

CAPELLA EDUCATION CO

FORM 8-K (Current report filing)

Filed 11/20/06 for the Period Ending 11/15/06

Address	225 SOUTH 6TH STREET 9TH FLOOR MINNEAPOLIS, MN 55402
Telephone	(612) 659-5360
CIK	0001104349
Symbol	CPLA
SIC Code	8200 - Services-Educational Services
Industry	Schools
Sector	Services
Fiscal Year	12/31

CAPELLA EDUCATION CO

FORM 8-K
(Current report filing)

Filed 11/20/2006 For Period Ending 11/15/2006

Address	330 SECOND AVE SOUTH STE 550 MINN, Minnesota 55401
CIK	0001104349
Industry	Not Assigned
Fiscal Year	12/31

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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported) November 15, 2006

Capella Education Company

(Exact name of Registrant as specified in its charter)

Minnesota

(State or other jurisdiction
of incorporation)

001-33140

(Commission File Number)

41-1717955

(IRS Employer
Identification No.)

225 South 6th Street, 9th Floor
Minneapolis, Minnesota

(Address of principal executive offices)

55402

(Zip Code)

Registrant's telephone number, including area code **(888) 227-3552**

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (*see* General Instruction A.2. below):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
 - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
 - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
 - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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Item 5.02. Departure of Directors or Principal Officers.

On November 16, 2006, Capella Education Company (“Capella”) received Tony J. Christianson’s written resignation from the Board of Directors of Capella. Mr. Christianson’s resignation was in accordance with his intention to resign upon the consummation of Capella’s initial public offering of common stock (the “IPO”) disclosed in Capella’s recent Registration Statement on Form S-1 relating to its IPO, and did not involve any disagreement on any matter relating to Capella’s operations, policies or practices.

Item 5.03. Amendment to Articles of Incorporation or Bylaws.

On November 15, 2006, upon completion of Capella’s IPO and the simultaneous conversion of all of its outstanding preferred stock into common stock, Capella filed amended and restated articles of incorporation (the “Revised Articles”), which amended and restated Capella’s prior articles of incorporation in their entirety. Among the changes effected by the Revised Articles are: (i) all provisions relating to Capella’s Class A, Class B, Class D, Class E and Class G preferred stock have been eliminated and (ii) Capella’s authorized capital stock now consists of 100,000,000 shares of common stock, \$0.01 par value per share, and 10,000,000 shares of undesignated capital stock. The Board of Directors has the power to issue any or all of the shares of undesignated capital stock, including the authority to establish one or more series and to fix the powers, preferences, rights and limitations of such class or series, without seeking shareholder approval.

Item 9.01. Financial Statements and Exhibits.

The following Exhibits are being filed herewith:

- 3.1 Amended and Restated Articles of Incorporation.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

CAPELLA EDUCATION COMPANY

Date: November 20, 2006

By /s/ Gregory W. Thom

Gregory W. Thom

Vice President, General Counsel and Secretary

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EXHIBIT INDEX

<u>No.</u>	<u>Exhibit</u>	<u>Manner of Filing</u>
3.1	Amended and Restated Articles of Incorporation.	Filed Electronically

**AMENDED AND RESTATED
ARTICLES OF INCORPORATION
OF
CAPELLA EDUCATION COMPANY**

The undersigned, Gregory W. Thom, Secretary of CAPELLA EDUCATION COMPANY, a Minnesota corporation (the “Corporation”), hereby certifies that:

- (1) The name of the Corporation is Capella Education Company.
- (2) The Corporation’s Articles of Incorporation have been Amended and Restated to read in their entirety as follows:

**ARTICLE I
NAME**

The name of the Corporation is Capella Education Company.

**ARTICLE II
ADDRESS**

The registered office of the Corporation is located at 225 South Sixth Street, 9th Floor, Minneapolis, Minnesota 55402.

