

Edit Draft

BYLAWS OF THE
OHLONE COLLEGE FOUNDATION

PURPOSE OF THE FOUNDATION

The Ohlone College Foundation supports Ohlone College in execution of its strategic plan and provides assistance to the College and the students through fund raising and community outreach programs.

ARTICLE I – STATUS

Section 1. Principle Office: The principle office of the corporation in the State of California shall be located within the Ohlone Community College District. The corporation shall have such other offices, either within or without the County of Alameda, State of California, as the Board of Directors may determine or as the affairs of the corporation may require from time to time.

Section 2. Status: The Ohlone College Foundation is a Public Non Profit Corporation.

Section 3. Auxiliary Organization: The Ohlone College Foundation shall be an auxiliary organization of the Ohlone Community College District subject to the regulations of said District as adopted for auxiliary organizations and to the master agreement by and between said District and this Foundation. Should there be any conflict between these Bylaws and any later amendments thereto and said regulations and master agreement shall prevail.

ARTICLE II – MEMBERS

Section 1. Members: The Corporation shall have no members. Any action, which would otherwise require approval by a majority of all members or approval by the members, shall require approval of the Board. All rights, which would otherwise vest in the members, shall vest in the directors.

Section 2. Associates: Nothing in these Bylaws shall be constructed as limiting the right of the corporation to refer to persons associated with it as “members” even though such persons are not members, and no such reference shall constitute anyone a member within the meaning of Section 5056 of the California Non-Profit Corporation Law. The Board may, by resolution, establish categories of persons associated with the corporation and set the qualifications therefore. Persons meeting the qualifications of such categories may be referred to as “Regular Members”, “Sustaining Members”, “Patrons”, or any other title provided by the Board, but no such designation shall confer upon any person the right to vote for the election of directors, or on the disposition of substantially all of the assets of the corporation, or on a merger, or on a dissolution, or on changes to the corporation’s articles or bylaws, nor shall any such designation confer upon any person the status of a member within the meaning of Corporations Code Section 5056.

ARTICLE III – DIRECTORS

Section 1. Powers: Subject to the limitation of the Articles and these Bylaws, the activities and affairs of the corporation shall be conducted and all corporate powers shall be executed by or under the direction of the Board. The Board may delegate the management of the activities of the corporation to any of its committees, offices, or agents provided that the activities and affairs of the corporation shall be managed and all corporate powers shall be exercised under the ultimate direction of the Board.

Section 2. Number of Directors: The authorized number of directors shall be not less than 10 nor more than 60 until changed by the amendment of the Articles or by a Bylaw.

Section 3. Selection and Term of Office: Directors shall be selected and their term of office shall commence at an annual meeting of the Board. Board members may also be selected as vacancies occur or by special circumstance on majority approval of the Board.

- a. The President of the College shall serve on the Board of Directors and Executive Committee for duration of his or her office.
- b. The members of the Foundation Board of Directors who are also members of the Board of Trustees of the Ohlone Community College district shall be no more than three. The President of the Board of Trustees shall annually appoint a minimum of two Trustees to serve as Directors of the Foundation.
- c. The remaining directors, their number to be determined by the limits specified in Section 2 of this Article III, shall be elected by plurality vote of the directors in office immediately before the election. Each elected director shall take office upon election and shall hold the office for three years. Notwithstanding this or any other provisions, however, the terms of the elected directors shall be fixed by the Board in a manner that will provide for the expiration each year of the terms of approximately one-third of the elected directors. All existing community Board members on approval of these Bylaws will receive ~~either~~ a two, three or four-year term while the above staggered three year terms are being implemented. ~~Directors may run for successive terms of office. There shall be no limit to the number of terms a director may serve.~~
- d. In addition to the required number of directors, there may be four honorary or ex-officio non-voting members representing the college and the administration of Ohlone College, as follows:
 - (1) a member of the faculty senate appointed by the President of the senate, ~~who will also be the chairperson of the Employee Club Committee;~~

- (2) a member of the Associated Students of Ohlone College, appointed by the President of the A.S.O.C. governing board, ~~who will also be the chairperson of student activities~~;
- (3) the Executive Director of the Foundation;
- (4) the Vice President of ~~Educational~~ Instructional Services, or person of similar capacity.

Said honorary or ex-officio members shall act as advisors and render their assistance in the decision and implementation of the decision of the Board of Directors of this Foundation.

