESTRICTIONS REGARDING THE OPERATIONS OF THE COMMISSION; ADMINISTRATION OF FUNDS**

### **Section 8.1 No Private or Political Beneficiaries**

In keeping with the statement of purpose of the Commission as set forth in its Articles of Incorporation, no part of the earnings or assets of the Commission shall inure to the benefit of any private individual, and no substantial part of the activities of the Commission shall be used for lobbying, and the Commission shall not engage in any political campaign activities on behalf of or in opposition to any candidate for public office.

### **Section 8.2 No Violation of Purposes**

In no event and under no circumstances shall the Commission make any distribution or expenditure, engage in any activity, hold any assets, or enter into any transaction whatsoever the effect of which under applicable federal laws then in force will cause the Commission to lose its status as an organization to which contributions are deductible in computing the taxable income of the contributor for purposes of federal income taxation.

**Section 8.3 Tax Records**

The Commission shall maintain at its principal office a copy of its application for exemption and all tax returns filed with the Internal Revenue Service. To the extent required by law, such documents shall be made available during regular business hours for inspection by any person requesting to see them.

**Section 8.4 Annual Report**

The Vice Chair shall submit annually to the Board of Commissioners a statement containing those details required to be included under the provisions of the NPCL, as it may be amended from time to time or any successor statute governing Pennsylvania nonprofit Commissions or these Bylaws.

**Section 8.5 Books and Records**

This Commission shall keep correct and complete books and records of account and shall also keep minutes of the proceedings of the Members, the Board of Commissioners, and committees exercising the authority of the Board of Commissioners. The Commission shall keep at its registered office the original or a copy of its Bylaws including amendments to date, certified by the Secretary of the Commission, and a membership register, giving the names and addresses of all Members and the class and other details of membership. Every Member shall, upon verified written demand stating the purpose thereof, have a right to examine, in person, or by agent or attorney during the usual hours for business for any proper purpose, the membership register, books and records of account, and records of the proceedings of the members and the Board of Commissioners, and to make copies or extracts therefrom. A proper purpose shall mean a purpose reasonably related to the interest of such person as a Member. Where an attorney or other agent is the person who seeks the right of inspection, the demand under oath shall be accompanied by a verified power of attorney or another writing authorizing the attorney or other agent to act on behalf of the Member.

**Section 8.6 Definition of Code**

Unless the context requires otherwise, terms used in this Article VIII of these Bylaws shall have the meanings ascribed to them in the Code. References to the Code in this Article shall be deemed to extend to corresponding provisions of any subsequent United States tax laws. The provisions of this Article shall apply notwithstanding other provisions of these Bylaws, if any, that are inconsistent.

## ARTICLE IX: BYLAW AMENDMENTS

### Section 9.1 Authority

These Bylaws may be altered, amended, and/or repealed from time to time by the affirmative vote of the Members entitled to vote and present at the Biennial Meeting or any special meeting called to consider such alteration, amendment, and/or repeal, provided, however, that no such alteration, amendment, and/or repeal shall be effective prior to the approval of ATS as provided in Section 11.1(a).

### Section 9.2 Notice

The Members of the Commission shall be given at least thirty (30) days' prior written notice of any meeting of the Members at which proposed changes to the Bylaws of the Commission are to be considered or acted upon. Such written notice shall include a copy of the proposed amendment or a summary of the changes to be effected thereby.

## ARTICLE X: DISSOLUTION

### Section 10.1 Distribution of Assets upon Dissolution

In the event of the dissolution of the Commission or in the winding up of its affairs or other liquidation of its assets, the Commission's property shall not be conveyed to any organization created or operated for profit or to any individual for less than the fair market value of such property. All assets remaining after all debts and expenses of the Commission have been paid or provided for shall be conveyed or distributed by the Board of Commissioners, in descending order of priority (i) to ATS if it then is recognized as an organization described in Code Section 501(c)(3); or (ii) equally among the Members that then qualify for the exemption afforded by Section 501(c)(3) of the Code or, in the case of Members that are Canadian entities equivalent to Section 501(c)(3) organizations; or (iii) to one or more organizations qualifying for the exemption afforded by Section 501(c)(3) of the Code. Any such assets not so distributed shall be disposed of pursuant to an order by a court of competent jurisdiction, exclusively for such purposes or to such organization or organizations, as said court shall determine.

## ARTICLE XI: LIMITATION OF POWERS

### Section 11.1 Limitation of Powers

The Commission shall in its operation be subject to the following exclusive rights of ATS:

- (a) To approve all amendments to the Commission's Bylaws and the Articles of Incorporation;
- (b) To approve all fundamental changes with respect to the Commission, as that term is defined in the NPCL.