**ARTICLE III
CAPITAL STOCK**

(a) General. The aggregate number of shares of stock that the Corporation is authorized to issue is 110,000,000 shares, par value \$.01 per share, of which 100,000,000 shares are designated as common stock (the “Common Stock”), and 10,000,000 shares are undesignated (the “Undesignated Capital Stock”). The shares of Common Stock and Undesignated Capital Stock are referred to collectively as the “capital stock.”

(b) Authority Relative to Undesignated Capital Stock. Authority is hereby expressly vested in the Board of Directors of the Corporation, subject to limitations prescribed by law, to authorize the issuance from time to time of one or more classes or series of Undesignated Capital Stock and, with respect to each such class or series, to determine or fix the voting powers, full or limited, if any, of the shares of such class or series and the designations, preferences and relative, participating, optional or other special rights and the qualifications, limitations or restrictions thereof, including, without limitation, the determination or fixing of the rates of and terms and conditions upon which any dividends shall be payable on such class or series, any terms under or conditions on which the shares of such class or series may be redeemed, any provision made for the conversion or exchange of

the shares of such class or series for shares of any other class or classes or of any other series of the same or any other class or classes of the Corporation's capital stock, and any rights of the holders of the shares of such class or series upon the voluntary or involuntary liquidation, dissolution or winding up of the Corporation.

**ARTICLE IV
NO CUMULATIVE VOTING**

No holder of shares of capital stock of the Corporation shall have any cumulative voting rights.

**ARTICLE V
NO PREEMPTIVE RIGHTS**

No holder of shares of capital stock of the Corporation shall be entitled as such, as a matter of right, to subscribe for, purchase or receive any part of any new or additional issue of stock of any class or series whatsoever or other securities, or of securities convertible into or exchangeable for or carrying any other right to acquire any stock of any class or series whatsoever or other securities, whether now or hereafter authorized and whether issued for cash or other consideration or by way of dividend. The Corporation shall have the power, however, in its discretion to grant such rights by agreement or other instrument to any person or persons (whether or not they are shareholders).

**ARTICLE VI
CONTROL SHARE ACQUISITION STATUTE NOT APPLICABLE**

Neither Section 302A.671 of the Minnesota Statutes nor any successor statute thereto shall apply to, or govern in any manner, the Corporation or any control share acquisition of shares of capital stock of the Corporation or limit in any respect the voting or other rights of any existing or future shareholder of the Corporation or entitle the Corporation or its shareholders to any redemption or other rights with respect to outstanding capital stock of the Corporation that the Corporation or its shareholders would not have in the absence of Section 302A.671 of the Minnesota Statutes or any successor statute thereto.

**ARTICLE VII
DISSENTERS' RIGHTS**

To the extent permitted by Chapter 302A of the Minnesota Statutes, no action set forth in paragraph (a) of Section 302A.471, subdivision 1, of the Minnesota Statutes (including any amendment or successor statute thereto) shall create any right of any shareholder of the Corporation to dissent from, and obtain the fair value of the shareholder's shares in the event of, any such action.

**ARTICLE VIII
WRITTEN ACTION OF THE BOARD OF DIRECTORS**

Any action required or permitted to be taken at a meeting of the Board of Directors of the Corporation not needing approval by the shareholders under Chapter 302A of the Minnesota Statutes may be taken by written action signed by the number of directors that would be required to take such action at a meeting of the Board of Directors at which all directors are present.

**ARTICLE IX
LIMITATION OF LIABILITY**

To the full extent that Chapter 302A of the Minnesota Statutes, as it exists on the effective date of this Article IX or may hereafter be amended, permits the limitation or elimination of the liability of directors, a director of the Corporation shall not be liable to the Corporation or its shareholders for monetary damages for breach of fiduciary duty as a director. Any amendment to or repeal of this Article IX shall not adversely affect any right or protection as a director of the Corporation for or with respect to any acts or omission of such director occurring prior to such amendment or repeal.

* * *

(3) The foregoing amendment and restatement has been adopted pursuant to Chapter 302A of the Minnesota Statutes.

IN WITNESS WHEREOF, I have hereunto set my hand this 15th day of November, 2006.

/s/ Gregory W. Thom

Gregory W. Thom
Secretary