Section 4. Vacancies: Subject to the provisions of Section 526 of the California Non-Profit Public Benefit Corporation Law, any director may resign effective upon giving written notice to the Chairperson, the Secretary, or the Board unless the notice specifies a later time for the effectiveness of such resignation. If the resignation is effective at a future time, a successor may be selected before such time to take office when the resignation becomes effective.

A vacancy in the Board shall be filled in the same manner as the director whose office is vacant was selected, provided that the vacancies be filled by a majority of the remaining directors, even though less ~~that~~ than a quorum, or by a sole remaining director. Each director so selected shall hold office until the expiration of the term of the replaced director. Any person selected to fill a vacancy on the Board shall have the same qualifications as were required of the director whose position was vacated; provided, however, that if the President of Ohlone College vacates his or her position, the person selected by the Trustees of the Ohlone Community College District as acting President shall fill the vacancy until a new president is appointed.

Any director other than the President of Ohlone College may be removed from office with or without cause by the vote of three-fourths of those voting at a meeting called for that purpose at which a quorum is present.

No reduction of the authorized number of directors shall have the effect of removing any director before expiration of the director's term of office.

ARTICLE IV – MEETINGS

Section 1. Place: Meetings of the Board shall be held at any place within the geographical limits of the Cities of Fremont or Newark that has been designated from time to time by the Board. In the absence of such designation, meetings shall be held at the principal office of the corporation.

Section 2. Quorum: A minimum of one-third of directors entitled to vote constitutes a quorum for the transaction of business.

Section 3. Annual and Regular Meeting: The Board shall hold an annual meeting for the purpose of organization, election of directors and officers, review of annual report and annual financial statement, and the transaction of other business. The meetings of the Board may be set by majority vote of the Executive Committee.

Annual meetings shall be held during the month of September each year. There shall be in addition, regular Board meetings at least quarterly on such dates and at such times as may be fixed by the Board.

Section 4. Notice for Annual and Regular Meetings: The annual meeting and each regular meeting shall be held upon seven days notice given personally, or by mail, or by telephone, ~~telegraph~~ email, fax, or other similar means of communication. Notices of all meetings shall be given in strict compliance with the Brown Act. Written notice shall also be given by mail to any resident of Ohlone Community College District who requests such notice in the manner specified by Government Code Section 54954.1.

Section 5. Special Meetings and Notice for Special Meetings: Special meetings of the Board may be called at any time by the Secretary at the request of three directors, or by the Chairperson. Written notice shall also be given by mail to each local newspaper of general circulation and each radio or television station requesting notice in writing. The notice of each special meeting shall specify the business to be transacted at the meeting and no other business shall be considered at the special meeting.

Section 6. Open meetings: All meetings of the Board shall be open and public and all persons shall be permitted to attend any meeting of the Board; provided, however, that the Board may hold closed sessions during any meeting to consider those matters that may lawfully be considered in such sessions under the Ralph M. Brown act (Government Code Sections 54950 and following).

Section 7. Conduct of Meetings: Robert's Rules of Order, Newly Revised, shall govern the conduct of all meetings of the Board.

ARTICLE V – OFFICERS

Section 1. Designation: The officers of the corporation shall be a Chairperson, a Vice Chairperson, a Secretary and a Treasurer. The corporation may also have at the discretion of the Board, one or more other vice chairpersons, one or more assistant secretary-treasurers, and such other offices as may be elected or appointed in accordance with the provisions of this Article V. ~~Any number of offices may be held by the same person except as provided in the Articles and except that the Secretary may not serve concurrently as Chairperson.~~

Section 2. Election: The officers of the corporation, except such officers as may be elected or appointed in accordance with the provisions of Section 3 or Section 5 of this Article, shall be chosen annually by, and shall serve at the pleasure, of the Board. The offices shall hold their

respective offices until their resignation, removal, or other disqualification from service or until their respective successors shall be elected.

Section 3. Subordinate Officers: The Board may elect, and may empower the Chairperson to appoint, such other officers as the business of the corporation may require, each of whom shall hold office for such period, have such authority, and perform such duties as provided in these Bylaws or as the Board may from time to time determine.

Section 4. Removal and Resignation: Any officer may be removed at any time, either with or without cause, by the Board or, except in the case of an office chosen by the board, by any officer upon whom such power of removal has been conferred by the Board.

Any officer may resign at any time by giving written notice to the corporation. Any such resignation shall take effect at the date of receipt of such notice or at any later time specified therein and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 5. Vacancies: A vacancy in any office because of death, resignation, removal, disqualification, or any other cause shall be filled in the manner prescribed in these Bylaws for regular election or appointment to such office, provided that such vacancies shall be filled as they occur and not on an annual basis.

Section 6. Chairperson: The Chairperson shall be the general manager and chief executive officer of the corporation and shall have, subject to the control of the Board, general supervision, direction, and control of the business and officers of the corporation. The Chairperson shall preside at all meetings of the Board. The Chairperson has the general powers and duties of management usually vested in the office of president and general manager of a corporation and such other powers and duties as may be prescribed by the Board.

Section 7. Vice Chairperson: In the absence or disability of the Chairperson, the Vice Chairperson if any are appointed, in order of their rank as fixed by the Board or if not ranked, the Vice Chairperson designated by the Board shall perform all the duties of the Chairperson. When so acting, the Vice Chairperson shall have all the powers of and be subject to all the restrictions upon the Chairperson. The Vice Chairperson shall have such powers and perform such other duties as from time to time may be prescribed for them respectively by the Board.

Section 8. Secretary: The Secretary shall keep or cause to be kept at the principle office or such other place as the Board may order a book of minutes of all meetings of the Board and its committees, with the time and place of holding, whether regular or special, the notice thereof given, the names of those present, and the proceedings thereof. The secretary shall keep or cause to be kept at the principle office in the State of California in the original or a copy of the corporation's Articles and Bylaws as amended to date. The Secretary shall give or cause to be given notice of all meetings of the Board and any committees thereof required by these Bylaws or by law to be given and shall keep the seal of the corporation in safe custody.

Section 9. Treasurer: Treasurer is the chief financial officer of the corporation and shall keep and maintain or cause to be kept and maintained adequate and correct accounts of the properties and business transactions of the corporation. The books of account shall at all times be open to inspection by any director.

The Treasurer shall deposit all monies and other valuables in the name and to the credit of the corporation with such depositaries as may be designated by the Board. The Treasurer shall disburse the funds of the corporation as may be ordered by the Board, shall render to the Chairperson and the directors whenever the request it an account of all transactions as Secretary-Treasurer and of the financial condition of the corporation and shall have such other powers and perform other duties as may be prescribed by the Board.

ARTICLE VI – COMMITTEES

Section 1. Executive Committee: The Executive Committee shall consist of the President of Ohlone College, the Chairperson, Vice Chairperson, Immediate Past Chairperson, Secretary, Treasurer, and Legal Counsel. The Chairperson of the Foundation shall be the chairperson of the Committee. The Executive Director for the Foundation shall serve as a non-voting ex-officio member of the Committee.

Section 2. Powers of the Executive Committee: The Executive Committee shall have and may exercise all powers of authority of the Board when the Board is not in session subject only to such restrictions or limitations as the Board may from time to time specify; provided, however, that the Executive Committee shall not have any authority of the Board with respect to:

- a. The approval of any action for which the California Nonprofit Public Benefit Corporation Law also requires approval of the members or approval of a majority of all members;
- b. The filling of vacancies on the Board or on any committee which has the authority of the Board;
- c. The fixing of compensation of the directors for serving on the Board or on any committees;
- d. The amendment or repeal of bylaws or the adoption of new bylaws;
- e. The amendment or repeal of any resolution of the Board which by its express terms is not so amendable or repealable;
- f. The appointment of committees of the Board of the members thereof;
- g. The approval of any self-dealing transaction except as provided by Corporations Code Section 5233.

Section 3. Meetings of the Executive Committee: The executive Committee shall meet at the call of the Chairperson and minutes shall be kept by the Secretary in the Corporation's minute book. All action taken shall be reported to the next meeting of the Board for ratification. The presence of four members shall constitute a quorum of the Executive Committee and the affirmative vote of four members shall be necessary for adoption of any act or decision. All meetings of the Executive Committee shall be conducted in accordance with the provisions of the Ralph M. Brown Act (Government Code Section 54950 and the following).

Section 4. Nominating Committee: The nominating Committee shall consist of a minimum of three, but no more than five members of the Board of Directors designated by the ~~Board of Directors~~ Chairperson.

Section 5. Purpose of the Nominating Committee: The Nominating Committee shall recommend a slate of individuals for election as directors, to fill vacancies on the Board as they occur, and for appointment by the Board officers.

Section 6. Special Committees: The Board may appoint one or more special committees, each consisting of two or more directors, and delegate to such committees any of the authority of the Board except with respect to those powers listed in subsections a. through g. of Section 2, above. Any such committee shall be created and the members thereof appointed by resolution adopted by a majority of the directors voting at a meeting at which a quorum is present, and any such committee may be designated by a name the Board specifies. The Board may appoint in the same manner alternate members of any committee who may replace any absent member at any such prescription, each committee shall adopt such rules and may deem appropriate; provided, however, that such rules and regulations shall be consistent with these Bylaws and provided further that minutes shall be kept of all proceedings.

ARTICLE VII – CONTRACTS, CHECKS, DEPOSITS AND FUNDS

Section 1. The Board may authorize any officer or officers, agent or agents, of the corporation, in addition to the officers so authorized by these Bylaws, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the corporation, and such authority may be general or confined to specific instances.

Section 2. All checks, drafts, or orders over \$500 for the payment of money, notes, or other evidences of indebtedness issued in the name of the corporation, shall be signed by no fewer than two officers or agents of the corporation in such manner as shall from time to time be determined by resolution of the Board. In absence of such determination by the Board, such instruments shall be signed by the Treasurer and countersigned by the Chairperson, Vice Chairperson, or Secretary of the corporation. The board may also authorize the president of the College and the ~~Executive Director of the Foundation~~ to co-sign checks, deposits or other payments.

Section 3. All money and other valuables of the corporation shall be deposited to the credit of the corporation with such depositaries as the Board may from time to time designate.

Section 4. The Board may accept on behalf of the corporation any contribution, gift, bequest, or devise for the general purposes or for any specific purpose of the corporation.

Section 5. The Board shall provide for an annual audit of the records and accounts of the corporation. The fiscal year of the corporation shall begin on the first day of July and end on the last day of June in each year.

ARTICLE VIII – INDEMNIFICATION

Every person who is or has been a director of this corporation shall be indemnified and held harmless by the corporation from and against all costs and expenses which may be imposed upon or reasonably incurred by him in connection with or arising out of any claim, action, suit, or proceeding in which he may be involved by reason of his being or having been a director or officer at the time such costs and expenses are imposed or incurred. As used herein, the term “costs and expenses” shall include, but shall not be limited to, attorneys fees and amounts of judgments against, and amounts paid in settlement by or on behalf of any such director or officer, other than amounts paid to the corporation itself; provided, however, that no such director or officer shall be so indemnified: (1) with respect to any matter as to which such director or officer shall, in any such action, suit or proceeding, be finally adjudged to be liable for actual misconduct in the performance of his duties as director or officer; or, (2) in the event of a settlement of and such claim, action, suit or proceeding, unless (a) such settlement shall, with the knowledge of the indemnification provided for hereby, be approved by the court having jurisdiction of such action, suit or proceedings; (b) such settlement shall have been made upon the written opinion of independent legal counsel, selected by or in a manner determined by the Board of Directors to the effect that there is no reasonable ground of liability for misconduct of the part of such director or officer and that the entire cost of such settlement will not substantially exceed the foregoing rights of indemnification shall not be exclusive to other rights to which any such officer or director may be entitled as a matter of law. The limits shall be approved by the Board as to amount and type on an annual basis.

ARTICLE IX – SEAL

The Board shall provide a corporate seal which will be in the form of a circle having in its circumference the words “OHLONE COLLEGE FOUNDATION” and within the circle the date of incorporation.

ARTICLE X – AMENDMENTS

These Bylaws may be amended, repealed or added to, or new Bylaws may be adopted, at any meeting of the Board at which a quorum is present by the affirmative vote of a majority of the directors voting; provided, however, that notice of any proposed amendment, repeal or addition, including a draft thereof, shall be given at the Board meeting next preceding the meeting at which such amendment is voted upon. Once notice of a proposed amendment, repeal, or addition has been given pursuant to this article, the Board may adopt the proposed amendment, repeal or addition, reject it, or adopt it in an amended form.

CERTIFICATION

I, the UNDERSIGNED, Secretary of the OHLONE COLLEGE FOUNDATION, a corporation organized and existing under the laws of the State of California, do hereby certify that the foregoing Bylaws were duly adopted as the Bylaws of said Corporation on the _____ day of _____, 2008.

Secretary

Approved by the following vote: Ayes _____ Nays _____ Abstention _____